ALBANY, NEW YORK

April 12, 1995

11:06 a.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: Senate will come to order. Ask all the members to find their places. Ask everybody in the chamber including those in the gallery to rise and join with me in saying the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT KUHL: In the absence of clergy, may we bow our heads in a moment of silence.

(Whereupon, there was a moment of silence.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 11. The Senate met pursuant to adjournment. Senator Kuhl in the chair upon the designation of the Temporary President. Prayer by Reverend Father Mergerdichian, Holy Cross Armenian Apostolic Church, Troy. The Journal of Monday, April 10, 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.

Records of select committees.

Communications and reports from state officers.

Motions and resolutions.

Chair recognizes Senator Wright.

SENATOR WRIGHT: Mr. President. On behalf of Senator Levy, on page number 26, I offer the following amendments to Calendar Number 366, Senate Print Number 3942, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Wright.

SENATOR WRIGHT: Mr. President. On behalf of Senator Levy, on page 13, I offer the following amendments to Calendar Number 120, Senate Print Number 334, and ask that said bill retain its place on the third calendar reading.

ACTING PRESIDENT KUHL: Amendments are received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator Bruno, we have a couple of substitutions at the desk if you would like to take those at this time.

SENATOR BRUNO: Mr. President. Please make the substitutions.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: On page 6, Senator Libous moves to discharge from the Committee on Health, Assembly Bill Number 3826A and substitute it for identical Senate Bill, Calendar Number 417.

On page 6, Senator Hannon moves to discharge from the Committee on Health,

Assembly Bill Number 5759 and substitute it for the identical Calendar Number 418.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President. I believe there is a resolution at the desk. I ask at this time that you read the title and move its adoption.

ACTING PRESIDENT KUHL: Secretary will read the title of a privileged resolution at the desk.

THE SECRETARY: By Senator Goodman and others, Legislative Resolution, honoring the Metropolitan Museum of Art upon the occasion of its 125th anniversary.

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

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President. Can we now take up the noncontroversial calendar?

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 14, Calendar Number 178, by Senator Lack, Senate Print 1298, an act to amend the Real Property Law, in relation to allowing an assignment of mortgage.

SENATOR PATERSON: Lay it aside, Mr. President.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar number 268, by Senator LaValle, Senate Print 2406, an act to amend the Education Law, in relation to custodial account programs for employees of state universities.

ACTING PRESIDENT KUHL: Secretary 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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 272, by Senator Saland, Senate Print 1430, an act to amend the Real Property Law, in relation to real property tax payments made by mobile home owners.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 301, by Senator DiCarlo, Senate Print 2941, an act to amend the Real Property Tax Law, in relation to granting a real property tax exemption to senior citizens.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 308, by Senator Wright, Senate Print 3185, an act to amend the Tax Law, in relation to refunds for overpayment of the highway use tax.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This act shall take effect September 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 327, by Senator Seward, Senate Print 11626, an act to amend the Public Service Law, in relation to telephone blocking services and repealing such provisions upon expiration thereof.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 3623, by Senator Marchi, Senate Print 3781, an

act to incorporate the city of Staten Island to enact a charter for the city of Staten Island.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 388, by Senator Skelos, Senate Print 3021, an act to amend the Penal Law, in relation to including carjacking within the definition of the crime of robbery in the second degree.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the noncontroversial calendar.

SENATOR BRUNO: Now, Mr. President, can we take up the controversial calendar?

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 178, by Senator Lack, Senate Print 1298, an act to amend the Real Property Law.

ACTING PRESIDENT KUHL: Senator Lack, and explanation has been asked for by Senator Paterson.

SENATOR LACK: Thank you, Mr. President. This bill was passed last year in both houses and was vetoed by Governor Cuomo. In Governor Cuomo's veto message, he said the goals of the bill were laudable but it would be a fiscal impact upon the localities. Now the reason for that was that mortgage rates were low last year when this bill was vetoed. There was a lot of refinancing going on, and there would have been an immediate impact; but times have changed, of course, and in the last year, mortgage rates have gone up, and there's

virtually little or no refinancing going on now at this time, so this is a good time in order to change a law that should have been changed a long time ago and will have very little fiscal impact upon localities because they can't be budgeting very much for refinancings that are not happening.

What this bill would do, simply, is to say that if you have a mortgage -- let's say it's an outstanding amount of $100,000. The price of your home has appreciated, and you want to refinance that mortgage for $120,000, and you go to the lender and you get a $120,000 mortgage but only 20,000 of that is new money, but you pay a New York State mortgage tax not on the 20,000 of new money in the refinancing; you pay another whole mortgage tax on the whole $120,000, including the 100,000 that you already paid a mortgage tax on.

This bill would say there can be an assignment of the old mortgage for mortgage tax purposes and you don't pay a tax on anything but the new money; and since there are virtually

no refinancings going on now, there would be a very little fiscal hit upon localities.

I certainly think we should pass this bill again. I hope that the Assembly will, where Assemblyman Feldman is sponsoring it and is certainly trying to get it repassed, and we send it down to the Governor and get it signed and stop this double taxation on real property holders in New York State.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President. I notice that this bill takes effect 30 days after its passage; and so if Senator Lack would yield for a question?

ACTING PRESIDENT KUHL: Senator Lack, do you yield for a question to Senator Paterson?

Senator yields.

SENATOR PATERSON: Then, my question, Senator Lack is, that by the time this bill would become law, wouldn't there actually be a fiscal impact on this fiscal year?

SENATOR LACK: Mr. President. Senator, there will not be a fiscal impact because there are virtually no refinancings going on now because interest rates are so high, so any jurisdiction that has budgeted funds based on increased refinancing so that they would get that money -- you only refinance if you are going to get a more favorable rate. With rates high, there's no refinancing really to take place; therefore, localities aren't receiving the benefits from the extra refinancing tax, so this is the perfect year in which to pass it.

SENATOR PATERSON: Thank you, Mr. President.

And that is probably very accurate based on the current rate of interest, and yet the reason that the former governor vetoed this bill last year related to a fiscal impact that existed at that particular time. The latest statistics that I have are that in 1992, $414 million were raised in revenues collected through this source.

If Senator Lack would yield for another question?

ACTING PRESIDENT KUHL: Senator Lack, do you yield for a question?

SENATOR LACK: Surely.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator Lack with the fluctuating rate of interest, if we pass this law and we have a circumstance that comes into effect, say, starting next year that is equal to 1992, aren't we going to be in the exact same financial situation that caused the Governor to veto this bill last year?

SENATOR LACK: Thank you, Mr. President. Senator, you've just put your finger on, obviously, the very problem that exists here. This is quicksand financing. It depends on the vagaries of the current financial market. Since there is no refinancing going on now, localities aren't receiving money under this; yet, they are still functioning; and neither do localities know today any more than

we do whether or not next year, two years from now or four years from now there is going to be a favorable refinancing market such as they would be receiving income under this.

This is hardly steady, dependable financing, which is why this is the perfect time, when there can't be monies impacted upon local budgets, to get rid of this once and for all. It's not money that localities should depend on because it does depends on iffy conditions in the mortgage refinancing markets which may or may not happen. Neither you, I or anybody else in this chamber knows when the next time it's going to happen.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you very much, Mr. President.

Senator Lack certainly does identify a situation where, in a sense, the local governments are depending on what would be a false economy, if I'm getting what Senator Lack is saying correctly, and then to actually

depend on that would not be fiscally feasible when one considers the fact that as it is right now with the high interest rates, there really isn't much refinancing and, therefore, there aren't many monies received in mortgage recording taxes.

However, Mr. President, with the high rate of property tax that individuals and counties are experiencing all over our nation, we recommend that, unfortunately, what may be happening is that, in assessing what the taxes are going to be, the government is taking a circumstance that exists right now and estimating into the future that there will not be the local fiscal impact that governments are feeling in the counties around our state.

I would just suggest on the bill, Mr. President, that that impact is greater than is reflected in the notion of this bill.

Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 363, by Senator Marchi, Senate Bill Number 3781, an act to incorporate the city of Staten Island to enact a charter for the city of Staten Island to provide a period of transition prior to establishing the city of Staten Island.

ACTING PRESIDENT KUHL: There is a local fiscal impact note at the desk.

Senator Bruno.

SENATOR BRUNO: Can we now return to regular order, Mr. President, and take up Calendar Number 363?

ACTING PRESIDENT KUHL: We have called Calendar Number 363, Senator Bruno. I

have been notified by the desk there is a message of appropriation at the desk.

SENATOR BRUNO: Can we adopt that message at this time, Mr. President?

ACTING PRESIDENT KUHL: The motion is to accept the message of appropriation. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message as adopted.

Senator Marchi, an explanation has been asked for by Senator Paterson.

SENATOR MARCHI: Fair enough.

Mr. President. It's with considerable emotion that I rise to speak on this bill. It's been 13 years arriving here in a completed form that I felt deserved and merited the consideration of the Senate.

We started in 1982 when the American Civil Liberties Union, three members, had questioned the constitutionality of the

Board of Estimate in the city of New York; and comparisons were drawn between Staten Island and Kings County, where there was a differential of 6 to 1 in population and, of course, as you know, there was a differential with all of the counties. The Bronx, for instance, was 50 percent of the County of Kings.

This immediately plunged us into litigation that went into the Federal Courts. I joined as an amicus with the mayor of the city of New York in defending and attempting to preserve the Board of Estimate, considering it's so essential to that modicum of self-governance for a meaningful voice in participation in the governance of this city that was so necessary; and we labored hard and diligently on that - it went back and forth between the federal levels -- and filed many briefs and affidavits right up from the Circuit -- from the Trial District Court to the Circuit Court of Appeals and the Supreme Court of the United States.

I took two steps at that time in the event that adversity might befall us,

because I really wanted to keep this city together and I felt that we had a medium and a means of affecting self-governance; and, number one, I joined as an amicus, as I said; and, number two, I asked the Senate Finance Committee, fiscal committee and legal -- and the legal arm of the Senate Finance Committee under the direction of Abraham Lackman, who is still with us today. I might add that also participating in it at that time was Mark Shaw; and they reported back after a meaningful study that, indeed, it was feasible.

Knowing that, in 1984, I introduced a bill, and my co-sponsor at that time was Martin Connor, who argued well and persuasively and was a valuable collaborative agent and partner in this effort to at least establish the question of secession, but we did not -- we did not move the bill. The bill stayed in committee because I thought we would prevail; and the bill was repeatedly introduced, 1985, 1986, 1987, with considerable effort going into the briefs and affidavits at all three

levels of the Federal Court system.

Finally, in 1989 -- this is seven years later, the Supreme Court of the United States said that it was unconstitutional, that it did violate the "one person one vote", "one man one vote" principle of law; and as a result, with the destruction of the Board of Estimate, we were left, out of 51 members of the City Council, with two and a fraction councilmen. This was a very serious setback, and it was at that time that I moved the bill.

The bill passed and as the result of Chapter 773 of 1989 and reinforced by Chapter 17 of the Laws of 1990, a methodology and system for proceeding on this question was described by the Legislature, by two different sessions of the Legislature, laying down the tracks which provided, one, for a referendum with the people on the question whether the people of Staten Island wanted this study to go forward and some 82 percent said yes; and, then, the creation of a commission, a 13-person commission that included the members of the Legislature who

represented all or part of Staten Island. At the present time, Senator DiCarlo is my co-sponsor on this measure.

And, having laid out that methodology, a study commission was authorized by the referendum, and we put together a first class team to study the issue thoroughly, from all and every aspect. The Executive Director is at my right here, Dr. Joseph Viteritti, whom some of you may know and who holds a very prestigious position in the Robert Wagner School of Public Administration in New York University, joined by excellent people, people like Dick Netzer, people like Briffault from Columbia, Hugh O'Neill, economist. There was a very serious study. It was not a move by press release or dumping on anybody but an attempt to formulate in response to what the Legislature had requested us to do for the basic consideration of this bill.

The membership was excellent, bipartisan. We had -- it alternated between three Democrats and two Republicans and then

three Republicans and two Democrats. At the present time, my co-sponsors in the Assembly are Mrs. Connelly, who is a Democrat; Eric Vitaliano, who is a Democrat; and Bob Straniere, who is a Republican.

In moving ahead, I might add at this point that we had very generous input, because the Governor and the Speaker and the Majority Leader, various people, had an input into fleshing out the membership of that commission. Speaker Miller designated the associate for -- as his choice to sit on the commission and who had a very large voice in formulating policy with respect to public employees and that was Martin Lubin, who confessed that at the outset had some philosophical differences but, nevertheless, he attacked this problem very seriously so that the matter proceeded with full attention and care. Martin Lubin is the Associate Director of Council 37, and many of you may know him.

In November 1993, the voters approved the charter, when it was finally

submitted, by a 65 percent vote; and, in 1994, we sponsored a bill, but it was provisional and it was not in final form; and in March of this year, all five of the Staten Island legislators, four who are residents, and Senator DiCarlo, who represents a piece of Staten Island -

Now, what does the bill do? The bill establishes a city of Staten Island, a new city which would be the second largest city in the State of New York, larger than any city in New England except Boston, larger than any city in New Jersey, larger than any city in Florida, larger than Pittsburgh, 400,000 people who accepted the burden that has been placed on us to -- and properly so -- to carry forth the message of secession.

It provides for a strong mayor city council type of government. It establishes a basic Administrative Code of the City of New York, and it incorporates Title 11 of the New York City Administrative Code, which outlines all of the revenue raising measures including income tax, including real estate tax and all

the other taxes that are in the present revenue code of the City of New York, all incorporated into this bill.

The bill also created an independent school district which provides for the continued school district, and I might, at this point, point out that to effect meaningful participation by the full population of Staten Island -- and I'm very aware and solicitous of the presence -- the necessary and indispensable presence of minorities on the school board -- we provided for cumulative voting. I exchanged considerable correspondence with Lanny Guinier and we already -- we have existed on our board with full participation, but we carried it a step further and I think we guaranteed it by taking this step.

And then it establishes an 18 month period of transition and during these 18 months, the officials of Staten Island along with the officials of the City of New York would address the problem of the transfer of municipal employees, and I can tell you, under the -

certainly the wise counsel of Martin Lubin, these public employees are adequately and completely protected, so that we have also -- we provide collective bargaining -- for collective bargaining agreements and pension rights, the apportionment of assets and debts through New York City and Staten Island, and we apportioned the debt on the basis of the assessed valuation of property, the property that is located in Staten Island and the property that's located in the other four boroughs.

The charter sets up a procedure involving the controllers and mayors of both cities. If needed, they can also go to the Third Department, which is the situs for issues of this nature on the question of the apportionment of debt and obligations and determination how property should be allocated. There is a joint and severable liability that attaches to Staten Island for that portion that is represented by Staten Island.

So we have done everything. We have done everything in good faith. It was laid

out by the Legislature, "Do this," and we in good faith followed it completely; and that is why the bill is before you today, the product of very, very hard work, aided so materially and so well by Dr. Viteritti and the members of the staff.

We had over 50 meetings of the secession commission. We had over 13 public hearings. There wasn't a stone left unturned in honoring the obligation that we felt was a moral one if we were to establish our good faith in coming back to the Legislature and saying we have done what you have requested us to do. Now, it's your turn to join us.

I would quote from the message of Governor Cuomo at the time in 1989, when he discussed this, "A recent decision by the Supreme Court of the United States dramatically changed Staten Island's participation in city governance, reducing its equal vote on the Board of Estimate to a relatively small participation in a new city legislative body. That changed circumstance, added to a long list of

grievances..." and so forth, and that's when he signed the legislation, the basic legislation that formed it.

His successor, Governor Pataki, has indicated that he would sign the bill when it came to him and has given his full and unqualified support and, also, as was recited earlier, a message on the apportionment -- the certification that was previously cited by Senator Bruno.

So, we go back. This is a rather meaningful time that we are considering this bill. We are on the eve of Passover. This is not an exodus, but it is an exodus in the sense that we want to be good neighbors and a city in this constellation of communities that make up the Greater New York area. So in the spirit of this solemn season, I earnestly implore you to let my people go. Let my people go, not to disappear, not to be collaborative friends and meaningful friends in this great community but to give us an opportunity which is unavailable to us under the present formulation for self

governance.

So I would hope that you give this earnest consideration and response in your vote. I might point out that on the prior occasions, we had very full support in this house. We had one vote -- one dissenting vote at that time on the two occasions that this body pronounced itself on the issue, only one vote. Now, we know that under the old Jewish law, unless you had one vote, it didn't count, because maybe something was missed.

So I don't think we have missed any of the vitals, and I earnestly request justice for the 400,000 people that make up my community.

ACTING PRESIDENT KUHL: Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President. Can we at this time read the last section.

ACTING PRESIDENT KUHL: Secretary 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: Senator Bruno.

SENATOR BRUNO: Would you recognize Senator Gold.

ACTING PRESIDENT KUHL: Senator Gold, how do you vote?

SENATOR GOLD: Yes, thank you. The Majority Leader said I could explain my vote for at least a half hour, so I -

I vote in the negative so that you got at least the one, Senator Marchi, to keep you honest.

ACTING PRESIDENT KUHL: Senator Gold in the negative. Roll call is withdrawn.

SENATOR BRUNO: Please call on Senator Trunzo.

ACTING PRESIDENT KUHL: Chair recognizes Senator Trunzo. How do you vote?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT KUHL: Senator

Trunzo in the affirmative.

SENATOR BRUNO: And Senator Nozzolio.

ACTING PRESIDENT KUHL: Senator Nozzolio, how do you vote?

SENATOR NOZZOLIO: I vote aye.

ACTING PRESIDENT KUHL: Senator Nozzolio in the affirmative.

SENATOR BRUNO: And, Mr. President, can we withdraw the roll call -

ACTING PRESIDENT KUHL: Roll call is withdrawn.

SENATOR BRUNO: -- and resume the debate?

Thank you, Mr. President.

ACTING PRESIDENT KUHL: On the debate. Chair recognizes -- Senator Paterson had the floor. Senator Paterson to resume debate.

SENATOR PATERSON: Thank you, Mr. President. I wanted to wait and allow Senator Marchi to explain this bill before I raised this issue because, as he pointed out, this is really

the fruition of 13 years' worth of work and a great deal of effort, actually 13 hearings and 50 different procedures.

As you could glean from the discussion, Mr. President, he has put a tremendous amount of effort into this, and we certainly appreciate his work, and I wanted the issue to be heard today, but I would like to raise a procedural point before we go forward.

We accepted a message of necessity from the Governor prior to moving this bill; and being that it is a message of necessity for an item of appropriation, I just want to be clear that as an item of appropriation in which a local government is going to receive an appropriation that the bill can only pass this house by a two-thirds vote.

SENATOR MARCHI: Are you formulating a question, Senator?

SENATOR PATERSON: I'm raising a point of order, Mr. President.

ACTING PRESIDENT KUHL: On your point of order, Senator Paterson, the chair,

having been previously informed that you were going to do this, has had the opportunity to do a little research, and I have reviewed the rules of the chamber and also I have looked at the Constitution of the State of New York; and in looking at that, I find that Article 9, Section 2(A), gives the Legislature plenary power to create local governments.

So as to whether or not this is a local purpose or a state purpose, it would be the ruling of this chair that this is a state purpose and, therefore, would only require a majority vote for approval, not a two-thirds vote.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Wise as that ruling may be, I'm really more impressed by the fact that you knew what I was going to do before I did it.

(Laughter.)

ACTING PRESIDENT KUHL: It's the

visionary power of the chair, Senator Paterson.

(Laughter.)

SENATOR PATERSON: Well, Mr. President, I suggest that if there is any visionary contest between you and me, that you will win.

What I would like to raise, Mr. President, is the fact that Article 9, Section 2, as you referred to, is of course something I had a feeling you might do that; and so the real thrust of this legislation, if we are clear on this -- and as an example, just to cite a piece of a part of the legislation, the part that relates to what will happen with the CUNY schools that are in Staten Island. They will - at that point, all of their assets will be transferred to SUNY, to the State University; and at the point that they are transferred, now, the bill doesn't totally say although I think it's clear that the debt will be transferred, certainly the debt that's incurred in the transfer will actually be reflected in the debt that SUNY owes; and so as an example of that,

the fact that we're taking on that debt, the fact that we're actually making this appropriation, I don't see how we can consider that to be a state action when the real beneficiary in this case would be the new local government of the Staten Island.

So I am saying that the rules of the Constitution -- in other words, you have cited a correct ruling of the Constitution if it were in that particular area, but I'm saying that we're in the area that relates specifically to local appropriations.

And, therefore, as an appeal to the ruling of the chair, I would just like to point out that I think that the real spirit of the Constitution is speaking to this case; because if you were right, Mr. President, then you have actually nullified the whole section related to what would be the two-thirds vote.

SENATOR MARCHI: Mr. President. May I be heard?

ACTING PRESIDENT KUHL: Senator Marchi, as I understand it, Senator Paterson has

appealed the ruling of the chair. I don't believe that is a debatable issue, and so what we're going to do is take a vote on the ruling of the chair.

So what we will do at this time is that all those people who are in favor of sustaining the ruling of the chair, signify by saying.

(Response of "Aye.")

Those who are wishing to overrule the ruling of the chair, signify by saying nay.

(Response of "Nay.")

Senator Paterson, this is another one you lost. The ruling of the chair is sustained.

The chair would recognize Senator Paterson on the bill.

SENATOR PATERSON: Thank you, Mr. President, and you know you, can't lose all the time and one of these days I'm going to prove that that's true.

ACTING PRESIDENT KUHL: That's 14 and counting, Senator Paterson. You have about

28 to go.

SENATOR PATERSON: Mr. President, on the actual bill. I would just like to point out that I have not indicated how I'm actually voting on the bill, and I just want to say to those who are in support of the bill that this kind of a ruling may really be more of a detriment than an advantage, because those who are opposed, in my opinion, just have a legal action.

Now, on the bill, if Senator Marchi would yield to a couple questions?

SENATOR MARCHI: Yes, Senator.

SENATOR PATERSON: Senator Marchi, as you know, New York City obtains its water supply from Upstate New York, and my question to you is, also, as apparently has been researched, the residents of Staten Island would inherit, in a sense, 4.2 percent of New York City's debt; and so my question is, how do you arrive at the figure for the amount of debt owed by residents of Staten Island, and how do you work out the issue of the water supply? Is

Staten Island in that case going to have to work out its own arrangement with the Upstate region?

SENATOR MARCHI: Senator, depending on how one wishes to proceed on the question of division and allocation, that which is -- we are not claiming any right or a percentage allocation of anything that - everything that the city -- the remaining four boroughs and whatever property they may have. We're not questioning that, so that I don't think this is involved.

It will be the subject of negotiations between the mayors and controllers of the two cities; and in the event of a dispute, they have access to the Third Department -- Third Judicial Department of the State of New York to have the matter adjudicated, so I don't think that that presents a -

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: What I'm

really getting at, Senator Marchi, is that in legislation going back to 1904, New York City is entitled to own a lot of that property. Now that Staten Island is seceding from New York City, are you saying Staten Island should still have its share because they were part of the original agreement?

What I'm saying is, if you actually secede from a greater entity, how do you come back and say that you have the same rights that the entity had when, in fact, you want to secede from it?

In other words, I'm just trying to figure out where Staten Island is going to get their water from. Are they going to pay for their own, or are they saying that the same - in other words, you just take that percentage of the financial arrangement between New York State and the regions where the watersheds are and then you apportion it equally or proportion it proportionally?

I am just trying to figure out how Staten Island is going to get its water.

SENATOR MARCHI: Staten Island, Senator, will be liable for the cost. There are communities outside of the City of New York that share in the water supply, in Westchester -- I don't know where else, but they do share in the water supply. Certainly, we would go on paying for that water. I don't think there is a discriminatory pattern in the sale of that water in any of the constituency that New York City has when it receives the water.

So I don't see where there is a problem here. We don't make any claim that we own any part of that. What is on Staten Island remains on Staten Island, whatever assets, real or otherwise, remain on Staten Island, belongs to Staten Island. Whatever is in the four boroughs and whatever the City of New York presently owns, we make no claim to that.

ACTING PRESIDENT KUHL: Chair would recognize Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President. It's indeed a pleasure to rise this day to first recognize and thank somebody who I

believe will go down in history as the father of the city of Staten Island. Let there be no mistake that this is not something that was arrived at haphazardly or quickly. This was a long, long process; and I'm very proud of the fact that I was permitted to be on the committee with the Senator.

This is the bill. This is a lot of hard, hard work that has gone into this. This is something that I'm very proud that this body is taking up. The issue of secession and the city of Staten Island is something that I'm in a peculiar position. I represent two counties in New York State, two boroughs in the present City of New York, one being the county of Kings otherwise known as Brooklyn; the other Richmond, known as Staten Island.

I am four-square solidly behind the city of Staten Island, and I look forward to the day as a State Senator that I can represent the great City of New York and also the great city of Staten Island.

This is an issue that has been

with us throughout our existence as Americans, and it was put properly when it was unanimously adopted, our forefathers on July 4, 1776, and this also speaks to Staten Island:

"When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another and to assume among the powers of the Earth the separate and equal station to which the laws of Nature and Nature's God entitled them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to separation."

Well, those causes were put very well put by Senator Marchi. When the Board of Estimate of the City of New York was ruled unconstitutional, the people of Staten Island lost their power and their vote in the operation of that greater city. Senator Marchi has taken many, many years to put forward his bill on secession.

A brief chronology of the

events: 1982, Board of Estimate case was brought. 1989, the Supreme Court ruled the Board of Estimate unconstitutional. 1990, both houses, the Senate and the Assembly, passed Chapters 773 and 17 authorizing the formal process for Staten Island separation, and the Governor signed the bill. 1990, the voters approved on a referendum a study of secession with 81 percent of the vote. In November of 1993, with 65 percent of the vote, the people of Staten Island approved the charter, again, with 65 percent of the vote.

One of the issues that has been raised, and we talk about politics and politicians, but something that bothers me more than anything is the fact that the people of Staten Island who I represent did it the right way. They did everything and Senator Marchi did everything according to the law and according to the way that people who understand government said they should do it. Republicans and Democrats, Upstaters and Downstaters, New York City politicians and Upstate politicians went

along with this process.

To date the taxpayers of the State of New York because they agreed to it have spent $1.5 million in the legal separation, the process to separate and become its own entity, the city of Staten Island. $1.5 million, the politicians in Albany allowed that money to be spent.

This year we have an appropriation in the budget, I believe, for half a million dollars to continue this process.

So what happened? The politicians in Albany said, "Okay, Staten Island, we don't believe you're ever going to do it, but we're saying you have the legal right to do so, and here's the process," and the people of Staten Island lived within that process, and they went through the long, arduous task toward secession, towards independence, and all the politicians in Albany said, "You have the legal right to do it." The Assembly said it overwhelmingly. This body said it overwhelmingly. The Governor of the state at

the time, Governor Cuomo, in his message said, "The Legislature has decided overwhelmingly on both sides of the aisle and in both houses that the people of Staten Island should have the opportunity to vote on the question of whether they should be allowed to create a new and separate city. It appears to be universally accepted that they are justified in wanting to consider separation from the City of New York. They have been part of the city since 1898, but a recent decision by the Supreme Court of the United States dramatically changed Staten Island's participation in city governance reducing its equal vote on the board of estimate to a relatively small participation in a new city legislative body. That changed circumstance, added to a long list of grievances by the people of the island over the years, moved the Legislature to adopt this bill."

So our constituents on Staten Island followed what they were told by the politicians up here in Albany to do. I'm very proud of the fact that this body and this

leadership has allowed this bill to come to the floor for a final vote, because this is what all of the politicians said Staten Island had to do in order to gain its independence.

Then lo and behold, we now find that the same politicians in the other chamber who were part of spending $1.5 million to study secession and now saying -- and after they voted for it, are now saying, "Well, you know, people of Staten Island, we were only kidding. We never intended for you to have the ability to secede. We spent a million and a half dollars and we knew we'd never let you secede."

It is an absolute disgrace. Absolute disgrace.

New York State Court of Appeals, 1938, to change the boundaries of the City of New York either by contraction or expansion touches it in its government and in the property, using the word property in its widest sense, as associated with jurisdiction; yet we held in the City of New York versus the Village of Lawrence, 250 New York 429, that a change of

boundary by the Legislature was not a law coming within the home rule provision. 1913, for those from the Bronx, when the Bronx wanted to separate from New York County, otherwise known as Manhattan, Court of Appeals, "The question whether a county or township shall be divided and a new one formed or two townships or school districts formally one be reunited is always a question which may be properly referred to the voters of the municipality for decision."

The people of Staten Island under the guidance of Senator Marchi have done everything that the politicians in Albany required of them. It is a cruel joke for now the other house to say, "Well, we were only kidding. We voted for you to have a referendum. We voted to allow you to decide your future. We voted this money to be spent for the process, but you know what? We were only kidding."

Now, after the people of Staten Island have overwhelmingly voted for their freedom for their own city of Staten Island, now

we have one body of this Legislature saying, "You know what? It was all nothing but a joke."

It's not a joke. The history books will be written, and the history books will say that John Marchi was the father of Staten Island. Mark my words. It might not happen now. It might not happen this year, but the city of Staten Island will be, and John Marchi will be credited with that, and I am very proud to be a co-sponsor of this bill with Senator Marchi.

It's what we were sent to Albany to do, to fulfill the wishes of our constituents. Now, I am a very proud resident of the county of Kings, the Borough of Brooklyn and I'm very proud of my City of New York, but I'm also very proud that the people of Staten Island have voted to be their own, and I'm going to be very proud to represent two cities, the City of New York and the city of Staten Island.

I'm very proud of this bill. I vote aye.

ACTING PRESIDENT KUHL: Chair

recognizes Senator Present.

SENATOR PRESENT: Mr. President. Can we suspend the debate and call the last section.

ACTING PRESIDENT KUHL: Secretary 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.)

SENATOR PRESENT: Would you recognize Senator Holland.

ACTING PRESIDENT KUHL: Senator Holland, how do you vote?

SENATOR HOLLAND: I vote yes.

ACTING PRESIDENT KUHL: Senator Holland will be recorded in the affirmative.

Senator Maziarz.

SENATOR MAZIARZ: I vote yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Maziarz will be recorded in the affirmative.

Senator DeFrancisco.

SENATOR DeFRANCISCO: May I be permitted to vote in the affirmative?

ACTING PRESIDENT KUHL: Senator DeFrancisco in the affirmative.

Senator Nanula.

SENATOR NANULA: I would like to be recorded in the negative.

ACTING PRESIDENT KUHL: Senator Nanula in the negative.

Senator Present.

SENATOR PRESENT: Withdraw the roll call.

ACTING PRESIDENT KUHL: Roll call is withdrawn.

Resume debate on Calendar Number 363. The chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President. I had the distinct privilege for ten years to represent part of Staten Island, and I recognize that Senator DiCarlo has only represented Staten

Island now for some, I guess, two years.

I do -- and I know Senator Marchi will back me up on this. Reading the Declaration of Independence with respect to Staten Island is a very poor analogy, since it's a well-known historical fact on and off Staten Island that the residents of Staten Island remained loyal to King George to the very last, opposed the Declaration of Independence and supported the Tories and the British throughout the Revolution. Indeed, I believe the last British presence in the United States was on Staten Island, and the residents of Staten Island wept bitter tears on evacuation day when the last British troops withdrew several years after the surrender at Yorktown, so -

But I encourage Senator DiCarlo, as he represents in the coming years, if he represents in the coming years, part of Staten Island, to dig into the history of that wonderful Island and get the facts down, but the Declaration of I Independence and Staten Island is a bad mix.

As Senator Marchi pointed out, I did co-sponsor the legislation to study the question of secession. Indeed, I served for, I guess, three years on the commission, was replaced by Senator Mega and Senator DiCarlo replaced him. I believe I still have an appointee of mine who is a member of the commission, so that I am well acquainted with the issue, well acquainted, really, with the painstaking and very professional efforts of the commission and its staff, and, indeed, it is a first rate staff, and they did study all the issue.

But, Mr. President, today I stand before you an older and wiser Senator Martin Connor, one who since leaving Staten Island some three years ago have had time to reflect, look back. I guess I've just become more conservative, as I'm sure many of you have noticed in this house in the last few years, and really don't think that the separation of Staten Island from the City of New York today is, one, a wise and fair course for all the residents of

New York City, and I also have come to be convinced by the Speaker's cogent arguments regarding the home rule provisions of our constitution that, in fact, this action, this separation under the circumstances -- you know, this is not like other little boundary adjustments that have occurred before. This is a major step regarding the major city in this nation, certainly in the state, and I do believe it does intimately affect the rights and the property of the City of New York such that, in reality, I think the proponents are addressing the wrong court when they come before the Legislature.

I'm not talking about the Legislature's ultimate powers in this regard, but I do think they ought to make their case in the City Council first. They ought to get a home rule message from the local legislative body. I think that's the way to go.

Frankly, Mr. President -- and I know there is no easy way to do this because it has been a marriage of nearly 100 years, but the

reality is when that marriage occurred Staten Island was quite largely rural. Indeed, today, it has wonderful wetlands and hiking trails and golf courses and green belt; but in those days, back at the creation of greater New York in 1898, it was indeed rural, farming, very, very sparsely populated; and the resulting City of New York invested in infrastructure far in disproportion to either the population of Staten Island or the value of its ratables; and to divine now a formula that Staten Island will assume the city's debt in proportion to its property tax ratables is just not a fair thing to do.

Things like water tunnels, schools, other infrastructure, were created and paid for by the City of New York on behalf of all of its residents far into disproportion to Staten Island's share of the property tax burden or, indeed, the value of the taxable property. I won't argue -- and I believe that means that the rest of the City of New York, the taxpayers of the City of New York, in effect, would be

making an enormous contribution to this new city such that they ought to really have their local legislative body on their behalf state that they are willing to make this gift.

And, secondly, I think -- but it's not really for us to say -- that if you look at the ratable situation in Staten Island, there will be very substantial local property tax increases in this new city of Staten Island. Why I say it's perhaps not for us to make, the residents have, indeed, spoken at the ballot on that; and if they are willing to assume that kind of burden, while I'm concerned about it -- and I'm concerned about, frankly, the creation of a whole new bureaucracy, a very expensive governmental bureaucracy which any city would have and this city would have, I think that's within the province of the residence of Staten Island to speak to. I think the question of assumption of debt, division of assets, is really one that does concern quite directly the property of a local government, the City of New York, and their ought to be a home

rule statement on that.

Absent that, absent any word from the Mayor of the City of New York -- this issue has been going on over three mayors now. We always heard from Mayor Koch and Mayor Dinkins, and the silence is deafening coming from Gracie Mansion. But I think in the absence of that kind of guidance, in the absence of the Mayor rising to his responsibilities to let us know what he thinks, that we are compelled to make our own judgment, and my judgment, as an older wiser legislator than perhaps I was a few years ago -- although the position, I would note, is not inconsistent. I think it was fair to study such an important issue. The study is in. The results are in, and I'm not convinced; therefore, I do intend to vote no on this, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Waldon on the bill.

SENATOR WALDON: Thank you very much, Mr. President.

Would the erudite Senator from

Richmond yield to a question or two?

SENATOR MARCHI: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Marchi yields.

SENATOR WALDON: Thank you very much, Mr. President.

Senator Marchi, are you certain that the people of Staten Island want you to go forward with this legislation?

SENATOR MARCHI: Am I certain? Yes. The vote was 65 percent. There was a very, very heavy participation by the voters. It wasn't a vote by a small segment of the population. They voted, and they voted en masse. I would say that the percentage would be far higher. There were a number of people - because it was a studied campaign at that time that attempted to indicate the -- that their property values, the homeowner would be paying double and triple. They were comparing it to assessed valuation in surrounding communities, ignoring the fact that we would still carry an

income tax. They were also frightening many of the public employees, saying that they would be sacrificed. They would be losing whatever -- so that, that element that value attended to attenuate.

If anything, 65 percent only tells part of the story. With full knowledge, the percentage is far higher, but the participation of the voter was almost exactly the same as voting on candidates. You know, sometimes these amendments and other questions suffer because maybe you have 10, 15, 20 percent. This was a very, very heavy turnout and very deeply felt.

I don't know, if you know people in Staten Island, but I think that we'll all attest to the fact that it was a very, very sincere and genuine expression in volume on the part of the public in Staten Island relying in good faith, in good faith, on everything that had been developed.

I know that Senator Connor mentioned that things have changed and we see a

lot of things. I'm saying we did everything that was requested of us. There was a Legislature -- I mean two different Legislatures supplied the foundation for the study and everything that we did, and we delivered everything that was requested of us.

Now, how can we be that -- you know, as Senator DiCarlo has said it very aptly, I think, were we only kidding or we have some different ideas. We have in good faith complied.

We demand that there be a good faith response, nothing more.

SENATOR WALDON: Mr. President. Would the Senator yield again?

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

SENATOR MARCHI: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Senator, as a result of your explanation just now, would I be accurate in characterizing your sponsorship,

your zeal, your commitment, as indicative that you feel that it is your mandate from the people of Staten Island, even if you personally felt counter to this move to secede, but it is your mandate from the people of Staten Island that you move forward with the secession?

SENATOR MARCHI: Senator, I would not have invested as totally as I did for many years. I mean I did an enormous amount of work between 1989 and '90 when we formulated our commission and then did the nuts and bolts work of constructing this new city. But the work I did in the Federal Courts attempting to keep the city together, to at least give us the Board of Estimate. I thought we had some very excellent arguments.

Maybe I'm emotionally involved, but I am very much involved; and when people were saying, "Well, you're not serious?" or "You don't think it has a chance?" we're here, you know. Unless there was a commitment in good faith in this, we wouldn't be here discussing this issue.

SENATOR WALDON: Thank you very much, Senator Marchi.

Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Waldon on the bill.

SENATOR WALDON: I appreciate the work, the effort of Senator Marchi. I think those of you who have watched me in this chamber over the course of the last few years recognize that I really feel it is imperative to respect the wishes of folk from various parts of the state; therefore, when there is a home rule message or when someone says, "My area needs this," I don't think you will ever see -- or if it has ever happened, it is extremely rare - that I voted against the interests on a local issue of one of our colleagues.

I respect what Senator Marchi has done. I recognize the importance of following the will of the people that you represent. I wish we had more of that here. I wish that each of us would always be as sensitive even if we could not defer to the wishes of a particular

constituency which is motivating a Senator to do as he or she feels compelled to do.

I did not support this in the past, but I am going to support it now. I have become more educated about the issue. I have become more sensitive to the issue. I recognize that if the people of Staten Island really want this, than who am I to interfere with the real desire, the heartfelt expressions of the people who reside there.

I have had some good times in Staten Island, Senator Marchi. There is a place called South Beach. When I was growing up in the Sanctified Church, the Church of God and Christ in Brooklyn Reverend Reading used to feel it was good for the little kids to be able to go to a beach in a good environment. He never took us to Coney Island. He always took us to South Beach. I remember playing as the captain of the freshman team in City College. We went to Tote Hill to play Wagner College, and the second best game I had as the captain of that freshman team was against Wagner. The best game was against

Manhattan College when John Powers was the captain of the freshman team and the high scorer there, and I smoked in both of those games. Smoked, Senator, means that I a very good game; I scored a lot of points. I want you to understand that.

The point I'm trying to make is that on this issue at this time, I'm going to recognize your wisdom. More importantly, I'm going to recognize and appreciate your commitment, that of Senator DiCarlo and Eric Vitaliano and Bobby Straniere and Betty Connelly whom I admire and respect in the Assembly. I didn't hear the Mayor say it shouldn't be done. He didn't write me. He didn't call me. So I have to believe that somehow impliedly he is going along with what you are offering here for us to consider.

I think this is historic; and if they say in future years, Moses Marchi was the creator of the city of Staten Island, that's fine, too. I will follow your lead this time; and when it is appropriate a little later in

this session to vote, I will support you, Senator Marchi, and I will vote yes on this bill.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President. I certainly rise to support Senator Marchi and have watched with great admiration over the years the work that he has done on this issue, but I think, even more importantly, the people of Staten Island are so fortunate to have his representation, not only on this issue but each of the issues that come before this body because Senator Marchi has shown his steadfastness in pursuing this. He has been methodical in the way he has approached the secession for Staten Island; and as Senator DiCarlo indicated by holding up the bill, the depth and breath of the research and the work that has been done is probably unprecedented on a single piece of legislation such as this.

I, of course, have followed

Senator Marchi's work because we have debated on this floor on a few occasions the secession of the five eastern towns in Suffolk County in what we hope will some day become Peconic County, and we have just finished the study on the economic implications of whether it would be cost effective for the five eastern towns to secede, and it is not an easy -- there are many issues that cannot be decided by even some of the best consultants and some of the people talking about these issues, and so there has to be debate and, in some cases I'm afraid we could debate the division of debt service and assets and buildings infinitum without any exactness and clear-cut what the implications are. We know that, I think, after this first and very cursory search for Peconic County.

But I can tell you that there is no issue that I have been involved with back home in Suffolk County that has brought about more excitement in the people who have served on committees exploring the implications of the creation of a new county, and the involvement of

these people. The issue goes to beyond dollars and-cents representation and whether people will be able to find what it is that moved them to live in a particular place, the lifestyle, their ability to be involved in the governmental decisions. In Suffolk County and Peconic County in a 18-body county legislature, the most the five eastern towns will ever have are two votes on a 18-member body; and so for the people to follow their hopes, their dreams and their aspirations, it will be very, very difficult to have two county legislators in a 18-member body.

And, so, Senator Marchi, you are paving the way. The work that you are doing and in some cases things that may be a leap of faith because we don't have exact conclusions on what will happen, many people throughout this state and certainly the five eastern towns in Suffolk County are following what you are doing.

The research we have done - people talked about home rule messages. On this floor when we debated the Peconic County

legislation, our research showed that we in this Legislature have the ability to create political subdivisions such as was done in Bronx County and in other areas; and what greater when we talk about how do the people feel -- the question was asked of Senator Marchi -- 65 percent of the people said aye. I don't think you can find a more enthusiastic affirmation on an issue to get 65 percent of the people.

So I think it's very clear what the people of Staten Island are saying and how they hope that they can find a governance system that will allow them to find their hopes and dreams and aspirations.

And so, Senator Marchi, I rise with great enthusiasm today to support you in this legislation.

ACTING PRESIDENT KUHL: Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Mr. President. Will Senator Marchi yield to just one question?

ACTING PRESIDENT KUHL: Senator

Marchi, do you yield to a question from Senator Dollinger?

The Senator yields.

SENATOR DOLLINGER: Senator, I apologize for perhaps not being better versed in this, but one of the sections, 9, of this bill would amend the County Law to provide for the treatment of Richmond County to be similar to that afforded the counties within cities with a population of a million or more. Could you just explain to me what the effect of that portion of this is?

SENATOR MARCHI: The facilitation of the status quo on taxation, on what are the existing practices.

SENATOR DOLLINGER: I guess the substance of my question is, in a sense Richmond County wants to be treated like it were part of the city of New York even though it would be its own city, because we've passed, as you know, a whole bunch of laws, and I'm sure you're well familiar with them, that only apply to communities that have more than a million people

in them. This is the New York City bills.

SENATOR MARCHI: Yes. This is solely generous, really, because every county in the State of New York has cities. New York City has counties within the city, and it's probably a fuzzy difference where -- this kind of an arrangement. I guess it's unique in the United States, really.

SENATOR DOLLINGER: It's really been designed to preserve the status quo, again, through you, Mr. President.

SENATOR MARCHI: Yes.

SENATOR DOLLINGER: Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I have a great deal of sympathy for Senator Marchi's position, as well as the position articulated by Senator LaValle.

ACTING PRESIDENT KUHL: Senator Dollinger, may I interrupt?

SENATOR DOLLINGER: I will be

glad to yield, Mr. President, as I see the Deputy Majority Leader -

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Could you have the last section read for the purpose of Senator Lack voting.

ACTING PRESIDENT KUHL: Secretary 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: Senator Skelos.

SENATOR SKELOS: Would you recognize Senator Lack.

ACTING PRESIDENT KUHL: Senator Lack, how do you vote?

SENATOR LACK: Aye.

ACTING PRESIDENT KUHL: Senator Lack will be a recorded in the affirmative.

SENATOR SKELOS: Senator Stafford.

ACTING PRESIDENT KUHL: Senator Stafford, how do you vote?

SENATOR STAFFORD: Aye.

ACTING PRESIDENT KUHL: Senator Stafford will be recorded in the affirmative.

Senator Stavisky, how do you vote?

SENATOR STAVISKY: No.

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

Senator Johnson, how do you vote?

SENATOR JOHNSON: Aye.

ACTING PRESIDENT KUHL: Senator Johnson will be recorded in the affirmative.

SENATOR SKELOS: Senator Wright, please.

ACTING PRESIDENT KUHL: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: Senator

Wright will be recorded in the affirmative.

Senator Kruger.

SENATOR DOLLINGER: Mr. President. Can I infer from this they think I'll talk for some time?

SENATOR KRUGER: No.

ACTING PRESIDENT KUHL: Senator Dollinger, a lot of your colleagues apparently are bailing out.

(Laughter.)

SENATOR DOLLINGER: I'm winding up, Mr. President.

ACTING PRESIDENT KUHL: There's no offense intended, but -

Senator Kruger, how do you vote?

SENATOR KRUGER: No.

ACTING PRESIDENT KUHL: Senator Kruger in the negative.

Senator Babbush, how do you vote?

SENATOR BABBUSH: No.

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

Roll call is withdrawn. Debate continued.

Chair recognizes Senator Dollinger to speak to the empty house.

SENATOR DOLLINGER: I will be known as the Senator who cleared the house?

Mr. President. I have a great deal of sympathy for the comments that were made by Senator LaValle as well as Senator Marchi's discussion about the relationship between Staten Island and the Board of Estimate.

Unfortunately, from my perspective, the comments made by Senator LaValle with respect to the eastern portion of Suffolk County and the comments made about Staten Island could be true anywhere in this state. I represent a city. It has neighborhoods. It has well-defined neighborhoods. Those neighborhoods could at any time sit down and say, "We no longer want to be a part of the city of Rochester and we would love to be able to secede from the city of Rochester."

The two votes that Senator LaValle talked about, the fact that the eastern towns in Suffolk County may never have more than two votes in the Suffolk County Legislature that comment can be made about the Town of Brighton, which I represent, which can argue that it only has one vote in the Monroe County Legislature, and as a consequence, it should seek to withdraw from Monroe County and form its own county. Any level of government that doesn't have a position of control can say we're not being dealt with fairly because we don't have enough representation.

It seems to me that's not the argument that we should be looking at. From my point of view, in an era when what we ought to be doing is consolidating governments and saving money, what we run the risk of is fracturing government, creating additional levels of government.

I point out that I voted against the creation of the Karais Joel School District because I don't think we should be creating more

school districts. I'm going to vote against the creation of a city of Staten Island because I don't think we ought to be creating more cities. I think we ought to be looking at consolidation as a way to solve the problem.

I understand the sentiments of the people of Staten Island. I understand the strength of those sentiments. I understand how the Board of Estimates may have given them expectations about their role in the City of New York, but my view is the "one man one vote" principle is the right principle. It's the right idea, it brings us together, brings us together with proportional strength based on our numbers and based on the changes that occur in this country, and I think we do a disservice when we fracture our governments further.

And the notion that somehow Staten Island has a special position, I understand the sentiments of the people on the Island, but I believe that their argument about lack of power and representational government can be expanded to any group in any organization

where they don't actually have control of the political process.

So under those circumstances, Mr. President, and also because to some extent I think we have to look to guidance from the Mayor of the City of New York. As Senator Connor pointed out, I'm not so sure I would vote to take away any portion of the city of Rochester unless the mayor of the city of Rochester at least told me how he felt about it; and because I represent a city, a city that could have the same kind of fracturing problem that occurs in New York City, the same kind of fracturing that's posed by this bill, Mr. President, I will be voting in the negative.

I do so with some regret because I know that Senator Marchi has worked on this for a long time. I applaud your diligent efforts on behalf of your constituents. But at least at this stage, at this time, in this state, at this time in my view of government, I think we ought to be consolidating rather than fracturing our governments further, and I will

be voting no, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President, Senator Paterson has informed me that no other member of the Minority wishes to debate the bill at this time so, if we could, at this time Senator Marchi will close.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Marchi to close debate on Calendar Number 363.

Senator Marchi.

SENATOR MARCHI: I listened with interest to your remarks, Senator Dollinger. It's difficult to analogize the circumstances. Virtually all of the members of the Legislature out of the -- outside the city of New York have -- can relate to identifiable communities, so that the absence of a voice -- you know, 400,000 people is -- represents many, many counties or -- it's a giant -- it's a giant population, and the only representation they have are two and a fraction councilmen in a body of 51 members.

These are staggering facts that underlie the dilemma that we have. I agree with you, I didn't -- I didn't -- it's not that I was at war with the one man, one vote. I argued very eloquently, I think, in my own impoverished way when I was younger and I did it better. I thought it made eminent sense. People should be represented fully and in the spirit in which you said it, no question about that, but where does that leave us? Where does that leave us?

We cannot live in a city where we're -- our county concerns -- Do you realize that if one of our councilmen has an issue, he has the support of the other councilmen, but in the city -- in the large counties where they - where they -- Brooklyn, I think, has over 22 or 23 council members. These are big counties, so that they have -- automatically you get a certain support from your fellow members in the -- within the borough, so we don't have that. I mean put us all together, we have two and a fraction, two and a fraction. Very -- it's a very difficult task. So I'm not quarreling with

the decision of the Supreme Court.

As a matter of fact, at that time I wrote a letter. I said, "Well, now you've established the principle. Hallelujah!" I wrote to each member of the Supreme Court and I said, "The only thing is that perhaps you may be sundering a city."

I received a letter from Judge Souter, who had -- he wrote back, they all wrote back, very nice letters, acknowledgments, and Souter said, "Well, look, don't blame me," he said. "I don't take credit or blame," he said, "because I wasn't a member at the time that the issue arose, but I did follow you in the '60s," which shows he's a lot younger than I am.

But, in any event, I would like to -- maybe it's an imposition at this hour, but I would like to read to you the Charter of the city of Staten Island. Why? Because the preamble -- because I wrote it and I put my heart into this thing.

"The people of Staten Island, exercising their right to propose a government

of their choosing through which all people can be effectively represented, do hereby adopt this Charter.

"The birth of a city must, of necessity, take place in an aura of excitement and great expectations when it occurs at a time when society's experiencing strong institutional challenges. In a climate of skepticism, it places heavy burdens on those responsible for leadership to sustain a commitment by the people to live and function together as a community.

"The provision of a structure of governance at the local level is an extraordin ary and crucial responsibility. Sophocles --" Well, I don't see Senator Skelos. "Sophocles wisely observed that 'the city is the people.'" Those are within quotes.

"The city of Staten Island must place a high premium on assuring meaningful participation of its citizenry in governmental decisions affecting their lives.

"We must respect the principles of equality and the social dignity of all of our

residents and provide them with a complete development of the individual, promoting actions which favor the advancement of men and women in realizing their fullest potential.

"We must embrace policies that promote and give effectiveness to the rights of every person, with particular attention to those who face special challenges in striving for a full life.

"We must assert a policy of favoring equal opportunity employment for all women and men.

"We must foster a culture that is peaceful and non-violent and that safeguards the rights of all inhabitants to carry out their lawful activities on Staten Island.

"We should give strong supportive efforts for the conservation and defense of the environment along with advancement of the cultural and natural values that sustain them.

"We consent to be governed by the new municipality in the belief that a

smaller, localized city government may effectively and responsibly balance the needs of the people with the cost of providing municipal services.

"The city of Staten Island can serve as a model for the promotion of the common welfare, the guarantor of individual liberties and the guardian of the social, spiritual, economic and cultural concerns of its inhabitants.

"We believe this act of self determination to be in the best interests of the people of Staten Island and the people of the city of New York. We hope together as sister cities we can work cooperatively in efforts of regional concern and the betterment of New York State."

I authored this, and I think it sums up my personal attitude and the commission accepted it as an appropriate preamble to the charter that we had formulated.

In your absence, Senator, I did quote Sophocles.

SENATOR SKELOS: Thank you.

SENATOR MARCHI: Well, we have it even in the case law of this state. I believe it was in 1890 in the Court of Appeals of the state of New York, when the presiding justice said that our community -- our communities are the cradles and the nurseries of liberty, and to the extent that we can make it meaningful and significant, that, I think, has characterized the American system.

New York City is an unusual city. I'm very proud of New York City. I ran for mayor of New York City and, certainly, the affinity is great and meaningful.

You mentioned the fact or someone mentioned the fact that the mayors have been strangely silent. In fact, I told -- when I discussed this issue with each and every mayor, I said, "Look, I wouldn't feel very good if you said go. We're not going to object. I feel that you're -- the fact that you want us in is something sincere and that comes from the heart."

Mayor Giuliani said he would not attempt to block and, in fact, he has not attempted to block, but he has also said that, "I would do everything possible to -- to invite your continued presence in the city of New York."

So I had no quarrel with Mayor Koch or Mayor Dinkins, and all three individuals are friends of mine and I think you will know - you will see that, in any action that comes before us on this floor, you will find me on the side of helping a "sister city", as we refer to it in the preamble; but it's the fascination that -- that, I think, the whole world respects in the United States, the fact that there is, even in the smallest community -- I had a - when we were holding some of the hearings on Staten Island, I had a picture of Sherrill. I don't know who represents Sherrill, perhaps Senator Stafford. Perhaps, yeah. That's a little city of 2,600 people, and there was a little girl there about seven or eight years old who made a statement about her pride in being in

this little city. It's the smallest city of the state of New York, Sherrill, New York, and she shared her pride in the fact that she belonged to this city and that she was an inhabitant of the city of Sherrill, and there, of course, government and people and society is very close. Certainly the dimensions of size -- you don't have Athenian democracy, but almost, probably as close as you can possibly get to it.

This is the -- this is the spirit that animates us. This is the spirit that I trust will animate my colleagues as they rally to the -- to this forum to pronounce their judgment, and we have to take pride.

Now, I know that Senator Connor mentioned that the state of New York -- that Staten Island was not the analogy of -- the Declaration of Independence was not analogous to Staten Island. I remember that I went to speak before the Sons of the Revolution at Fraunces Tavern in New York, and I started in by telling them -- I said, "No one has yet to prove to me

that taxation with representation is any better than taxation without it." They -- they were - it was a very cordial exchange and we left on the best of terms.

I thank you for your forbearance, especially during the reading of the preamble, and I thank you for the attentiveness and the manner in which you've addressed this issue. Whether you were on one side or the other, it was always -- it was done in good taste and, I think, with evident sincerity.

Thank you.

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

SENATOR PATERSON: Slow roll call, Mr. President.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Paterson, are you asking for a slow roll call?

Are there five members? There are five members standing.

I'll ask the Secretary to call the roll slowly.

THE SECRETARY: Senator Abate, excused.

Senator Babbush recorded in the negative earlier today.

Senator Bruno.

(Affirmative indication.)

THE SECRETARY: In the affirmative.

Senator Connor.

(Negative indication.)

THE SECRETARY: In the negative.

Senator Cook.

SENATOR COOK: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Cook to explain his vote.

SENATOR COOK: Mr. President, as one of those persons who lives in a section of New York State that is not officially part of New York City but over which they, nevertheless,

try to exercise their governance, I have great sympathy with the people of Staten Island, and I enthusiastically vote in the affirmative.

ACTING PRESIDENT KUHL: Senator Cook will be recorded in the affirmative.

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator DeFrancisco recorded in the affirmative earlier today.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator DiCarlo to explain his vote.

SENATOR DiCARLO: Mr. President, as I said earlier, it's a very proud day for me to be a small part in this creation of a new city along with Senator Marchi.

I do it for the reasons which I stated earlier and in -- just in brief response to the Minority Leader, Senator Connor, I do understand history and I think it was the residents of Manhattan who held out longer, or I

would like to think that, than the residents of Staten Island or Brooklyn with the British.

Also, I didn't have with me copies of press releases or letters that the Senator had done while he was a representative of the borough of Staten Island, in which he said that he was supportive, I believe, of Staten Island becoming its own city. He says he has matured with age. I surely hope so.

I vote aye.

ACTING PRESIDENT KUHL: Senator DiCarlo will be recorded in the affirmative.

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just to explain -

ACTING PRESIDENT KUHL: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: My views on the issue were well-known. I'll just say something personally to Senator Marchi.

I vote against this bill today not to deny you the title of the Father of Staten Island, but instead in recognition of what, I think, I hope and I know will be your title in this state, that you will be known as one of the great men of the city of New York, a man who has run for mayor, a man who has vigorously represented his constituents and a man who was a voice for a great portion of the city of New York.

Unfortunately, I, for the reasons expressed and my own philosophical views of fracturing government, I'm going to vote no, but I think that that is a wonderful title and a wonderful culmination of your career to have that title alone, one that you have well merited.

I'm voting in the negative.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Espada,

excused.

Senator Farley.

ACTING PRESIDENT KUHL: Senator Farley to explain his vote.

SENATOR FARLEY: Thank you, Mr. President.

It's a pleasure to rise and support Senator Marchi, one of the great treasures of this whole Legislature who served here longer than any other member, who's a legend in Staten Island, literally a legend.

When somebody -- one of my students comes from Senator -- from Staten Island. He asked me if I know Senator Marchi, and with pride I say I do; and I want to say that a few years ago -- I think it was last year, I'm not sure -- Senator Connor in an impassioned speech really convinced me of the merit of what you're trying to do here, Senator Marchi, and it was with that that I enthusiastically was convinced by Senator Connor that Staten Island should become its own city.

It will be -- it's unique. It is

unique from the other boroughs. It's more like upstate New York, as a matter of fact, by the amount of automobiles that are owned by its residents and the homes, and so forth. I think that they're entitled to this. I think that everybody in here supports the idea that the government that is closest to the people is the best government. I think we, generally speaking, all concur in that, and certainly the people of Staten Island are enthusiastically in favor of their independence, and I think that this Legislature and this government ought to give them that.

I vote aye.

ACTING PRESIDENT KUHL: Senator Farley will be recorded in the affirmative.

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Galiber.

(There was no response.)

Senator Gold recorded in the negative earlier today.

Senator Gonzalez.

(There was no response.)

Senator Goodman, excused.

Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann, excused.

Senator Holland recorded in the affirmative earlier today.

Senator Johnson recorded in the affirmative earlier today.

Senator Jones.

(Negative indication.)

THE SECRETARY: Senator Kruger recorded in the negative earlier today.

Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack recorded in the affirmative earlier today.

Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter, excused.
Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
(There was no response.)
Senator Marcellino.
ACTING PRESIDENT KUHL: Senator Marcellino to explain his vote.
SENATOR MARCELLINO: Mr. President, if I didn't rise to explain this vote and to urge the support of John Marchi my relatives, many though they may be, who live on Staten Island, would rise up and move into my district and probably vote against me. So I have to do this, and I do this with pleasure because, although I haven't had the privilege of serving with Senator Marchi for very long, I've

known of his accomplishments and I read about him for many years. He certainly is to be honored in the work he has done on behalf of the people of Staten Island and their desire to secede is to his credit and to his honor.

We've heard a lot of arguments, some who have said that we've fractioned government by allowing the city to separate. It's almost as if they're saying bigger is better. It would be my contention that government should be as close to the people as possible and that, within reasonable limits, bigger is not necessarily better; but that if you can get a unit that is close to the population, that is self-sustainable and can handle the situation, as the people of Staten Island have proven they can, I think you owe it to them to allow them the right to secede, and I look to my Senator -- my fellow Senator from Long Island, from the east end, Senator LaValle, and agree with his contention about the Peconic County and will rise at that point in time, hopefully, to be able to support that motion as

well in that movement.

This is a good day and a proud day and I hope this motion carries. I vote aye.

ACTING PRESIDENT KUHL: Senator Marcellino recorded in the affirmative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: Mr. President.

ACTING PRESIDENT KUHL: Senator Markowitz to explain his vote.

SENATOR MARKOWITZ: Thank you very much.

Somehow, Senator Marchi, no matter how much great respect I have for you, I have some very definite feelings on this issue.

Maybe the answer should be to make Staten Island part of New Jersey rather than stay in the state of New York, I don't

know. I wonder if my colleagues would agree with that?

Secondly, maybe the answer is not to make Staten Island independent but to rip down the Verrazano Bridge. It could be, knowing some of the residents in your beautiful borough, they still are bitter, many of them, about the construction of the Verrazano Bridge. Maybe with the right federal assistance from your government down in the Congress, maybe they will provide funds to rip down the Verrazano Bridge, and I have a hunch that the residents of Staten Island, those that are vocal on this subject, would probably remain in the city of New York if the bridge were down.

But in all seriousness, if there was a county that should be free, it should be Kings County, not Richmond County. If we're really talking about who should be free, it should be the 2.4 million people living in Brooklyn, New York, Kings County, but the truth of the matter is that I know, since I have relatives and friends in Staten Island, Senator

Marchi, I understand -- I don't accept but I understand some of their rationale for not wanting to be part of our metropolitan New York City. We know. I don't want to go into heavy duty debates here, but I think many of us understand some of the motivations.

I think that those that brought the City together as a unit had the great wisdom back then, Senator Marchi, and continue to have, Senator, good wisdom to remain in the city of New York. We want to maintain a multi-cultural city, Senator Marchi, a multi-cultural city. That means we go from the most urban to -- I wouldn't call Staten Island rural, and I just heard a comment that it's more like upstate New York. That's not true. It's not true. Any of you that have ever visited Staten Island, you can't compare Staten Island with upstaters. They are not upstaters. They are sophisticated New York City residents, that's what they are, who choose to live in a borough -- who choose to live in a borough that has more -- excuse me.

ACTING PRESIDENT KUHL: Senator

Markowitz.

SENATOR MARKOWITZ: That's not saying upstate is not sophisticated, they are. Admit it.

ACTING PRESIDENT KUHL: Senator Markowitz.

SENATOR MARKOWITZ: New York City -

ACTING PRESIDENT KUHL: Senator Markowitz.

SENATOR MARKOWITZ: Staten Island is -

ACTING PRESIDENT KUHL: Senator Markowitz, in order to free the members of this chamber from your lecture, I would call a note to you that your two minutes has expired. How do you vote?

SENATOR MARKOWITZ: I will just say -- I will just conclude -- I'll conclude by saying that we value the residents of Staten Island as part of our city and, in turn, part of our state and by my voting no on this, it's reaffirming how much we value their participa

tion in making New York City the great state that it is -- the great city that it is.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Maziarz recorded in the affirmative earlier today.

Senator Mendez excused.

Senator Montgomery.

ACTING PRESIDENT KUHL: Senator Montgomery to explain her vote.

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

My colleague, Senator Markowitz, has made such an eloquent argument against the secession of Staten Island, but I would just like to add to that, in addition to the issue of multi-culturalism and the diversity of our city and -- that Staten Island adds so much to that. What would we do if somehow, for some reason, the city of Staten Island decides that it does not want residents from the borough of Brooklyn

to visit the children's zoo or the children's museum? Those are treasures which we certainly do not ever want to lose access to and -- among other treasures that the borough of Staten Island offers.

So, though I have every bit of respect for Senator Marchi and I know how he is revered in the borough of Staten Island, I am voting no, not against Senator Marchi but against the possibility of us ever possibly losing access to those wonderful cultural institutions that Staten Island offers.

I vote no, Mr. President.

ACTING PRESIDENT KUHL: Senator Montgomery in the negative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Nanula recorded in the negative earlier today.

Senator Nozzolio recorded in the affirmative earlier today.

Senator Onorato.

ACTING PRESIDENT KUHL: Senator

Onorato to explain his vote.

SENATOR ONORATO: Mr. President, to explain my vote.

I rise to show my respect for Senator Marchi, not by supporting the bill, but by -- I can't envision of the city of New York without the wonderful voice of Senator Marchi, and I certainly cannot envision the city of New York not being able to offer you the right to run again for the mayor of the city of New York.

And, for that reason, Mr. President, I vote no.

ACTING PRESIDENT KUHL: Senator Onorato in the negative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Explain my vote, please.

ACTING PRESIDENT KUHL: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: Well, even

though I also will be voting no like everyone else, I want to say that you are -- you are beloved and revered in this chamber, as well as in your home borough.

I'm voting no because I have long accepted the wisdom of the larger whole having a say in this decision. I think I, more than anyone else in this chamber, have experienced the same situation when I was mayor of Mamaroneck. I went three times to a referendum for making our village a co-terminous town/village, which would have required us coming out of the two towns in which we're in, the town of Mamaroneck and the town of Rye, and making us our own co-terminous, single-boundary town/village.

This is something that's not uncommon in my county. Scarsdale is a town/village, Harrison is a town/village, but I could not get the acquiescence of both towns. I could only get the vote out of one town and not out of the other, and we kept going back, trying again, trying to explain why it was important to this

village, which is a large village and has its own identity and has all of its own offices. We have assessors and engineers. I mean we had everything, and we had nothing that the town was providing us outside of the elections for which they put up the machinery, and we really pleaded with them, but we could not convince one of the town's electorate to let us go.

So that was in the mid-'70s. It colored my thinking. I know now, and acquiesce to that philosophy, that the larger whole has a right to vote on its dismemberment. So that's why I'm voting no, through bitter experience but also having come to terms with it.

ACTING PRESIDENT KUHL: Senator Oppenheimer in the negative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Yes.

THE SECRETARY: Senator Rath.

ACTING PRESIDENT KUHL: Senator Rath to explain her vote.

SENATOR RATH: To explain my vote.

My sincerest congratulations and admiration to Senator Marchi for the excellent job that you've done in 13 years of very hard and, I would say, landmark legislation.

One of your comments in your opening remark was that you had felt that it was a moral obligation to pursue this with all of the parties involved until every stone was turned, and from following some of this today, it appears that every stone has been turned and we all will owe you a debt of gratitude, and I may say, we may owe you a larger debt of gratitude than we would ever know.

In western -- unsophisticated - where's Senator Marchi -- unsophisticated western New York, which I happen to be a member of the western New York delegation and Dale

Volker and I are going to take that up with Senator Marchi eventually, but let me tell you what we have. If you'll take a walk with me down a map, the Great Lakes, Lake Erie, Niagara River, Lake Ontario -- Niagara River, Niagara Falls, of course, Lake Ontario. Niagara River has sitting in the middle of the Niagara River, Grand Island, which is the world's largest inland island, and right now, there's discussion that the Indians may really own that island and we may have to go back and take a look at every bit of legislation and every bit of research that has been done in relation to what can be done.

Now, granted, an Indians' treaty is a little different than what we're talking about here but, indeed, if we go -- if this goes to court, we have a set of circumstances that may, as I said, be looking for every bit of legislation.

Beyond that, however, let me point out that in the Assembly there has been legislation introduced other years indicating

that maybe we should have the state of "Upstate New York" and, consequently, I followed some of that in the county legislature because, again, I was asked to take a look at doing memorializa tion to the state, and what I found when we looked at what Virginia and West Virginia did was very interesting and, indeed, landmark legislation because that didn't happen all that long ago; and so we're talking about here -- and Senator Marchi was very clear -- the right to self-rule. We're talking about -- and Senator Waldon indicated also, home rule and the right to self-rule.

We may have other places in New York State that are looking for self-rule, and maybe the opportunity for the state of "Upstate" may be a discussion some day down in the future. I'm grateful and all of the people of the state of New York will be grateful for the spade work you have done in determining self-rule.

I vote aye.

ACTING PRESIDENT KUHL: Senator

Rath in the affirmative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Explain my vote, Mr. President.

ACTING PRESIDENT KUHL: Senator Saland to explain his vote.

SENATOR SALAND: Like so many others in this chamber on both sides of the aisle, I would like to commend Senator Marchi for certainly what's been a herculean effort for one of the giants of this Legislature or any other Legislature.

I commend you, not only for your usual quality of work but for your perseverance and your constancy. You've seen this issue through from the beginning, and I'm sure you'll continue until you have accomplished your final end.

I would like to just remark, if I might, on some of the comments from my disting uished colleague, Senator Markowitz. They seem

somewhat reminiscent of comments I heard from a former mayor of the city of New York who talked about people in calico dresses and pickup trucks. I would think that, Senator Markowitz, given the level of sophistication that he has attributed to the people of Staten Island, would be one of the first people to support this bill because, if they're as sophisticated as he says he is, he should certainly should give them their way on what is a home rule message.

Thank you, Mr. President. I vote in the affirmative.

ACTING PRESIDENT KUHL: Senator Saland in the affirmative. The Secretary will continue to call the roll.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Aye.

THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Solomon, excused.
Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: No.
THE SECRETARY: Senator Stafford voting in the affirmative earlier today.
Senator Stavisky voting in the negative earlier today.
Senator Trunzo voting in the affirmative earlier today.
Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
(There was no response.)
Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
ACTING PRESIDENT KUHL: Senator

Waldon to explain his vote.

SENATOR WALDON: Very briefly, Mr. President.

This legislation is of profound importance to Senator Marchi and to Senator DiCarlo and Assemblywoman Connolly and Straniere -- Assemblyman Straniere and Assemblyman Vitaliano, but especially to our dear colleague, Senator Marchi, and even in this place, this chamber, this Senate, what goes around comes around.

I support Senator Marchi. I think what he's doing is of great importance and will be long remembered on behalf of the people of the borough, soon to be city of Staten Island, and I vote yes.

ACTING PRESIDENT KUHL: Senator Waldon in the affirmative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Wright voting in the affirmative earlier today.

ACTING PRESIDENT KUHL: The

Secretary will call the absentees.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: Yes.

THE SECRETARY: Senator Maltese.

ACTING PRESIDENT KUHL: Senator Maltese to explain his vote.

SENATOR MALTESE: Mr. President, first of all, like so many of my colleagues, I wish to congratulate Senator Marchi on not only his persistence and perseverance, but certainly his acumen and dedication in pursuing this legislation.

I'd like to point out that, had Senator Marchi achieved the victory in the mayoral campaign when some of us worked together with Senator DiCarlo's dad and many others in his mayoral campaign, I don't know that the city of New York perhaps would not have been much the better, and instead of Staten Island seeking to secede, we may have had Nassau, Suffolk and Westchester seeking to join us; but since that

isn't the case, I'd like to briefly just comment on Senator Markowitz' expressions.

In this 50th anniversary of the Second World War, it's interesting that the personification of Kings County, represented by Senator Markowitz, as I remember, was the presence of "them bums" and the exemplification of Brooklynese as personified by William Bendix, as I remember, in many of the old movies; but given that Senator Markowitz feels that way, then perhaps, with the secession of Staten Island, we'll see the sophistication of New York City rise and, if Queens County is able to follow the excellent example of Staten Island, then perhaps we can leave Senator Markowitz to that level of sophistication that he wishes to achieve.

Mr. President, I vote in the affirmative.

ACTING PRESIDENT KUHL: Senator Maltese in the affirmative.

The Secretary will continue to call the absentees.

THE SECRETARY: Senator Velella.

(There was no response.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 36, nays 17.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping, Mr. President?

ACTING PRESIDENT KUHL: Yes. We have a substitution at the desk, Senator Skelos. Ask the Secretary to read.

THE SECRETARY: On page 19, Senator Leibell moves to discharge from the Committee on Housing and Community Development, Assembly Bill 5097-A, and substitute it for the identical bill, Third Reading 275.

ACTING PRESIDENT KUHL: The substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time, I know that many members of the

Majority thought there would be a conference at 2:00 today. There will not be a conference today at 2:00. There will be a conference on Monday of the Majority at 2:00 p.m. sharp, and there being no further business, I move we adjourn until Monday, April 17th, 1995 at 3:00 p.m. sharp.

ACTING PRESIDENT KUHL: Without objection -

SENATOR SKELOS: Intervening days to be legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Monday, April 17th, at 3:00 p.m.

(Whereupon, at 1:08 p.m., the Senate adjourned.)