ALBANY, NEW YORK

March 28, 1996

11:01 a.m.

REGULAR SESSION

SENATOR MICHAEL J. HOBLOCK, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT HOBLOCK: The Senate will come to order.

I ask everyone to rise and repeat with me the Pledge of Allegiance.

(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.)

ACTING PRESIDENT HOBLOCK: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 27th, the Senate met pursuant to adjournment. The Journal of Tuesday, March 26th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno, we have a substitution to make.

SENATOR BRUNO: Please make the substitution, Mr. President.

ACTING PRESIDENT HOBLOCK: Clerk will read.

THE SECRETARY: On page 6, Senator DeFrancisco moves to discharge from the Committee on Corporations Assembly Bill Number 8800 and substitute it for the identical Calendar Number 598.

ACTING PRESIDENT HOBLOCK: Without objection, the substitution is approved.

Senator Bruno, are you ready for the calendar?

SENATOR BRUNO: Yes, Mr. President. Can we at this time take up the

noncontroversial calendar.

ACTING PRESIDENT HOBLOCK: The Secretary will read.

THE SECRETARY: Calendar Number 129, by Senator Johnson, Senate Print 1847A, an act to amend the Real Property Tax Law, in relation to providing an exemption for capital construction costs.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 243, by Senator Leibell, Senate Print 2614, an act to amend the Executive Law, in relation to providing and maintaining alarms and an early warning system.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 244, by Senator Saland, Senate Print 3561, an act to amend the Family Court Act, in relation to expanding the jurisdiction of the family court to enforce the compulsory attendance law.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 388, by Senator Holland, Senate Print 466A, an act to amend the Social Services Law, in relation to access to the statewide register of child abuse and maltreatment.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 390, by Senator Nozzolio, Senate Print 2138, an act to amend the Social Services Law and the Education Law in relation to authorizing the fingerprinting of prospective employees.

SENATOR PATERSON: Lay it

aside.

ACTING PRESIDENT HOBLOCK: Lay the bill aside.

THE SECRETARY: Calendar Number 465, by Senator LaValle, Senate Print 1372, an act to amend the Town Law, in relation to exemption from the spending limits of fire districts.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 469, by the Senate Committee on Rules, Senate Print 3553, an act in relation to permitting the establishment of the Town of Champlain Sewer

Benefit Area No. 1.

ACTING PRESIDENT HOBLOCK: Home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 471, by Senator LaValle, Senate Print 3736, an act to amend the General Municipal Law, in relation to creating the Town of Southampton Community Development Agency.

ACTING PRESIDENT HOBLOCK: Home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 475, by Senator Leibell, Senate Print 5900, an act to amend the Real Property Tax Law, in relation to allowing municipalities to extend the redemption period for repayment of delinquent property taxes.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 476, by Senator Johnson, Senate Print 5903A, an

act to amend the Local Finance Law, in relation to temporary alternative methods of financing snow and ice removal.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 489, by Senator DiCarlo, Senate Print 5544, an act to amend the Business Corporation Law, in relation to the right of housing cooperatives to impose fees.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 520, by Senator LaValle, Senate Print 6112, an act to amend the Environmental Conservation Law, in relation to the Central Pine Barrens comprehensive land use plan.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 527, by Senator LaValle, Senate Print 3740A, an act authorizing an advisory nonbinding referen

dum in the towns of East Hampton, Riverhead, Shelter Island, Southampton and Southold in the county of Suffolk.

ACTING PRESIDENT HOBLOCK: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT HOBLOCK: Lay it aside? Lay the bill aside.

THE SECRETARY: Calendar Number 528, by Senator Marcellino -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT HOBLOCK: Lay the bill aside.

THE SECRETARY: Calendar Number 590, by Senator Skelos -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT HOBLOCK: Lay the bill aside.

Senator Skelos, that completes the noncontroversial reading of the Calendar.

SENATOR SKELOS: Please take up the controversial calendar.

ACTING PRESIDENT HOBLOCK: The Secretary will read.

THE SECRETARY: On page 24, Calendar Number 390, by Senator Nozzolio, Senate Print 2138, an act to amend the Social Services Law and the Education Law, in relation to authorizing the fingerprinting of prospective employees.

ACTING PRESIDENT HOBLOCK: Explanation asked for by Senator Paterson.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. My colleagues, the measure before us authorizing fingerprinting of prospective employees of school districts and screening them is a measure that is long overdue. It provides the same type of screening potential for the upstate school districts that the city of New York and their school districts now have before them.

What we're asking the school

districts to have is the ability to check criminal backgrounds of prospective teachers and other school district personnel. This information is vital when making such an important decision as who will be working day in and day out with the young people of our state in our school systems.

As I mentioned, it's a protection, it's an ability that the superintendents and administrators of New York City school districts already have and we're trying to simply put that same type of opportunity, that same potential for review within those school districts outside the city of New York.

The measure is one that I'm very sad has to take place, but I have seen personally the devastation that hiring an individual with a criminal record can do to a community. I have seen that in my own Senatorial District where an individual had a criminal record and that record was further exacerbated by criminal conduct as a teacher,

conduct that could have been prevented, injury to students that could have been prevented if the school district had opportunity to review this individual's background.

That is exactly what my measure does, Mr. President, and I urge its passage very swiftly.

SENATOR PATERSON: Thank you very much.

Mr. President, if Senator Nozzolio would kindly yield for a question?

ACTING PRESIDENT HOBLOCK: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Yes, of course, I would be glad to yield to my distinguished colleague, but before I do, I would just like to add one thing, if I may, Mr. Paterson.

This measure passed this house last year 57 to 2.

ACTING PRESIDENT HOBLOCK: Thank you. Senator Nozzolio yields.

SENATOR PATERSON: Well,

Senator, I thought you would like to try to go for a shutout, and that's why I have a question that's specifically on that point.

SENATOR NOZZOLIO: Mr. President, I can't hear.

ACTING PRESIDENT HOBLOCK: Excuse me, Senator Paterson. Can we have a little order in the house, please?

Thank you.

SENATOR PATERSON: The desire that Senator Nozzolio stated and the objective of this bill is very clear, and as he pointed out, it's sad that it has to get to this point, but perhaps it does and, therefore, Senator, I just want to ask you, what about teachers who are already working prior to the passage of this bill, would there be any kind of provision to check the criminal records of individuals who already are employed in the school districts?

SENATOR NOZZOLIO: It would be up to the board of education in each individual district to decide how they were going to screen their personnel. This is meant to establish at

the threshold background investigation during the application process, but there is nothing, in my opinion, that would preclude the district, if it so desired, from looking at a more comprehensive access to the information.

SENATOR PATERSON: Very good, Senator. If the Senator would continue to yield.

ACTING PRESIDENT HOBLOCK: Do you continue to yield, Senator Nozzolio?

SENATOR NOZZOLIO: Yes, Mr. President.

SENATOR PATERSON: The use of the term "criminal record", does this apply to criminal convictions? Is it arrests? I'm interested in what may have been false accusations. I don't have a problem at all, in fact, I endorse the concept of wanting to know a criminal history where an individual has been convicted, but what about someone who's been charged; and in addition to that, what about any other offenses that might exist that might not relate to the care of children?

SENATOR NOZZOLIO: If I may, in response to that, Senator Paterson, your last question whether the measure would only deal with new employees or also extend to existing employees, I wish to correct a statement I made to you earlier.

Section 39, it's page 2, lines 25 through 30 of the bill, suggests very clearly that it would be the screening of all personnel to be employed by the school district, so that we're looking at prospective employees, not current employees, and I wish to correct the statement I made to you earlier.

In response to your current question, could you please restate that? I'm not sure if I picked it all up.

SENATOR PATERSON: Let me try by posing two questions: The first question is, give me the definition of a criminal second. I'm interested in whether we're talking about convictions or accusations.

ACTING PRESIDENT HOBLOCK: Excuse me, Senator Paterson.

Can we get some order in the house, please? We can't hear.

Okay, Senator Paterson.

SENATOR PATERSON: Thank you.

My question, Senator Nozzolio, would be can you define for me the meaning of the term "criminal record"? Are we talking about convictions or are we talking about criminal charges? In other words, I see a distinction between an individual who's been convicted for a crime and somebody who may have been arrested and that's why their fingerprints would show up, because they were arrested.

SENATOR NOZZOLIO: The bill itself provides school districts access to this information, Senator, the state Central Registry of Child Abuse and Maltreatment and the records of the FBI. So, if those records indicate certain conduct or certain behavior or certain activity, the information obtained in those records would be what would be available to school districts as it is now available to those districts in New York City; and FBI records, I

think, would include not just those convictions, but also arrests and fingerprint records, as well.

SENATOR PATERSON: Mr. President, if Senator Nozzolio would continue to yield.

SENATOR NOZZOLIO: Yes, Mr. President.

SENATOR PATERSON: Senator, you are not interested in the information that would demonstrate conduct as opposed to the information that would demonstrate accusation? In other words, if a person actually has a criminal record, I think if they are going to be working around small children as you so very well pointed out earlier, that it would be very beneficial for the school districts to have this information; but, since there is at least a presumption of innocence in our society and many people have been arrested and not convicted and not -- it was not proven, whatever the charges actually were, don't you think that it creates a stigma for the individual who is arrested as if

the person was convicted of a crime when they start to seek employment in a school system?

SENATOR NOZZOLIO: Let me answer that question, Senator, in a couple of ways: First, we're trying to end the double standard that exists today between the efforts to look into the criminal backgrounds of teachers who seek to teach in the New York City system versus those who seek to teach and work outside the New York City system.

The New York City system now allows access to this information, the information that is precisely prescribed by the language before us today. Why should New York City administrators have the right to check into this background, yet administrators from all across the state do not have that opportunity?

Let me state, in answer to your question, it another way: Criminal background checks don't necessarily have to get into just the issue of conviction. As a matter of fact, one convicted of a certain crime, certainly that's important to know, but it is also

important to know if one was arrested for a certain crime and then pled to another crime, particularly when you're dealing with children. And let me illustrate the point, Senator, by discussing an individual who may have been arrested and a case built against them for child abuse, child mistreatment or child sexual attack, a sexual attack against a child. Someone arrested for that type of activity may plead to another offense for a variety of reasons; yet, certainly, I would believe that you and everyone else in this room, when dealing -- entrusted with the responsibility of hiring somebody to deal with a child on a day-to-day basis, would certainly want to know that information as to whether or not an individual had put themselves in a circumstance to be so arrested. Would that person be a reasonable risk when brought into a school district and entrusted with the responsibility of dealing with children on a day-to-day basis, eight-hour, nine-hour, ten-hour day basis.

That's exactly what happened in a

town in my district. An individual was arrested and apprehended for a child sexual attack, pled guilty to another lesser included offense for the sake of a plea bargain and wound up teaching in this school district, in a few years, continued that sexual misbehavior, attacked children and, in effect, devastated their lives when, in fact, if the school district knew about that prior conduct, could have taken the opportunity to screen and err on the side of safety.

I don't believe that we are trying to establish onerous responsibility, onerous types of criteria in this legislation; rather, we are trying to simply end the double standard that exists today in checking criminal background and ensure that those administrators are erring on the side of safety and have all the information necessary; in effect, Senator Paterson, if the administrator wanted to hire an individual after seeing that arrest record, that would be a decision by the administrator and by the school board, but at the very least, they

would have at their disposal the information necessary to make a learned decision.

SENATOR PATERSON: Thank you very much, Senator. You gave a very good example, but it is not distinguished from the point that I'm raising. If a person was arrested and pled to a lesser charge, that's a conviction, and that conviction, even though the charge may be less, I agree with you that we should know everything about the case. So, in other words, they pled to a lesser charge, that was a plea bargaining arrangement, it's quite possible they were actually guilty of the original crime that they were charged for, and I think it would be extremely important, as you pointed out, to have that information, so I agree with you 100 Percent.

Where I also agree with you is I don't think that there should be an incon sistent standard between New York City and the rest of the state. So, therefore, the fact that you have introduced this bill actually raises the question of review of the standard that may

exist in New York City's school system, so I agree with you there, as well.

If I might ask you to yield for another question.

ACTING PRESIDENT HOBLOCK: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Certainly, Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Paterson.

SENATOR PATERSON: What I'm talking about, Senator, is an arrest that did not lead to a conviction, an accusation that was not substantiated, and I'm not trying to protect anybody who is potentially harmful to students in our school system, what I'm trying to do is to protect people who have been accused of doing a lot of things they didn't do, quite often through ulterior motives of the accusing party. And I'm saying the fact that this information is now on their record does not mean that they're guilty, doesn't mean they did anything, but it does mean that a lot of people who may not be in

a position to weigh that information, not what you're talking about, not convictions or pleading to a lesser charge, I'm talking about the specific cases where the person wasn't convicted of anything, where the complaining witness may have even withdrawn the charge, and I'm saying to have individuals who run school districts be able to examine that evidence and perhaps damage the reputations of the individuals involved is something that I have a little bit of a problem with. And so what I'm asking you is, is that in existence in this bill? In other words, would a person who was merely arrested and not convicted of anything, would that information still be made available to the school districts?

ACTING PRESIDENT HOBLOCK: Senator Nozzolio, can I interrupt you a minute, please?

Can we show a little respect and courtesy to our colleagues, please, as they debate this bill? It's getting a little noisy and people are having problems hearing.

Thank you.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Senator, this information is available to the school personnel who are reviewing applicants for hire. It is information that we're making accessible to them. It is information that is readily accessible to other employers. If the same individual was seeking a job with the state of New York, that individual would have a criminal background check against them appropriate to the responsibility, and we're saying if the information is available for somebody who seeks to be a bureaucrat, why should that information be available on someone who seeks to be working with children day in and day out.

It is not openly accessible, it's only accessible for the specific purpose of a background check for hire and that, I think, is distinguished, Senator, based on the fact that it is certainly used for a specific

purpose.

And on the arrest, David, if I may, you have -- for those circumstances that appear unrelated or irrelevant to an individual's character or conduct, the school district has the opportunity to make a judgment that that information has not precluded a good candidate from receiving employment. So, there is no discretion taken away from the school district; on the contrary, we're empowering the school district with the opportunity to have this information before it makes a decision.

SENATOR PATERSON: Thank you very much, Senator. The answers were very responsive.

Mr. President, on the bill.

ACTING PRESIDENT HOBLOCK: Senator Paterson, on the bill.

SENATOR PATERSON: Senator Nozzolio is right, if there is one area that we probably need an even greater protection, it's individuals who work around young children. I have read statistics that run as high as that

one out of every five small children is in some way sexually abused by the time they reach 18. Some of the statistics are startling.

As a society, we have often, in many ways, ignored these types of problems, as we have with other issues, and are finally getting to this in our discussion here today and through Senator Nozzolio's bill.

All I was trying to point out, Mr. President, is that sometimes we just have to remember that this is America. Now, if this were Bosnia, maybe it wouldn't be a bad idea to look at everybody's record, but what I thought distinguished this country and what I thought made our system of jurisprudence superior to all of the other democracies in the world is that we are careful about protecting individual freedom and that we do have a standard that separates what would be conviction from accusation. We have a presumption of innocence. And, if there was any kind of a guilty plea to anything, that changes the game and, in my opinion, we're entitled to know everything about the

individual. Even if they pleaded to a lesser charge, we're entitled to know what the original charge was.

I just have a concern about individuals who are accused of crimes and may have been nowhere in the vicinity but because they were arrested and fingerprinted, it now haunts them and acts as a stigma every place they go and a whole lot of people who may be frightened by the mere association with the criminal justice system, would deny them employment when, in fact, they have done absolutely nothing wrong.

ACTING PRESIDENT HOBLOCK: Senator Lachman.

SENATOR LACHMAN: Yes, Mr. President, I would like to explain my position on Calendar 390. First, I want to express my appreciation to Senator Paterson for his viewpoint. I greatly respect his position and his reservations which are my reservations, as well.

However, when one is in a

position of authority, and one is in loco parenti to children, there are other positions and other values that come into focus, and it's very difficult at times to choose between two different sets of values that you believe in.

As a former president of the New York Board of Education, I face the reality of this problem and I come down in support of Senator Nozzolio's position and that is how I'm going to vote.

The rights and responsibilities of adults are very important to me, but the rights and responsibilities and security of children are at least equally important to me; and if, for example, we're to have security guards in a particular school, we have to make certain that these security guards will, in fact, be protecting children and not doing anything else in regard to these children.

There have been cases in school districts which did not have such legislation where problems have occurred.

So, in a very difficult vote and

a difficult decision, I vote yes, I will be voting yes on the Nozzolio bill.

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

THE SECRETARY: Section 8. This act shall take effect September 1.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 527 by Senator LaValle, Senate Print 3740A, an act authorizing an advisory, nonbinding referen dum in the Towns of East Hampton, Riverhead, Shelter Island, Southampton and Southold in Suffolk County.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT HOBLOCK: Senator LaValle, an explanation had been asked for by Senator Paterson.

SENATOR LAVALLE: Thank you,

Mr. President.

This legislation that would begin a process that would lead to the creation of Peconic County is somewhat different from legislation that we have debated and passed on at least two other occasions in this house. The amended bill, 3740A, simply allows for a referendum, advisory referendum in the five eastern towns, those towns being Riverhead, Southold, Shelter Island, Southampton, and East Hampton.

As we have discussed in prior debates and as delineated in the bill, that the legislature, under Section 2 of Article IX of the state Constitution, is charged with the responsibility for the creation of all local governments in New York State. We have found, while there are procedures, uniform procedures enacted for the creation of villages and towns and cities, there is no procedure existing for the creation of a new county.

New counties have been enacted during the history of New York State by special

acts of the legislature. We are embarking - and I might say this body, through its budget, enacted an appropriation of $50,000 that was matched by the local towns, and that $100,000 was spent on a financial feasibility study on whether Peconic County is indeed feasible for the five eastern towns.

There were hearings and meetings, both public and private, that involved policymakers from the county of Suffolk and from the five eastern towns.

I just want to, for part of the record -- for the record, just read a little piece that goes to the essence of why this debate for more than 30 years has become so important to the people of the East End, and in the foreword of the report, "Peconic County, Financial Feasibility Study," it says, "East End and West End towns have developed into different entities. The two parts of Suffolk County are different in terms of land use issues, sources of commerce, tourism, second home ownership, population growth, land and resource

conservation and other elements. These fundamental, socioeconomic and quality of life issues are manifested in fundamental differences in philosophy of county government between the citizens of the East End and western towns," and it goes on.

The last thing is a quote from the presiding officer of the Suffolk County legislature and he said: "The interests of the East End are substantially different from the West End."

And so this legislation would begin, actually, a process locally that takes from the feasibility study, and the people have both participated, have seen newspaper stories.

When you talk about 100,000 people in the East End, you talk about the issue of Peconic County, and I can tell you, it is indeed a burning issue and that people are tuned into what is happening both in the public forum and the media. And so that part has already taken place, the feasibility study.

Now what we're saying is that

the people should let us know, let us in the state know what is their judgment in the creation of Peconic County. If the people, in the November election, vote that they would like the creation of Peconic County, then I and Assemblyman Thiele, who is the Assemblyman, and Assemblywoman Acampora, will be back to this legislative body asking for further authori zation for the creation, by a special act of the legislature, the creation of Peconic County.

ACTING PRESIDENT HOBLOCK: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If my colleague would yield for a question.

ACTING PRESIDENT HOBLOCK: Senator LaValle, would you yield?

SENATOR LAVALLE: Yes, I would, Senator.

ACTING PRESIDENT HOBLOCK: Senator yields.

SENATOR PATERSON: Senator

Lavalle, In the feasibility study, was there a discussion of what the economic cost would be to add a whole new layer of government to, in a sense -- rather than coalescing resources, I would imagine this legislation would create more government because you would have two separate counties, Peconic and what's left of Suffolk County.

SENATOR LAVALLE: Senator, that is indeed a very good question, and indeed they did look at that. In the feasibility study, I would -- and I will quote, we just talked about-- I'm going to answer your question in two parts. The first deals with tax issues for Peconic County, and it shows that the citizens of the East End towns paid Suffolk 26.4 million in property taxes in 1993, or 13.8 million more than what they would have paid Peconic County in its first year of operation, assumed to be 1996.

As part of the breakdown, it does assume that there are some functions that, because they would have to be duplicated in Peconic County, would cost Peconic County some

money.

On the other hand, Senator, the people of Peconic County have argued that there is too much government in Suffolk County and that the budget that was enacted and the model that the study was based on shows that there are far fewer services that would be part of Peconic County's budget.

So, while there is some cost that they actually put into the study on duplication, overall, there are reduced salaries, reduced services in Peconic County, reduced insurance and indemnity costs, elimination of any east to west subsidy, and a restructuring of the debt payments; and all this accounts for a lower real property tax payment by the creation of Peconic County for the East End.

SENATOR PATERSON: Thank you, Mr. President. I just have one other question, if Senator LaValle would yield.

ACTING PRESIDENT HOBLOCK: Senator LaValle, do you continue to yield?

SENATOR LAVALLE: Yes, I would, Senator Paterson.

SENATOR PATERSON: Thank you.

To your knowledge, what is the feeling of the other towns, not the eastern five towns, but the other parts of Suffolk County, how do they feel about this creation of a new county?

SENATOR LAVALLE: That's a very -- I don't think there's a definitive answer to that, Senator, but I would say to you that I personally live in the part of the First Senatorial District in the Town of Brookhaven, which is to the west and is the largest of the towns in the county of Suffolk, and I have found within Brookhaven town that there is support for this kind of effort because the people understand that the East End, the five eastern towns, is far different and that, as a matter of fact, Senator, and it's discussed in the report, the East End provides all the open-space land, the farm land, the second home opportunities for people that use them as recreation homes. And

so, maintaining that quality of life on Long Island is very, very important and many people feel, as I do, that one of the best mechanisms to do that is to empower the people who live there to maintain that quality of life, not only as I had talked about its resources -- we passed a bill here preserving the pine barrens and that was an effort that again was initiated by East End people because it was important to maintain a quality of life not only for the East End, but for all of Long Island. And you know, Senator, all of Long Island supported that initiative because it's important to maintain the last vestige of what Long Island is all about and that's the East End of Long Island.

SENATOR PATERSON: Thank you, Senator.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Mr. President, would the Senator yield?

ACTING PRESIDENT HOBLOCK: Senator LaValle, would you yield?

SENATOR LAVALLE: Yes,

Senator.

SENATOR LACHMAN: In a few days, Senator, my children will be asking me,"Why is this night different from all other nights?"

My question to you, Senator LaValle, is why is this county different from all other counties in the state of New York? I come from the largest county in the state of New York, the county of Brooklyn, Kings County, and some of the explanations that you have offered could also be offered for Brooklyn. Brooklyn would be the second largest city in the United States, the first in New York State. There are people who say there's a north Brooklyn and a south Brooklyn, and economically, geographic ally, ethically and racially, there are differences, but we in Brooklyn believe that the way of handling such a situation is not separating north from south Brooklyn, but working together and delivering services to all areas and making the entire county economically viable.

I guess my question to the distinguished Senator is what criteria do we have here that can apply statewide to all other similar situations? If they cannot, then I would just have to say that this is not a good precedent for the state of New York.

SENATOR LAVALLE: Senator, I think that's a fair question, and one of the things I talked about in my opening remarks is that while we, under the Constitution, under Section 2 of Article IX, create local subdivisions and we have uniform procedures, the creation of towns and villages and cities, we have no one uniform procedure for the creation of a county. And yet we, as a legislature, have created counties by special acts; and so we are enacting a procedure, the best one we know how, which is to at the earliest stages, to involve the people by referendum, to ask them.

But, to go back to the basic question that you asked about why is this different, and if we just take Brooklyn and its role in New York City, we find that Peconic

County, while it represents eight percent of the people and 30 percent of the land mass in Suffolk County, can never, never, never, in its governance structure, have any impact in an 18-member county legislature, it has two representatives to the county legislature. And so whatever it wants in terms of a change, it can never receive because their two county legislators could vote either no or yes and never really make a difference.

And so, the philosophy -- while there is some homogeneity within New York City, the five eastern towns are so different from the five western towns because it has as its basis of economic development, it's agrarian, it's farms, it's fishing, it's tourism, it's second home ownership for those who use it, their second home, for recreation. That is the basic economy of the East End. It is more rooted and grounded in historic customs and traditions. Families have passed down these traditions in it.

The local newspapers are replete

with stories of people who, this generation, have been handed through multiple generations the opportunity to farm or fish and there are names that historically are very, very rich in the Long Island history of the East End.

So, it's very, very different; but it's the governance, it goes to governance and whether the people of the five eastern towns could ever affect or change their life.

The question that Senator Paterson asked me on cost, people of the East End believe that there's too much government, too much government. They can never effect that change in Suffolk County government. They can never say, "We want to change our taxes," or, "We don't believe in certain programs." They can never do that because they don't have the representation to do it. It's the difference that I think makes this a unique -- and I know most every member -- we all talk about how our Senate districts are unique and different, but here, I think, the report, the feasibility studies, show with empirical evidence, the

uniqueness of what they are trying to accomplish and how they can do it in a more efficient and effective way.

ACTING PRESIDENT HOBLOCK: Senator Dollinger.

SENATOR DOLLINGER: Will Senator LaValle yield to a question?

ACTING PRESIDENT HOBLOCK: Senator Dollinger, do you yield?

SENATOR LAVALLE: Yes, I do.

SENATOR DOLLINGER: Senator, does this bill have a home rule message from Suffolk County itself?

SENATOR LAVALLE: No, Senator. This bill, a home rule message was not requested on this bill; and to the best of my knowledge, and I checked with my Assembly sponsor, but even the Assembly on this bill have not asked for a home rule message.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator LaValle would continue to yield?

ACTING PRESIDENT HOBLOCK:

Senator LaValle, do you continue to yield?

SENATOR LAVALLE: Yes.

SENATOR DOLLINGER: At some point, do you anticipate that if this nonbinding referendum were passed, much like we have experienced in Staten Island, that at some point there would be a need for a home rule message from the county in which this political change will occur, and I guess my question is, do you anticipate that happening, that there would be -- at some point, we would get from Suffolk County a home rule message?

SENATOR LAVALLE: Senator, as you see the bill before you is an "A" print, is an amended version. The bill 3740 that existed was a much broader and comprehensive bill than the one before us. We have debated that bill that would have set into motion the process for the creation of a new county based on the fact that this legislature constitutionally, under Section 2, Article IX of the Constitution, can create special acts by a special act of the legislature, a county. The home rule counsel in

this house has felt that that is a broad and statewide scope and has not requested a home rule message. That approach has been different on the broader bill in the other house.

SENATOR DOLLINGER: Mr. President, if Senator LaValle would continue to yield?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT HOBLOCK: SENATOR LAVALLE: , do you continue to yield?

SENATOR LAVALLE: Yes, I would.

SENATOR DOLLINGER: Would the voting eligibility in this referendum be the same as it would be in a general election?

SENATOR LAVALLE: Yes, it would. It specifically talks about consistent with the -- it would be conducted by the Board of Elections in a manner provided in the Election Law and provisions of such law, so that the answer is yes.

SENATOR DOLLINGER: Okay, so it would be based on domicile, and those who have resort homes or second homes wouldn't

necessarily be eligible to vote?

SENATOR LAVALLE: That is correct, unless that is their principal place that they have declared principal residence. And by the way, Senator, I have many such people that probably spend more time -- and I just see my colleague, Senator Leichter -- probably spend more time in Senator Leichter's district or Senator Goodman's district, but actually vote in the First Senatorial District.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I think Senator LaValle makes a very persuasive argument for creating a new county in the eastern portion of Suffolk County.

I come from a county that has the same heterogeneous character that might exist in Suffolk County. We have a large urban area, we have inner-ring suburbs that have many of the same types of urban problems, we have a

completely suburban eastern portion of Monroe County, and we have a largely rural western portion of Monroe County, and it seems to me, while I'm going to vote in favor of this bill because I'm willing to let the people of these towns be heard, but I don't want my vote to be interpreted as agreeing to the concept that we would create a new government on the eastern portion of Suffolk County, or necessarily acknowledging my affirmance to the notion that counties created 100 years ago, 200 years ago, political subdivisions, all of which, if we were planning them today for the first time, we might redesign them to create the kind of eastern, perhaps suburban portion of Monroe County and calling it Pittsford and take the west side and call it Hamlin, the side that's represented by Senator Maziarz, the eastern side, represented by Senator Alesi, and the center portion, represented by me in the 54th Senate District.

Any time we sit down and begin to draw the lines of new levels of government, we can accentuate the differences between

people, we can accentuate the differences between communities. My personal experience is that over time, even those differences change in changing contours in the higher mobility of our population and what might look like a whole separate and distinct community today will really not be that 50 years from now, much as it's changed in the last 100 years or 200 years.

So, I'm prepared to let the people in these towns participate in the nonbinding referendum; but much as we have had this discussion on Staten Island with Senator Marchi, I'm not at this point prepared to create new levels of government when what I think we should be doing is creating smaller ones. We may have that debate some day, we'll see what this referendum produces, but at least for this Senator, I'm going to reserve judgment on the larger issue and the more philosophical issue of whether we should be creating an entire new county in this state.

ACTING PRESIDENT HOBLOCK: Senator Marchi.

SENATOR MARCHI: I certainly approve of the spirit that Senator Dollinger brings to this, he is receptive and open to the expression of feeling in those counties, but we do have a very serious effort on the part of Senator LaValle to develop all of the premises that are required for viability. If they're not viable -- I know that the argument came up about Kings County. Kings County could not exist alone; Bronx County couldn't; Queens probably could; Manhattan, they could all ride around in Cadillacs with chauffeurs, I guess, because the bulk of the wealth is there. Staten Island produces a net surplus of revenue and has the viability. That argument would not be enough.

We were visited with the principle of one man, one vote to transcend political correctness at this point, and for five years -- I had introduced a bill in 1983 but I didn't press it because I was trying to keep the City together. It ended with an adverse determination on the part of the Supreme Court of the United States in which they stated

that, not that they were against keeping the City together, but that the one man, one vote principle should obtain. Well, we're 400,000 people against 7 and a half million; we just don't stand a chance.

Anyone who has had the opportunity to read the New York Times yesterday, and now they're offering as a revenue raiser, visits by the tourist bureau to see a garbage dump where they dump 16,000 tons of garbage every single day, 365 days a year.

Now, I've heard arguments here, minuscule arguments of a much lesser dimension. There's no liner there. The water, the subsurface water in the county of Richmond, if it is ever redeemable, will be decades and decades and perhaps centuries, the compromise has been so thorough and complete. You cannot drink it. It used to supply us with 50 percent of the -- 50 percent of the potable water that we consumed in that county.

We laid out a plan, it was approved by both houses of the Legislature -

and this is the problem that I would raise, this is the dilemma that may eventually face Senator LaValle. Speaker Weprin, Speaker Fink, Speaker -- help me out -- Miller, Miller, all of them respected the process by which we developed a methodology and laws and step-by-step evolution in the development of a charter and the rest of it.

This has been done by Senator LaValle, with their own resources, with their own initiative, has observed all of the rules, and I believe they should be given audience, given the circumstances that they face.

Our circumstances are absolutely terrible, terrible, not because the City is evil or anything, but we just don't have the numbers and that is partially the argument that Senator LaValle has. He cannot insinuate, he cannot develop that point of view which are peculiar and particular to the areas that he represents.

Though it deserves a chance, it deserves an opportunity to be heard. The only thing I don't know, Senator, is there's no home

rule requirement in the Assembly, but Speaker Silver, as distinguished from prior Speakers, as distinguished from Governor Mario Cuomo who said that this process was eminently fair and was well-grounded in decisions that flowed from the Supreme Court, also the expressions of Governor Pataki, that he's waiting to sign the bill, he will not even let the bill out to be considered. People can't hear the bill. They are not permitted to vote on it. If he has powers of suasion, maybe he could defeat it and that would end it for all time. But, that is the problem that Senator LaValle faces, that when the time comes to make a final determination, something will be thrown at him to prevent and impede consideration by the Assembly of this issue.

My Assembly colleagues have brought a lawsuit, I'm not sure that that is appropriate because each house -- I mean, they determine their own leadership and so there are problems, but there's no question on the question of the ethics of preventing a body that is ready and willing to vote on a subject and

then denying them that right and raising subjects that have never been recognized by three previous Speakers and two Governors. We're talking about bipartisan judgment on the operation of freedom and self-determination.

So, I would hope that this effort and initiative by Senator LaValle representing, as he does, and he has Assembly sponsors, will be given an airing and an opportunity. It's important enough. This isn't fluff, this isn't something that -- this is something vital that goes to the essence of self-determination in those circumstances where it is viable and also those circumstances -- we were given a matrix that we had to come back to the Legislature for final approval because it might invoke some prejudice on the state as a whole and I think that's what Senator Dollinger was concerned about.

But we're ready to face these things in the interest of giving voice to people who are earnest, hard-working Americans and make the same pretension to the principle of

self-determination that Granada -- I don't know, I counted something like 15 or 20 countries that are recognized by the United Nations that don't have half the population that we have and there are probably nations that are smaller than the little conglomerate that Senator LaValle has.

So, I would hope that in the spirit of fairness and openness and availability to suasion on a case that will have to be made down the road to get its initial start by your affirmative vote on this issue, which is so important, not only to Senator LaValle, but to the people in residence of those townships.

ACTING PRESIDENT HOBLOCK: Senator Leichter.

SENATOR LEICHTER: Mr. President, would Senator LaValle yield, please?

ACTING PRESIDENT HOBLOCK: Excuse me, Senator Leichter. Senator Leichter, excuse me a moment.

Senator Holland.

SENATOR HOLLAND: Would you recognize Senator Stavisky for his vote on this

bill, please?

ACTING PRESIDENT HOBLOCK:

Senator Stavisky.

SENATOR STAVISKY: Would you record me in the negative, please?

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 180th day.

ACTING PRESIDENT HOBLOCK:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT HOBLOCK:

Senator Stavisky.

SENATOR STAVISKY: In the negative.

Without objection, Senator Stavisky will be recorded in the negative.

Withdraw the roll call.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President, if Senator LaValle would yield.

ACTING PRESIDENT HOBLOCK:

Senator LaValle, do you yield?

SENATOR LAVALLE: Yes.

SENATOR LEICHTER: Senator, as I look at the structure of your bill and the process that you set up, I assume you want to do this in a democratic manner and you provide for a referendum which, of course, you have to make nonbinding, is that right?

SENATOR LAVALLE: That is correct, that's what we say in the legislation. That, of course, is a democratic process with small "d", Senator.

SENATOR LEICHTER: Well, Senator, that's really what concerns me and sort of worries me, or at least one of the things that worries me about this bill, and if you would be good enough to yield.

SENATOR LAVALLE: Yes, sure.

SENATOR LEICHTER: Why not allow the other people of Suffolk to vote on this? You're now serving Suffolk by this procedure, assuming that the five eastern towns decide that they wish to set up their own

county. How about the people of Babylon and the people of Huntington? I mean, and Senator Lack's constituents.

SENATOR LACK: I live in Huntington, you named it, it's all right.

SENATOR LEICHTER: I mean, there's been a relationship that goes over 200 years. Now you're allowing a small portion of Suffolk County, in effect, to decide by its self to secede. Why is that democratic with a small "d"?

SENATOR LAVALLE: Well, Senator, as I had indicated before, this really is no uniform procedure, but there is the part of the county that seems to have different hopes and aspirations about the way it wants to have a government form. And this bill is no different than the bills that we have debated and discussed on prior occasions in this house and that I, and I think Senator Marchi in the referendum on Staten Island, have chosen a methodology.

Now, someone else may come

before this house and ask a special act be formed to create a county in a different way. This is the methodology that we chose because for 30 years, 30 years, Senator, it's been consistent in these five eastern towns that this is what people have wanted. And if you want to call it a rebellion or a difference, it's because they view the way government and the services that government should be performing far differently from the people in the five western towns.

SENATOR LEICHTER: If Senator LaValle would yield to just one more question.

ACTING PRESIDENT HOBLOCK: Senator LaValle, do you continue to yield?

SENATOR LEICHTER: Senator, I take it as a given that the people of the eastern end of Long Island wish to have their own county, I take it as a given what the vote will be of the nonbinding referendum, but when you say we have a methodology, we set up a methodology for Staten Island that, frankly, I for one thought was wrong and many people in New

York City said, "Listen, this is part of New York City, this is, if you will, part of our flesh and blood. If we're going to decide that Staten Island is going to leave New York City, then everybody in New York City has a right to vote on it, not just the people of Staten Island." So, I don't think that we've ever established a methodology where there was consensus that this is fair.

And since you talked about democracy with a small "d" and appropriately so, and I know that is a concern of yours, but how can you have democracy when the people in the western part of Suffolk County don't have a voice as to whether they're going to lose part of what has been an integral county for I guess over 200 years.

SENATOR LAVALLE: Senator, I just want to state more clearly, you know, again, that there are no procedures that exist for creation of a county and that I and individuals who are involved chose this as a methodology. Now -- and again, I say someone

else might come before this house and do it in a different way, might offer a different structure in how it will create the county. So, I mean, we can go back and forth, but this methodology is no different than the two previous bills that have come before the house and that was one, that there would be a feasibility study; that has been done. In part, it's been funded by this body through its budget. Number two, we are requesting, as we have in the past, that a referendum be established as to whether, on the basis of the feasibility study, people feel that a Peconic County is viable, affordable and doable for the people of the five eastern towns.

You know, the question was asked, the question was asked about how other people feel, and I can tell you that while the town of Brookhaven, which is the largest of the towns -- I mean, I think people are very supportive of this kind of nature. I mean, I don't have a specific poll, but I know that this has been discussed for many, many years and I think I have some understanding of how people

feel. The town of Brookhaven have supported this, because it would maintain for not only the people of the East End, but people of Brookhaven and Huntington and Smithtown and Islip and Babylon, a place that they can go and recreate and have within their county, a place that has a quality of life that has been maintained, the very reason that they moved to Long Island and moved to Suffolk County. So, I think there is that support there.

SENATOR LEICHTER: Thank you very much, Senator LaValle.

Mr. President, on the bill.

ACTING PRESIDENT HOBLOCK: Senator Leichter, on the bill.

SENATOR LEICHTER: I mean, it's clear to me that if we're going to go through this process and if, as Senator LaValle says, he wants a process with a small "d", that you must let the entire county vote on whether part of it should be severed. I think that's clear and self-evident, and for Senator LaValle to say, "Well, the people in Brookhaven like it," well

fine, let them vote on it if they like it. I mean, I think the fact that they're not being asked to participate in the referendum I think does speak to probably how the rest of, or the western part of Suffolk County feels about being served in this manner.

But I want to address something a little different and maybe a more broader point. You know, we function as a state with 62 counties. Now, if we were starting over all new and Solomon came down here and did it or even if we, in our not-so-perfect Solomon way, tried to do it, we would certainly divide the state in a different fashion. Maybe New York City wouldn't be composed of the five boroughs, but I think there is a value, there is an importance in maintaining existing standards and existing ways and traditions of governance, and I don't think that we ought so lightly to go into this, "Well, let's set up a new county, let's set up a new town, let's set up a new city." I think that it disrupts basic patterns of government.

Now, this is very popular. Let

me tell you, if I put a bill in here, my district, they want to be a separate city or we should be a separate borough, everybody would vote for it, and I'm sure that all of you could think of parts of your district where people would want to make changes. And particularly in this time and age where everybody feels somewhat remote from government, it's very seductive to say, "Well, we're going to give you a new status, we're going to change the governance and you're going to be in charge of yourself. The fact is that it's part of the nature of this modern world that we live in that we all are losing, to a large extent, some of the controls that we used to have over our lives, over our communities and to tell people,"Well, you're going to recapture this because I'm going to set up, make Staten Island its own city and I'm going to make the East End of Suffolk County its own county," I think in itself really doesn't work.

I think the Staten Island experience, I think has been, to my mind, a

mistake; and let me say, it speaks volumes of the extreme high regard that Senator Marchi is held in, not only in this chamber but in this Capitol and in the city, that the process has gone that far. But, to a certain extent, Senator Marchi was a fluke because I remember when the bill first came up in this house, a respected former leader who's no longer with us came and said, "Let the bill pass because it's never going to move in the Assembly." I voted against it and I think I was the only vote in this body against that bill.

Well, when it came up in the Assembly and the belief was that the Speaker, Speaker Miller, wouldn't allow it to come up, he said, "Well, all right, we'll let it pass because the Governor's going to veto it." And as you know, it passed the Assembly and went before the Governor and the Governor said,"You're going to make me the fall guy for this? I'm going to sign it," which he did, and that's why we've gone into this process which I don't think has been favorable for not only the

city of New York, I don't think it's been favorable for Staten Island. I think it has held out expectations that are never going to be realized, and similarly here.

I think all of us know that well-intentioned and sincere as Senator LaValle is, you're never going to sever Suffolk County, it isn't going to happen.

So, what is the benefit, what is the value of setting up this sort of a process of riling up the people on the eastern end of Suffolk County, of having the people on the western end of Suffolk County excluded from the process; and if it ever came to realization, it would probably cause so much havoc because people have developed a pattern of governing themselves, of establishing relationships between communities and to their government that really relies very much upon Suffolk being one county.

So, I just say that I think that our effort really ought to be to bring people together. This sort of thing divides people,

divides the eastern end of Suffolk County from the western end. Senator Marchi, you're dividing Staten Island from the rest of New York and you ought to be part of New York City. You're a wonderful, important, significant part of New York City and even though you have that terrible landfill, let me tell you, my district, I have a big sewage plant. You know, we could say, "Well, we want to become our own community and then get rid of the sewage plant." It doesn't work. We are a whole. You can't sever it, Senator, and let's not proceed in this -- I know that Senator Maltese now has a bill to make Queens its own city and there will be similar such efforts. I think our job really as representatives of the people of New York is to bring everybody together and not to divide them, which I think these bills do. I'm going to vote in the negative.

ACTING PRESIDENT HOBLOCK: Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President. I'm going to be very brief. I

support Senator LaValle's bill because I believe that the people of the East End have a right to their own determination and how their form of government is.

I also am a supporter of secession for Staten Island and I object to legislators -- and I have a lot of respect for you, Senator Leichter, but to tell the people of Staten Island that they don't know what they are doing when they overwhelmingly supported secession and years and years and years have gone into study and work on secession and for elected officials in Albany who really don't know about Staten Island all that much to sit up here and say, "Well, we're going to protect you from yourselves," I object to that.

And Senator Leichter, if we follow your logic and if during the time before the Civil War and the Emancipation Proclamation, you would have said to the white slave owners who, if they outnumbered the slaves, "Well, you know, give the white slave owners an equal vote in this, let everyone vote on slavery," and if

they outnumbered the slaves, you would have said to them, under your logic, Senator, "Then let's take a vote and let's let the slave owner have an equal say with the slave on their freedom or not."

So, I support not only secession for Staten Island as a Brooklyn elected official, but I also support Senator LaValle's bill.

ACTING PRESIDENT HOBLOCK: Senator Abate.

SENATOR ABATE: Yes, Mr. President. Would Senator LaValle yield to a couple questions, points of clarification?

ACTING PRESIDENT HOBLOCK: Senator LaValle, do you yield?

SENATOR ABATE: Your head is shaking up and down.

SENATOR LAVALLE: Yes. Yes, sir.

SENATOR ABATE: Thank you, Senator. Just to clarify a point you made, what would be the legal import of this

referendum? Let's say the referendum was carried out and the voters of the five towns sent a message that they wanted to secede from Suffolk County and become its own identity, what would happen after that?

SENATOR LAVALLE: Senator, I think if you looked at the bill, and it talks about advisory nonbinding referendum, the second step, we would have to come back, and in the bill it talks about very specifically that there would have to be a second piece of legislation brought before this body to be voted on which would actually be the special act that would create the county of Peconic.

SENATOR ABATE: So this is, in effect, as you said -- I'm aware of the language, but I want to understand what the meaning is of that language. This, in essence, would be a message sent to Suffolk County that this is what these five towns want to do but have no more message than that; and then, if there's anything that's going to occur, Suffolk County would have to be involved as a whole -

SENATOR LAVALLE: No.

SENATOR ABATE: -- and be involved in this determination.

SENATOR LAVALLE: No, no. I mean, we would come back and ask that a special -- by special act of this Legislature, that the county of Peconic be created.

SENATOR ABATE: I see. So, I mean, I'm sure you have every reason to believe that the residents of the five towns would want their own county because there must be some benefit, financial benefit or other benefit that would be afforded to them.

SENATOR LAVALLE: You know, Senator, Senator Leichter said well, he could- that this will pass and, you know, without a doubt.

You know, part of the nature of the East End is the great independence that they have and I would say nothing is predictable. I mean, it's the one place where we have and have had, at one juncture, two independent parties, the Southampton party, and the Southold party,

running, electing supervisors in their respective towns outside of the traditional parties of Republican, Conservative and Democratic parties.

So, I would make a strong assumption that based on the feasibility study and the number of hearings and meetings that were held, that it would receive strong support, but you never know, because of that independent nature of the people of the East End.

SENATOR ABATE: Why is this legislation necessary for a feasibility study to occur or the five towns on their own to get a sense of whether they would be in favor of such a creation?

SENATOR LAVALLE: The legislation that has been before this body for many, many years and all the discussions were that there would be a referendum to ask the people whether a new county should be created and that's why this step was included in the process.

SENATOR ABATE: And so you

interpret if we vote for this bill and support the ability of them to decide what they wanted to do, that does not mean we as a body take a position that we favor a separate county of Peconic.

SENATOR LAVALLE: No. I think -

SENATOR ABATE: Because many of us feel that we're not in that position because we need to be able to look at what would be the negative impacts on the entire county of Suffolk. There may be benefits to the five towns and extraordinarily negative impacts to the other areas and certainly their voices need to be heard. I know there's dispute around that, but I see this, and if you agree, Senator, if this passes, this is not an indication from this body that we support a creation of a new county.

SENATOR LAVALLE: No, no, I think the legislation and the language in the legislation is very, very clear and very specific about that, that we have to come back a second time. That's why Senator Dollinger was

very, very specific in his remarks when he said he would support this legislation but would withhold a final judgment if and when a bill came before this body again to actually create the Peconic County.

SENATOR ABATE: And just one last question, if you would yield to another question.

SENATOR LAVALLE: Yes.

SENATOR ABATE: The feasibility study, did it look at the benefits and negative impacts on the county as a whole?

SENATOR LAVALLE: Yes, it did. It talked about the impact on Suffolk County itself, Senator, and talked about the contribution -- Peconic County would continue to make a contribution of debt service for a set period of time on the properties and the debt that has been incurred on behalf of the East End; it talks about the number of services and so forth that would not be included in a Suffolk County government so that that would be downsized somewhat; and that the implications in

Suffolk, while I don't have figures, I think are about neutral for the county of Suffolk as a whole, but it has a definite positive benefit for the East End because of the government that they create, a much smaller government on the East End, which is what people have wanted there for many, many years and the lower salaries that people who would be employees would be receiving, and so forth and so on.

So, while -- but I think you have put it in a proper perspective. When you have a referendum, there is no doubt that this kind of issue is going to be debated within the county as a whole and that people will be looking probably in a more fine-tuned way, at some of the implications on the five western towns.

So the answer is yes, they did look at the five western towns, but certainly not in the depth that maybe some people would have liked and maybe people could draw other assumptions on a study that was broader in scope. I don't know. I really don't know the

answer to that. My sense is what the study concludes is that the impact on the rest of Suffolk really would be none to negligible.

SENATOR ABATE: On the bill.

ACTING PRESIDENT HOBLOCK: Senator Abate, on the bill.

SENATOR ABATE: I may be right or wrong on this issue, but the way the issue was just clarified, while I have enormous reservations around the advisability of a new county, while it may have beneficial impacts on the five towns, it may have severe negative impacts on the entire county, and I don't think before decisions can be rendered can we over look the impacts on the majority of the people in Suffolk County and take that into consideration.

My understanding of this bill, though, is the opportunity for the five towns to voice their opinion, no more and no less. So, in that limited respect, I can support this legislation with the understanding that on the larger issue, the merits of creating a new

county will be reserved for another debate.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 180th day.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT HOBLOCK: Results.

THE SECRETARY: Those recorded in the negative on Calendar 527 are Senators Connor, Kruger, Lachman, Lack, Leichter, Paterson, Smith, Stavisky and Trunzo.

Ayes 46, nays 9.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar 528, by Senator Marcellino, Senate Print 4294, an act to amend the General Municipal Law, in relation to establishing the town of Huntington Industrial Development Agency.

ACTING PRESIDENT HOBLOCK: The

home rule message is at the desk.

Read the last section.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT HOBLOCK: Explanation has been asked for.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. This bill seeks to amend the General Municipal Law adding a new section 907-D to establish the town of Huntington, county of Suffolk, Industrial Development Agency in the county of Suffolk. It has been introduced at the request of the Huntington Town Board and represents an effort by the town of Huntington to provide for itself the ability to effectively plan for its future economic growth.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT HOBLOCK: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar 528 are Senators Leichter and Stachowski. Ayes 53, nays 2.

ACTING PRESIDENT HOBLOCK: Bill is passed.

THE SECRETARY: Calendar Number 590, by Senator Skelos, Senate Print 5362A, an act to amend Chapter 704 of the Laws of 1991, amending the Arts and Cultural Affairs Law and Chapter 912 of the Laws of 1920.

SENATOR SKELOS: Mr. President, this legislation extends the provisions relating to the licensing of ticket brokers until June 1st, 1997.

ACTING PRESIDENT HOBLOCK: Senator Paterson.

SENATOR PATERSON: Mr. President, the explanation was excellent.

SENATOR SKELOS: Thank you.

ACTING PRESIDENT HOBLOCK: Senator Dollinger.

SENATOR DOLLINGER: Do you know if any of those ticket brokers have any tickets for that event in East Rutherford this weekend that I can get for cheap?

SENATOR SKELOS: Ask Senator DeFrancisco. We are rooting for Syracuse.

SENATOR DOLLINGER: Absolutely.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT HOBLOCK: The bill is passed.

Senator Tully.

SENATOR TULLY: Yes, Mr. President. May we return to motions and resolutions?

ACTING PRESIDENT HOBLOCK: Yes. Without objection, motions and

resolutions.

SENATOR TULLY: On behalf of Senator Saland, on page 39, I offer the following amendments to Calendar Number 391, Senate Print 2595, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT HOBLOCK: Amendments are accepted.

Senator Skelos, that completes the controversial reading of the calendar.

SENATOR SKELOS: Mr. President, is there any other housekeeping at the desk?

ACTING PRESIDENT HOBLOCK: There is none.

SENATOR SKELOS: On behalf of Senator Bruno, I would like to announce that there will be a Majority conference at 10:00 a.m. on Friday.

There being no further business, I move we adjourn until Friday, March 29th, 1996 at 11:00 a.m. sharp.

ACTING PRESIDENT HOBLOCK: There will be a Majority conference at 10:00

a.m., Friday, March 29th, and we will adjourn until Friday, March 29th, at 11:00 a.m. sharp.

(Whereupon, at 12:34 p.m., the Senate adjourned.)