ALBANY, NEW YORK

February 27, 1996

3:00 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order.

Ask the visitors to find their seats, members to find their seats. Ask everybody to rise and join with me in saying the Pledge of Allegiance to the Flag.

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

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

(A moment of silence was observed. )

Reading of the Journal.

THE SECRETARY: In Senate, Monday, February 26th. The Senate met pursuant to adjournment. Prayer by the Reverend Dr. Evelyn John, Pastor, New Life Center of Truth, Brooklyn. The Journal of Friday, February 23rd, 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.

The Secretary will read.

THE SECRETARY: Senator Leibell, from the Committee on Housing and Community Development reports:

Senate Print 5927A, by Senator Leibell, an act to amend the Private Housing Finance Law, in relation to loans.

Senator Wright, from the Committee on Alcoholism and Drug Abuse reports:

Senate Print 328B, by Senator Levy, an act to amend the Public Authorities Law and the Railroad Law, in relation to operating a self-propelled rail passenger car;

2259, by Senator Wright, an act to amend the Vehicle and Traffic Law, in relation to creating the crime of aggravated driving while intoxicated;

4211, by Senator Hoblock, an act

to amend the Alcoholic Beverage Alcohol Law, and others, in relation to compensatory service;

5960, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to the suspension or revocation of a driver's license.

Senator Lack, from the Committee on Judiciary reports:

Senate Print 499A, by Senator DiCarlo, an act to amend the General Obligations Law, in relation to exoneration of certain police officers;

546A, by Senator Marchi, an act to amend the Judiciary Law, in relation to creating the 13th Judicial District;

617, by Senator Stafford, an act to amend the Real Property Law, in relation to authorizing a voluntary administration;

1298, by Senator Lack, an act to amend the Real Property Law, in relation to allowing an assignment of mortgage;

2145, by Senator Trunzo, an act to amend the Eminent Domain Procedure Law, in

relation to acquisition of land;

2314, by Senator Kuhl, an act to amend the General Obligations Law, in relation to the liability for negligence;

3775A, by Senator Lack, an act to amend the Family Court Act, in relation to the duty to support recipients of public assistance;

4614A, by Senator Lack, an act to amend the Surrogate's Court Procedure Act, in relation to witnesses;

4615, by Senator Lack, an act to amend the Surrogate's Court Procedure Act, in relation to requirement of filing a bond;

6008, by Senator Lack, an act to amend the Judiciary Law and Chapter 397 of the Laws of 1988.

Senator DiCarlo, from the Committee on Aging, reports:

Senate Print 1413, by Senator Levy, an act to amend the Transportation Law, in relation to establishing the New York State Inter-agency Task Force;

3420, by Senator Johnson, an act

to amend the Real Property Tax Law, in relation to a senior citizen rent exemption;

3502A, by Senator Saland, an act to amend the Real Property Tax Law, in relation to excluding certain expenditures;

6149, by Senator DiCarlo, an act to amend the Real Property Tax Law, the Administrative Code of the city of New York and Local Law Number 1 of the city of New York.

Senator Volker, from the Committee on Codes, reports:

Senate Print 213, by Senator Holland, an act to amend the Penal Law, in relation to the validity of license to carry or possess a pistol;

1189, by Senator Sears, an act to amend the Penal Law, in relation to including the use of a firearm;

1321, by Senator Sears, an act to amend the Penal Law, in relation to unauthorized use of an emergency vehicle;

1378, by Senator Farley, an act to amend the Penal Law, in relation to

restitution and reparation;

1417, by Senator Saland, an act to amend the Criminal Procedure Law and the Family Court Act, in relation to access to records;

1618A, by Senator Goodman, an act to amend the Penal Law, in relation to consecutive terms of imprisonment;

1966A, by Senator DeFrancisco, an act to amend the Criminal Procedure Law, in relation to application for recognizance or bail;

1971, by Senator DeFrancisco, an act to amend the Criminal Procedure Law, in relation to compliance with orders fixing bail;

2335A, by Senator Saland, an act to amend the Criminal Procedure Law, in relation to expanding the limited list of offenses;

2957B, by Senator Volker, an act to amend the Civil Rights Law, in relation to providing for limited immunity;

3132, by Senator Volker, an act to amend the Criminal Procedure Law, in relation

to peace officers;

3180A, by Senator Volker, an act to amend the Civil Practice Law and Rules and the Public Authorities Law, in relation to personal service;

3327, by Senator Johnson, an act to amend the Criminal Procedure Law, in relation to requiring certain persons committed to the custody of the sheriff;

3494, by Senator Volker, an act to amend the Criminal Procedure Law, the Family Court Act and the Penal Law, in relation to crimes involving firearms;

3521, by Senator DeFrancisco, an act to amend the Criminal Procedure Law, in relation to attendance of defendants;

4293B, by Senator LaValle, an act to amend the Civil Rights Law and the Public Health Law, in relation to genetic tests;

4297, by Senator Volker, an act to amend the Civil Rights Law, in relation to access to personnel files;

4588, by Senator Volker, an act

to amend the Penal Law, in relation to issuance of license to carry and have pistols;

5170, by Senator Gold, an act to amend the Criminal Procedure Law, in relation to designating officers;

6041, by Senator Volker, an act to amend the Criminal Procedure Law, in relation to the authority of police officers.

Senator Rath, from the Committee on Local Government, reports:

Senate Print 258, by Senator Cook, an act to amend the Real Property Tax Law, in relation to making certain state lands subject to taxation;

636, by Senator Cook, an act to amend the Town Law, in relation to the terms of office of elective officers;

1546, by Senator Kuhl, an act to amend the Real Property Tax Law, in relation to appointments made to the state board;

1652, by Senator LaValle, an act to amend the Town Law, in relation to initiation of a criminal history check;

3032, by Senator Volker, an act to amend the Town Law, in relation to providing for absentee ballots;

4119, by Senator Present, an act to amend the General Municipal Law, in relation to giving municipalities the power to prefer businesses;

5762, by Senator Farley, an act in relation to the dissolution of Fire District Number 1;

5991, by Senator Lack, an act to amend the County Law, in relation to permitting district attorneys;

6010, by Senator Johnson, an act to amend Chapter 492 of the Laws of 1993 amending the Local Finance Law;

6035, by Senator Rath, an act to amend the General Municipal Law, in relation to permitting the New York State Town Clerks Association, Incorporated to make purchases;

6072, by Senator Skelos, an act to amend the County Law and the General Municipal Law, in relation to authorizing

counties to provide for a crime case status hot line.

Senator Levy, from the Committee on Transportation, reports:

Senate Print 178, by Senator Tully, an act to amend the Vehicle and Traffic Law, in relation to authorizing towns and villages;

562, by Senator Cook, an act to amend the Highway Law, in relation to the definition of the Southern Tier Expressway;

1414, by Senator Present, an act to amend the Vehicle and Traffic Law, the Parks, Recreation and Historic Preservation Law, in relation to the registration of snowmobiles;

1695A, by Senator Goodman, an act to amend the Transportation Law, in relation to increasing penalties;

2670, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to leaving the scene of injury;

2883, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation

to increasing penalties for leaving the scene of an accident;

3861, by Senator Nozzolio, an act to amend the Vehicle and Traffic Law, the Parks, Recreation and Historic Preservation Law and the State Finance Law;

4432, by Senator DiCarlo, an act to amend the Vehicle and Traffic Law, in relation to proof of notice of suspension;

4578, by Senator Tully, an act to amend the Vehicle and Traffic Law, in relation to providing the issuance of a driver's license;

5976, by Senator Levy, an act to amend the Transportation Law, in relation to establishing a demonstration program, reported with amendments;

6038, by Senator Lack, an act to amend the Railroad Law, in relation to police officers of a commuter railroad.

Senator Present, from the Committee on Commerce, Economic Development and Small Business, reports:

Senate Print 1929, by Senator

Present, an act to amend the State Administrative Procedure Act;

1930, by Senator Present, an act to amend the State Administrative Procedure Act and the Executive Law;

1931, by Senator Present, an act to amend the State Administrative Procedure Act, in relation to regulatory relief;

3073, by Senator Wright, an act to amend the State Administrative Procedure Act, in relation to requiring that agencies conduct and include a formal cost;

3137, by Senator Wright, an act to amend the State Administrative Procedure Act, in relation to requiring that the state rules not impose standards.

All bills reported directly for third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are reported directly to third reading.

Reports of select committees.

Communications and reports from

state officers.

Motions and resolutions. The Chair recognizes Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I move the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Numbers 4824.

ACTING PRESIDENT KUHL: Said bill will be recommitted, the enacting clause will be stricken.

Senator Libous.

SENATOR LIBOUS: And on behalf of Senator Volker, on page 10, I offer the following amendments to Calendar Number 228, Senate Print 5209, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 228 are received, adopted; the bill will retain its place on the Third Reading Calendar.

The Chair recognizes Senator

Seward.

SENATOR SEWARD: Yes, Mr. President. On behalf of Senator Sears, on page 12, I offer the following amendments to Calendar Number 248, Senate Print Number 3921, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 248 are received and adopted; the bill will retain its place on the Third Reading Calendar.

Senator Seward.

SENATOR SEWARD: Yes. On behalf of Senator Johnson, on page number 6, I offer the following amendments to Calendar Number 129, Senate Print Number 1847, and ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar 128 are received and adopted; bill will retain its place on the Third Reading Calendar.

Senator Skelos, we have a substitution at the desk we'd like to read at

this time if that's permissible.

SENATOR SKELOS: Do the substitutions.

ACTING PRESIDENT KUHL: Secretary will read the substitution.

THE SECRETARY: On page 4, Senator Wright moves to discharge from the Committee on Transportation, Assembly Bill 1900B and substitute it for the identical Calendar Number 46.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar in its entirety except for Resolution Number 2531 which I would ask be read in its entirety after we adopt the Resolution Calendar.

ACTING PRESIDENT KUHL: The motion is to adopt the Resolution Calendar with the exception of Resolution Number 2531.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The Resolution Calendar is adopted.

SENATOR SKELOS: If we could recognize Senator Maltese.

ACTING PRESIDENT KUHL: Senator Maltese.

SENATOR MALTESE: Mr. President, with reference to Resolution J.L. 2467, honoring Consul General Franco Mistretta, and J.L. 2468, proclaiming the month of October as Italian American History Month, that is open to all co-sponsors, Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos, do you want to have all of the members placed on those resolutions? Are there members who -

SENATOR SKELOS: Mr. President, on Senator Maltese's resolutions, why don't we let the members notify the desk if they wish to be on it, and I believe also Senator Paterson is

going to make a similar request.

ACTING PRESIDENT KUHL: All right.

Senator Paterson.

SENATOR PATERSON: Mr. President, on behalf of Senator Connor, we would like to open up Resolution Number 2507 and, if you would please recognize Senator Oppenheimer, she has a resolution she would like to bring before the Senate.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm here. This is Resolution 2536. I think you have it at the desk, right? Yes, please. Did it arrive at the desk? O.K. Well, I'd like to make a -

ACTING PRESIDENT KUHL: Senator Oppenheimer, we have adopted Resolution Number 2536. It was on the Resolution Calendar. Are you wishing to open it up for co-sponsorship?

SENATOR OPPENHEIMER: I would like -- there you go. I would like to speak on it for one moment and then open it to the entire

body for co-sponsorship.

This resolution relates to the Women's History Month and every year in New York we set aside time to recognize the unique contributions that women make, have made and are making to New York State, and in -- in our history though we have not been necessarily recognized throughout our history, the fact is that we have made mighty contributions to most areas -- government, politics, business, the arts, social change, science, literature, religion, philanthropy -- and this opportunity that comes this month is one that we should not miss to -- to inform the general public about what women have done in the past, to talk about suffrage, to talk about the fight of 70 years until we finally did get that in effect, to talk about the strength of women supporting not only themselves but their families, their communi ties, working toward economic independence, working towards personal security, civil rights.

These are all things that it's an

important thing that we discuss and this year in particular, we have something that is unique to this year and that is in 1996 the women in the state wish to join with women throughout the world to advance and implement in our own communities, our towns, our villages, our cities the Beijing plan of action for equality which was endorsed by the United States at the Fourth World Conference on Women which was held this late summer-early fall in Beijing, and we want to reaffirm our commitment not only to the women of this country but to securing a full role, a full place in society for women across the world, around the world.

And so I would like this up lifting message to be supported, if they're interested, by all members of the New York State Senate.

Thank you.

ACTING PRESIDENT KUHL: Senator Oppenheimer, for that message trying to request sponsorship. For the benefit of the members, there have been four resolutions which have been

opened to sponsorship that have been adopted. There are two by Senator Maltese. Those are 2-4-6-7, 2467, 2-4-6-8, 2468; Senator Connor has opened up sponsorship to 2507 and Senator Oppenheimer is opening up sponsorship to 2536. If you would so indicate to the desk that you wish to co-sponsorship those members, they would appreciate it.

The Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President, at this time, I believe Senator Connor has a resolution at the desk. If we could have it read in its entirety.

ACTING PRESIDENT KUHL: Ask the Secretary to read, I believe it's Resolution Number 2531, in its entirety.

THE SECRETARY: By Senator Connor, Legislative Resolution Number 2531, paying tribute to the Honorable Barbara Jordan and Dr. Carter Woodson, upon the occasion of the 70 Anniversary of the Founding of Negro History Week and the 20th Anniversary of Black History

Month.

WHEREAS, as the month of February draws to a close, let us pause for a moment in our daily lives to commemorate the 70th Anniversary of the founding of Negro History Week, the 20th Anniversary of Black History Month and two people whose immeasurable contributions deserve recognition; and

WHEREAS, the son of former slaves, Carter G. Woodson earned his doctorate from Harvard University in 1912, where his concern culminated that the contributions of African-Americans would be forgotten without a recorded history. Dr. Carter G. Woodson, historian and scholar, established the Association for the Study of Afro-American Life and History and the Journal of Negro History; and

WHEREAS, it was his profound devotion to African-American history and his work with the Amsterdam Action Association that led Dr. Woodson 70 years ago to establish Negro History Week in order to promote and encourage

the study of African-American history, choosing February because it coincided with the births of Abraham Lincoln and Frederick Douglass; and

WHEREAS, with this observance it was Dr. Woodson's hope that all Americans would be reminded of their own heritage while developing a mutual respect for the ethnic roots this country was founded upon. "It's great to know your heritage and your past because it has a bearing on your present and your future. It's important these days to have at least one month out of the year for that;" and

WHEREAS, 20 years ago, in honor of Dr. Woodson and his celebrated work, President Gerald Ford declared the entire month of February as Black History Month; and

WHEREAS, this year Black History Month would not be complete without a proper tribute to the Honorable Barbara Jordan, another child of February's dawning, and a resonant voice for the Constitution, leaving us this January 17, 1996 without our being able to say goodbye and thank you; and

WHEREAS, a woman who made history herself, Barbara Charline Jordan was born into poverty in 1936, received her law degree from Boston University in 1959, was elected the first African-American State Senator in Texas history and then went on to become the first woman elected to Congress, the first African-American from Texas; and

WHEREAS, an outspoken woman with undying strength, State Senator Jordan ascended to the post of Speaker Pro Tem six years after she won her first state election with the support of President Lyndon B. Johnson. Congresswoman Jordan was bestowed with a seat on the House Judiciary Committee, her Freshman year in Washington; and

WHEREAS, during the political turmoil of 1974, as the nation questioned government and its leadership, Congresswoman Jordan urged the graduates of Howard University not to surrender but to "Reaffirm what ought to be, to get back to the truth. Get back to what's honest; tell government to do that.

Affirm the civil liberties of the people of this country;" and

WHEREAS, in 1976, Congresswoman Barbara Jordan once again created history when she delivered the keynote address at the Democratic National Convention, riveting her audience on national television. "Many fear the future. Many believe that their voices are never heard, that we will cease to be one nation and become instead a collection of interest groups, each seeking to satisfy private wants. More is required of public officials than slogans and handshakes and press releases. More is required. We must hold ourselves strictly accountable. We must provide the people with a vision of the future." A fine vision Congresswoman Barbara Jordan has given us.

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to pay tribute to the Honorable Barbara Charline Jordan and Dr. Carter G. Woodson for their lifelong contributions and to commemorate the 70th Anniversary of the founding

of Negro History Week and the 20th Anniversary of Black History Month; and

BE IT FURTHER RESOLVED that copies of this resolution, suitably engrossed, be transmitted to the Honorable George E. Pataki, to Mrs. Arylenne Jordan, with our deepest respect, and to the Association for the Study of Afro-American Life and History, acknowledging that we have not forgotten.

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

SENATOR CONNOR: Thank you, Mr. President.

As Senator Skelos noted, this resolution, of course, is open to sponsorship by the entire Senate.

I don't know about my colleagues, but I think one of the things that I've enjoyed in these past years has been an increasing focus on Black History Month and you see on television the public service vignettes pointing out some of the most notable accomplishments that our African-American fellow citizens have made to

this country.

I've certainly found it edifying. Whether -- and it's certainly been a vehicle, and I'm sure when Dr. Woodson first proposed it some 70 years ago, given the climate of the times, he aspired to a week to commemor ate African-American history. We certainly realize as more and more of our fellow Americans became aware of historic contributions and became aware that our pantheon of heroes in this country included many, many people of African American ancestry, that a week was woefully inadequate to cover the heroics and contributions from Crispus Attics to notable Americans who achieved in science, education, through the heroes that have been now recognized in the war between the states and indeed in every conflict from the very beginning, from the Revolution through our most recent conflicts and indeed contributions in the arts, music, academia, all of which for many, many decades because of the sad history of racism in this country's earlier history were ignored in the

textbooks, were ignored in the textbooks many of us who are as old as me were given to study in school.

And now we know so much more about not just African-Americans, we know so much more about American history because of the efforts that have gone forth to commemorate this wonderful Black History Month, and I think all of us, I dare say there's no one of either party who doesn't recognize that in Barbara Jordan we have a unique American.

I remember reading years ago her constant companion was a dog-eared copy of the Constitution that she always carried in her pocket or in her bag. She was certainly a woman of remarkable accomplishment, compassion, certainly one of the most articulate speakers I think any of us have heard in the political forum.

She defied stereotypes about women, about African-Americans, about Democrats. I remember some issues I dare say she wouldn't be characterized as liberal on.

She had many conservative principles as part of the mix of what made up her political philosophy. But the one thing that she had that I think we all share is a devotion -- I hope we could all emulate is a devotion to the Constitution and to due process and to the finer instincts that all Americans have always given at least acceptance to striving toward, and so her passing certainly was a loss for her country, for the entire country.

I think it's remarkable, if you recall, that probably at the height of her influence in Congress, she hadn't really been there really that very long, but she was one of the most respected members, she decided to retire and pursue an academic career and still maintained her involvement in public affairs from that perspective.

So again, as we pause in this month of February to commemorate the enormous contributions that African-Americans have made to American history, we also remember a recently departed American hero, Barbara Jordan.

ACTING PRESIDENT KUHL: I understand, Senator Onorato, you were looking for the floor for an introduction.

SENATOR ONORATO: Yes, Mr. President.

I know it's not the usual custom to introduce people in the chamber, but today we have a group, the Jewish War Veterans of the state of New York came up to Albany to address the joint session of the Assembly and the Senate regarding their legislative program and joining with us today in the gallery is the chairman and the president of the Jewish War Veterans, Mr. William Melnick and William Weinstein.

I'd appreciate your recognizing them, Mr. President, and welcoming them to our chamber.

ACTING PRESIDENT KUHL: Gentlemen, we welcome you to the chamber, hope you're enjoying the proceedings, hope you're enjoying your time if Albany. Thank you for coming and sharing some time with us today.

Senator Gold, why do you rise?

SENATOR GOLD: Can we go on Senator Connor's resolution.

ACTING PRESIDENT KUHL: That's correct. Senator Paterson has the floor ahead of you, Senator Gold.

SENATOR GOLD: Yeah. I wanted to make sure that that happened.

ACTING PRESIDENT KUHL: I knew that you did.

The Chair recognizes Senator Paterson.

SENATOR PATERSON: Yielding to Senator Gold, Mr. President, but he told me to keep speaking.

Mr. President, I want to thank Senator Connor for his presentation and just to -- looking at the other resolutions that we have adopted here today, Senator Velella and I agree that if we had an African-American woman of Italian descent, then we would fully appreciate all of the history and culture that we have celebrated and adopted this afternoon.

The African-American History

Month was founded actually -- was actually started as Negro History Week 70 years ago, and I wanted to dispel the feelings that some African-Americans have that, among the other slights that have occurred in American history that the month of February which has fewer days, was actually chosen to be Black History Month. It was not. The reason that February was chosen was because a particular week in February marks the time of the birth of Frederick Douglass in 1811 and his death in 1895.

What we wish to do is to celebrate those African-American leaders, both the living and the dead, who struggled courageously and unremittingly throughout the past few centuries to build a viable national movement that was directed in the area of creating economic, political and social justice. But what Senator Connor talked about was actually not African-American history when he talked about what he read in the history books and what he now is able to read because of our affirmation and our study of African

Americans in this country.

When we celebrate African American history, Mr. President, we are really celebrating American history because we are celebrating that part of our livelihood and our lives throughout the past few centuries that have heretofore been deleted from the actual presentation.

The founding Constitution in 1777 which included Article I, Section 2, Clause 3 which was the provision that provided for slavery and also allowed for the Africans that were in this country at that time to be counted as three-fifths of an individual; also Article IV, Section 2, Clause 3 which allows for the recovery of runaway slaves, although in my edition of the Constitution it says in a rather scholarly way that this section probably has no meaning after the passage of the Thirteenth, Fourteenth and Fifteenth Amendment, but it gives us an idea of what actually existed in our country in its inception to such an extent that in the year 1820, writing in the Edinburgh

Review, the great British wit, Sidney Smith, once advised that "which of the tyrranies of Europe systematically tortured and enslaved one-sixth of its population." Also Thomas Jefferson, writing in 1820 in response to Sidney Smith, wrote, never did he imagine so much travail from this source.

In the original draft of the Declaration of Independence, slavery was described as the greatest woe to human beings, but because of a coalition between New England slave traders and southern planters, that version didn't make the final cut, and so the first hundred years of American history was really dedicated to a resolution of what to do about African-Americans from the Louisiana Purchase in 1803 to the Missouri Compromise in 1820, which allowed for slavery north of the 36th parallel in this country, what to do about the African-American was the founding and continuing theme until the compromise 1850 when California was entered as a free state, Texas as a slave state, Utah and New Mexico as neutral

territories, and slavery was abolished in the District of Columbia.

Finally in 1854, there was a tremendous controversy over that compromise which really allowed for slavery north of the 36th parallel, but that was then affirmed in the famous Supreme Court case of Dred Scott. Many people believe that the Dred Scott case ruled that slavery would now be allowed north of the 36th parallel. That had actually already been decided five years before in a case called Slater -- Strater v. Graham.

What was said in 1857 in the Dred Scott case that since Dred Scott was not considered a human but rather three-fifths of one, that he did not have a right to sue in a federal court any more than a desk or a microphone or a memorandum would, and so it is this historical celebration that gives us an idea of how far we've come in our society but also how far we have yet to go.

Some years ago I learned about a burial ground that is approximately at the

confluence of Broadway and Duane and Reade and Elk Street in lower Manhattan. It houses those individuals who lived and were buried in New York City of African descent from approximately 1710 to 1795; it is the oldest African burial grounds every noted in this country. It is also the only burial grounds that houses the remains of individuals who were indigenous to the African continent, and so by the study of that burial grounds, we were able to learn what of the actual West African countries that African Americans are indigenous. Previously it was just thought, but through the archaeological study from that burial grounds, we now know that Ghana and Angola -- what is now Angola, Nigeria, and also Mozambique were the original homes of the Africans who were then transported, 40 million of them of which only 23 million survived, to what is the United States and then were buried in lower New York.

We also learned one other thing about Africans that came to this country through their burial grounds, that although we'd always

learned about the slave trade 72 percent of the remains found in that burial grounds are those of children, so what they were actually doing to conserve space was putting the smallest people they could in those ships so it even adds to the tremendous torture that we knew that those who were brought to this country endured.

And so the concept of African American History Month, which is not only the celebration of great African-Americans in this country who have contributed to our society, but it is also the affirmation of real history in this country for all Americans. It's something that not only gives us an idea of what our history was, but really compels us to go forward to build that national movement, both men and women of all ethnicities, so that we will fully be able to say the Pledge of Allegiance and know that it is the land of the free and the home of the brave.

Thank you, Mr. President.

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

SENATOR GOLD: Thank you, Mr. President.

Mr. President, as everybody in this chamber, I know, knows, freedom of speech has a price. It's not easy, and that means that if you believe in a freedom of speech, it's not acceptable speech and that people can be out there ranting and raving. They can lie. We have racists out there and it can be getting into your gut, and they've got to talk, but our only defense is to talk back, tell the truth and to educate.

Now, having said that, I want to really thank the New York Times for something that was in the paper this last Sunday. If you read the Magazine Section of the New York Times Sunday, there was an article that had to, in my opinion, just send shivers up the spine of everybody.

It was an article about some of the racist organizations in America and their attempt to spread the white supremacy philosophies and how they have, many of them

have gotten away from the camps with the rifles and the guns and the military which has obviously gotten them some "skinheads", et cetera, over the years, but how they have decided that the way to really encourage and increase their numbers was to stay up with modern times, and they said, Well, what are the youth of America doing today? The youth of America getting excited, like everybody else, about the Internet and computers, and one of these jerks now has a place on the Internet, a page. He plays in a rock group and that music is white supremist, and the article pointed out that, in the last four months, some of these groups have made greater inroads with our youth than they've done in the last four years.

I think that one of the importances of Black History Month is that it gets us talking. It gets us talking about the truth, and that's the only defense we have in a country where we cherish free speech. You can not stop these morons from talking. You cannot stop the revisionists from talking about the

Holocaust as if it didn't happen. You can not stop white supremists from the nonsense that they say about our African-American brothers and sisters; but we have to wake up to the fact that these scientific advances are for us also, and I think that the parents in our state and throughout America have to understand that just as you don't want your sons and daughters walking around at two, three in the morning, hangin' out in bad places, you'd better watch what's goin' on on that Internet and what is coming into your home.

Now, we have had legislation, people talk about pornography, and it depends upon how you define "pornography". To me someone who preaches hatred against another individual because of race, creed, color, national origin, et cetera, is pornographic, and you -- you've got to understand that it's coming into the homes. It's out there on the Internet and as part of Black History Month, which I think is important and I'm proud that my leader is carrying this resolution, I think one of the

things we ought to be doing as we go around and talk to our constituents, is to alert them that whatever the computer was doing five years ago, whatever it was doing six months ago, is old news today.

There was -- I think it was Bill Gates, but I'm not sure, said that "whatever I said an hour ago is old hat already." That's how quickly this computer age is moving, and the -- and the communities have to be alerted to the fact that those who spew evil and racial hatred and religious hatred are getting their hands on the Internet. They're getting their hands in on these computers, and it's coming into our homes, and just as you would be careful in terms of who your children would deal with in the street and the kind of evils that are out there for your children, you must -- we must preach and tell our people that this is now coming into our homes.

So I think that's something affirmative we can do. Very often we pass resolutions and we pay respect to those who are

out there working. I think this is something that we ourselves can be a part of too and during Black History Month, as we make our rounds to our political clubs, to our communities, I think that it's a message that we can help to carry.

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

SENATOR MARCHI: I had just two points, one historical in reference to what happened in those early years of the republic. Jefferson abided the -- something that he personally deeply resented. Evidence of that, I think is the Northwest Ordinance where he - that he formulated. It was basically a Jefferson document, and this addressed the question of the development of the Northwest Ordinance in all those states north of the Ohio River right out to Minnesota, and he forbade slavery in that document.

And the second thing, I was going to address the point that Senator Gold made except he did it more completely and more

effectively. He -- you couldn't have said it better. It couldn't have been stated better.

ACTING PRESIDENT KUHL: If you want to talk, Senator Waldon we're still on the resolution.

SENATOR WALDON: Appreciate that, Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon, on the resolution.

SENATOR WALDON: Thank you, Mr. President, my colleagues. I ran outside to get some information from Barbara Waldon who, all of you who know me, is the smartest person in my family, and I felt that some of the things said today were great in terms of the history of this country and how we have disparately treated those who arrived here in the holds of ships, who suffocated from the stench of their excrement and were physically challenged by the fact that they were stacked like cordwood in the holds of these slave ships; but I hope you will recognize the beauty of what I'm about to say because what I'm about to share with you are

some accomplishments of our people, despite the manner in which we arrived on these shores and despite the deprivation that we suffered in the earlier hundreds of years that we were here when we had no right to our religion, no right to our language, no right to our freedom, no right to marry, no right to own anything, no right to even be called by the names that were our names in the country from which we originated.

Despite all of that, these people, these African-Americans, those from the "darkest continent", without language, without religion, without even clothes sometimes on their backs, birthed and gave inspiration to children who did things like this:

The shoes that you have on your feet are the result of black genius, a guy named Jan Meisliger, who created the shoe lace.

The automatic transmission in the car that you drove here today was the result of the genius of Richard Spikes. He -- and has the patent or had the patent for the transmission in your car and automatic gear shift.

Everyone has heard of the real McCoy. He revolutionized the train industry in this nation because at one time trains could go so far they had to stop and, by hand, oil the mechanisms of the train until this brother invented the lubrication cup.

When you drove here this morning, I'm sure you have had to stop at a red light or go through a green light. That was invented by a black man.

If you're like me and you can look at me and tell that I have eaten too much in my life -- I used to be skinny -- potato chips were invented by a black man. Ice cream was the result of the genius of a black man. The entire industry of whaling was made greater by the toggle harpoon which was created by a black man.

If you eat the ice cream, you have to put in in a refrigerator these days. Refrigeration was the result of the genius of a black man.

Would we be able to go to

Washington D.C., and enjoy the way it is laid out if it had not been for Benjamin Baniker, a young man who had a photographic memory and memorized the plans of L'Enfant when he decided to leave this country in a fit of pique.

The lemon squeezer, the folding bed, the fountain pen for you, those of you who still use Mont Blanc, the fountain pen was created by a black man. The rotary engine, and it goes on and on and on. The gas mask which saved thousands upon thousands of lives despite color, in the first World War, was the result of Garrett Morgan's genius, and then there are things like blood plasma and a whole host of other things.

So it ain't just about being able to be like Mike and jump higher than everybody else. It ain't just about being to be like James Brown and to sing and dance in a way that no one else can. It's not just about being like Charlie Parker and, as my colleague, Senator Seabrook who plays that act, the saxophone, in terms of our musicality. It's not in terms of

being like James Earl Jones, who is just a great actor. It's not even about people who sit in chambers like ours across this country.

The way we are able to live today in these United States is the direct result of a people who were deprived but despite that deprivation rose up and made our lives better.

I thank you, Mr. President. I thank you, my colleagues, for listening to me.

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 unanimously adopted.

Senator Skelos, that brings us to the calendar.

SENATOR SKELOS: Yes, Mr. President, if we could take up the non-controversial calendar.

ACTING PRESIDENT KUHL: Secretary

will read the non-controversial calendar.

THE SECRETARY: Calendar Number 46, substituted earlier today, by member of the Assembly Bragman, Assembly Print 1900B.

SENATOR SKELOS: Lay aside for the day.

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

THE SECRETARY: Calendar Number 214, by Senator Leibell, Senate Print 3480A, an act to amend the Administrative Code of the city of New York and the Emergency Tenant Protection Act of 1974.

SENATOR SKELOS: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 216, by Senator Hannon, Senate Print 3540, an act to amend the Emergency Tenant Protection Act.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 220, by Senator Skelos, Senate Print 425, an act to amend the Business Corporation Law, in relation to corporate finance, proxies, powers of directory and mergers.

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 225, by Senator Saland, Senate Print 4746B, an act in relation to authorizing the city of Beacon, county of Dutchess, to opt out of the provisions of Chapter 602 of the laws of 1993.

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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 230, by Senator Levy, Senate Print 5967, an act to amend Chapter 145 -

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 231, by Senator Hoblock, Senate Print 5994, an act to amend the Education Law and the Public Authorities Law, in relation to Dormitory Authority financing of certain school facilities.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 241, by Senator Saland, Senate Print Number

2111, an act to amend the Executive Law and the Family Court Act, in relation to support of children in the Division for Youth.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 247, by Senator Sears, Senate Print 1355C, an act to amend the Environmental Conservation Law, in relation to prohibiting the feeding of deer within 300 feet of a public highway.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 252, by Senator Skelos, Senate Print Number 1740, an act to amend the Executive Law and the Penal Law, in relation to payment of a fee by persons sentenced to probation.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 259, by Senator Rath, Senate Print 539A, an act to amend the Education Law, in relation to student refunds of certain financial aid grants.

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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 264, by Senator LaValle, Senate Print Number 3269, an act to amend the Education Law, in relation to the issuance of limited permits in dentistry.

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 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the non-controversial calendar.

SENATOR SKELOS: I wonder if we could take up the controversial calendar at this

time.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 214, by Senator Leibell, Senate Print 3480A, an act to amend the Administrative Code of the city of New York and the Emergency Tenant Protection Act of 1974.

SENATOR PATERSON: Explanation.

SENATOR LEIBELL: Thank you, Mr. President. This is -

ACTING PRESIDENT KUHL: Senator Leibell, the floor for an explanation.

SENATOR LEIBELL: This is a bill that we had seen last year, and it's an act to amend the Administrative Code of the city of New York and the Emergency Tenant Protection Act of 1974 in relation to determining primary residency.

Currently, in order to be covered by rent regulations statutes, New York State law requires that a residential unit be maintained as a tenant's primary residence.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter, why do you rise?

SENATOR LEICHTER: Yes, is Calendar 259 still at the desk?

ACTING PRESIDENT KUHL: Is it at the desk? Yes, it is.

SENATOR LEICHTER: Could I ask that we reconsider the vote by which that bill passed, please.

ACTING PRESIDENT KUHL: Senator Leibell, will you excuse an interruption?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator Leichter, why don't we continue with this.

SENATOR LEICHTER: Yeah.

ACTING PRESIDENT KUHL: At my direction, we'll take up the motion up to reconsider the vote by which the bill passed this house after this matter.

SENATOR LEICHTER: O.K. Thank you.

ACTING PRESIDENT KUHL: Senator

Leibell to conclude the explanation.

SENATOR LEIBELL: Thank you.

Present case law allows for the inspection of tax returns in determing whether the unit should be eligible for coverage under the applicable rent protection regulations. This bill provides guides for the courts in determining whether or not a person's primary residence is in New York State. It is a method of discovery for the courts.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Leibell would be kind enough to yield for a question.

ACTING PRESIDENT KUHL: Senator Leibell, do you yield to Senator Paterson?

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, what are the other factors the courts consider right now in the determination of the primary

residency under the emergency protection laws?

SENATOR LEIBELL: What other - I'm sorry, what other elements?

SENATOR PATERSON: In other words, you want to limit it to where the personal income tax is filed, and what I want to know is where it stands right now.

SENATOR LEIBELL: No, Senator, this does not change any other body of law other than to state that the tax return can be -- can be used to establish primary residency.

SENATOR PATERSON: What I'm asking is, is there anything else that can be used to determine the primary residency right now?

SENATOR LEIBELL: I think, frankly, there's a body of case law that is pretty diffuse and all over the place, frankly, and this is intended to provide legislative guidance for the courts.

SENATOR PATERSON: Thank you, Senator.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: This singular identification of the filing of the income tax, as I understand it, was overruled on December 28th -- not overruled, but at least it was in that particular case on December 28th, 1995 involving the case of the Federal Home Loan Mortgage Association against the Department of Housing and Community Renewal.

How can we pass this legislation with a -- an edict from the federal court sitting on it such that if anyone goes to court, even if we pass this legislation, it's likely the legislation would be -- would be defeated?

SENATOR LEIBELL: I'm not - Senator -- counsel advises me you may be thinking in terms of the next bill that's up with respect to that case.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: That's because I'm thinking ahead, Senator.

SENATOR LEIBELL: It's a good

trait, Senator.

ACTING PRESIDENT KUHL: Senator Paterson, you still have the floor.

SENATOR PATERSON: Well, then, so you're saying a court of competent jurisdiction.

ACTING PRESIDENT KUHL: Are you asking Senator Leibell, Senator Paterson, to continue to yield?

SENATOR PATERSON: Yes.

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

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Then you're saying that a court of competent jurisdiction would only view the personal income tax so that individuals, for instance, that have other residences around the country and who are likely to not spend that much time in New York and, therefore, it is definite that even though they might have a driver's license or they might have other identifications in New York, that it's

clear that they don't spend that much time there, that they're actually living in other places, and this is -

SENATOR LEIBELL: Senator, this does not attempt to change the law in any way. The -- other than to establish a guideline for the courts. What we are attempting to do here is to determine a method to establish clearly where a primary residency is.

If you're saying to me, in fact, that a person -- and I think what you're alluding to, Senator is that somebody may, in fact, be living in Florida and may not, in fact, have a primary residency in New York State. That's what we're attempting to deal with.

If, in fact, there is a housing crisis in this state, it certainly is not going to be addressed very effectively by having people who do not have a primary residency here or a need for one, to take our rent controlled and stabilized apartments.

SENATOR PATERSON: Thank you, Senator.

Then, if the guidelines are already set forth, what is the purpose of this legislation? In other words, what is this going to add to what exists right now in terms of establishing of guidelines that's going to enlighten us based on how we are going to appraise where the residency is?

SENATOR LEIBELL: I think this would be fairly clear from a reading of the bill that a tax return can be used to establish that primary residency. It certainly is a very convenient way to do it, a very logical way to do it. It's a method to make sure that a fraud does not exist within this system, and this would go to clarify what is or appears to be a good deal of confusion from some of the decisions that have been rendered by various courts.

As this legislative body does on a continuous basis, we try and clarify the law and make it such that there will be no confusion within our various courts.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Thank you very much. Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: And thank you, Senator Leibell, for your response.

SENATOR LEIBELL: You're welcome.

SENATOR PATERSON: The reason that I have a problem supporting this bill is that even in the legislation itself, Senator Leibell indicates that the timely filing of income taxes is not a presumption of residency, and so to restrict the definition of residency in a seasonable period to just that filing is - our feeling is not going to really establish residency any more than it does right now and may actually serve to confuse the issue even more.

Thank you.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on Calendar

Number 214?

Hearing none, the Secretary will 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. )

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 214 are Senators Abate, Babbush, Connor, Espada, Gold, Gonzalez, Goodman, Kruger, Leichter, Markowitz, Nanula, Onorato, Paterson, Seabrook, Smith, Waldon, also Senator Lachman. Ayes 42, nays 17.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Leichter. Senator Leichter, you had a motion relative to Calendar Number 259 which had passed the house. Motion to reconsider the vote by which the bill passed the house?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Ask the Secretary to call the roll on reconsideration.

THE SECRETARY: Calendar Number 259, by Senator Rath, Senate Print 539A, an act to amend the Education Law.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Would you lay that bill aside, Mr. President.

ACTING PRESIDENT KUHL: Lay Calendar Number 259 -- or call the roll.

(The Secretary called the roll on reconsideration. )

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: Lay the bill aside.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 216, by Senator Hannon, Senate Print Number 3540, an act to amend the Emergency Tenant Protection Act of 1974 and the Administrative

Code of the city of New York.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Hannon, an explanation of Calendar Number 216 has been asked for by Senator Paterson.

SENATOR HANNON: Under the provisions of this proposal, when there has been a foreclosure of a building that originally had been under rent stabilization, lost that status when it became a co-op, and then thereafter there is a foreclosure on the cooperative loan, it changes the law so that that building does not revert back to being a cooperative. It remains in its new status as non-controlled.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, earlier I tried to take a court decision that applies to this particular bill and adapt it to anything I wanted it to since there had been so many -- so few court decisions that I've agreed

with, I thought I'd try to expand it.

If Senator Hannon would yield for a question.

ACTING PRESIDENT KUHL: Senator Hannon, do you yield?

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Hannon yields.

SENATOR PATERSON: Since there does appear to be a ruling in that particular case, Senator, where the court speaks to that exact issue and it is a federal court and says that in that case it would be just the reverse of what you're proposing, that the property would go back into rent stabilization, I just wanted to ask you what the merit of this bill would be and whether or not you think it could stand a court challenge since there's already a court ruling on the record?

SENATOR HANNON: That court ruling was one of two that are on this that interpret the law correctly. What we're doing

here is changing the law. We're changing the law because, when this original law was written we really did not have the entire process of converting buildings into co-ops and the language was never changed. All that the courts did was say this is what the current law states.

Why I'm proposing this is that that laugh is no longer good public policy. It inhibits the ability of people to get a cooperative. It actually stops the fact that there will have been -- it stops the process of any bank ever granting a loan on a building that would go into cooperative status because they know that that loan will be valueless should it ever go into foreclosure. They know that the amount of money that would come into that building would go back to the prior level of rent stabilization. It would not even be ticking while the building was in cooperative status, so what you do unless you change the law and adjust to current public housing policy is that you have something that doesn't make any

sense and you've effectively repealed the whole co-op'ing process of changing from a building under rent stabilization into a building that's a co-op.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator Present, and thank Senator Hannon for his response. On the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: Senator Hannon made a very good point involving the cooperative process, but between the cooperative process and the interest that the public -

ACTING PRESIDENT KUHL: Senator Paterson, excuse me just a minute. We've got quite a bit of noise here. There's a group of our colleagues who appear to be celebrating the passage of the last resolution still. I'd ask them to calm down the conversation so that we could hear Senator Paterson.

Senator Paterson.

SENATOR PATERSON: Mr. President, on this particular bill, between the -- those two issues which are being addressed, it is the latter, the issue of housing for the public and particularly in the areas that would be most affected by this that we would presume to favor.

What Senator Hannon may say is correct about the co-op'ing process and about the fact that it would be very hard for banks to establish this mortgage, but what is a greater problem in our society right now is the availability of housing; and so what this will simply do is just lower the pool, lower the stock of housing that would become available. The public policy that the court ruled in the issue involving the Federal Home Loan Mortgage Association v. DHCR was establishing a public policy that we think should continue.

It's going to serve a lot more people, a lot of people who -- more people who have fewer options than the banks, particularly in this day and age, to receive housing and for

that reason, we recommend that this bill not be passed.

ACTING PRESIDENT KUHL: Senator Hannon, on the bill.

SENATOR HANNON: Yes, Mr. President.

I am, with all due deference, in sharp disagreement with the policy enunciated by Senator Paterson. I am in favor of there being more housing of a good quality, of a stock that's maintained, and you're only going to get that if you have the flow of capital into that market, if you have people willing to lend to purchasers who want to buy, whether to buy the whole building or buy their unit, be it a cooperative or a condominium and so long as we have these artificial controls over the supply, we're not going to have the people willing to lend the money. The money is going to go elsewhere; 49 other states, hundreds of thousands of other municipalities, the money will go elsewhere.

We won't obviously get a chance

to deal with that major public policy until next year, but I think the goals are there but doing it in a regulated way, doing it in a controlled way, doesn't work. It works in reverse, and so I would think doing it this way, this little part of the world, would help immensely.

Thank you.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on Calendar Number 216?

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 216 are Senators Abate, Babbush, Connor, Espada, Gold, Gonzalez, Goodman, Kruger, Lachman, Leichter, Markowitz,

Mendez, Montgomery, Nanula, Onorato, Oppenheimer, Padavan, Paterson, Santiago, Seabrook, Smith and Waldon. Ayes 38, nays 22.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 220, by Senator Skelos, Senate Print 425, an act to amend the Business Corporation Law, in relation to corporate finance.

ACTING PRESIDENT KUHL: Senator Leichter, why do you rise?

SENATOR LEICHTER: Yes. Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: This is a very significant bill, and I would hope people would focus on it.

Now, last year, I see that it passed unanimously. I don't know if I was in the chamber. I well might have voted for it,

but this year I've had a chance to look at it and I would really urge all the members to look at it because I think that this bill goes in the wrong direction on something that is really very fundamental to the American economic system and that is corporate democracy, seeing the shareholders, the people who own corporations have a voice in the overall management of that corporation and that they can protect their interests.

Now, I think all of us have read and if your reaction was the same as mine, with some dismay, about the very large corporate payments, remuneration that goes to chief executive officers and other top corporate officials, payments of millions and millions of dollars annually, far in excess of what their counterparts are paid in Japan or Germany.

But it's not only the big profit able corporations. The Times had an article and I don't know how many of you saw it, of corporate officers of medium size, of small corporations, they were losing money but they

were paying themselves millions of dollars in compensation.

Now, this bill will make it harder for shareholders to protect the interests of all of the owners of that corporation.

One of the things that this does, which concerns me, and maybe Senator Skelos will want to comment on it, but it allows directors to set their own options and their own rights. Can you imagine what sort of a raid that's going to be where these directors will provide that directors may have options to purchase a certain number of shares at a certain price and that price maybe will turn out to be very much lower than the market price at the time that they exercise their option.

Now, I've got no problem if the shareholders want to say, "I want to give that sort of compensation to the directors." That's fine. It's their corporation and, frankly, many shareholders have approved these enormously large corporate remunerations. But why take away the power, the power of the shareholders,

to protect their interests? Why give directors the right to fix their own options? I find that just a -- a mistake, particularly at a time when we have this really greed capitalism on the part of top corporate officers.

You know, one of the best things that can happen to you financially now is to be fired from a corporation, because these golden parachutes that these corporate officers write. We had a former not a colleague but somebody that some of us worked with, Bob Morgado, he had the good fortune to be fired from Time-Warner and his compensation for being fired was $46 million. That was the golden parachute that had been set.

Now, it's going to be that much more difficult under this bill for corporate shareholders to see that these sort of excesses don't occur. For instance, the bill dilutes really the shareholders' control of the corporation. It removes the shareholder approval requirement for an increase or decrease in the number of preferred shares, issuance of

stock rights or options to directors and directors' loans.

That's another thing, the directors can make themselves loans and at probably very favorable terms. The bill reduces the required shareholder approval percentage from two-thirds to majority for significant corporate decisions, including amendments to the certificate of incorporation, merger or consolidation of the corporation.

With all of the acquisitions and takeovers that are occurring, you certainly don't want to make it more difficult for shareholders to try to protect their interests and, as we know, many of these mergers are worked out where corporations or corporate officers work out their compensations and their arrangements and very frequently the only protection that shareholders have is that they can vote to disapprove the merger.

It also reduces the shareholder approved percentage for sale of most of the corporation assets, share exchanges and

dissolution of the corporation.

I know the argument is going to be made, well, we need this for business and we want corporations in the state -- first of all, it doesn't matter whether a corporation is incorporated in Delaware or it's incorporated in the Cayman Islands or Luxembourg, and so on. What counts is where it has its plants, where it has its facilities. Does it employ New Yorkers? And it can do that with a Delaware charter or a New York charter. That really means absolutely nothing.

The argument is also made, well, it's hard. We want to attract the best people to be directors and unless you give them a lot of rights and powers and so on, we're not going to be able to get directors of high quality. I -- I say nonsense to that argument. It's very prestigious to be a director of a corporation, particularly of a large corporation. They get very well taken care of, but let me say, I can't understand somebody saying, Well, I don't want to be a director of a corporation if it's going

to be democratically run, and if the people who own the corporation are going to have a say.

I don't think that ought to - any director who proceeds on that basis I wouldn't want to have as a director. I question what his fiduciary commitment is.

I really don't understand why we would want to dilute shareholder control, why we would want to move away from corporate democracy and why we would allow just further raids, and they have occurred. There have been raids. There has been outrageous compensation that has been paid to corporate officers far beyond anything that can reasonably be said is just and fair compensation.

Just this -- this just takes money from shareholders. It takes money from people who live in New York, who work in New York. It makes corporations, to my mind, less attractive to New York. I think that we ought to keep the law as it is and let me tell you, my friends, that law gives so many powers to corporate executives and directors, if anything,

we ought to be working to create more shareholder democracy, not to weaken and lessen it.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just on the bill briefly.

I guess I must have been in the same room with Senator Leichter when this bill passed last year. There are some good things in this bill that improve the activities of shareholders and corporations, but there are two provisions that I'm concerned about.

One we addressed in a specific bill last time that I voted against and that was the repeal of Section 630 of the Business Corporation Law. That's the provision that says payment of wages is one of the few exceptions to liability on behalf of shareholders of a corporation.

We have a law that says limited liability applies. If you're a shareholder, you're not bound by the debts, to pay the debts

of the corporation except in one circumstance and that is when someone goes out and works for the corporation, the top ten shareholders are liable for the payment of wages.

I note that in the memorandum accompanying the bill, it says it hasn't been utilized in New York since 1989. That's the last reported case from New York on shareholders' liability for wages.

I offer an explanation for that. It's very simple. The statute is unequivocal. There's no way to get out of it. If you're a shareholder in a small corporation and you are one of the top ten shareholders and the company doesn't pay the wages of the employees you're liable for them. We said that unequivocally and as a consequence we don't need the courts to interpret them. We didn't need a lot of case law. You sue them, they pay.

I think that's a good provision that protects the working class people in this state who have the one thing that we all agree could be the worst thing that could happen to

anybody, that's to go to work for a small corporation, work diligently, and then be told, "I'm sorry, the corporation is going out of business; we don't have to pay you."

One of the provisions that I'm concerned about in this bill which, again, I didn't take a careful look at until today is the provision regarding loans to directors of corporations. There's a provision in here that says we generally have a ban on loans to corporations unless they're expressly approved by shareholders so that all the shareholders know before the corporation is making a loan to one of its favorite sons, a member of the board of directors, the owner of the corporation's brother-in-law, a closely held corporation of family member, there may be dissident small shareholders who want to know whether the loan is being made.

This change says that you can make a loan or guarantee, more importantly, the corporation can guarantee a loan to a director, simply by the corporation determining that the

loan is in the best interests of the corporation and represents a reasonable and prudent investment.

Well, it seems to me if you have three directors and all three of them say we'd like to guarantee this loan, they can do that without even notifying the shareholders, much less asking the shareholders for their input. I think that's a real danger that will create disincentives for people to make investments in small corporations. I think it will -- you will find that small corporations will find it more difficult to raise capital, especially from venture capitalists if corporations can guarantee or underwrite loans to directors without the direct approval of shareholders.

So while I think this bill has some good things that may justify a vote in favor of it, I think the fact that it can leave working people out in the cold and, in fact, would let every corporation in this state leave the people who work for them out in the cold not getting paid and the fact that it would

encourage practices that are inimical to the interests of shareholders by allowing approval of loans to directors without shareholder approval, I can't justify an affirmative vote.

I'll be voting in the negative, Mr. President.

ACTING PRESIDENT KUHL: Senator -- any other Senator wishing to speak on the bill?

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

After listening to Senator Dollinger, I really have some misgivings about my vote last year and even my vote earlier today when he advises us that in order to -- for loans to be approved that it's something that exists among the other directors and really doesn't apply at all to the shareholders. When you really think about that, you create almost a

political arrangement between the directors and that always seems to lead to some of kind of compromise, and since I think sometimes the world is drowning in an orgy of compromise we have a whole circumstance that really leads to what would not be the most prudent decisions.

The ten percent of the -- the ten percent largest shareholders being responsible for employee wages is another bill that we passed earlier this session, was something that a few of us voted against, and again we see it appearing in this particular legislation, one that's particularly dangerous when you start to think about the fact, not only as Senator Leichter pointed out that we have corporations that are going out of business but it's still paying high wages to the executives, but now we have corporations that are actually turning great profits who are still laying off large sums of workers really because it's a good corporate decision. It is not a good decision for people. It is not a good decision for workers. It is not a good decision for a

greater number of people who will be affected negatively than any who would benefit positively.

Finally, the issue I'd like to point out are the rights of preemption where a shareholder that might say have one or two percent of the -- of the entire value of the corporation will lose their rights of preemption if there's a reissue of corporate assets.

I think that's actually kind of dangerous, and also the two-thirds to one-half voting rule is one that is probably going to diminish the smaller shareholders from having any control and the larger shareholders who often, when you co-aggregate all of their holdings, it exceeds one-half, it really is something that is moving in a direction; and so the ambience of the legislation, in spite of the fact that it provides for some very positive things but it's kind of an omnibus corporate bill, is one that really is doing nothing but fostering what is a movement in this society, an inertia that is really going to envelop us all

if we don't do something to stop it, giving greater advantages to the few, creating greater encumbrances for the many.

So I want to thank Senator Leichter for the reconsideration and would advise that he is on a good course.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah. Would Senator Skelos yield to a question?

ACTING PRESIDENT KUHL: Senator Skelos, do you yield? Yes, Senator yields.

SENATOR GOLD: I want to give you an opportunity to defend yourself. No.

Senator, the bill has -- I know we've had it before, and I even see on the memo, Senator John Daly, so I guess it's been around a little bit, but there's an eight-page memo. It's a rather comprehensive bill, and my question is, do you know who developed it or

where it came from?

SENATOR SKELOS: This -- this legislation was worked on by Senator Daly when he was in this house. It was drafted with the assistance of the Corporate Law Committees of the New York State Bar Association and the Association of the Bar of the city of New York.

Now, I think one of the points that -- that are being missed in this debate is that this is merely permissive, that it will allow individuals that want to incorporate in New York State to do this. It can be a one-half vote. It can be a two-thirds vote. We're not saying it has to be one-half, and basically what this is doing is it's putting New York State in line with 48 other states in most instances with this legislation so that companies will now start incorporating in New York State rather than Delaware or New Jersey, other states.

What that means, filing fees for the state of New York, millions of dollars, we could use the money. It means that when we're incorporating, individuals will go to a New York

State attorney rather than a Delaware attorney, so that attorney will make a little money, pay an income tax on it. Again New York State benefits from it.

So what we're doing is we're really recodifying the BCL, which has not been done since 1963, bringing New York State in line with the rest of the states and, quite honestly, as Senator Leichter said, it's irrelevant where you incorporate. Well, then if people don't like the law as it presently exists in New York State, they're going to go to other states and incorporate where they can get the benefits that they so desire.

But again, the most important thing is this is permissive. You don't have to use 50 percent, two-thirds. You don't have to do the number of terrible things that this legislation was accused of. It's merely permissive.

SENATOR GOLD: Will you yield to another question?

ACTING PRESIDENT KUHL: Senator

Skelos, do you continue to yield?

SENATOR SKELOS: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR GOLD: Yeah. Senator, one thing that I think is odd and maybe it's just that my notes are incomplete but I would imagine that if the bill were developed by bar associations, subcommittees on corporations - and I'm not denying that it was, but that we would have some memo in support from them which basically says that their committees have met and this is part of their work product or supported by them, and I'm curious as to whether there are any memos.

SENATOR SKELOS: Yes, we could get that for you, but I think they felt that this body in its infinite wisdom would see how important and how good this legislation is, and a memo would not be necessary but, in all honesty, we can provide the memos to you.

SENATOR GOLD: All right. And if the Senator would be kind enough to yield to

another question.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SKELOS: Yes.

SENATOR GOLD: Senator, as you know, there are a lot of corporations that actually do get filed in the state of New York and, as a practicing lawyer, I've done a number of corporations and, in all fairness, it's generally one- or two-person corporations and you know, it's nothing very, very elaborate. But, Senator, when you're talking about people who have some degree of sophistication and who may be considering incorporating in Delaware or some other state, aren't there other issues involved, tax issues and monetary issues which are probably more overriding to them in terms of the decision as to where they incorporate rather than -

SENATOR SKELOS: That may be something they may consider. I don't know if it's overriding, but it's something I'm sure they consider; but with the new atmosphere that

exists in New York State with Governor Pataki reducing the personal income tax, bringing down the corporate taxes, bringing down the burdens of regulation and over-regulation and now with the adoption of the revisions to the BCL New York State is going to be a magnet for people to want to incorporate and have their business located here.

SENATOR GOLD: Well, Senator - Senator, and I promise this is going to be the last question.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR GOLD: I mean last year this bill came before us, and for whatever reasons, it did not receive the scrutiny that apparently it's receiving today, and I have a great respect for Senator Leichter and Senator Dollinger and others.

I am, of course, always interested if people in the professions working through the bar associations have been involved, and have certain beliefs. Would you consider

perhaps laying the bill aside and having us get the input, because I know from the point of view of someone like myself, if in fact, you know, we have that kind of support and the business community says that we're not doing anything wrong, or there's other arguments, or perhaps there are things that we all want to weigh, and you know it still, in all fairness, is kind of early in the session and if it -- if it can stand that test, I think it would just be helpful to many of us who don't want to get into a struggle between colleagues, but really we're looking to really just educate ourselves about it.

SENATOR SKELOS: You can smile?

SENATOR GOLD: At you I always smile. It's only Onorato when I got to pay him money, I don't smile.

SENATOR SKELOS: Why don't we do this. If we now have an understanding that we've vented on this legislation and we've declared our war on corporations and in New York State, I'd be happy to, at your request, to lay

it aside until next week so that we can get you some memos but this bill did pass last year, quite honestly, and I do believe that if there had been any real objection to it, Senator Gold, that we would have heard in the last six, seven, eight months objections to the legislation, but out of respect -

SENATOR GOLD: You may actually be right, and I appreciate the courtesy more than anything.

SENATOR SKELOS: But I am extending the courtesy. Lay the bill aside.

SENATOR GOLD: Thank you.

ACTING PRESIDENT KUHL: Secretary will lay the bill aside.

Senator Santiago, why do you rise?

SENATOR SANTIAGO: Mr. President, I would like to be recorded in the negative on Calendar 214, please.

ACTING PRESIDENT KUHL: Without objection, and hearing no objection, Senator Santiago will be recorded in the negative on

Calendar Number 214. Calendar 214.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 230, by Senator Levy, Senate Print Number 5967, an act to amend Chapter 145 of the Laws of 1995, relating to addressing the situation in the Roosevelt Union Free School District.

ACTING PRESIDENT KUHL: Secretary will -

SENATOR DOLLINGER: I had asked the bill be laid aside, and I understand Senator Levy will be coming in momentarily just for a quick explanation.

ACTING PRESIDENT KUHL: Senator Levy, an explanation of Calendar Number 230 has been asked for by Senator Dollinger.

SENATOR LEVY: Yes. Senator Dollinger, this is a -- this is a bill that was drafted by the state Department of Education relating to the Citizens Advisory Committee that works with the Regents and the Commissioner's representative in overseeing the Roosevelt

School District.

The first piece of the bill relates to validating the appointment of the chair of the Citizens Advisory Committee, Robert Francis, who does not live in the Roosevelt School District but lives adjacent to the Roosevelt School District, and since the Governor signed the bill into law he has been the president, rather the chair of the advisory committee and has been the driving force in rehabilitating the school from an education standpoint and from an infrastructure standpoint and has worked closely with his panel and with the Commissioner and Regents representatives. So it is important that he stay in the position that he is in.

The second at-large position is being created for a highly respected minister in the community who leads one of the largest and most prominent religious institutions in the community, Reginald Tuggle, and Mr. Tuggle had lived in the Roosevelt community -- rather Reverend Tuggle had lived in the Roosevelt

community. His wife passed away and he has moved into an adjacent community and all involved, by virtue of the position of respect that he holds in the community, are supportive of adding a position -- of adding a second at large position so that can be filled by Reginald Tuggle.

Reginald Tuggle, in addition to being a pastor of the church that I've outlined this for you, he was also previously one of the principal executors of a little tiny newspaper that we have on Long Island called Newsday and now -- now is -- holds a major executive position with Nassau Community College. He was a -- he is a person of extraordinary ability and respect in the community.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor would just yield to a couple questions.

ACTING PRESIDENT KUHL: Senator Levy, do you yield?

SENATOR LEVY: Yes, of course.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Could you just refresh my recollection as to how these individuals are put on the advisory council. Is it an election process? Is it a selection process, selection process? Who actually makes the decision as to who is on the advisory council?

SENATOR LEVY: This is the Regents and the Commissioner do the appointing.

SENATOR DOLLINGER: O.K. They have appointive authority under the statute?

SENATOR LEVY: Yes, and you asked me before and what has happened here is that after -- and, incidentally, this bill is sponsored by the school district's Assembly representative in the Assembly, Assemblywoman Earlene Hill, who was part of the discussions that led to the state Education Department developing the piece of legislation.

What has happened, to bring you

up to date because you asked me privately before the bill was called up what has gone on with the school district, and to bring you up to date as to what happened, let me go back in history.

Assemblywoman Hill wanted to ab initio have the board removed as a part of the legislation which became law. I felt, and the Regents and the Commissioner agreed with me, that the duly elected board members should have the opportunity to work along with the Regents and the Commissioner of Education in rehabilitating the education process and the infrastructure.

The final piece of legislation left the board in place. That was signed into law by the Governor. Unfortunately -- and we still did the right thing the way we handled it. Unfortunately, the board declined to go along with -- with the plans that were outlined by the Regents and Commissioner of Education's representative, Dr. Domenech, and in fact, fired the sitting superintendent without consultation with Domenech, the Commissioner or the Regents,

and there were a whole series of other alleged omissions of responsibility both subsequent to and prior to the state intervening in the Roosevelt School District. The Commissioner and the Regents drew up a set of charges, and I think on the first business day in January the Regents ousted the school board.

Now, I have to tell you that Assemblywoman Hill and I have had really the pleasure and the privilege a couple of weeks ago to visit the school district and to tour the school district, and there has been enormous progress both educationally and from the standpoint of infrastructure since the Commissioner's people, the Commissioner's representatives are now running the affairs of the school district along with -- along with the Citizens Advisory Committee.

Now, under the bill that we passed which became law on May 21st, there will be an election of new school trustees for this school district, and that really brings you up to date. It was really eye-opening, the

progress that was made with the team of administrators and educators that have been brought in by the Regents and the Commissioner to run the affairs of the school district.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President. I greatly appreciate that update. Senator, could you just answer one question about the election that's upcoming, again through you, Mr. President.

SENATOR LEVY: Yes, sir.

SENATOR DOLLINGER: Is there any disqualification for those who run in that election that would disqualify them if they previously had held a board seat?

SENATOR LEVY: Yes. Let me just bring you up to date on where we are. The counsel to the state Department of Education has advised not only the advisory committee but the Commissioner's representatives and it's also been publicly reported in the press, that in the judgment of counsel to the state Department of

Education, that the trustees who were ousted are barred from -- for at least one year from the date of the ouster from running for election to the school board, that is the position that has been taken by the Department through its counsel so if if that issue is not litigated, that is the Commissioner's decision as it relates to the former trustees of the school board.

SENATOR DOLLINGER: Again through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger. Senator Levy, do you constitute to yield?

SENATOR LEVY: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: Did the legislation that we have passed contain that debarment provision that bars them from running for a term or is that -

SENATOR LEVY: That was in law according to -- that was the law of the state prior to the legislation that we passed that

became law.

SENATOR DOLLINGER: O.K.

SENATOR LEVY: And that -- that we have been told subsequent to the enactment of the legislation by counsel to the Department and the Commissioner's representatives that that is their interpretation of the law prior to the time that we did the Roosevelt legislation.

SENATOR DOLLINGER: O.K.

SENATOR LEVY: And the trustees are barred.

SENATOR DOLLINGER: Thank you. On the bill.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Mr. President, I voted against this bill last year when the decision was made by this Legislature to take over or to engage in a process that could lead to the takeover of the Roosevelt School District. I did so at that time because I believed that the notion of local control of education was so important to this state that we

should respect the decisions of local school boards, and I said at the time that I felt it was the power and the responsibility of the parents and those that live in this school district to decide whether they wanted change and use the elected statutory process to make that change happen as, frankly, everyone in this state has the power and ability to change their school boards. We can change it simply by exercising that power, going to the ballot box and electing someone who will do the good things that needed to be done in this district.

I was opposed at the time. I still remain opposed to the idea of takeover. I understand the good will, and, frankly, the public good will that drives both Senator Levy and his Assembly counterpart to not only propose this but to see this difficult child through the growth that's necessary to reach quality education in the Roosevelt School District.

I would be opposed to this except I guess I concede now that we're in the system. We're in a situation where good things will

happen if these members, that we enlarge the group of the advisory council that it will continue to drive it toward a better education system, but I'd be remiss if I didn't suggest again that, because of the importance of this takeover which may presage other takeovers of schools or even school districts in this state, that this process has to be very careful in the way it accommodates local interest.

My concern, and I said it at the time, I'll repeat it now, is that when the state leaves, what happens then? Putting members on the advisory council who live outside the district doesn't provide the long-term stability that the community needs to generate inside itself to support schools and, while I agree that it may help the advisory council foment the kind of educational principals, the kind of educational respect that will rebuild this school district, I think it's important that this be done through the parents that have the mower to control this district under normal state law.

So I'm going to vote in favor of this, but I think of as we continue down this path, we have to keep very close contact on what's happening in this district and the precedent it sets for all of us.

SENATOR LEVY: Senator, let me just point out you that the panel as originally constituted is not going to have two less members than were originally contemplated. This panel is being expanded by two, which will then open up that panel to have two additional local school district residents appointed in addition to the validation of the Francis appointment and the addition of Tuggle.

ACTING PRESIDENT KUHL: Chair recognizes Senator Waldon.

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

Would our learned colleague yield for a question?

ACTING PRESIDENT KUHL: Senator Levy, will you yield for a question?

SENATOR LEVY: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: Senator, are the schools in this district those which come under the umbrella of SURR, S-U-R-R, Schools Under Registration review to some extent?

SENATOR LEVY: I'm sorry. I didn't -

SENATOR WALDON: The schools in the district, the Roosevelt School District -

SENATOR LEVY: Yes.

SENATOR WALDON: -- are they schools which have been labeled or designated, which is a better term, SURR, S-U-R-R, Schools Under Registration Review?

SENATOR LEVY: Yes, they have been -- they have been, for a period of time prior to the takeover of the school district, under the special scrutiny of the Regents and the Commissioner of Education because of the deficiencies in the school district.

SENATOR WALDON: O.K. And is it true that in 1989 the Regents created this

vehicle when schools are chronically ill, meaning they're not teaching the children, the children are not learning at acceptable levels, that they could come in and create a panel to rectify that situation?

SENATOR LEVY: All I can tell you is that the wheels that were put in motion that led to the action that we took here in the last night of the 1995 session were triggered by a visit to the school district by Regent Sanford and her team as a result of the deficiencies in the school District and the report that she triggered as a result of what she saw, and we were in session. I wasn't there, but one of my staff people were there and Assemblywoman Hill's staff people were there at the time of the Regent Sanford visit.

SENATOR WALDON: If I may, Mr. President, one more.

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

SENATOR LEVY: Yes, sure.

ACTING PRESIDENT KUHL: Senator

continues to yield.

SENATOR WALDON: Senator, the panel that's in existence at this moment which will be expanded by two, is that the panel that was appointed by the Regents?

SENATOR LEVY: Yes, and pursuant to the legislation we did that last night of the session.

SENATOR WALDON: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

SENATOR WALDON: What Senator Levy is proposing here is, in my opinion, the right thing. Schools Under Registration Review are schools which chronically fail to teach our children, and it's only after a long history of such failure has the Board of Regents, since 1989, decided that they will step in and create a panel of persons to replace the failing board in order to rectify that situation and bring the schools up to speed, and I think what he's looking to accomplish here is to that panel to

add two persons who will more greatly reflect the community's mind set in terms of dealing with the issue, and I will support that.

I'll vote aye.

ACTING PRESIDENT KUHL: Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Marcellino, on the bill.

SENATOR MARCELLINO: I sincerely support the actions of my colleague, Senator Levy. He's taken, and Assemblywoman Hill has taken great strides to promote good quality education for young people on Long Island.

It is a shame, it is a disgrace that a system charged with the responsibility of educating our youth, our future, was allowed to get to the position that this district eventually reached. These two people who are being added to this board will further the effort to make quality education our goal and quality education for the kids of the Roosevelt

School District.

I would hope as a former educator, that this procedure acts as a model. I disagree with my colleague across the way. We need a more activist state ed' board. There are too many schools on Long Island and throughout the state that are failing our youngsters, that are not living up to their charter, that are not living up to their charge, and state ed', if it's going to stay in existence and if it has any real purpose, should step in and move in with effort, carefully involving those people in the community that are concerned and give a darn and take care and move to quality education is prime. All the other shenanigans that go on, but quality education. Too many districts are failing our young people, and this legislation should be used as a model for that kind of take over.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the bill.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Will Senator Marcellino yield to a question?

ACTING PRESIDENT KUHL: Senator Marcellino, will you yield to a question?

SENATOR DOLLINGER: Senator, I agree with you we need to improve education in lots of those districts, but isn't the first line of defense the local school board? We give them the power to decide that.

SENATOR MARCELLINO: That's right.

SENATOR DOLLINGER: If we give them the power to do that and they don't change the composition of the school board, why should we assume that we can do it better?

SENATOR MARCELLINO: You're absolutely right, Senator. I have sat on a local school board. I ran for election and I sat on a school board and I know the nature of the problems a local school board member has to deal with, and it's not easy. However, there are many instances where the school districts are simply not being run up to what anybody

would -- anybody would conceive of quality education for these kids. The primacy must be the kid. The primacy must be quality education for the students.

I don't care one iota about the school board members. I care about the kids in those districts and, if those board members are failing to charge -- to do their charge and failing to perform their duty, they should be removed. That is our responsibility here in the state. Education is a state responsibility, it's time we take responsibility, Senator, rather than just talk about it.

ACTING PRESIDENT KUHL: Senator Dollinger, you have the floor.

SENATOR DOLLINGER: Mr. President, just in response to Senator Marcellino, I agree it's a state responsibility. I hope that, when we have a debate later on this year, we have a debate about how the state is going to fulfill that responsibility by eliminating some of the proposals that came from the second floor that I

think will devastate the quality of education in this state, which will devastate special education in this state.

There's a whole lot in this budget which I hope, and I think Senator Marcellino will join us, we're going to have to change to achieve that goal, but my concern is about our centuries old system of local control of education.

We have procedures in law that allow the removal of school board members if they don't achieve that goal. In the case of the Roosevelt School District, what we did, we didn't remove one member, what we ended up doing was removing them all.

My concern -- my concern throughout this has been, if the parents of a community don't stand up and demand quality education for their children, if they don't stand up and demand that the candidates for their school board provide it and have the guts to tax for it to provide it, it seems to me that to have it imposed from the top is the wrong way

to do it, and I think local control of that, local control and local quality of education.

ACTING PRESIDENT KUHL: Senator Marcellino, you asking Senator Dollinger to yield?

SENATOR MARCELLINO: Yes, I am.

ACTING PRESIDENT KUHL: Senator Dollinger, do you yield?

SENATOR DOLLINGER: I will, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR MARCELLINO: Senator, with all due respect and certainly no animus between us, are you familiar with the percentage of people voting in local school board elections?

SENATOR DOLLINGER: I know it's extremely low.

SENATOR MARCELLINO: It is extremely low, and that becomes a problem. You have a minority of a minority of a minority actually getting involved in school board

elections and special interest groups, and I don't care what their meaning is, I don't care what titles or acronyms you give them, get involved and start to take over school districts and that's not necessarily always in the child or the children's best interests, and the state must act as a monitor, and it must act and I mean act in a positive way to protect the interests of the children of the district.

We've done that here in the Roosevelt system. It's working. I've talked to some of the people over there. I've talked to people in the district. It's not that far away from mine. I've talked to Representative Hill who has, by the way, taken some heat for her courageous stand on this, as has Senator Levy.

This is something that had to be done, and it was done in the correct way. I don't say we should walk in willy-nilly and take over every district in town, but certainly districts out there have to know there is a real state ed' department and not some shell out there that pretends that it exists, but a real

one.

ACTING PRESIDENT KUHL: Senator Dollinger, you have the floor.

SENATOR DOLLINGER: Yeah, Mr. President, I'll just conclude.

Senator Marcellino, I don't think we disagree on the ultimate objective. My concern continues to be that local judgments, the people closest to those school districts, I agree with you, it's reprehensible that only 10 percent of the people vote but the other 90 percent have the power to go to the polls, they have the power to influence the process. They simply neglect to do it.

My concern is, I said this at the time. I'm in favor of this. I'm going to vote in favor of this, but at the time I said I was terribly concerned about the notion that the people who have the power, who have the statutory power to change that school board, aren't using it and we're assuming because they're not using it we're going to substitute our judgment for theirs. That's my concern.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Levy to close.

SENATOR LEVY: Let me just clear the record because, number one, we did not remove the school board. We did not remove the school board through the legislation which became law. That's what the Assembly wanted to do.

We did not -- we did not want to go in that direction, and the final piece of legislation created a mechanism to remove the school board if certain conditions were met, and the school board was given the opportunity to work with the Regents, to work with the Commissioner, to work with the advisory committee, and finally in January, through an administrative hearing where the Regents sat in judgment on specifications that were drawn up by the Commissioner, after really what was a trial, they then acted and removed the school board.

So I wanted the record to be clear. We did not take away the duly elected members of the school board by legislative

action that was signed into law by the Governor. It was the process that I've laid out.

Now, in fairness to the Commissioner of Education, and the Regents, they wanted a broader power to move as ultimately they moved in the Roosevelt School District with an intervention, to give them that power on a statewide basis, but I have to tell you, I felt that the route that we should go was the route that we went with the Roosevelt School District and not to usurp the powers of the community that elect school board members, that we should not give that power to the Commissioner or to the Regents, that it should be exercised very, very sparingly and only if the duly elected representatives in the Senate and Assembly that represented the school district, certainly after much thought and deliberation and concern and anxiety and communication in the community, were to sponsor legislation on a case-by-case basis to take that action.

So the record is clear, the

Commissioner did want the generic omnibus comprehensive power to move against any school district in the state; and let me, finally, say so that it's crystal clear, number one, I don't want anyone to draw the conclusion that somebody made a judgment that of all the school districts in the state that weren't meeting their respon sibilities that Roosevelt was number -- number one in the state. I don't think anybody can make that judgment that there weren't other school districts that were more deserving of being the first school district to create a power where the Regents and the Commissioner could intervene and essentially take over that school district.

For a lot of reasons, the Regents and the Commissioner of Education and the legislators that represent this district felt this was the district to move forward with on the first initial basis, and that's why Roosevelt was selected by the Regents, the Commissioner, and we went along with it.

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 252, by Senator Skelos, Senate Print 1740, an act to amend the Executive Law and the Penal Law in relation to payment of a fee by persons sentenced to probation.

ACTING PRESIDENT KUHL: Senator Abate.

SENATOR ABATE: Yes, on the bill.

ACTING PRESIDENT KUHL: Senator Abate, on the bill.

SENATOR ABATE: Last year a number of state Senators and I voted against

this bill.

If you look at the bill and on first impression the bill seems benevolent. It seems as though it makes a lot of sense, because why shouldn't we ask probationers to defray the cost of probation supervision?

However, the way the legislation is drafted, it will become a burden for some probation departments around the state. In fact, it will become an unfunded mandate for some certain probation departments and a benefit for others.

So last year, I proffered an amendment that left it as a local option. The county or the city of New York could be in a position to adopt a local law so that they could require probationers to pay a fee. This legislation requires all probation departments to collect these fees.

In speaking to a number of the departments and also in my experience as the Commissioner of the New York City Department of probation, particularly in New York City, this

kind of legislation would be extremely onerous. And why is that? It's because there would have to be an investment in a large number of administrative staff, staff that does not exist, that has to investigate whether an individual had sufficient means to pay the fee and then there would be required additional staff to collect this fee on a monthly basis, and in New York City, there are about 80,000 people on probation. There are complaints by victims that there are not sufficient probation officers to talk with victims in preparing a victim impact statement.

There are complaints by communities that the case loads of 200 or more, probation officer on average has to supervise 200, 250 people. If you go around the state, the numbers are less, but certainly there are huge case loads. So at a time when the Governor is proposing a 25 percent cut in probation aid, state aid to probation departments around the state, this kind of legislation which seemingly would produce more revenue for certain

departments will become a tremendous burden for others.

The better way of dealing with this situation is to change the language of the bill, not mandate it, but give it to local option. I've spoken again to a number of the departments. They would prefer the bill being drafted that way. Again, it's certainly a benefit to departments like Nassau County, where many of the probationers are there because of DWI, driving while impaired or driving while intoxicated. Many of the probationers have a means to pay, and clearly I have no opposition to having those probationers pay a fee to support the expense of the probation department.

But, on the other hand, mandating probation departments such as the city of New York which may have at this point I think 80,000 people, many of them are felons, most of them are indigent individuals, what this means for that department is that the cost of setting up the administrative apparatus will far exceed any

revenue that they can possibly collect in any given year.

I hope that this bill will go back to the drawing boards. There was a request last year. I think this bill will receive bi partisan support in both houses if the language was changed and again this year -- I know the sponsor of the bill is not in the chamber. I again hope that he will consider laying it aside, amending this bill so that counties can decide what's in their best interest. We should not be passing along to a county another unfunded mandate that will further burden certain probation departments in the state.

For these reasons, as I stated today, I am not supporting the bill. I am asking my colleagues again to oppose this bill. Join me, let's produce better legislation. I think we'll receive full support by every probation department around the state if these changes were made.

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

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 252 are Senators Abate, Connor, Gold, Leichter, Markowitz, Mendez, Montgomery, Onorato, Paterson, Santiago, Seabrook, Smith and Waldon. Ayes 47, nays 13.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 259, by Senator Rath, Senate Print 539A, an act to amend the Education Law, in relation to student refunds of certain financial aid grants.

ACTING PRESIDENT KUHL: Senator Leichter, why do you rise?

SENATOR LEICHTER: Mr. President, I wanted to ask Senator Rath to answer some questions on the bill.

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

SENATOR RATH: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: Senator, I didn't notice before. You have a cast on. I'm sorry to see that, but I'm not going to ask you about that now. Those weren't the questions I had in mind.

Senator, as I read your bill - and I understand that your concern and what it's aimed at is that if some student has illegal income and he hasn't reported that income and he has qualified himself for student aid not disclosing that income, this bill would provide that that student would be declared ineligible

and would lose his student aid, and I have no problem with that. But I think as you have worded the bill, I just don't think that it works because what you've also done is that you have included not only the student or the spouse and his parents but you haven't provided any nexus between a spouse or a parent having illegal income and the student receiving that income.

So as I read the bill, in an instance where there is a student and let's say his father's an embezzler, embezzles money from the bank, that's never reported on the financial forms, and it's obviously not going to be reported, and the parent gets convicted, even though the student never got a penny of it, under your bill the student would be ineligible for financial aid. I don't think you intend that but, as I read the bill, that seems to be the interpretation.

SENATOR RATH: Senator Leichter, the same question was asked by Senator Paterson last year.

SENATOR LEICHTER: Oh, was it?

SENATOR RATH: Yes, and we walked through it, and I have the transcript of last year. But rather than reading through the whole thing, I would tell you that a synopsis of my response to Senator Paterson's question was that at the time of the request, the application for student assistance, the student needs to indicate that they know of no illegal activity; and if a student knows of no illegal activity, then they are not responsible for returning or for the requirements of this bill, which what this bill asks -- what it sets in place is a way for the Higher Education Services Corporation to be able to identify students, because right now there is no coordination between the state's criminal justice system.

And if you'll recall, what really brought this bill about was a student on the Buffalo State College campus. You may recall I came in one day passing copies out to everyone. I was so outraged when I found that this young woman who was in a prostitution ring was

receiving TAP awards, and there was no way that we could go back and make this happen that she would have to return the dollars; and so, although that was brought about because of this prostitution ring, there are other things that might -- it might be a drug ring rather than prostitution. It could be any number of things.

But, again, we did walk through that question last year.

SENATOR LEICHTER: Senator -

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: -- if you would be good enough to yield, and if you convinced somebody as tough and hard as Senator Paterson then maybe I shouldn't be venturing forth, but I must say I don't understand.

The fact that the student has to say, "I knew," or whether he knows of any income, suppose the student -- suppose the student has knowledge that his father engaged in criminal activity. In fact, he has to know that because under your bill it only works if there

is a conviction, so, obviously, he would know. He says, "Yes, my father was convicted of embezzling a million dollars from the bank"; but where is the nexus?

"Yeah, he took that million dollars and took his girlfriend and went off to the Bahamas. I never got a penny of it."

I mean where -- where is the requirement in here that the illegal income actually went to the recipient of the student aid? That's what I think is missing here.

I have no problem if you want to limit it to students. I think what creates the difficulty in the bill is when you add the spouse and the parent, and you don't make it clear that the illegal monies went to help the student.

SENATOR RATH: The understanding that we developed last year as we finished out the debate on the floor was that the application for the tuition assistance was clear enough, and through that process, as the student signs his name on the application for the tuition

assistance, that it was clear enough that we would be able to go forward making possible the interaction between the criminal justice system and the higher education system so that the student could be identified and the information could be retrieved and, indeed, the dollars recovered.

Because of the obvious need for every dollar that we can give to tuition assistance for students who are deserving and who are crying out for help, to have a student receiving dollars that has parents involved in illegal activities and if the student says they knew about it, they should not have, in the first case, asked for tuition assistance at that point, because this will make it very clear.

SENATOR LEICHTER: Senator Rath, I, again, commend you for dealing with the problem, but I must say as your bill is written -- and I'm not at all sure that that's cured by the application. I'm not going to make a fuss about it, but it may well be the reason that the bill is here for a second year in a row without

getting action from the Assembly is that there may be some problem with the bill, and maybe by trying to make it so broad -- if you would just limit it to the student, then it would be very clear. There would be no problem with it, and I would think that the other house would act on it.

It may well be that the other house felt, as, obviously, Senator Paterson did last year and I did this year, that at least reading the bill -- maybe, in some ways or other, the forms will cure the problem, but I think you've got a real problem because you don't make it at all clear that monies that the spouse or the parents may have illegally gotten have to be given to the recipient of the student aid in order for us, in justice, to say, "Wait a second, you got this illegal money. You knew the money was illegal when you got it. You didn't report it. You used it and yet you received student aid."

Seems to me without that nexus, the bill seems to be lacking something.

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Do you have some housekeeping at the desk?

ACTING PRESIDENT KUHL: Yes, we do.

Return to motions and resolutions.

The Chair recognizes Senator Present.

SENATOR PRESENT: Mr. President. On behalf of Senator Leibell, on page 10, I offer the following amendments to Calendar 226, Senate Print 5928, and ask that it retain its

place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 226 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President. I believe I have a privileged resolution at the desk. I would ask that it be read in its entirety, as it relates to a former member of this body.

ACTING PRESIDENT KUHL: Senator Dollinger, you are absolutely correct. There is a special, very privileged resolution at the desk.

I will ask the Secretary to read it in its entirety.

THE SECRETARY: By Senator Dollinger, Legislative Resolution, expressing sincerest sorrow upon the occasion of the death of the Honorable Ralph Quattrociocchi, former New York State Senator from the 55th Senatorial

District.

Whereas, it is the sense of this Legislative Body that those who give positive definition to the profile and disposition of the communities of the State of New York do so profoundly strengthen our shared commitment to the exercise of freedom; and

Whereas, attendant to such concern and fully in accord with its long-standing traditions, it is the intent of this Legislative Body to express sincerest sorrow upon the occasion of the death of the Honorable Ralph Quattrociocchi, former New York State Senator from the 55th Senatorial District; and

Whereas, Ralph Quattrociocchi is survived by his wife, Sharon, and by four children, Stephen of Washington, D.C., Sue-Ellen of Rochester, Aimee of Pittsburgh, and Andrew, who is stationed with the Navy in Japan; he is also survived by his brothers Peter and John of Rochester and Frank of San Francisco and his sisters, Rose and Jeanette, both of Rochester;

and

Whereas, Ralph Quattrociocchi was a lifelong resident of Monroe County; after graduating from Edison Technical High School, he served in the United States Air Force, assigned to a unit specializing in radar systems; following the Air Force, Ralph Quattrociocchi took a job with American Telephone and Telegraph, where he worked for more than 30 years; and

Whereas, Ralph's political career started in 1975 when he was elected to the Monroe County Legislature, representing Greece; he was elected to five consecutive terms; and

Whereas, in 1984, Mr. Quattrociocchi was elected to the State Senate; and

Whereas, Ralph Quattrociocchi went on to win a third term in 1988;

Ralph Quattrociocchi was a leader in the drive to extend Route 531 from Manitou Road to Ogden and was reelected in 1990;

Most recently, Ralph had been

spending two or three days a week tutoring children at Hope Hall, a private academy that specializes in helping students with learning problems; and

Whereas, Ralph Quattrociocchi did so magnanimously labor for the positive and salutory definition of the 55th Senatorial District; and

Whereas, Robert Ingersol once wrote these words concerning the death of his brother: "If everyone to whom he had rendered some loving service were to bring but one blossom to his grave, he would sleep beneath a wilderness of flowers"; and

Whereas, it is the sense of this Legislative Body that Ralph Quattrociocchi sleeps beneath a wilderness of flowers; and

Whereas, through his long and sustained commitment to the ideals and principles upon which this beloved nation was first founded, Ralph Quattrociocchi did so unselfishly advance that spirit of united purpose and shared concern which is the

unalterable manifestation of our American experience; now, therefore, be it

Resolved, That this Legislative Body pause in its deliberations and express sincerest sorrow upon the occasion of the death of the Honorable Ralph Quattrociocchi, fully confident that such procedure mirrors our commitment to preserve, to enhance and yet to effect that patrimony of freedom which is our American heritage; and be it, further

Resolved, That a copy of this resolution, suitably engrossed, be transmitted to Mrs. Ralph Quattrociocchi and family, Monroe County, New York.

ACTING PRESIDENT KUHL: Senator Dollinger, the chair has had a couple of inquiries from members already, that they would like to inquire as to whether or not you were going to open it up.

SENATOR DOLLINGER: Absolutely, Mr. President.

ACTING PRESIDENT KUHL: And I would ask the Acting Majority Leader if the

procedure will be that we will put all of the members on the resolution unless there is somebody who does not wish to be, if they would notify the desk. So we will take that procedure.

The Chair recognizes Senator Dollinger, on the resolution.

SENATOR DOLLINGER: Mr. President. Ralph Quattrociocchi was the best known man in Monroe County. There are two people in this chamber that know that for a fact. One is me and the other is Guy Velella. We both spent a lot of falls polling the name Ralph Quattrociocchi in Monroe County, and I can tell you that about 93 percent of the people in our county recognize that very distinctive Italian surname, and I can tell you that it was very difficult to run against him.

Ralph was a man of Monroe County; and I'm not surprised, I guess, that Ralph, who'd had a heart problem before, died because of a heart problem. He gave a lot of that big heart to Monroe County and to the people there.

Although I ran against him, I've worked with him. I worked with him once in a defense fund for him when I think he was unjustly accused of a crime, and unfortunately so. I worked with him in the Democratic Party and then, lo and behold, I ran against him when he was both a Conservative and a Republican.

But as I told the newspapers when I learned of his death, there was never any doubt about where his heart was. It was with the people of the county, the working people of the county and the town of Greece, his beloved home.

My regrets and sadness go to his wife and his family. I know Ralph was buried today in Rochester. He was an important figure in Rochester because of what he stood for and what he contributed.

And, Ralph, I wish you eternal rest.

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

SENATOR GOLD: Thank you, Mr.

President.

First of all, I'm really -- I don't know whether happy is the right word. I am delighted that Senator Dollinger has offered the resolution and said the words that he has said. This is a tough business and we can define the word "tough" with many other adjectives, some not so nice, and it was very difficult for me and for some of our colleagues when politics took the turns that it took, and there was some friction between Ralph and the Democratic Party.

But if the truth be told, the man was a very, very sweet lovable man whose company I enjoyed many, many days and evenings when he sat in this legislative body. I didn't agree with him on a lot of political issues, but I could never ever allow anybody to even suggest that any vote he ever made was other than from his heart.

As a matter of fact, there were times politically when members of this conference suggested that there were safer ways

of doing certain things politically, and there were safer ways of phrasing his political positions, and he really wasn't interested in that. He was interested in saying what was on his mind and letting the chips fall where they may.

And, from my point of view, as someone who did not share a lot of his political views, I was lucky to share his company, and the man was absolutely a delight on a personal basis and I will miss him, and I want to extend my personal feelings of remorse to his family.

And, I know that wherever Ralph is he is smiling down because he is out there playing golf and George and I aren't.

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

SENATOR ONORATO: Mr. President. I rise, too, to join with my colleagues in expressing my extreme sorrow in hearing of the death of Ralph Quattrociocchi.

As many of you know, Ralph and I were extremely close while he was serving in

this chamber. I got him back to playing golf again, and we had many, many an enjoyable afternoon after session or before session out on that course with many of the members of this chamber.

And, Ralph's temperament on the golf course was the same as it was here in the chamber. Nothing fazed him, didn't get excited about anything. He did what he had to do, and he did it with all his heart and soul.

And he certainly will be missed not only by his family but by every one of us in here who consider him part of our own family; and to his family, I extend my heartfelt sorrow, and if there's anything that I can do to alleviate their pain, I hope that they will call on me to do so.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speaking on the resolution?

Chair recognizes Senator Alesi.

SENATOR ALESI: Thank you, Mr. President.

It's unfortunate that I would have to rise under these circumstances and, yet, I consider it a honor and a privilege to speak about Q, the man whose last name was so difficult for so many people, but it was so easy to know him and to like him.

He was certainly a man of the people, someone that could very well be a role model for so many people who were just looking for a politician who was a good man at the same time. I think Ralph Quattrociocchi was someone that all of us, including myself, learned an awful lot from, and, unfortunately, he won't be here for us to learn so much more.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

It is with deep sorrow that I rise to bring condolences to the family of Ralph Quattrociocchi.

Some eight years ago when I came

here, I met with Ralph's quick wit and his beautiful smile. I will never forget my first night in Albany when we had a dinner, and he and former Senator Donald Halperin had this ongoing joke about a brick; and, somehow, the next day I ended up bringing this brick into the chambers in a briefcase, thanks to Senator Gold.

Well, Ralph, you have the brick. We miss you. We loved you, and anything that we can do on behalf of the family, we are here.

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 unanimously adopted.

Senator Lachman, why do you rise?

SENATOR LACHMAN: Yes. I was temporarily out of chamber when the vote took

place on calendar item 252. I would ask the Chair for unanimous consent to be permitted to vote in the negative on calendar item 252.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Lachman will be recorded in the negative on Calendar Number 252.

Chair recognizes -

SENATOR DEFRANCISCO: Are there any other housekeeping matters?

ACTING PRESIDENT KUHL: No, sir.

SENATOR DEFRANCISCO: If not, I move that we adjourn out of respect for Senator Ralph Quattrociocchi, until 11:00 a.m. tomorrow, February 27, 1996.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, February 28, at 11:00 a.m., in respect to our former colleague, Ralph Quattrociocchi.

(Whereupon, at 5:26 p.m., Senate adjourned.)