ALBANY, NEW YORK

May 6, 1996

3:09 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: Senate will come to order. Ask the members to find their place, staff to find their place.

I ask everybody in the chamber, including those people in the gallery, to rise and join with me in saying the Pledge of Allegiance to the flag.

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

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

(Whereupon, there was a moment of silence.)

Reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 5. The Senate met pursuant to adjournment. The Journal of Saturday, May 4, was read and approved. On motion, Senate adjourned.

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

read.

Presentations 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.

Chair recognizes Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

Mr. President. On page number 64, I offer the following amendments to Calendar Number 544, Senate Print Number 6268, and ask that said bill retain its place on Third Reading Calendar, and also to remove the star.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 544 are received and adopted. The bill will retain its place on the Third Reading Calendar, and the star is removed.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President. On page 55, I offer the following amendments to Calendar Number 759, Senate Print Number 1677A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 759 are received and adopted. Bill will retain its place on Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President. On behalf of Senator Velella, on page 52, I offer the following amendments to Calendar Number 735, Senate Print Number 6906, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 735 are received and adopted. Bill will retain its place on Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President,

on behalf of Senator Hannon, on page number 61, I offer the following amendments to Calendar Number 11, Senate Print Number 5238, ask said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 11 are received and adopted. Bill will retain its place on Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President. On behalf of myself, I ask that a sponsor's star be placed on Calendar Number 871.

ACTING PRESIDENT KUHL: Calendar Number 871 is starred at the request of the sponsor.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President. On behalf of Senator Saland, I wish to call up bill Print Number 3474, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator

Saland, Senate Print 3474, an act to amend the Social Services Law.

ACTING PRESIDENT KUHL: Senator DiCarlo.

SENATOR DiCARLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President. I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President. On behalf of Senator Velella, I'd like to call up bill Print Number 6125, recalled from the

Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Velella, Senate Print 6125, an act to amend the Insurance Law.

ACTING PRESIDENT KUHL: Senator DiCarlo.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President. I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President. On behalf of Senator Leibell, I wish to call up bill Print Number 6124, recalled from the Assembly, which is now at the desk.

THE SECRETARY: By Senator Leibell, Senate Print 6124, an act to amend the General Municipal Law.

ACTING PRESIDENT KUHL: Senator DiCarlo.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Senator LaValle.

SENATOR LAVALLE: Mr. President, I'd like to place a sponsor's star on Calendar Number 946, Senate Print Number 1719.

ACTING PRESIDENT KUHL: Calendar Number 946 is starred at the request of the sponsor.

Senator Bruno, I have a substitution at the desk if we could take that now.

SENATOR BRUNO: Please make the substitution.

ACTING PRESIDENT KUHL: The Secretary will read the substitution.

THE SECRETARY: On page 5, Senator LaValle moves to discharge from the Committee on Higher Education Assembly Bill 6794 and substitute it for the identical Senate Bill 7232.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe that there is a privileged resolution at the desk by Senator DiCarlo. I would ask that the title be read and that we move its adoption.

ACTING PRESIDENT KUHL: There is a privileged resolution at the desk. I will direct the Secretary to read the title.

THE SECRETARY: By Senator DiCarlo, Legislative Resolution commending Sonya Deiber.

ACTING PRESIDENT KUHL: The question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Bruno, that brings us to the calendar.

SENATOR BRUNO: Mr. President, can we at this time take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 32, Calendar Number 417, by Senator Libous, Senate Print 4457A, an act to amend the General Business Law, in relation to unlawful possession of tobacco.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 537, by Senator Maziarz, Senate Print 4329B, an act to amend the Estate, Powers and Trusts Law, the Insurance Law, in relation to disqualifying persons who have caused the death of a decedent.

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

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 620, by Senator Libous, Senate Print 4496, an act to amend the Penal Law, in relation to authorizing additional term of imprisonment for sale of controlled substances or marijuana.

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

THE SECRETARY: Section 6. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 641, by Senator Maltese, Senate Print 491, an act to amend the Social Services Law, in relation to access to criminal history records.

ACTING PRESIDENT KUHL: The

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 650, by Senator Seward, Senate Print 4594, an act to amend the Real Property Tax Law, in relation to the payment date of installments of taxes to a county.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 654, by Senator Cook, Senate Print 6271, an act to amend the General Municipal Law, in relation to fees of justice courts.

SENATOR WALDON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 655, by Senator Cook, Senate Print 6348A, an act to amend the Local Finance Law, in relation to flood relief expenses.

ACTING PRESIDENT KUHL: The 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 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 656, by Senator Rath, Senate Print 6661, an act to amend the County Law, in relation to the operation of secure detention facilities.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 657, by Senator Rath, Senate Print 6785, an act to amend the General Municipal Law, in relation to authorizing an increase in the charge that may be imposed for a returned check.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 663, by member of the Assembly Luster, Assembly Print 647A, an act to amend the Uniform District Court Act.

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

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 665, by Senator Lack, Senate Print 6746 an act to amend the Surrogate's Court Procedure Act, in relation to the time in which an estate may be distributed.

ACTING PRESIDENT KUHL: The 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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 668, by Senator Present, Senate Print 4092, an act to amend the Economic Development Law, the

General Municipal Law, the Public Authorities Law, in relation to program reporting.

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

THE SECRETARY: Section 29. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 669, by Senator Johnson, Senate Print 5077, an act to amend State Administrative Procedure Act, in relation to requiring private property rights protection.

SENATOR VOLKER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 680, by Senator Levy, Senate Print 2591D, an act to amend the Public Authorities Law and

Administrative Code of the State of New York, in relation to establishing the Committee on Personal security.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 731, by Senator Velella, Senate Print 3763, an act to amend the Insurance Law, in relation to agent termination.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Bruno, that completes the calling of the noncontroversial calendar.

SENATOR BRUNO: Mr. President, can we at this time take up the controversial calendar.

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar, beginning with Calendar Number 417.

THE SECRETARY: On page 32, Calendar Number 417, by Senator Libous, Senate Print 4457A, an act to amend the General

Business Law, in relation to unlawful possession of tobacco.

ACTING PRESIDENT KUHL: Senator Libous, an explanation of Calendar Number 417 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR LIBOUS: Thank you, Mr. President. Basically, what this legislation does, it puts responsibility on those minors who are purchasing and possessing tobacco. We have laws that are presently on the books that go after those businesses who are illegally selling tobacco products to minors.

This is patterned very similarly to the alcohol bill that this house passed several years ago and actually became law, which dealt with the unlawful possession of alcohol.

This deals with tobacco products. Right now, we're trying to do everything we can. This state spends an awful lot of money through education programs, through schools and through a number of different areas and trying to teach our young people under the age of 18

years of age that tobacco products can be harmful, and I think this goes a long way in teaching them a little bit of added responsibility.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Libous would avail himself to a question?

ACTING PRESIDENT KUHL: Senator Libous, do you yield to a question from Senator Paterson?

SENATOR LIBOUS: I'd be happy to, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Thank you, Mr. President.

Senator Libous, we agree with the goals of this type of legislation, and it would establish a good precedent. I'm just confused as to why we are exempting the employees of the dealers, the wholesalers and the distributors of

tobacco, the employees who would be underage. Why are they restricted on this legislation?

SENATOR LIBOUS: Mr. President, right now, under present law, what would happen basically is, there are fines that are imposed against those businesses. So, Mr. President, the business owner would be subject to those penalties and fines. It really doesn't pertain to the person who actually sold the product, but it pertains to the business itself.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Libous would continue to yield?

SENATOR LIBOUS: Yes, I will.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator, what I read from your legislation was the possession of tobacco with intent to use it. So in spite of the fact that the business owner would be liable, the message and the lesson that you just

described that we would want to send to younger people, in my opinion, would be enhanced just as forcibly by the maintaining of the exact same guidelines for an individual whether they were an employee or not an employee.

So, in other words, if the intent of the legislation is to target those who would use the tobacco, then I don't see any difference between an individual who would be employed by the wholesaler, the dealer or the distributor, and anybody else.

And so my question is, why would we draw that distinction?

SENATOR LIBOUS: Mr. President. I drew the distinction because the intent and purpose of this legislation was to put some teeth into those who are under age of 18 and who are possessing tobacco products. Basically, our goal here is to teach and to try to put some enforcement responsibilities upon those who, particularly, go into stores and are purchasing the products illegally.

There are teeth in the present

law that deal with penalties to businesses; however, the young person in the past has been able to walk away and not have any responsibility. This is patterned very similar to, as I said, the alcohol legislation that was passed and signed by the Governor a couple of years ago; and, basically, its goal, Senator, is to put some responsibility on the individual who is underage and buying tobacco products.

Its intent is not to go after the particular businesses because there are already laws that are on the books that deal with those particular individuals, and it's not to go after any particular individual who works. For years, what we've done -- as a matter of fact, I can give you a good example. My father owned a grocery store. If I was working that store or my brother was working that store or if my cousin or sister was working that store, and we sold tobacco products to a minor, we would then be punished as a business, and my father would have to pay that fine. There would be no particular punishment of the individual, and

that's not what the intent of this legislation is to be.

This is legislation that should show some responsibility on the fact that if young people are purchasing tobacco under the age of 18 and they are possessing it then there should be some responsibility here.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. Thank you very much Senator Libous for your response.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: It might be somewhat of a mixed message if an individual cannot use a product or can sell a product when they are underage. That is not really my problem with this legislation.

I agree with Senator Libous that we would not want to be restricting somebody from working and if they are working and they

are underage, they should be entitled, I would suppose, to sell all the products that a person is selling if they are over the limit.

But what is specific to this legislation is that it targets the intent to use the product which would automatically exempt an individual who was selling the product, and so, since we would automatically exempt the person since they could establish, "No, I'm not using it, I'm selling it," I imagine what Senator Libous is really trying to do is to make sure that there is not a presumption that the sale is not the catalyst to the use, and I can understand that.

However, I don't think it is necessarily appropriate to the legislation or to the message we want to send, and we want to send a complete message presumably, not one that is somewhat obfuscated by an ancillary piece of legislation that would confuse people, and I think we are confusing individuals when they come to the conclusion that an individual is exempt because they are selling a product.

The fact is that the legislation itself states that it is the use or the intent to use that would make someone eligible under the statute and, since the statute is written that way, I would feel that it sends a mixed message, because a person who is now selling the product could use it because there's nothing to stop them whereas anyone else would be prohibited by this legislation.

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

SENATOR WALDON: Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Yes, would Senator Libous yield?

ACTING PRESIDENT KUHL: Senator Libous, would you yield to a question from Senator Waldon?

SENATOR LIBOUS: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: Senator Libous,

suppose someone is in the U.S. military. They're a New York resident. You can join the military under age 18. You can go away and die for your country at that tender age. What happens when someone who is accustomed to smoking on the base comes home and is found to have cigarettes in his or her possession?

SENATOR LIBOUS: If he or she is under 18, and for some reason the law needs to be put into place, then they would not be exempt.

SENATOR WALDON: I beg your pardon?

SENATOR LIBOUS: They would not be exempt. Obviously, Senator, the intent here, again, is predominantly in those situations where we have people under 18 years of age purchasing cigarettes in stores and, as you know, you have to be 18 years of age to purchase, and this is really where the intent of this legislation is going. And also if young minors are possessing tobacco and if they are in a situation where they are caught with that

possession, there are a couple of violations that can take place.

Obviously, the violation will not go against their record, but there could be community service or a $50 fine. And, again, the whole concept here is to teach people under the age of 18, quite simply, that it is illegal for them to purchase and it's illegal for them to have possession.

So, obviously, Senator, if someone is 17 years of age and they are in the armed forces, that's an honorable thing for them to do, but at the same time they are still not old enough to purchase tobacco products in the United States.

SENATOR WALDON: Would the Senator yield for another question or two, Mr. President?

ACTING PRESIDENT KUHL: Senator Waldon, Senator Libous, if you would excuse us just a minute. I want to recognize Senator Bruno for an announcement.

SENATOR BRUNO: Would you

Senators excuse the interruption while we announce a correction.

The Transportation Committee was announced to meet in Room 124. We would like to change that to Room 332. They are meeting immediately. We would ask any members to join them in Room 332, not Room 124.

Thank you, Senators.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Senate Transportation Committee in the Majority Conference Room, Room 332.

An immediate meeting of the Senate Transportation Committee in the Majority Conference Room, Room 332.

Thank you, gentlemen, for the interruption. Senator Waldon, you had the floor.

SENATOR WALDON: Yes, I was asking if Senator Libous would yield for another question?

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

SENATOR LIBOUS: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

Thank you, Senator. Senator, I'm trying to make here a valid point. It's not a frivolous pursuit.

But if someone is in the service of his or her nation and if the consumption of alcohol and/or tobacco products on base is approved by the employer of the moment, this nation, we have an obvious conflict when the person comes home and happens to stop to buy a pack of cigarettes and is then caught in the snare of what you are proposing.

SENATOR LIBOUS: Mr. President, if I can answer that. I respect what the Senator is saying, but at the same time that person serves his country overseas and comes home and, if that person is under the age of 18, they can not legally purchase tobacco products. That doesn't change.

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

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

Senator Paterson.

SENATOR PATERSON: Mr. President. Upon further perusal of the bill, it's possible that I made a mistake.

And if Senator Libous would yield for a question?

ACTING PRESIDENT KUHL: Senator Libous, do you yield to another question from Senator Paterson?

SENATOR LIBOUS: Yes, I would, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator Libous, I asked you a question earlier about an individual who was employed by a distributor or a wholesaler, and so the thrust of my question was, would this exempt this individual from being charged if it could be established that

they were going to use the tobacco product?

SENATOR LIBOUS: Mr. President, could I ask Senator Paterson to hit me with that question one more time, because I'm a little confused as to what he is after.

SENATOR PATERSON: Certainly, Mr. President.

SENATOR LIBOUS: Please.

SENATOR PATERSON: There is an exemption in the legislation that covers individuals who are employed in the selling of tobacco by the distributor or the wholesaler and, therefore, I inferred from the reading of that part of the legislation that you could not ban these individuals even if they were intending to use the product.

So my question is, more than the fact that an individual worked for the convenience store, if they took a pack of cigarettes outside of the convenience store clearly with an intent to use the product, would the exemption still cover them or would they be just as liable as anyone else who is using the

product?

SENATOR LIBOUS: Senator, thank you, because I do understand your question now. I really didn't the first time.

The answer to your question is yes. Yes.

SENATOR PATERSON: Thank you, Senator. Then, therefore, there was somewhat of a misunderstanding, because I thought that the exemption would cover even the intent to use of the individual.

SENATOR LIBOUS: Mr. President. Senator Paterson, and I apologize because I mis understood the question initially, but the answer to that question is yes.

SENATOR PATERSON: Thank you, Senator.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: I just wanted to comment. Senator Libous' bill is really -- he is doing something very constructive for that youngster, and that youngster may be grateful

some day.

You know, the most painful thing is to see young people getting involved in smoking. The older people are sometimes dependent, and it is difficult to wrestle with that problem successfully, but anything that can be done to dissuade and persuade that this is the wrong way to go may spare that young man or that young woman from a date on the table where they are being operated for lung cancer or some other malignancy.

So this is a very, very constructive step. It is a mild reproach, really, but it is an educative process that that young man or woman would certainly value later on in life when they realize the hazards they were being asked to avoid.

I certainly would urge a positive vote on this.

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

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

September.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. I'm going to vote against this bill, not because I think that it's bad for young people to be discouraged from smoking and using tobacco at all but because I believe that there are much more effective ways of doing that, and we certainly don't want to go around issuing summonses to 16- and 17- and 13- and 14-year-olds because their parents sent them to the store to buy cigarettes or whatever or however they get the cigarettes. The bodega sells it to them or one at a time or however they get it, which is how a lot of young people get these cigarettes.

And for them to receive a summons and have to go to whatever the court is, whatever the process is vis-a-vis the

legislation, I just don't think that that is a way to really and truly discourage children from using cigarettes or any other drug at an early age.

I would hope, on the other hand, that Senator Libous would be as vocal and as persistent in pushing for school-based health clinics with funding -- clinics that include funding through the Department of Education for the express purpose of providing health education to young people in schools at an early point when they are most impressionable and when we can get them to change their behavior as relates to their bodies and their health generally.

So, Mr. President, I'm voting no on this, and, as I said, I agree with the intent, but I think that this is just the wrong direction to go if we want to really teach youngsters to take care of their bodies and to live healthy and healthful lives.

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

Senator Waldon to explain his vote.

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

We have an incongruity here. At the federal level, the government is subsidizing tobacco farmers. They are a key element in our economy, and the federal government is saying, "We need you to grow tobacco," and yet some welfare mother will send her young child to the store to buy a pack of cigarettes because as a single parent, head of household, her only pleasure of the moment may be the pack of cigarettes.

And this kid who will probably look something like me, on his way home, will be stopped by an officer doing his duty, not necessarily picking on this young person, but the person's introduction to the criminal justice system will begin with this summons.

I think it is wrong. I think it is abhorrent.

I don't condone smoking

especially amongst young folk, but I think the social concern and the social responsibility is misdirected. I think it's a mistake to constantly intrude in certain forms of social behavior, and I think this chamber should be mindful of the direction in which it is headed when it does these kinds of things.

Will we next be peeking through the blinds in the bedroom and saying, "Aha! This is not acceptable"? I think that's the direction in which we're headed when we pursue this course of action.

And because of these reasons, I oppose it. I vote in the no.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 417 are Senator Montgomery, Senators Seabrook, Smith and Waldon. Ayes 50, nays 4.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 654, by Senator Cook, Senate Print 6271, an act to amend the General Municipal Law, in relation to fees of justice courts.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: What?

ACTING PRESIDENT KUHL: You rise for a question?

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Stavisky, why do you rise?

SENATOR STAVISKY: Mr. President. I was just outside the chamber when Calendar 417 was voted on. Will you cast me in the negative, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Stavisky will be recorded in the negative on Calendar Number 417.

The motion is to reconsider the vote by which Calendar Number 654 passed the house.

The Secretary will read.

THE SECRETARY: By Senator Cook, Senate Print 6271, an act to amend the General Municipal Law, in relation to fees of justice courts.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is before the house.

Secretary will read.

THE SECRETARY: Calendar Number 654, by Senator Cook, Senate Print 6271, an act to amend the General Municipal Law, in relation to fees of justice courts.

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Thank you very much, Mr. President. I appreciate the courtesy.

Will Senator Cook yield to a question?

ACTING PRESIDENT KUHL: Senator Cook, do you yield?

SENATOR COOK: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: Senator, when I read over this bill, I was very concerned that the person who may be required to pay these fees might not be in a position to really afford it. I recognize that if they committed certain forms of behavior, they should be punished. I'm not opposed to that. I'm really not opposed to the

exacting of fines -- not fines, I'm sorry fees when a person can afford it, but many of the people, as you know as well as I, who come before the criminal justice system are there through acts of desperation and really can not afford to pay fees of any form. That's why they're out stealing or whatever they're doing. Not condoning the behavior, but are we not compounding the process by putting these additional fees on them? I just wanted to know how you feel about that.

SENATOR COOK: Mr. President. Senator, the process of levying these fees is something that's been on the book for ten years. It does indeed add $5 in each instance to the cost that's there. I have to assume that if $5 is a hardship, $10 is still a hardship. But I don't think it really changes the dimensions of what happens if the person is indigent and, therefore, unable to pay the fee.

In all candor, I assume that there is a process by which the court deals with that situation and, frankly, Senator, I don't

know what it is because I'm not an attorney, I don't practice in the courts.

The whole point of this bill, however, is that for ten years the justice courts have been basically collecting a lot of money for the state of New York. They are in fact big revenue collectors. Cost of running those justice courts is imposed upon the taxpayers of the municipality and consequently there is never -- the local people are paying a property tax to pay for a court which essentially is raising money and sending it to the state, and the whole point of this bill is to try to make sure that those courts are self-supporting. That is really the point of it.

SENATOR WALDON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

SENATOR WALDON: I appreciate the explanation of Senator Cook. I did not understand it as well reading through it as his

explanation. If the purpose here is to reduce the impact on the local municipalities, certainly I can go along with that. I prefer that the state pick up the whole cost and that there be no tax on the municipality or on those who may be indigent in this process.

I will support the bill, Mr. President.

Thank you, Senator Cook.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 656, by Senator Rath, Senate Print 6661, an act to amend the County Law, in relation to the operation of secure detention facilities.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Rath, an explanation of Calendar 656 has been asked for by Senator Paterson, the Acting Minority Leader.

SENATOR RATH: Yes, Senator Paterson. The bill before the house is a bill that would give the counties an opportunity to contract with other entities than they are now contracting with. It was at the request of several counties in the Capital Region and Chemung County. They have asked the Division for Youth for permission to establish secure detention facilities operated by an authorized agency.

There are presently only six such facilities in the state of New York and in that many youth have been sentenced to the kinds of sentences that would keep them in detention for over a year and they need to be in secure detention as opposed to nonsecure detention, they need another option, and this would give them that option.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Rath will yield?

SENATOR RATH: Sure.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator Rath, I don't mean to minimize the gravity of concern that the counties have for the staffing of these facilities, and I recognize that there have been a number of complaints about malfeasance of duty on the part of some of the individuals who work there; nonetheless, the operation of secure detention facilities is a critical function in the state and the individuals who are placed in such facilities pose a tangible threat to our society.

Ordinarily, these facilities are staffed by highly-trained and very professional individuals. Because there have been some problems, isn't it possible that the private companies with which we may contract are not

training their personnel as well and that in avoidance of a problem, that perhaps we can address administratively, we take a procedure that might exacerbate the problem that we're having in the facilities right now?

SENATOR RATH: Senator, my recollection of some of the difficulties that we had were in state facilities, and it was state personnel that we had some of the difficulties with, and it's my understanding that this would be an authorized agency and licensed by the state of New York, and so the question of the kinds of folks that were functioning as the personnel in the agencies would have the same responsibilities for training as they would if they were in a state-run facility. This just gives an alternate opportunity, for example, if two counties wanted to work together and share.

And in that there are only six facilities in the state now, the fact that these are young people whose parents need to see them on the weekend and the young people who need to see their parents, I think we need to have more

of these facilities, and recognizing that the nonsecure facilities -- we are now contracting that way for the nonsecure facilities. This just makes it possible for them to be secure facilities. Indeed, it may be even some of the same agencies that are contracting for nonsecure that would contract for secure.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President, Senator Rath. The method of regulation you are saying would, in effect, be the same even though the operation of the companies may be somewhat outside of the scope of the agencies with which we are contracting right now?

SENATOR RATH: Well, the agencies that we're contracting with right now are not for-profit corporations licensed by the Department of Social Services to provide this care for delinquent, destitute, abused and neglected youth. I'm thinking of several specific agencies in Western New York that would

qualify and are presently licensed to serve as nonsecure. They would now through additional regulations and the additional certification be able to supply for secure, as well as nonsecure.

SENATOR PATERSON: If Senator would continue to yield?

SENATOR RATH: Sure.

SENATOR PATERSON: Would you be planning on licensing the companies that we would now be contracting with?

SENATOR RATH: Was that the full question, Senator?

SENATOR PATERSON: That was a question.

SENATOR RATH: Could you repeat the question. I thought it was a half a question. Go ahead again, please.

SENATOR PATERSON: My question is what would be the standard of care that the private companies would have to meet to become eligible, and would we be licensing them?

SENATOR RATH: Whatever we're doing in state facilities, that same standard

would be held to the private companies that would be providing the services.

SENATOR PATERSON: Thank you very much, Senator.

Other than that -- the Civil Service Employees Association has issued a memo in opposition to this legislation and other than that, I thank you for the answer.

ACTING PRESIDENT KUHL: Chair recognizes Senator Leichter.

SENATOR LEICHTER: Yes, thank you, Mr. President.

Senator Rath, would you be so good as to yield to one or more questions?

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

SENATOR RATH: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator Rath, as I understand it, your bill would authorize the contracting out of all aspects of the operation of one of these youth facilities. Is

that correct?

SENATOR RATH: We are saying that the counties would have the flexibility to contract if they did not have the capacity in their county in order to cover the number of young people that needed to be in a secure detention facility.

SENATOR LEICHTER: If you would be so good as to continue to yield.

SENATOR RATH: Yes.

SENATOR LEICHTER: And that contracting can be to a private company; is that correct?

SENATOR RATH: It would be to an agency that would be certified by the Department of Social Services. For example, Hopevale in Erie County would be a capability of a contractor. These are private not-for-profit agencies that could contain secure detention as opposed to nonsecure detention.

SENATOR LEICHTER: Among the services they would be contracting out would also be the security services to see that these

kids did not run away?

SENATOR RATH: Yes. Yes, that's exactly right.

SENATOR LEICHTER: The question I have for you, Senator Rath, is, earlier this session, maybe just a couple of weeks ago, we passed a bill that was sponsored by Senator Nozzolio and Senator Abate which I'm sure you voted for -- I think it passed unanimously - where we prohibited the Department of Correction from contracting out the security functions. Why, just two weeks after we did that, are we departing this principle in the instances of youth facilities?

SENATOR RATH: I think we're talking about two different kinds of contracting out, for the Corrections Department or the Division for Youth. I think we've got -- the Corrections Department has facilities all over the state. There are only six facilities that we're talking about that provide the services presently, secure services for the youth.

SENATOR LEICHTER: Senator Rath,

if you will continue to yield.

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

SENATOR RATH: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR LEICHTER: It's my recollection that the reason we supported unanimously in this chamber Senator Nozzolio and Senator Abate's bill was not because there were so many correctional facilities and, therefore, why contract out, but it was because we thought the significance and the importance of seeing that facilities are securely run made it not only appropriate but made it necessary for us as a Legislature to say that security services for the protection of society and the protection of inmates should always be done by government, should not be privately done.

Why wouldn't that principle apply here?

SENATOR RATH: Well, Senator, I believe that if a county decides that that's the

way they want to provide the services that are mandated for them to provide for the young people in their county, then they can decide to do it that way. But if they want to choose another option, we are giving them the opportunity to look at other options.

SENATOR LEICHTER: Good. Thank you very much.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: I think this bill specifically and directly contradicts the bill we passed before, and I think anybody who votes for this bill is sort of watering down the vote that they cast on the Nozzolio-Abate bill.

It's true, here we're talking about people in youth facilities, but as we well know, some of the people in those youth facilities need more careful security than people who are now in the state detention facilities. Security is very important.

For society, it's also important

that it be done correctly and properly for the people who are incarcerated. I think if we say for people in state facilities we think it is inappropriate, I don't see why we would give local option to counties to depart from this principle.

This should be a universal principle. It certainly makes sense to me to say that to see that security services are properly and correctly carried out that we want it done by government. That should not be contracted out.

Having voted for the Nozzolio Abate bill, I don't see how I could vote for your bill, Senator Rath.

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

SENATOR ABATE: If I could just explain my vote.

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

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Senator Abate to explain her vote.

SENATOR ABATE: Yes, as Senator Leichter was absolutely on the mark, I could support this legislation if it carved out those responsibilities within DFY like DOCS or other correction facilities whose responsibility is to secure those facilities. We talked about how sensitive a function security is, whether it's the peace officers in correction facilities or individuals assigned to secure DFY facilities.

These are not ordinary functions that can be contracted out to for-profit organizations. It requires the skills and training, sometimes a career path. As we stated before when we sponsored and supported the other bill, there are certain positions like police officers. They are the core function of government and should remain within the function

of government. So as we supported that other bill, I believe we have to defeat this bill unless an amendment is made to carve out the security functions at DFY.

I have to oppose the bill today. I invite the sponsor to look at future amendments.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 656, Senator Abate, Connor, Espada, Lachman, Leichter, Markowitz, Montgomery, Onorato, Paterson, Smith, Stachowski, Stavisky and Waldon. Ayes 41, nays 13.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 657, by Senator Rath, Senate Print 6785, an act to amend the General Municipal Law, in relation to authorizing an increase in the charge that may be imposed for a return check.

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

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 669, by Senator Johnson, Senate Print 5077, an act to amend the State Administrative Procedure Act, in relation to requiring a private property rights protection.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: I was going to ask for an explanation, but Senator Paterson has.

ACTING PRESIDENT KUHL: Senator Johnson, an explanation of Calendar Number 669 has been asked for by Senator Paterson and

Senator Leichter.

SENATOR JOHNSON: Mr. President, I could give a very good explanation if I had my folder here. It's on its way. But suffice it to say that the original draft of the Declaration of Independence brought forth protection of life, liberty and property. It was changed even then, say, to mean life, liberty and pursuit of happiness.

Well, some people's happiness is owning property and using property in a way which suits them and which doesn't bother other people; but in recent years, of course, we've had a plethora of legislation which essentially diminishes the right to use your property as you see fit even when it doesn't affect anyone else.

It seems government now has a larger right and use of your property than you do yourself. There have been many horror stories about people having their life savings destroyed by some bureaucratic action which perhaps doesn't benefit anyone but satisfies the

interest of certain groups who feel it is the job of the anointed to tell everyone else what to do with their lives and their property.

Mr. President, I don't feel that way, and I feel that we do need some protection, some oversight, some looking at the possible effects of laws, rules and regulations, before they are put into effect in order to protect the rights of those who own the property and pay taxes on the property and feel that they have certain objectives to use that property with which government is capriciously interfering.

SENATOR LEICHTER: Senator, thank you.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Senator, where did this bill originate? Is this something that came from the Montana Militia?

SENATOR JOHNSON: Mr. President, I think Senator Leichter has an interesting question there. I don't think that's where it came from, but I think there is no doubt about

it that people who feel aggrieved by actions of government in some cases feel the only solution is to resort to use of arms. I don't believe that, Mr. President. I believe the opposite is true, and I believe it's up to the government to put in place proper laws that we do not disaffect great numbers of our electorate, of our citizenry to which they feel there's no recourse except the recourse of arms.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Senator Johnson, if you would be so good as to continue to yield.

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

SENATOR LEICHTER: And I apologize if I, you know, make sort of a snide comment about the bill, but I'm sort of puzzled by it because, Senator, it's my understanding now that both under the New York and the U.S. Constitution that if there is a taking of property that that may not be done except under

due process of law.

Is that not the case?

SENATOR JOHNSON: It's kind of interesting because -- because there are many people who don't agree with the operation of the law, whether it's due process or not, and I will just give you a little example.

We have an area in Long Island called the Pine Barrens. There was a lot of agitation to protect the Pine Barrens. What we actually did was take tens of thousands of acres of property and put it constructively in the public domain. We didn't buy the property. We just said you can't use it for anything, and people are paying taxes on that. They have owned that property for years. They are very upset. They're hiring lawyers, trying to sue, because they feel they have had a taking by government.

You know, the Constitution says private property shall not be taken for public use without just compensation. Nobody bought their property, Senator. Just said, "We created

a new area in which nobody can use their property, and do what you want to us," and now they are going to have to resort to the courts. They are not being protected by the Constitution which they think protects them.

SENATOR LEICHTER: If Senator Johnson will continue to yield.

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

SENATOR LEICHTER: Senator Johnson, are you trying to upset all of the zoning laws that we have in the state of New York and the land use law? Because it could well happen, Senator, that somebody buys a piece of property and that government comes along and it zones the property in a particular way. It may say you can't have a glue factory there. Are you saying that the person is then in a position to say, "Well, that's exactly what I wanted to do. I wanted to have a glue factory there, and now that is an unlawful taking"?

SENATOR JOHNSON: Senator, you know there is no question that there are a lot

of laws that we have not -- that we have passed that diminished property rights to some extent. Zoning is one of those property rights. Sometimes I wonder about zoning, whether it protects us or whether it simply makes an opportunity for a lawyer to figure out a way to subvert or go around that zoning, so he can make himself a living. That's a question that's always bothered me. We're not talking about that today.

I think what we're saying here, Senator, is we're going to amend the Administrative Procedure Act to say, if the rule makers see when they make their rules that there would be a substantial diminishing of property rights, then they have to consult with the Attorney General to see if this would, indeed, be serious enough to call it a taking and in what manner they are going to compensate the property owners who are affected by this regulation.

SENATOR LEICHTER: Senator Johnson, if you will continue to yield.

Senator, I think there is a problem or an area where maybe we need legislation, and I want to get to that in a moment, but I don't think your bill does anything like what you say it does.

If I read your bill, it defines private property right protection analysis. This is Section 202(e), starting at line 14 on page 1. It says, "A constitutional taking shall mean that due to an agency's rule private property could be deemed taken by operation of such rule." Now, when you say "taken," are you referring to a transfer of title.

SENATOR JOHNSON: No. We're talking about a de facto taking, when the property cannot be utilized for any substantial benefit by the owner, that would be considered a taking and, as such, would be a violation of law without being compensated under our Constitution.

SENATOR LEICHTER: With all due respect, Senator, that isn't what it says. It says, "a taking." "Taking," I think is a fairly

clear word. You don't say de facto taking. You don't say an impairment of property rights. It seems to me that you say -- you say "taken". "Taken" means transfer of title. Transfer of title, the state or whoever takes the property, if it's a local government or so on, both under the state Constitution and under the federal Constitution, can only do so under due process of law, and they have to compensate the owner for the fair property value.

SENATOR JOHNSON: Senator, if you would further enlighten me by making reference to my original situation, which is not the genesis of this bill but the Suffolk County Pine Barrens, where the government said, "You can not develop this land," is that a taking or what is it? They still own the property. They can't use it for anything. Is that a taking? Nobody will buy it because there's no -- in fact, it was bought by the government, actually. It was bought by the government or was told, "You can not develop any property in this area." There's both things. Eventually, the government plans

to buy this property but they haven't bought it yet. So, meanwhile, they say you can't use it for anything. Is that a taking? I think it's essentially a taking because they're told they can't use it and, "Some day we'll buy it when we get the money and we'll pay you for it." Meanwhile, what is it?

SENATOR LEICHTER: It's interesting -

ACTING PRESIDENT KUHL: Senator Leichter, you are asking Senator Johnson to continue to yield?

SENATOR LEICHTER: Yes.

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

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator Johnson, it's interesting, because yesterday, at a town meeting, afterwards, one of my constituents came up to me, said, "You got to help me. There's a lot of people like me who

are constituents of yours. We have property in the Pine Barrens, and they are taking it and they are not going to compensate us." I said, "My dear constituent, that's impossible. They can't do that under the law."

But now that I listen to you, I understand what it is that she was talking about, and what it is -- tell me if I'm correct -- that we have said, and I guess we passed state legislation on it that said that -- or authorized Suffolk County to take the property, and I guess Suffolk County has said we're going to take the property but it said we're going to take it ten years from now, fifteen years from now. In the meantime, these owners can't build on it, and what you are saying is they can't be compensated at the present time, or at least you believe that under the current law they can't be compensated at the present time, while there obviously has been an impairment of the value of their property. Is that what you are aiming at?

SENATOR JOHNSON: That's right.

That's why I tell you it's de jure de facto. It's the fact that you can't use their property.

SENATOR LEICHTER: Mr. President. On the -- on the -

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: On the bill. Well, I think we have come a long way, Senator Johnson, from the Montana militia, and I think -- in all fairness, I think you have put your finger on what is a problem. It's a problem that is in sort of an emerging area of the law where we are developing a concept known as constructive taking, where, in effect, government takes certain action which really so impairs the owner's property rights that the property has lost its value, and I think there's a place for a bill.

But I think you could have a totally different and much more effective bill, Senator. I really submit to you that this bill, well intentioned as it is, doesn't deal with the problem. The difficulty is in New York State,

the Court of Appeals, years ago, took the position that there can be no constructive taking, that you have to have an actual taking.

Now, that has been -- both in New York and on the federal level, that concept has been changed, and there were recent U.S. Supreme Court decisions, one of them, I think, involving -- trying to remember. I think it was a property out West, where there was a particular zoning ordinance which the Court found unreasonable and which so diminished the value of the property that the U.S. Supreme Court said this was a constructive taking and, under the 5th Amendment or the 14th Amendment, compensation had to be paid.

I would say that rather than go through the complicated procedure of rule making which I don't think attacks it, it may make a lot of sense for us to pass a bill which says that there can be constructive taking of property to try to define what constructive taking of property is, because I think there are instances where -- I agree with you -- where

government has taken such action that it's really made it impossible for the property owner to receive any value of the property.

I will give you an example which is not quite my district, but there's something called the 42nd Street Redevelopment plan that's run by the UDC. In 1983, they announced that they were going to take property as part of the renewal of 42nd Street. It's now 1996. They haven't taken the property. They recently came out with a statement saying that they think they will take the property in the year 2007. In the meantime, the owner can't sell his property.

If you will yield to a question. I assume you want to address that case where it certainly seems unjust to keep the owner from getting the benefit that he wants from his property. Is that what you have in mind?

SENATOR JOHNSON: Senator, yes. That's it, and while I -- I do have something on the second page here, Senator, how to determine when a rule making has taking implications, et cetera.

I might also add as another aside, and this would be part of my response to you, that the federal government has gone about these things in a different way by saying, essentially, that if you diminish the property value by 25 percent or more it's a taking and you have to pay for the property.

So there are many -- many irons in the fire right now. We're trying to deal with the takings by agency regulations, takings by law, and so forth. This is just one solution which we have come up with, Senator. I think it's a step in the right direction, although certainly other bills could be drafted to deal with the situation. I would certainly be interested in anybody else's initiative in this field.

SENATOR LEICHTER: Senator Johnson, if you would yield to another question.

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Are you really

-- I wonder whether you're really dealing with the Pine Barrens situation or whether you're dealing with a section where a local government does this sort of prohibitive action. In the Pine Barrens, isn't it the action of Suffolk County that made this property either worthless or substantially less valuable?

SENATOR JOHNSON: Yeah, it was an action of this Legislature which did that, and we're all a party to it, and we understand that.

SENATOR LEICHTER: Right.

SENATOR JOHNSON: You know? And this is just dealing, essentially, with agency rule making, which has been another source of problem, rule making many times in excess of that legally permitted by law but, nevertheless, which affects the person and he has to fight to regain those rights.

SENATOR LEICHTER: Senator, if you would yield again. If your bill were law now, it would do absolutely nothing for the people in the Pine Barrens because that was by operation of the State Legislature, maybe

implemented by Suffolk County. There was no state agency that did it.

SENATOR JOHNSON: Precisely. And I said to you that was an aside. The Pine Barrens was an illustration of how government takes and diminishes our use of property without compensation, but this bill doesn't deal with that. This bill deals with administrative agencies, regulatory agencies.

SENATOR LEICHTER: But, Senator, if you will continue to yield.

You agree with me the problem is not just state agencies. It can also be local government. It can be, as you pointed out, this very state Legislature that did something that probably denied people their property rights.

Senator Johnson, my question is why not draft a bill that deals with constructive taking -- and I think that would be very appropriate -- but then apply it across the state? Why just state agencies? Why shouldn't it apply also to local governments, and even this Legislature? Why don't we then protect all

property owners?

SENATOR JOHNSON: Well, Senator, I think we should. I certainly think that agencies going beyond the statute which they intend to implement, probably they are at fault. We're at fault in some cases. Maybe we should consider other legislation such as the federal legislation which deals with the diminishing of property rights, irrespective of what level of government or what agency puts that in place. I certainly agree with you.

As I made reference in my original discussion, the Declaration of Independence made some reference to life, liberty, and property, and we put down pursuit of happiness instead. That was the consensus opinion. But I think your life and your liberty are considerably enhanced by the right to use your property as you see fit.

SENATOR LEICHTER: Mr. President, on the bill.

I have no problem at all with Senator Johnson's broad statement of rights and

liberties. In fact, now that we go into the bill and I see what he is aiming at, I think there is a problem, and I think it cries for correction.

I would urge Senator Johnson very strongly to withdraw this bill, to have it apply across this state, because I think his approach is very convoluted to do it by administrative agencies. I haven't studied the bill carefully. I just read it as we were debating it. But I'm not sure that you're protecting property owners, as you would.

I would strongly urge you, in view of the fact that I think, Senator Johnson, that our Court of Appeals has not gone as far as the U.S. Supreme Court on this issue. Of course, the U.S. Supreme Court decision certainly applied also to local, to all the states, but it seems to me that while I'm not always in agreement with this Court that they set forth some very good definitions as to what constitutes a constructive taking.

It may make a lot of sense to use

that language to put it in the statute, to have it apply -- don't depend on the rule making, that there be this rule making and then the agency would have to determine it, but let's give the authority to the courts of this state where there is this sort of taking as I described on 42nd Street. And, I'm not as familiar with the Pine Barrens situation, but as you described it, it may be the same thing, and it may be unfair that these people have no recourse with the courts at the present time, and give them recourse.

I certainly agree with you that certain action of government that is directed at particular owners and denies them their ownership rights ought to be compensated. I think government has a right do it, but I think government then has an obligation to pay for it, and I wouldn't approach it through rule making. I would just authorize the courts of this state, the Court of Claims, to hear these cases, and I would think that would be a much better, much clearer way to proceed, Senator Johnson.

I would be very happy to work with you on it because I had recent occasion, as I told you, on the situation involving somebody on 42nd Street who came to me and said, "Leichter, it's not fair. In '83 they came to me and said they were going to take my property. Now it's 1996. Last year, they said they weren't going to take it until the year 2002 or 2007, I forget which it is, and I can't use my property. Nobody will buy it because they know the state is eventually going to come in or it may not come in. Why shouldn't I have the right to be compensated?"

I researched the issue briefly, and I thought there was a real question whether the courts would entertain such a case. Maybe we ought to tell them that they should. I would think that's a much better approach and much broader than your bill. I would be happy to work with you on that.

SENATOR JOHNSON: Senator, I appreciate the offer. I'm glad you are sensitive to it, and it only takes an

illustration in our own back yard to demonstrate that there's a need for some change to it.

There's one problem with suing. The government's got all the lawyers and all the time in the world. Some people have finite lifetimes and finite economic resources and can't go ahead with all the lawsuits they need to defend their own rights in instances like this.

So we're asking for a rule to be analyzed beforehand and see if it has constitutional taking implications; and if it does, consultation with the Attorney General and decide whether these rules are appropriate or not, and instead of forcing people, if their property is diminished and they can't use it, to go to court and try to outlive the government, we would like to have these rules analyzed beforehand so that negative rules don't take place which impact people in a harmful way and without any particular benefit perhaps to the state or society as a whole.

Senator, I think it's good, but I

think it's time we acted on these things. I certainly welcome Senator Leichter's interest, and I would like to work with him on future legislation, perhaps similar to the federal legislation which sets a dollar amount or percentage amount of diminution which would be compensated promptly. But this bill, I think, should go in the interim, in order to get the message out that this Legislature is zealous in protecting the property rights of the citizens of our state.

ACTING PRESIDENT KUHL: Senator Dollinger.

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

I agree with Senator Leichter. I think that the concept that we need is a better definition of constructive taking.

The other thing I disagree with this bill, Mr. President, is the inclusion of the phrase, "private property." It doesn't just affect real property in the Pine Barrens but, my gosh, it affects everything. Every tax is a

taking of my private property and everybody else's. Would a tax be subject to this constitutional review since you are taking people's money?

What about leash laws? You are obviously curbing their ability to use their private property, their dog, and where it can go. What about noise restrictions? We put noise restrictions all the time. Agencies put noise restrictions all the time. That obviously interferes with private property, with personal property. Your ability to run a lawn mower at 1:00 o'clock in the morning, your ability to blow your horn in the neighborhood at 10:00 o'clock at night.

It seems to me that this is far too broad and is really a baseball bat going after a significant fly but nonetheless a fly. The other thing is, with all due respect, Senator Johnson, if what you want to avoid is litigation, you are dumping an enormous amount of time and effort into the regulatory process. This bill will cost a fortune for the Attorney

General and for the Department at issue to do the kind of detailed analysis.

This bill, if it became law, would virtually void the ability of the state to put any regulations on anything. While there may be some people in this chamber who favor that approach, let them stand up and say that. Let's not do it through a subterfuge of an overly complicated and, frankly, in my opinion largely wasteful effort that would be required from this bill.

If it's an unconstitutional taking, sue. The courts of this state have always upheld property rights, have always had a broad definition of property rights in this state. If we want to change that and give them further guidance, let's do what Senator Leichter said. But in the meantime, let's not do something as complicated and as overblown as this.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

Mr. President, I just want to underscore what has already been said, which is that, you know, there is a problem which has been expressed concerning the taking of land, the fair market value for that land once it's been targeted. But to discuss mitigation actions, to discuss alternatives to the proposed actions, I mean this gets us into such an unwieldy state that each agency that has to do this is going to find themselves overwhelmed. There is no way that each agency will be able to establish guidelines, particularly now that we're cutting back on the number of people in our agencies and indeed in the environmental arena in the Department of Environmental Conservation. We have been cutting back sizably. There is no way that this could be handled by the limited staff, and we're not in an expanding mode at the present time as far as our employment by the state government.

It's just so unwieldy that it would very badly impact the environment, and that is why the Environmental Planning Lobby,

now known as the Environmental Advocates, gives this three smokestacks because it will simply tie their hands forever under this new burdensome, unnecessary regulation.

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

SENATOR JOHNSON: Mr. President.

ACTING PRESIDENT KUHL: Yes, Senator Johnson.

SENATOR JOHNSON: I would just like to correct a misapprehension which Senator Dollinger enjoys for the moment but which he will not enjoy subsequently, because on the first page of this bill, it doesn't refer to your dog doing his business on the sidewalk as a constitutional right which will be enhanced or diminished in any way by this bill.

This says, "For the purposes of this section, private property shall mean all real or personal property in this state that is protected by either the 5th or the 14th Amendment of the Constitution of the United States or Section 7 of Article I of the New York

State Constitution.

So those are the items of property which are protected and not other extraneous things which were referred to previously.

Thank you.

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

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Senator Paterson to explain his vote.

SENATOR PATERSON: Mr. President, we would like a slow roll call on this.

ACTING PRESIDENT KUHL: Are there five members in the chamber who would like to see a slow roll call?

Seeing five stand, the Secretary will call the roll.

Senator Johnson.

SENATOR JOHNSON: Mr. President, I would like you to withdraw the roll call. Lay the bill aside.

ACTING PRESIDENT KUHL: Roll call is withdrawn. The bill is laid aside by the sponsor for the day.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 680, by Senator Levy, Senate Print 2591B, an act to amend the Public Authorities Law and the Administrative Code of the City of New York, in relation to establishing the Committee on Personal Security.

ACTING PRESIDENT KUHL: Senator Levy, Senator Leichter has asked for an explanation of Calendar Number 680.

SENATOR LEVY: Senator Leichter, I think that after we talked about this bill last year, you voted for the bill. As a result of the -- the genesis of this bill has to do with the merger of the Transit Authority Police Department into the New York City Police

Department, and what our concern was, as I'm sure you and the other people who represent the City as well as people who represent the suburbs and those that don't represent -- visitors who come to the City and use the Transit Authority from outside the state of New York, is that we have an oversight -- we have an oversight on the continuing crime problem in the subway system and with buses in the City of New York, and what this bill does is to require the Authority as well as the constituent agencies, the Long Island Rail Road and Metro-North, to have standing committees within the operation or the Authority to provide continuing oversight.

Thank God, today, crime in our mass transit system downstate is escalating downward, and let's pray that the numbers continue to move in that direction, but this is a safeguard so that there is a continuing oversight, and these committees are designed to provide that oversight; and if, heaven forbid, things go in the other direction, that we've got a persistent, continuing oversight to be sure

we're dealing with the problems.

And this bill is an outgrowth of a very, very extensive report we did on crime in the New York City subway and bus systems when crime escalated out of control in the late '80s, and we didn't have then Commissioner Bratton who headed the Transit Authority Police Department and Chief O'Connor to deal with the problems.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. If Senator Levy would yield, please.

SENATOR LEVY: Yes, certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator, the problem I have with this bill -- and it's set forth well in a memorandum of opposition by the New York Chamber of Commerce and Industry. There's another memorandum of opposition by the city of New York. I think they both feel that it's an infringement and an interference with the city of New York which now, as you know, has

taken over the operation of the Transit Authority Police. Whether they should or shouldn't have, that issue has been settled, and the city of New York believes, as does the Chamber of Commerce and Industry, that this will just create problems because you will have in a sense divided responsibility and divided authority over the policing of the subways and the buses in the City of New York.

SENATOR LEVY: I will be happy to respond to that. Number one, the memorandum of opposition that comes from the City Chamber of Commerce, obviously the genesis of the -- of that memorandum is Robert Kiley, and former head of the Authority Kiley. It was on his watch - it was on his watch when crime escalated out of control in the Transit Authority in the operations of the Transit Authority, and he put his head in the sand and didn't provide leadership to deal with this problem when he was there, and he obviously doesn't like this legislation, and, obviously, the mayor doesn't like it, because there's -- there will be a

continuing oversight that relates to crime, whether it be in the subway system or at the bus system, and that type of oversight goes at its heart as to whether there should have been an independent Transit Authority Police Department to continue the job in fighting crime in the system or a merger, and that's why the mayor doesn't like the bill.

SENATOR LEICHTER: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: Senator Levy is indeed correct. I voted for it last year. But last year, the merger hadn't been achieved yet. I wasn't one of those who felt that the merger would be in the interest of the riders of the City subway and buses or people who lived in the New York City public housing projects. It may well be that I was wrong because I think, so far, the merger has worked out reasonably well, and I think crime, indeed, in the subways and buses even before the merger, has significantly

declined.

SENATOR LEVY: But, Senator Leichter, all this bill does is to require the Authority to have a committee, whether it's with the Transit Authority, the Long Island Rail Road or Metro-North, to continue to provide oversight on how crime is being dealt with, whether it's the Long Island Rail Road Police Department, the Metro-North Police Department, and the City Police Department.

SENATOR LEICHTER: Senator Levy, the answer to that is that either you're doing -- if all your bill does is to set up a committee that doesn't do anything and doesn't mean anything, I don't know why you put in the bill.

SENATOR LEVY: Senator Leichter, these are -

ACTING PRESIDENT KUHL: Gentlemen! Gentlemen! I'd appreciate it if we go through a question and answer. Apparently, you don't have the interest of many other people other than the two of you and I, because the

noise level in this room is extremely high, but I would appreciate it if you would keep the questioning and answering going through the chair.

SENATOR LEVY: Senator Leichter, this is not just another committee. What it is is committees made up for the component agencies of the MTA, made up by members of the MTA Board whose job as members of those committees will be to provide continuing oversight as to how the Long Island Rail Road is dealing with crime in the system, Metro-North is dealing with it and the Transit Authority.

SENATOR LEICHTER: Mr. President. Senator Levy, thank you. I appreciate what you are trying to do. I think that the objections that have been voiced by the City of New York and the Chamber of Commerce are well taken.

First of all, I don't know whether it's appropriate or necessary for this body to tell the MTA what committees to set up and who should be on the committees. That's

really a function of the members of the MTA. If they fail to carry out their duties, if they don't have their requisite numbers of committees that they need in order to divide up the work among them, then maybe we need other members, but I would certainly think that they could function without our telling them you must have a committee on this and a committee on that.

But I think the real purpose of this committee is to have certain supervision and control over police function of the subways and the buses which really are the prerogatives of the New York City Police Department.

I just want to point out that last year this bill was opposed by Senators DeFrancisco, DiCarlo, Hoffmann, Holland, and Maltese. I think, Senator, since the merger has now been accomplished, it's gone ahead, it seems to be working. The mayor says don't interfere with us in this regard. I mean, I find -- I'm sort of sorry for Rudy Giuliani. All this time in this Legislature all he's got to defend him is Franz Leichter. He's got to do a little

better than that, so I would hope that other members of his party would defend him. He has the right to govern the city of New York, as every mayor should have that right.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR DiCARLO: Before I explain my vote, on the bill.

ACTING PRESIDENT KUHL: Senator DiCarlo.

SENATOR DiCARLO: Senator Leichter, I agree with you.

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

SENATOR LEVY: Explain my vote.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR LEVY: Yeah.

THE SECRETARY: Section 5. This

act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Levy to explain his vote.

SENATOR LEVY: Yes, Senator Leichter, I hope you understood that this bill does not -- this bill not only provides for a committee to have oversight over the Transit Authority, it also deals with Metro-North and the Long Island Rail Road. The mayor may be personalizing as it relates to the Transit Authority portion of this bill, but this is a comprehensive bill dealing with all of the components of the system.

I vote aye.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 680, Senators DeFrancisco, DiCarlo, Goodman, Leichter,

Onorato, Seward. Ayes 50, nays 6.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: I'd appreciate being recorded in the negative with unanimous consent on Calendar 656.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Oppenheimer will be recorded in the negative on Calendar Number 656.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 731, by Senator Velella, Senate Print Number 3763, an act to amend the Insurance Law, in relation to agent termination.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon, to explain your vote?

SENATOR WALDON: Are we beyond the point of -- of a question or two? I was busy at the time with my colleague.

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

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

I received a call from some of the people who live and work in my area who are insurance agents and they were deathly afraid that the reporting system permitted under this bill would cause them to lose a license to practice because they would have no recourse.

I wished the opportunity to ask Senator Velella about that, but when I heard from these groups of black businessmen, I have

to be empathetic with their plight because they are so fearful of what this really means.

The first time I read the bill, I think it was last year, and voted on it, I did not see the nuances at all, but they are really, really concerned about it. So as a result of those conversations and my now current review of the bill, I will have to listen to what they've said, listen to what they perceive as potential pain and suffering in terms of their ability to function as agents, and vote no.

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

Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 731 are Senators DeFrancisco, Dollinger, Espada, Seward, Smith, Waldon, also Senator Present. Ayes 49, nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Hoblock, that completes the controversial calendar.

SENATOR HOBLOCK: Mr. President, is there any housekeeping?

ACTING PRESIDENT KUHL: Yes, there is. If we could return to motions and resolutions, Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On page 30, I offer the following amendments to Calendar Number 381, Senate Print 3520 -- this is on behalf of Senator DeFrancisco -- and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

We have some substitutions at the desk too, Senator Hoblock, if we could read those. Ask the Secretary to read.

THE SECRETARY: On page 44, Senator Lack moves to discharge from the Committee on Judiciary Assembly Bill Number 8533-A and substitute it for the identical Senate Bill 6752.

On page 49, Senator Libous moves

to discharge from the Committee on Mental Health and Developmental Disabilities Assembly Bill 9826 and substitute it for the identical Senate Bill 6632.

On page 60, Senator Trunzo moves to discharge from the Committee on Civil Service and Pensions Assembly Bill 9403 and substitute it for the identical Senate Bill 7044.

On page 7, Senator Farley moves to discharge from the Committee on Local Government Assembly Bill 9678 and substitute it for the identical Senate Bill 6721.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Senator Hoblock.

SENATOR HOBLOCK: Mr. President, can we stand at ease for a few minutes, please.

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

(The Senate stood at ease from 4:44 p.m. until 4:53 p.m.)

ACTING PRESIDENT KUHL: Senate will come to order.

Chair recognizes Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Finance Committee in Room 332 of the Capitol.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Finance Committee in the Majority Conference Room, Room 332. Immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332. Senate will continue to stand at ease.

(The Senate stood at ease from 4:54 p.m. until 6:20 p.m.)

SENATOR SKELOS: Mr. President, I just want us to know we should be meeting shortly. Unfortunately, the messages are not up from the second floor yet. I do want to apologize to the members for keeping them waiting, but the messages will be here shortly, and we do appreciate the members' indulgence. So if we could just stand at ease for a short moment.

ACTING PRESIDENT KUHL: We'll stand at ease.

SENATOR SKELOS: Please recognize Senator Cook.

SENATOR COOK: Could I be recorded in the negative on Calendar Number 731, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Cook will be recorded in the negative on Calendar Number 731. The Senate will continue to stand at ease.

(The Senate stood at ease from 6:22 p.m. until 6:44 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees for the report of the Finance Committee.

ACTING PRESIDENT KUHL: There's one at the desk. I'll ask the Secretary to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the

following bill directly for third reading:

Senate Bill 7504, by the Committee on Rules, an act making an appropriation for the support of government.

SENATOR SKELOS: Move we accept the report of the Finance Committee.

ACTING PRESIDENT KUHL: Motion is to accept the report of the Finance Committee. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

SENATOR SKELOS: At this time, I'd ask if we could take up 7504.

ACTING PRESIDENT KUHL: Ask the Secretary to road.

THE SECRETARY: Senate Bill 7504, by the Committee on Rules, an act making appropriation for the support of government.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President,

is there a message of necessity and appropri
ation at the desk?
ACTING PRESIDENT KUHL: There
is.
SENATOR SKELOS: Move we accept
the message.
ACTING PRESIDENT KUHL: The motion
is to accept the message of necessity and
appropriation. All those in favor signify by
saying Aye.
(Response of "Aye.")
Opposed nay.
(There was no response.)
The message is accepted.
Secretary will read the last
section.
THE SECRETARY: Section 18. This
act shall take effect April 1st, 1996.
ACTING PRESIDENT KUHL: Call the
roll.
(The Secretary called the roll.)
ACTING PRESIDENT KUHL: Announce
the results.

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, again on behalf of Senator Bruno, appreciate very much the members' patience in waiting to receive the message.

Is there any other housekeeping at the desk?

ACTING PRESIDENT KUHL: All taken care of.

SENATOR SKELOS: There being no further business, I move we adjourn until Tuesday, May 7th, at 3:00 p.m. sharp.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Tuesday, May 7, at 3:00 p.m. sharp.

(Whereupon at 6:45 p.m., the Senate adjourned.)