ALBANY, NEW YORK

June 12, 1996

10:04 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. The members will find their places; staff will find their places. Ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance, and remain standing for the invocation.

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

We're very pleased to be joined by the Reverend Walter Kortrey of the Emanuel Evangelical Lutheran Church in Pleasantville for the invocation. Reverend Kortrey.

REVEREND WALTER KORTREY: Let us pray.

Almighty God, we come together on this muggy morning for a busy working day and we'd rather be somewhere else, to tell You the truth. We pray for patience and endurance as we turn our minds and hearts to the work of govern ing for tomorrow, and its needs we do pray. That is why we are here, that through the work

we do in this chamber, the people in this state may enjoy many tomorrows free from so many fears, with equal opportunity to make a life for themselves and for their children.

O Lord, give us the insight and the foresight needed to accomplish good things for all our people. Bless the Senators and their families, those within the sound of my voice, those who will be here later this day. Where there is sickness, come with healing; where there is strife and discord, come with reconciliation. Let grace abound in every heart, in every home, in the name of Christ. Amen.

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 11th. The Senate met pursuant to adjournment. The Journal of Monday, June 10th, was read and approved. On motion, Senate adjourned.

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

read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

The Chair recognizes Senator Farley.

SENATOR FARLEY: Mr. President, on behalf of Senator Wright, on page 27, I offer the following amendments to Calendar 1005, Senate Print 6629-A, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1005 are received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Volker, I wish to call up his bill,

Senate Print 1113, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: By Senator Volker, Senate Print 1113, an act to amend the Penal Law.

ACTING PRESIDENT KUHL: Senator Farley.

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

ACTING PRESIDENT KUHL: Motion is to reconsider the vote by which the bill passed. Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: Senator Farley.

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

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Farley.

SENATOR FARLEY: On behalf of the Judiciary Committee, Mr. President, I wish to call up Senate Print 3775-B which is recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: By Senator Lack, Senate Print 3775-B, an act to amend the Family Court Act.

ACTING PRESIDENT KUHL: Senator Farley.

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

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

(The Secretary called the roll on reconsideration.)

ACTING PRESIDENT KUHL: Senator Farley.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Bruno, we have some substitutions, but before that, Senator Trunzo.

SENATOR TRUNZO: Mr. President, if you would place a sponsor's star on Calendar Number 1460.

ACTING PRESIDENT KUHL: Calendar Number 1416 is starred -

SENATOR TRUNZO: 6-0.

ACTING PRESIDENT KUHL: 6-0, Calendar Number 1460 is starred at the request of the sponsor.

Secretary will read the substitutions. Senator Bruno?

SENATOR BRUNO: Please make the substitutions.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: On page 43, Senator Maltese moves to discharge from the

Committee on Rules Assembly Bill Number 5861-A and substitute it for the identical Senate Bill 6135-A.

On page 44, Senator Trunzo moves to discharge from the Committee on Rules Assembly Bill Number 9326-A and substitute it for the identical Senate Bill 6360-A.

On page 44, Senator Saland moves to discharge from the Committee on Rules Assembly Bill 9809 and substitute it for the identical Senate Bill 6473-A.

On page 44, Senator Holland moves to discharge from the Committee on Rules Assembly Bill 10561, and substitute it for the identical Senate Bill 6498.

On page 45, Senator Stafford moves to discharge from the Committee on Rules Assembly Bill 8432-A, and substitute it for the identical Senate Bill 6814-A.

On page 46, Senator Stafford moves to discharge from the Committee on Finance Assembly Bill 6763-A, and substitute it for the identical Senate Bill 4699-A.

On page 46, Senator Volker moves to discharge from the Committee on Codes Assembly Bill 10407 and substitute it for the identical Senate Bill 6523.

On page 48, Senator Cook moves to discharge from the Committee on Commerce Assembly Bill 9788 and substitute it for the identical Senate Bill 7204.

On page 50, Senator Seward moves to discharge from the Committee on Rules Assembly Bill 5986 and substitute it for the identical Senate Bill 7664.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe there are several resolutions at the desk. I would ask that the titles be read, that we move for their immediate adoption, and I believe the first one is a resolution by Senator Rath.

ACTING PRESIDENT KUHL: There are four resolutions. We can take them all at one

time if that would be fine. Secretary will read the titles for the four resolutions.

THE SECRETARY: By Senator Rath, Legislative Resolution honoring Joseph J. Mesi chosen as the alternate boxer on the U. S. Olympic Boxing Team in the 1996 Summer Olympic Games.

By Senator Bruno, Legislative Resolution commending Edward R. Johnson, Chairperson for the Committee on Special Education, for the Lansingburgh Central School District upon the occasion of his retirement, to be commemorated on Friday, June the 14th, 1996.

By Senator Bruno, Legislative Resolution commending Sergeant Richard Lawrence of the office of Sheriff, county of Saratoga, upon the occasion of his designation for special honor on Thursday, June 13th, 1996.

By Senator Goodman, Legislative Resolution honoring the life and accomplishments of Frances Lehman Loeb.

SENATOR GOODMAN: Mr. President.

ACTING PRESIDENT KUHL: Senator

Goodman.

SENATOR GOODMAN: Mr. President, I'd like to say a brief word with respect to the last of the resolutions that were read.

ACTING PRESIDENT KUHL: Senator Goodman, on the resolution.

SENATOR GOODMAN: Mr. President, New York City and New York State have lost one of their leading citizens, with the death of Frances Lehman Loeb at the age of 89. She was an extraordinary woman, and it's noteworthy that one of her deepest interests among her many philanthropies was the well-being of the diplomats of the United Nations and the Consulate Corps in New York City.

Frances Lehman Loeb was a person of great compassion and concern for all of her fellow citizens, but she served a particularly important role in assisting new diplomats to the United States and to the United Nations in adjusting to their environment in the city of New York. She rendered many services to them with great courtesy and warmth, and she will be

long remembered for her contributions to such great projects as the Frances Lehman Loeb Boat house, the Loeb Drama Center at Harvard, to which she and her husband contributed in substantial amounts. The two of them gave $70 million to Harvard University for their advancement of education in many specific ways, and in short, Mr. President, this was a lady who had left a great humanitarian imprint upon society and who will be long remembered by a grateful city, state and nation.

ACTING PRESIDENT KUHL: Senator Rath, on the resolution.

SENATOR RATH: Mr. President, I'd like to say a word about the first of the privileged resolutions, one that I bring to the attention of this house in regards to a gentleman called "Baby Joe" Mesi, who is going to be representing us at the Olympics and he is a three-times champion of the New York State Golden Gloves Tournament and is second in the United States in the Amateur Boxing Association.

I think it's noteworthy that he is from New York State and, of course, from my district, and I'm sure he'll be really happy that we have noted that he's going.

Thank you.

ACTING PRESIDENT KUHL: Does any other Senator wish to speak on any of the four resolutions? Hearing none, the question is on the resolutions. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolutions are adopted.

Senator Bruno, that brings us to the calendar.

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

ACTING PRESIDENT KUHL: Secretary will read the non-controversial calendar.

THE SECRETARY: On page 6, Calendar Number 271, by Senator Levy, Senate

Print Number 5960, an act to amend the Vehicle and Traffic Law, in relation to the suspension of driver's licenses.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 409, by member of the Assembly Murtaugh, Assembly Bill 9125, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 558, by Senator Holland, Senate Print 32-B, an

act to amend the Highway Law, in relation to increasing indebtedness of the town of Ramapo, Rockland County.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 580, by Senator Marcellino, Senate Print 6097-A, an act to amend the General Business Law, in relation to authorizing sale of certain gas appliances.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 615, by Senator Volker, Senate Print 3580-A, an act to amend the Civil Practice Law and Rules, in relation to confidential communications.

SENATOR PATERSON: Lay that aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 782, by Senator Seward, Senate Print 6538-B, an act to amend the Tax Law, in relation to the collection by public utility.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on December 1st.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 785, by Senator Stafford, Senate Print 6590, an act to amend the Tax Law, in relation to distribution of the additional mortgage recording tax.

ACTING PRESIDENT KUHL: There's a local fiscal impact note at the desk. Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 841, by Senator Padavan, Senate Print 7217, an

act to amend the Vehicle and Traffic Law, in relation to county traffic safety boards.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 900, by Senator Leibell, Senate Print 5019-A, an act to amend the Real Property Actions and Proceedings Law.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 906, by Senator Maziarz, Senate Print 5930, an act to amend the Correction Law, in relation to co-payment of fees for medical services.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 921, by member of the Assembly Sullivan, Assembly Print 6794, an act to amend the Education Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 930, by Senator Skelos, Senate Print 6701, an act authorizing the assessor of the county of Nassau.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 942, by Senator Rath, Senate Print 7364-A, an act to amend the Real Property Tax Law and the Real Property Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 944, by Senator Rath, Senate Print 7367-B, an act to amend Chapter 118 of the Laws of 1893.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 964, by Senator Velella, Senate Print 7099-A, an act to amend the Insurance Law, in relation to adjusting the minimum number of directors.

ACTING PRESIDENT KUHL: 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.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1002, by Senator Marcellino, Senate Print 5776 C, an act to amend the Executive Law, in relation to emergency medical services.

ACTING PRESIDENT KUHL: Secretary will -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1046, by Senator Rath, Senate Print 7370-A, an act to amend the Town Law, in relation to build ing permits.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect in 180 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1079, by Senator LaValle, Senate Print 6572, an act authorizing the Commissioner of General Services to convey certain land in Suffolk County.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1088, by Senator Johnson, Senate Print 575, an

act to amend the Penal Law, in relation to the administrative provisions.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1104, by Senator Larkin, Senate Print 6564-A, an act to amend the Penal Law, in relation to tampering with a sports contest.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1123, by Senator Maziarz, Senate Print 6917, an act to amend the Social Services Law, in

relation to access to information.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: Call the -- excuse me. The bill is passed.

THE SECRETARY: Calendar Number 1173, by Senator Saland, Senate Print 4060, an acted to amend the Correction Law and the Criminal Procedure Law.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1228, by Senator Stafford, Senate Print 612, an act to amend the Environmental Conservation Law, in relation to the siting of industrial hazardous waste facilities.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1252, by Senator Volker, Senate Print 5500-A, an act to enact the Criminal Justice -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1279, by Senator Hoffmann, Senate Print 4145-D, an act authorizing the establishment of the Oneida Public Library District.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: 1280, by Senator Kuhl, Senate Print 3356, an act to amend the Vehicle and Traffic Law, in relation to exempting any child under the age of 14.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1326, by Senator Babbush, Senate Print 5898, an act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1376, by Senator Espada, Senate Print 7491-A, an act to authorize the city of New York to discontinue the use of park land.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1392, by Senator Larkin, Senate Print 7376-B, an act to amend the General Municipal Law, in relation to bell jar game regulation.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 9. This act shall take effect in 180 days.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 41 -- ayes 41, nays 1, Senator Tully recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1397, by Senator Marchi, Senate Print 7535, an act to amend the Real Property Tax Law, in relation to waivers.

SENATOR BRUNO: Lay that aside for amendment.

ACTING PRESIDENT KUHL: Lay the bill aside for amendments.

THE SECRETARY: Calendar Number 1399, by Senator Hoblock, Senate Print 7631, an act to amend the Criminal Procedure Law and the Family Court Act.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1407, by Senator Nozzolio, Senate Print 3982-A, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking system.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1409, by Senator Present, Senate Print 5484-B, an act to amend the Highway Law, in relation to authorizing the Department of Transportation.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect April 1st, 1997.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1411, by Senator Nozzolio, Senate Print Number 5996-A, an act to amend Chapter 530 of the Laws of 1988.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1412, by Senator Wright, Senate Print 6126-A, an act to amend the Environmental Conservation Law, in relation to multi-loading firearm.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1413, substituted earlier today, by member of

the Assembly Luster, Assembly Print **5861A** (s/b 5863A), an act to amend the Criminal Procedure Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1414, by Senator Kuhl, Senate Print 6195, an act to amend the Agriculture and Markets Law, in relation to making technical corrections.

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

THE SECRETARY: Calendar Number 1415, by Senator Skelos, Senate Print 6250-A, an act to amend the Public Service Law, in relation to certain telephone company actions.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1417, by Senator Marchi, Senate Print 6330, an act to provide additional member funded service credit.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1418, substituted earlier today, by member of the Assembly Crowley, Assembly Print 9326-A, an act to amend the General Municipal Law.

ACTING PRESIDENT KUHL: Secretary will call the roll.

THE SECRETARY: Section 3. This act shall take effect July 1st, 1996.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1419, by Senator Holland, Senate Print 6364-A, an act to amend Chapter 534 of the Laws of 1993.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1420, by Senator Kuhl, Senate Print 6413, an act to amend the Vehicle and Traffic Law, in relation to eliminating the maximum gross weight.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1421, by Senator Kuhl, Senate Print 6418-A, an act to amend the Highway Law, in relation to

state highways in Steuben County.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 1st day of April.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1422, by Senator Kuhl, Senate Print 6419-A, an act to amend the Highway Law, in relation to state highways in Ontario County.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect September 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1424, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 10561, an act to amend Chapter 779 of the Laws of 1986.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1425, by Senator Volker, Senate Print 6517, an act to amend the Criminal Procedure Law, in relation to bench warrants.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

THE SECRETARY: Section 2. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1426, by Senator Nozzolio, Senate Print 6526, an act to amend the Criminal Procedure Law, in relation to conferring peace officer status.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1427, by Senator Wright, Senate Print 6739-A, an act authorizing conveyance of certain state lands.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1428, by Senator Seward, Senate Print 6740-A, an act to amend the Vehicle and Traffic Law, in relation to use of dealer and transporter number plates.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1429, by Senator Seward, Senate Print 6741-A, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking system.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1430, by Senator Volker, Senate Print 6780, an act to amend the Executive Law, in relation to profits from a crime.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1431, substituted earlier today, by member of the Assembly Bragman, Assembly Print 8432-A, an act to amend the State Law and the State Finance Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1432, by Senator Trunzo, Senate Print 7046-A, an act authorizing the town of Islip to lease certain lands.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1433, by Senator LaValle, Senate Print 7057-A, an act to amend Chapter 741 of the Laws of

1985.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1434, by Senator Cook, Senate Print 7073-B, an act to amend the Environmental Conservation Law, in relation to taking of certain deer.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1435, by Senator Farley, Senate Print 7086-A, an act to amend the General Municipal Law, in relation to tax base sharing in Montgomery County.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1436, by Senator Kruger, Senate Print 303, an act to amend the Penal Law, in relation to increasing the criminal penalty.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1438, substituted earlier today, by member of the Assembly Farrell, Assembly Print 6763-A, an act to amend the State Finance Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1439, by Senator Present, Senate Print 5801, an act to authorize and direct the Education Department.

ACTING PRESIDENT KUHL: There's a local fiscal impact note at the desk. 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 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1440, by Senator Larkin, Senate Print 6365, an act to amend the General Municipal Law, in relation to Industrial Development Agencies.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44, nays one, Senator Maziarz recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1441, by Senator Maziarz, Senate Print 6395, an act to amend the Insurance Law, in relation to multiple employer welfare arrangements.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1442, by Senator Nozzolio, Senate Print 6421, an act to amend the Correction Law, in relation to information regarding temporary release programs.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1443, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 10407, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1444, by Senator Nozzolio, Senate Print 6614, an act to amend the Correction Law, in relation to the temporary release of inmates.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 13th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar number 1445, by Senator Nozzolio, Senate Print 6619, an act to amend the Correction Law, in relation to inmate's possession of unauthorized money.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1446, by Senator Nozzolio, Senate Print 6657, an act to amend the Executive Law, in relation to repeal of Section 633 of such law relating thereto.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1447, by Senator Spano, Senate Print 6784, an act to amend the Labor Law, in relation to the unemployment insurance law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 22. This act shall take effect September 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1449, by Senator Libous, Senate Print 6923-A, an act to amend the New York State Medical Care Facilities Finance Agency Act.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 13. This act to take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1450, by Senator Trunzo, Senate Print 7038, an act to amend the Retirement and Social Security Law, in relation to benefit calculations.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1452, by Senator Marcellino, Senate Print 7123, an act to amend the Public Officers Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1453, by Senator Spano, Senate Print 7136, an act to amend the Local Finance Law, in relation to bonds and notes of the city of Yonkers.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. 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 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1455, substituted earlier today, by member of the Assembly Gromack, Assembly Print 9788, an act to amend the Economic Development Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1456, by Senator LaValle, Senate Print 7230, an act to create the Brookhaven National Laboratory.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 1st day of October.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1457, by Senator Saland, Senate Print 7244.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1458, by Senator Maziarz, Senate Print 7277-A,

an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1459, by Senator Marcellino, Senate Print 7356, an act to amend the Environmental Conservation Law, in relation to issuing permits.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1461, by Senator Trunzo, Senate Print 7385-A, an act to amend the Retirement and Social Security Law, in relation to increasing the maximum amount.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1462, by Senator Trunzo, Senate Print 7386-A, an act to amend the General Municipal Law, in relation to payment of certain accidental death benefits.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1463, by Senator Wright, Senate Print 7437, an act to amend the Workers' Compensation Law, in relation to granting civil immunity.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1464, by Senator Stafford, Senate Print 7485-B, an act in relation to authorizing the town of Willsboro, Essex County.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1465, by Senator Maziarz, Senate Print 7512, an act to amend the Executive Law, in relation to standardizing and improving state agency permit applications.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 365th day.

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 1466, by Senator Cook, Senate Print -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1467, by Senator Holland, Senate Print 7552, an act to amend the Social Services Law, in relation to amounts for which the state and social service districts are responsible through 1998.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1468, by the Senate Committee on Rules, Senate Print 7553, an act to amend the Public Health Law and Insurance Law, in relation to regulating the delivery of managed health care.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 21. 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 1469, by Senator Spano, Senate Print 7574, an

act to amend the County Law, in relation to the licensing of master electricians in Westchester County.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. 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 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1470, by Senator Lachman, Senate Print 7583, an act in relation to allowing Millicent Browne to be reclassified as a Tier I member.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1471, by Senator Volker, Senate Print 7590, an act to amend the Civil Practice Law and Rules, in relation to the limitation of malpractice damages.

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.

THE SECRETARY: Ayes 46, nays one, Senator DeFrancisco recorded in the negative.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1472, by Senator Seward, Senate Print 7592, an act to amend the Public Service Law, in relation to removal of telephonic blocks.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1473, by Senator Skelos, Senate Print 7593, an act to amend the Business Corporation Law, in relation to business combinations.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 11. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1474, by Senator Skelos, Senate Print 7634, an act to amend the Executive Law, in relation to permitting parents of minors.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect in 30 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1475, by Senator DiCarlo, Senate Print 7654, an act to amend the Executive Law, in relation to

increasing income eligibility levels.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1476, substituted earlier today, by member of the Assembly Luster, Assembly Print 5986, an act to amend the Local Finance Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1477, by Senator Trunzo, Senate Print 7690, an act to amend the Executive Law, in relation to establishing a homepage on the internet.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: And Calendar Number 1478, by Senator Goodman, Senate Print 7701, an act to amend the Tax Law, in relation to simplifying filing and payment.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the non-controversial calendar.

Senator Nozzolio had a motion, I believe, just before we move on, if that's O.K.

SENATOR BRUNO: Yes. Can we take that motion and then maybe you might recognize me, Mr. President.

ACTING PRESIDENT KUHL: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, I move to reconsider the vote by which Calendar Number 1407 was taken.

ACTING PRESIDENT KUHL: Motion is to reconsider the vote by which Calendar 1407

was taken. Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: By Senator Nozzolio, Senate Print 3982-A, an act to amend the Vehicle and Traffic Law.

SENATOR NOZZOLIO: Place a sponsor's star on said bill.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: Lay the bill aside, and the bill will be starred at the request of the sponsor.

Senator Mendez, why do you rise?

SENATOR MENDEZ: Mr. President, I would like to announce that there will be a conference -- a Minority conference at 12:30 today in Room 314.

ACTING PRESIDENT KUHL: There

will be a Minority conference at 12:30 today in the Minority Conference Room, a Minority conference, Minority Conference Room, at 12:30 today.

Senator Bruno.

SENATOR BRUNO: Mr. President, we were going to have a Majority conference at 12:00 today, to 12:45, and we were hopeful that we have might be conferencing together, and I only announce that so that people might ponder what they would like to have happen so that we don't extend this day any longer than we have to.

But, Mr. President, before we move on to the controversial calendar, just want to acknowledge to the members of this chamber and others that 60 years ago this very day, Senator Joseph Holland was born and, as a consequence -- as a consequence, the people in his district now benefit from his experience and his dedicated service, as well as all of the people of this state will that he serves with great, great distinction. So we in this

chamber, and I'm sure you join me in recogniz ing what an important occasion today is, not just to the people of his district, but the people of this state, for the leadership that he displays here in this chamber throughout his district and throughout this state and, Mr. President, I know that people are questioning whether it possibly could have been 60 years ago -- doesn't look a day over 39 to me. But having said all of that, Mr. President, we want to wish him a very happy day and we are going to commemorate the great event to take place in this chamber today, Senator Joseph Holland's birthday.

(Applause)

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: With that, Mr. President, it's probably appropriate to move the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar beginning with Calendar Number 271.

THE SECRETARY: On page 6, Calendar Number 271, by Senator Levy, Senate Print 5960, an act to amend the Vehicle and Traffic Law, in relation to the suspension of a driver's license.

SENATOR LEVY: Might I ask who asked for the explanation.

ACTING PRESIDENT KUHL: Senator Levy, Senator Paterson has.

SENATOR LEVY: Senator Paterson, as I'm sure you recall, we passed what is colloquially known as "zero-two" legislation since the 1994 session, and what this bill seeks to accomplish is to deter the operation of a motor vehicle after having been -- after having consuming alcohol by young people 16, 17, 18, 19 and 20 who have driver's licenses.

Thirty-two other states, plus the District of Columbia including our neighbors in New Jersey and Massachusetts, have enacted .02 laws or even zero tolerance laws to deal with the problem of young people in those age categories operating motor vehicles after they

have consumed alcohol, and the statistics are really basically the same as in each of those other years. That age category is 7 percent of the drivers that have been involved in 15 percent, or a hundred percent-plus increase in the percentage of fatal motor vehicle accidents and 50 percent of those drivers in those age categories 16 through 20, 50 percent of those drivers who were killed had consumed alcohol.

Now, there's an additional reason to do this legislation beyond the reasons that moved us to pass these bills in the past and that is that our friends in Washington in the Congress, plus the President of the United States have mandated that every state in the nation enact this type of legislation with the penalty of the loss in the first year of $22 million dollars in highway aid.

Under this bill, a person 16 through and including 20 would not be violative of any criminal statute. It would be a violation of law, and it would be handled administratively by the Department of Motor

Vehicles.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I want to commence by advising you and the Majority Leader, Senator Bruno, that we actually are more synchronized than you may think. The reason that we called a Minority conference for 12:30 is that it will only take 15 minutes and since the Majority conference is going to be from 12:00 o'clock to 12:45, then we believe that the conferences will end simultaneously and we will be right back here at 12:45 to take up the business of the state and any other concern that we can accomplish here today.

So we are -- we are in sync', and we actually measured our conference by the Majority Conference. Probably because of the ephemeral nature of our leader's communication, we only need 15 minutes.

Having settled that, if Senator Levy would yield for a question?

SENATOR LEVY: Yes.

ACTING PRESIDENT KUHL: Senator, do you yield?

SENATOR LEVY: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, I'm a little concerned about the false positive tests in this particular situation, as you know .02 being about one-fifth of the standard that would actually maintain a level that would be considered to be an intoxication level when operating a motor vehicle. So between .02 and a .06, this is a very, I won't call it a scintilla but it's hardly a representative standard of alcohol. It might be achieved through the use of mouthwash or some cold medicines, and do you think that we have set the right numerical coefficient to the legislation that you're approaching when we make the standard that low?

SENATOR LEVY: Yes, Senator Paterson. As -- remember, we discussed this point last year when we had the bill before us.

Number one, this bill is actively supported by the New York State Department of State Police. They tell us that -- that certainly the instances, the chemical tests that they utilize to detect the presence of alcohol certainly could do zero -- zero BAC let alone .02, but just to be sure we made the standard .02, not zero like other states.

SENATOR PATERSON: Thank you, Mr. President, and thank Senator Levy. If the Senator will continue to yield.

SENATOR LEVY: Yes, certainly.

SENATOR PATERSON: Senator, would you draw the distinction or give me what you would consider to be the corroborating data that would demonstrate why you wish to, under this legislation, why you list -- choose to restrict those who are between 18 and 21 when actually individuals over 21 might have the same blood to alcohol level and not incur this penalty? Are the incidents of vehicular accident or reckless endangerment here? Have the statistics shown greater fatalities or greater injuries and

particularly if you would comment on the issue of while it may be illegal to purchase alcohol when you are under 21, it might -- there may not be a legal standard for actually consuming it on private property in a private setting.

SENATOR LEVY: Well, Senator, you really -- in posing the question, you've answered -- answered the question as it relates to the proof of purchase law in the state of New York, and I have to say to you that if we -- if we realistically, or any other state realistically could go beyond 21 with .02, certainly that would be a positive action beyond the age of 20 years for people who consume alcohol and operate a motor vehicle to try to cut down on the number of deaths that result from the combination of driving a motor vehicle and -- and using alcohol or alcoholic - alcoholic beverages.

But, Senator, that -- even though we are going to have a bill by Senator Wright and myself and others, a Governor's program bill before us before this session is over reducing

the BAC under the terms of that legislative proposal from .10 to .08, realistically this piece of legislation we put together was put together to deal with a high risk type of operator and the statistics that I outlined when you asked for an explanation.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If the Senator would yield for - simply yield for -- for one more question.

SENATOR LEVY: Yes, certainly, Senator.

SENATOR PATERSON: That being the case, if an individual thought that there was another reason why they were testing positive other than alcohol level, what redress would they have in a situation like that?

SENATOR LEVY: I don't understand your question, Senator.

SENATOR PATERSON: If an individual tested positive and is maintaining

that they have not consumed any alcohol in the fashion that would create that result, what recourse would they have?

SENATOR LEVY: Well, as -- as you know -- as you know, number one, number one, the way of making a driving while impaired or a drunk driving case out beyond a reasonable doubt would permit the prosecutors who are bringing that case not only to use chem' tests but they could use the evidence prior to the widespread use of chemical tests to prove intoxication by physical observation.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I was particularly impressed with Senator Levy's alliteration of the situation in which particularly drivers who are between the ages of 18 and 21 have not operated vehicles as maturely

as we would like, and it's probably why we've restricted the consumption of alcohol some years ago and so the accompanying incumbrance upon individuals to have a higher standard and be scrupulously careful when operating a motor vehicle is the value that I would assume we should favor over the desire to be very careful about testing and very careful about on the basis of age discriminating, not discriminating against people but discriminating in the fashion with which we punish people for violations and so, therefore, although it's -- there are issues on both sides, it appears that the legislation has some -- some merit to it and will probably enure to the benefit of the same people who may actually be taken off the road because of it.

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

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I wish to commend Senator Levy on his effort to bring this legislation before our

house. I think the issues are relatively clear and you've heard them articulated this morning. Legal age in New York State is 21. Below that it is not only inappropriate but it's illegal to be consuming alcohol and driving and consequent ly should warrant a more severe penalty, but more particularly all of us who are parents of children know the behaviors that occur during that -- that time of life, under 21, and unfortunately those are formative years in terms of patterns of behavior that we need to make sure we're focused on, and by providing legislation that makes it a non-criminal offense but shows the importance that all of us bring to this issue, we're showing our children what we expect of their behavior as young adults.

I think that's an appropriate message to be sending. The unfortunate reality when one looks at the statistics in terms of personal injury, in terms of fatality, those numbers are statistically overwhelming for this age group.

We're not only looking out for

the interests of society but we're also looking out for the interests of those individuals. I again want to commend Senator Levy for his efforts and encourage my colleagues to support this legislation.

Thank you.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Thank you, Mr. President, and I'll be very brief. My only sense of disappointment is that the best way that you teach young people about drunk driving is by social example and we really, in my opinion, have not done enough in that area.

Senator DiCarlo and I have a bill, but -- and Senator Levy and I have spoken about this for years, but the bottom line is that if we take the attitude that drunk drivers are only the next door neighbor, the butcher, the baker, the candlestick maker and they're not really criminals, you get nowhere, and the only way you're going to be able to do anything is not worrying about the kids so much but you grab

their parents who, after one or two or three or four or five or six times, put them in jail. It's three days, I don't care; make them lose one day of work. Take away the car.

I mean that's what you're talking about and this Legislature, in my opinion, has never been ready to do that, because again, you're talking about Harry and you're talking about Shirley, and you're talking about every day people and they didn't go out there with a gun and they didn't use drugs, and it is wrong. It is absolutely wrong.

If you're serious about drunk driving, you have to start with adults who are normally -- quotes/unquotes -- "decent" people and who will not stay off the roads when they're drunk, and you got to put them in jail.

I think it's amazing. We had testimony at the Judiciary Committee meeting yesterday by a very distinguished judge who said it's absurd to take somebody who's a messenger with a small amount of narcotics and put him in jail for 15 years. On the other hand, we have

people who go out and kill with cars and who constantly drive when they're drunk and who are real dangerous every single minute to society, and we don't have the guts as a Legislature to do something strong in that area.

Senator Levy, I'm going to support the bill. I would support harsher bills as I've just indicated. I'm proud that Senator DiCarlo and I have been able to move something out of this house, but you know, we all know what the real answer is. It's a question of whether we're ready to face up to it.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 17. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator DiCarlo to explain his vote.

SENATOR DiCARLO: Thank you, Mr.

President.

I voted without recommendation when this bill came out of committee and I'm going to vote no on this bill here today, and I don't want it to be said that I'm soft on drunk drivers because I'm not. I am, for the record, the sponsor with Senator Gold on a piece of legislation. I'm also the sponsor of the Deadly Driver Reform Act which is the toughest drunk driving bill in the United States of America.

I think we're missing -- we're making a mistake here. We're punishing, as Senator Gold said, not the real people who should be punished, those people who are out there killing people on our streets of New York State. Let's pass a real drunk driving bill for those who are drunk and out there on the roads and driving. I don't want to pass and support a piece of legislation that says when your college kid comes home for Thanksgiving and he has one glass of wine, one beer with the parents' approval, that when they get in their car and they drive back to school they're going to be

penalized in this fashion. I think it's a mistake.

I'm going to vote against the bill, and I would urge that we finally get serious with drunks and deadly drivers with real legislation that means something to get the killers off our streets.

I vote no.

ACTING PRESIDENT KUHL: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Having tried these cases as a prosecutor, I know that there is a standard deviation within which there's a question as to the reliability of a test, and this test .02 is simply too low to provide a reasonable basis to prosecute anybody, whether it's an infraction or a criminal penalty.

For that reason and for other reasons, I'm going to vote against this. The other reasons, I think, are even more important. Statistics were shown in the course of the debate how there are more accidents with

young people but, on the other hand, if that was our criteria and we're really honest about all of this, there would be many, many more accidents by people in an age category 65 and over, but no one in this chamber would dare to have a special rule for that special class of citizens because their driving record is less than satisfactory in relation to other age groups, and I think we're picking on a small group of individuals. A small group of individuals who may violate the law are causing us to pass a legislation branding all youths as irresponsible, and I think that's wrong. I really think that's wrong, so Senator DiCarlo said, some -- I don't want to be interpreted as being soft on DWI, I support every DWI legislation, but to single out one class of citizens, the class that I don't think from the standpoint of it being a coincidence, are a class that aren't very well represented at the polls, I think is a poor example and I think there's a standard that is much too low to provide a basis for a penalty for this type of

infraction.

So, for those reasons, I would vote no. I will vote no on this particular bill.

ACTING PRESIDENT KUHL: Senator DeFrancisco will be recorded in the negative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 271: Senator DeFrancisco, Senator DiCarlo, Hoblock, and Holland. Ayes 49, nays 4.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 615, by Senator Volker, Senate Print 3580-A, an act to amend the Civil Practice Law and Rules, in relation to confidential communications.

SENATOR PATERSON: Explanation.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: I guess in a sense this is deja vu all over again. This bill that Assemblyman Weisenberg and I have sponsored for some years which passed this house last year, is before us again with some amendments.

In all candor, this bill did pass this house last year with very few negative votes if I'm not mistaken and was vetoed by the Governor. It involves communications between law enforcement officials, elected union officials and individuals in a police union.

If you look at the bill, over the last few years, it has been defined down to make it very clear that this involves only law enforcement officials and only police union and it talks about the problem which former police officers like myself and Harvey Weisenberg realize and realized many years ago were, a police officer, not necessarily by the way, and I note that the opposition by the Conference of Mayors talks about a crime and a lot -- often it's not a crime at all. It may be some sort of disciplinary process or something that has

created a problem for the police officer, and he goes and seeks assistance from an elected union official whose job it is to give that person advice and counsel and, by the way, if you look at the bill, it -- when it defines where this communication or privileged communication would come in, it specifically talks about where a police officer, official, receives a communica tion from a member in the course of his official duties, and it defines when this would occur. It would only occur under very specified kinds of situations.

Now, I'll be very honest with you. The Conference of Mayors will always oppose any bill that allows any kind of privileged communication in a police department, probably also I have suppose in the fire department, because they will tell you that it should be the subject of collective bargaining. The problem is they will never agree to any kind of privileged communication because the belief, I think, by some of the -- by the leaders, is that somehow it's something that they feel is

not anything that should be allowed because, of course, it could have potentially an impact on some disciplinary proceeding.

Keep in mind that police officer situations are somewhat different. They are under very strict rules to start with, semi military rules. These are not the kind of proceedings that are done by an average ordinary citizen. As I've said many times before, I guess unless you are directly involved in these kind of things, it is hard sometimes, I think, to understand them, but what this is it's a limited privilege so that the elected union official who has been -- has been approached by someone in his department, cannot in effect be brought directly into the proceeding where his involvement was to counsel and advise, and so forth, a person who is potentially under some disciplinary proceeding or, in fact, could be in relation to a crime although, if you read the bill, you will also see that if that person advises about some outside problem or future crime or anything of that nature, that is not

privileged and that would still be able to be reachable.

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Excuse me, Mr. President.

My colleagues, would the gentleman yield to a question?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: Senator Volker, in your experience as a police officer and in the regulations of the department within which you served, was there any requirement that when a superior officer questions a subordinate officer, that failure to honestly and openly respond to those questions might subject the subordinate officer to penalties as severe as suspension and even more severe as to loss of job, just for failure in certain circumstances to respond to direct questions from a superior officer?

SENATOR VOLKER: I think my recollection, certainly it could be suspension. I think probably dismissal might be a bit heavy unless it -- unless it related directly to a crime or something of that nature, because then, of course, it would constitute insubordination, I would suppose, but I would think certainly suspension because, as you know, in a semi military atmosphere, questions by a superior officer have to be answered candidly, and the lack of that can result in some very severe penalties.

SENATOR WALDON: May I continue, Mr. President?

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

SENATOR VOLKER: Certainly.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Senator Volker, in your department, was there a regulation similar to the one in my department whereby the only time you could violate a direct order from

a superior was when the integrity of the department was on the line and it was clear that, in the opinion of the subordinate officer, that the director's order was wrongful and unlawful? Was there anything similar in your regulations to that?

SENATOR VOLKER: I would -- I think -- my recollection is that, in addition to that is where your personal safety, I suppose, could be endangered and that you have some clear and present information or it is reasonably - could be reasonably assumed that to follow the order could result in death or injury, but other than that, I think you're -- you're probably correct that it was pretty clear, although we probably didn't have quite as formal a directive as that, but I think that the record, I think, would have shown that the -- you must follow the directive unless there was something clearly in violation of law and rule which would be for you to do, or your own personal safety was involved.

Other than that, you were

mandated to follow it.

SENATOR WALDON: Would the gentleman continue to yield?

SENATOR VOLKER: Sure.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Senator Volker, in instances where the "shoo-fly", you familiar with that term?

SENATOR VOLKER: The what?

SENATOR WALDON: The term "shoo-fly"?

SENATOR VOLKER: Oh, yeah.

SENATOR WALDON: In instances where the "shoo-fly" or internal affairs came upon the scene, and let's create a hypothetical for discussion and dialogue. There's no criminality involved on behalf of the officer in question, but he may have in the consideration and considered opinion of his superiors, violat ed a regulation of the department. When they arrived on the scene, was it your experience that, if they asked the question of the officer,

he or she had to immediately answer, there was not a time lag to consult with counsels or even to call the union rep', commonly known as the PBA rep', was that your experience?

SENATOR VOLKER: Yeah. We didn't have any internal affairs people in place at the time, but I think experience is that when someone who is charged with checking it appeared on the scene, you were mandated to answer immediately. You didn't -- you're absolutely right, you had no alternative to look for counsel or a union official or whatever.

In fact, one of the things, frankly, that I found was that the local departments knew that I was -- had become a lawyer while I was a police officer and I got a lot of calls from -- got requests from various police officers asking me questions. Very often it was because they had received orders maybe from a government official, shall we say, other than a police officer to do something and asked me what the repercussions were if they didn't - didn't comply or whatever, and I think it's -

what you're saying is that most of the time you didn't have the -- the luxury of -- of being able to do that sort of thing, and you're absolutely right, if that person comes on the scene and says to you, Answer this question, you better answer it and you don't have any -- any alternatives.

SENATOR WALDON: Would the gentleman continue to yield, Mr. President?

SENATOR VOLKER: Sure.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Senator Volker, in your many years of experience as a police officer, did you find that within the people who were part of your department, that there was a feeling that they were different, and let me explain to you what I mean by that. They worked different hours than the normal working person. They were under different stresses and strains than the normal working person. Their responsibilities were such that they might even happen to have been required to arrest a

neighbor in a given set of circumstances. So there was an insular society, an insularity among police officers which caused them sometimes to even be ostracized by friends and neighbors. Was that your experience?

SENATOR VOLKER: Absolutely, and it's -- it's part of the -- unfortunately sometimes part of the job, which I don't think is well understood, but you're absolutely right.

SENATOR WALDON: Would the gentleman yield again, Mr. President?

SENATOR VOLKER: Sure.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Was it your experience -- I know it was mine -- was it your experience, Senator Volker, that even within the department people tended to stick with each other, meaning those with the bureau would hang with those in the bureau, the guys in EMS and the women in EMS would kind of be friendlier with each other than with other departments and

almost no one wanted to socialize, at least in my department with the "shoo-flies", the internal affairs persons.

Was that your experience and, if not, have you in your law enforcement travels heard that such was the case, that -

SENATOR VOLKER: I think that's pretty clear.

SENATOR WALDON: -- that they were biased or bad people within the department?

SENATOR VOLKER: I don't know if you could say they were bad people, but they were looked at as people you had to be extremely careful of, and the fear was that you would even make some sort of unguarded statement that might -- might create a potential problem for you or for somebody in the department, because you're absolutely right, it is a natural human kind of thing, I think, under those circumstances to be extremely cautious, and I think people did tend to band together, and I think that's natural and normal.

SENATOR WALDON: Thank you very

much, Senator Volker.

Mr. President, if I may, on the bill.

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

SENATOR WALDON: I think this is a good proposal. My experience tells me from my days in law enforcement that an officer in jeopardy has little time, if any time at all, to consult with someone, especially to make a known call and get his attorney, even if it's a PBA attorney, on the scene, and that despite the desire to have a PBA attorney on the scene, oftentimes the only one available is the PBA rep' who may actually be in the same station house and on duty at the same moment, and I believe because of the pressures and strains on police officers, they should not be given anything less than a private citizen.

For example, if a private citizen says, "I wish my attorney," we as law enforce ment personnel knew that we had to stop what we were doing and allow that attorney to respond,

but it did not apply to police officers, because if the superior officer said, "Answer me now," and the officer said, "But I want my attorney," he would say, "You are under suspension immediately. Give up your revolver and your shield."

Different standards; but I don't think that in this state we should have a different standard for those in law enforcement, so I would support and do support this legislation, this proposal, because it creates a level playing field for police officers, and it's interesting. When the criminals are running amuck in our community, we say, Send for the cops. When someone is sticking up the local liquor stores, we say, Send for the cops. When some woman is delivering a baby and not - there's not enough time for the EMS or the ambulance to get there, we say, Send for the cops; but when the officer says, Send for my attorney, we don't give him or her sufficient time.

So I think we ought to do this

thing. I think it's right. I think some day we ought to recognize that law enforcement people are good people, and they deserve a break today and we're going to give them that break today because I believe the wisdom of this house today will pass this proposal.

I encourage my colleagues to join Senator Volker and I in doing the right thing today.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill? Hearing none, 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.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 615 -

SENATOR GOLD: Hold on just a minute. Hold on.

Mr. President.

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

SENATOR GOLD: Yes, Mr. President.

I understand that the city of New York filed a memorandum on the original bill, but if there's nothing on this which means to me that, as happens so often, they're either lazy or careless about legislation or maybe there's been an improvement, so I'm going to vote for the bill.

ACTING PRESIDENT KUHL: Senator Gold will be recorded in the affirmative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 615 are Senators Goodman and Seabrook. Ayes 52, nays 2.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number

900, by Senator Leibell, Senate Print Number 5019-A, an act to amend the Real Property Actions and Proceedings Law, in relation to landlord and tenant proceedings.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Leibell an explanation of Senate 900 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR LEIBELL: Thank you, Mr. President.

The reason for this legislation is to try and bring some fairness not only to those who own property but to those who are tenants in buildings. Court delays have cost owners of rental property tens of millions of dollars in legitimate owed rents plus millions more in legal fees, and have contributed to the problem of fraud. The current system has, unfortunately, worked to exacerbate this.

ACTING PRESIDENT KUHL: Senator Leibell, excuse the interruption. Why don't we wait until the conversations have concluded and

those on the way out of the chamber have left, those on the way in have completed their entry and we have some quiet.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

Senate 5019-A will require a tenant, upon a second adjournment by the tenant to the court, to deposit past due rents with the court as well as future rents as they become due until the court decides the case. As a result of this, individuals will no longer clog the courts with unnecessary delays simply to beat the system. Owners who currently lose millions of dollars in legitimate rents will now have assurance that long delays will not result in the loss of significant rental income, and the viability of marginal buildings, where the loss of even a portion of the associated rental stream can be significant, will be improved to the benefit of its occupants as well as its owner.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Mr. President, if Senator Leibell -

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

SENATOR LEIBELL: Yes, Senator.

ACTING PRESIDENT KUHL: Senator yields.

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. That's a different way to get order around here.

ACTING PRESIDENT KUHL: It sure is, isn't it?

SENATOR PATERSON: Mr. President and Senator Leibell, testifying in 1994, the supervising judges of the New York City Civil Court stated that there would be an estimation of a need for 130 -- 130 additional clerks to process all of these -- all of these rent payments that would be made to the courts by tenants after there had been a second

adjournment of a court proceedings.

If this is even nearly correct rather than investing in the monies to bring on new clerks, my question to you, Senator Leibell, is why didn't we invest in putting more judges on those courts so we can speed up the case load and there would be fewer adjournments?

SENATOR LEIBELL: Well, what we're trying to do with this legislation, Senator, is to prevent frivolous lawsuits and we think that this will produce, contrary to the judge you have cited -- and I have not seen his comments, but we don't believe it will result in an increased number of clerks being required or judges. In fact, we think just the opposite. It will reduce the case load.

I also have an opinion or a memorandum in support from the city of New York. No, we're not looking to add clerks and we're certainly not looking to add more judges. We think this legislation will address the backlog and the frivolous lawsuits that they already have there.

SENATOR PATERSON: Thank you, Mr. President.

In addressing the backlog, but you are going to need more clerks. There are - if you take the statistics of how many second adjournments there are, and you subtract even the cases that you think may be frivolous, there are a lot of issues that arise out of landlord and tenant disputes over rent, and you are going to need additional personnel.

If the Senator would continue to yield?

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Mr. President, there seems to be an amendment to your bill that states that when government subsidy is paying the rent, that that is permissible under your legislation, but what about those tenants who are applying for government subsidy where there

are months of delays, such as women who are getting rents for themselves and their children under the Jiggets program, and so you've got the court demanding monies when the court has actually suggested that the women enroll in the program. You have months of delays and at least under your legislation it would still appear that the individuals would still be forced to pay their rent to the courts.

SENATOR LEIBELL: Well, as a practical matter the most of these actions are only commenced or would only be commenced after there's been a few months in arrears on the rents and there is also a provision in here for the adjournment that would be -- they would be entitled to after this would come into play, so I think there would be more than enough time, probably in most cases a few months, for them to make their applications and to receive their payments.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr.

President. If the Senator would continue to yield?

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Mr. President, what about the landlord who adjourns the proceeding more than twice?

SENATOR LEIBELL: Would not have to pay then. The tenant would not have to pay then.

SENATOR PATERSON: Well, I would assume that, but I'm asking what happens to the landlord. The landlord has adjourned the case more than twice. Tenants come down, leave work, go out of their way to come to court as the landlord has on many occasions.

SENATOR LEIBELL: I think it would clearly be contrary to the landlord's interest to do that because he would be losing his rent.

SENATOR PATERSON: But the question I'm asking is, since the emphasis of the legislation was fairness, in this particular situation, I don't see any penalty for the landlord that adjourns twice other than the one that we assume that the landlord is not getting their rent, but the -- often what's happening in these particular situations is that -- is that the continued -- for instance, if the landlord continues to adjourn and then different dates are set which would make it more difficult for the tenant, then maybe the tenant adjourns, once you get the tenant up to two, you get the tenant to have to remit all of the back rent and all of the many of the charges that the tenants are disputing to the courts; so in other words I would see a way strategically that, by the landlord adjourning a few times, that you could drive the tenant up to two, all you have to do is find two -- any two occasions when a court date was called and the tenant didn't get there and under your legislation won't they get to two, now they're going to have to remit all the

past due rent and any other late charges or fees that the tenant is actually disputing, so if we really want to establish fairness, I want to know, is there any punishment to the landlord for doing the exact same thing that the tenant would be doing?

SENATOR LEIBELL: That probably does reflect a philosophical difference, Senator, because I'm of the opinion that there are very few landlords who would gleefully give up their rent, and certainly I would view the loss of rent to a landlord as a substantial loss. Anything that a landlord would do that would prevent their receiving rents, I would consider to be some form of a penalty.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Well, Senator Leibell, there is a philosophical disagreement between the two of us because I'm not assuming any greater or less character on the part of landlords or tenants.

I'm assuming that all tenants of the state of New York, that they're all probably generally taxpayers, and that you have some bad apples in both bags.

All I'm saying is that this legislation seems to address the bad apples, in the tenants' area more so, but it can also hurt the tenants who have a legitimate complaint. If the tenant is sure that the landlord was over charging, that the landlord was engaging in actions by use of exacting certain fees as a matter of fact under the law, we are so sure that the landlords do do this on occasion, not all the landlords, but that a significant enough number that we have under our law granted to the tenant the right not to pay the rent as the remedy when there is this kind of violation, and then the matter is settled in court, and we already have in the law that after the second adjournment that the judge can ask that the tenant pay all future rents from that particular point, so what we've already established under our law is an understanding that both the

landlord and the tenant can be delinquent and both the landlord and the tenant on occasion can be lacking in character.

My question to you is that, how can you -- what -- how can you deny the tenant due process when the landlord has not established that there should be the remittance of this payment in the first place, that the reason perhaps that the money has been withdrawn is because the tenant wants to get the landlord into court to let the judge hear what the landlord's conduct has been.

SENATOR LEIBELL: Well, let me - let me, Senator, go back to the problem which gave rise to this legislation where you have many, many millions of dollars that are being lost every year in terms of rent to landlords, many of those rent dollars that could have been used to repair and make certain that buildings are in decent condition so that other tenants will have a quality place to live in.

The absence of those tenant dollars will frequently result in buildings

falling into disrepair, taxes not being paid and maybe those buildings even coming back into public ownership. We think that's a situation that we can correct through this legislation. We think this is a fair way to proceed. It's a -- it's a method of saying that, if you have gone for a period of time, at the tenant's own fault, adjourning it and have not paid any rent, that subsequently that rent some day will be available if the court should, in fact, determine that the landlord was entitled to that rent.

It's not a question of, as is frequently the case, where three months down the line the landlord says, "Guess what? I'm not being paid, now I have to go into court." Then it's many, many months in court with many adjournments and by that point in time there is so much rent that is owed, the easiest thing is for that tenant to skip out; there's no rent to go to the landlord and, in fact, the building can fall into disrepair and, as has frequently been the case, and I think that's quite clearly

why the city of New York has reached out to us and said, We need this legislation.

ACTING PRESIDENT KUHL: Senator Paterson, excuse the interruption.

Senator Velella, why do you rise?

SENATOR VELELLA: There will be an immediate meeting of the Rules Committee in Room 332, immediate meeting.

ACTING PRESIDENT KUHL: Immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. Immediate meeting of the Rules Committee in the Majority Conference Room, in Room 332.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: There will be an immediate meeting of the Crime and Corrections Committee in the first floor conference room, Room 20 -- 123.

ACTING PRESIDENT KUHL: Also there will be an immediate meeting of the Crime and Corrections Committee in Room 123 of the

Capitol. Immediate meeting of the Crime and Corrections Committee, Room 123 of the Capitol.

Senator Paterson, you have the floor. May we continue to let the people who have to go to a committee meeting go to the committee meetings and things should quiet down.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

Senator Onorato, excuse me. Why do you rise?

SENATOR ONORATO: Some of the members who are leaving now for the meetings are very interested in voting on it, but I see they've already left. I was going to ask to call the last section and they could have an opportunity to vote before they go to their next meetings. This is a pretty important piece of legislation for the residents of the city of New York.

ACTING PRESIDENT KUHL: Well, Senator Onorato, I see no reason at this point

unless there's the intention of the Minority Leader to call a slow roll call.

SENATOR PATERSON: Mr. President, there was a slow roll call on this piece of legislation last year, so the -

ACTING PRESIDENT KUHL: Is that your intention this year, Senator Paterson?

SENATOR PATERSON: I would imagine that's our intention this year, to call a slow roll call and with the members at the Rules Committee and -

ACTING PRESIDENT KUHL: I would think, Senator Paterson, if you, at the conclusion of the debate, when you call a slow roll we will surely let the people in those committee meetings know a roll call is being taken. The roll call does take approximately 30 minutes to get through, as you know, and having experienced many of them, so there will be an ample opportunity for them to come from Room 123 or Room 332. We will not preclude them from voting, sir.

Senator Onorato, thank you for

bringing this forth to the floor. We are certainly aware of it.

Senator Paterson, you have the floor.

SENATOR PATERSON: Well, Mr. President, might I suggest that during the debate somebody of sufficient office from this chamber go to those committee meetings and inform the members that there will be a slow roll call on this piece of legislation.

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

SENATOR PATERSON: Thank you. If Senator Leibell would continue to yield.

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, the issue of the constitutionality of your legislation, in spite of what you are pointing

out about the landlord facing the problem of the building falling into disrepair, still there's a constitutional question in what is really a hybrid circumstance, of the payment of rent for certain services, and it is well held law that the -- that the remedy for the tenant is not to -- is not to pay the rent, so, therefore, does this bill not, even as well intended as you may advocate that it is, deny the tenant due process having to pay monies into the court that may have actually already been expended for the problem that the tenant is trying to -- is trying to ameliorate?

For instance, if the landlord wasn't providing oil and the tenant put the money up to get the oil into the boiler, now the tenant has expended some of the money that they otherwise would have paid for rent and that's why the tenant stopped paying rent, so in this particular situation the tenant now has a financial encumbrance set upon herself or him self because of this added expenditure, and you're saying that until the resolution of this

case, that there now has to be a deposit into the courts after second adjournment, and I'm maintaining that that denies the tenant due process really under the Fourteenth Amendment.

SENATOR LEIBELL: Well, Senator if I might respond to that. This is not money that is paid to the landlord. It's paid into the court. The court will have the money available there in the case, in fact, you cite. If the tenant comes forward and is able to show that he has certain expenses incurred, that's something the court is going to be able to take into consideration and he will have monies available and, in fact, those monies should be cut out from rent due that would be an appropriate thing for the court to do and with respect to the constitutionality of it, I believe, and counsel has advised me that there are -- and we discussed this last year, that we feel comfortable this passes easily constitutional muster.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, thank you and if Senator Leibell would continue to yield.

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator Leibell, maybe under the theory I gave to you the landlord didn't pay the Con Ed bill, the utility bill. In those actual cases the money may be going to the Con Ed company or the other utility company. It's not being held by the court.

What's happened in this case is, we're asking the tenant to go beyond expenditures that they've already made. Now, we -- we passed a law about the fuel matter and, you know, about utility costs, and so what I'm saying, would this bill not be a little more fair to all parties if there was at least a rebuttable presumption in the bill that, if a

tenant can raise the defense that the monies have already been expended, that that would mitigate the tenant's mandate to have to deposit money with the court?

SENATOR LEIBELL: No, I think this bill is constructed in a way that will be fair to all parties. The court is going to have to use what discretion that it ultimately has. We'll be able to reimburse in those cases you're referring to, as well as tenants have other remedies to be able to proceed to court with their own claims.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Leibell will continue to yield.

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

SENATOR PATERSON: Actually, I would suggest to you that discretion is more damaged by this legislation. We're taking away all judicial discretion. The judges have

discretion right now. In spite of our disagreement, I think where we probably would agree is that if we could upgrade the number of personnel that are in our courts both in the judiciary and clerical and support staff to handle these cases, we'd probably bring about a more expedient resolution.

But getting back to the point, we're taking discretion away, and as much as you're saying that it is discretion, you still haven't answered my question about what does the tenant say when the tenant is -- is maintaining that they spent that money? They spent that money to make what were hazardous remedial repairs in that particular -- in that particular situation even though we don't have a law.

What if the toilet broke and the landlord didn't do anything, and the tenants took up a collection and paid for a new boiler, what happens in those situations, and my question is, now you're taking rent deposits from tenants where the rent was, in a sense, or a substantial part of it was already paid in

other costs, and you have no remedy for the tenant in this legislation.

SENATOR LEIBELL: It would seem to me, Senator, that you're focusing more on a particular court system that appears to be, from what you're saying, very inefficient and ineffective, that possibly the judiciary that are sitting there now are not doing their job. That's something that maybe you would know more about than I would, but I would suggest to you that this will provide and protect tenants at the same time it will protect the buildings that they live in, and we can go back and forth on this for an endless number of hours, but you will perceive this as unfair, but I perceive this as actually fair to everyone.

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

ACTING PRESIDENT KUHL: Senator will continue to yield.

SENATOR PATERSON: Senator, we're not going back and forth, we're going back and back because what I'm trying to ask you, I'm not

getting an answer. I'm saying the tenant comes into court and says, "Your Honor, you take the money that I'm now mandated to pay in a rent deposit because there were two adjournments. I took that money and I paid to purchase oil to go in our boiler because my landlord didn't provide us with any oil. You are now asking me to take additional funds that I don't have and deposit them with the court because I did not pay my rent for that particular time period and I'm asking you what is the solution to that specific situation?" Nothing general; what is the solution to that specific case that is advocated by tenants in Housing Court all over the city and all over different parts of the state?

SENATOR LEIBELL: If it is the fact that should happen, the tenant would normally go into Housing Court anyway, in addition to which they would have that as a defense in this action.

SENATOR PATERSON: Mr. President, not what the bill says.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Not what the bill says.

The bill says after two adjournments, there has to be a deposit with the court, and so I'm saying if the tenant has gone into -- if the tenant has gone into court and there are now two adjournments under their legislation, in spite of the fact that you have these additional payments that the tenant is maintaining that were made, you have a situation where now the tenant is being forced to make deposits when later on it may be proved that it was quite correct on the part of the tenant to use the money in the way they did, but now they don't have the money, so now they have a delinquency problem with the court, not even with the landlord, and there's a presumption of lack of cooperation or disingenuousness by the tenant even though the actual legal case later on will substantiate what the tenant is maintaining, and you have absolutely no remedy for the tenant in this legislation, and I'm

asking you. I know the tenant went into court. That's how he wound up with the adjournment, so I'm asking you what is the tenant's remedy in that situation? It doesn't happen all the time but it happens enough of the time that we should have some remedy under the law for it.

SENATOR LEIBELL: This is an action that's brought by a landlord during a very narrow circumstance. The tenant would have their own ability to go into court. In this narrow circumstance where the landlord has commenced an action, the tenant would be able to use that and to explain to the court, and that would be a set-off.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: The legislation that you have, Senator, only really basically addresses two -- two circumstances where there is some redress for this particular situation. One is when government subsidy will pay the rent and the other is when the tenant is actually vacated.

What I'm saying to you is, in the circumstance that I am -- that I am suggesting to you, you are now saying, Well, the tenant could go into court, but I'm saying there is a remedy that the tenant used and the remedy was they didn't pay the rent. In other words, they didn't take a day to go into court. They already took a day to go buy the oil, and I'm saying they didn't go into court. They don't have to. They maintained that -- that this is a way to send a message to the landlord and if the landlord realizes he was it and subtracts the money that was paid for utility costs or whatever it was that was considered to be hazardous, that if that occurs, now, the tenant and the the landlord never even had to go to court.

But the landlord doesn't do that. The landlord takes the tenant to court for payment of back rent and maybe late charges, and all the while the tenant actually used that money for something else, and so now the landlord is in court with the tenant, the two

adjournments and bang! Now, the tenant has to make deposits of money that was already spent, and I'm -- and I'm saying, unless you're disputing this, that there's no remedy in this bill for that situation.

SENATOR LEIBELL: I am, Senator, because this is a fast proceeding. It is designed to be a quick remedy. It is designed to prevent something from going many months and getting out of hand. It's designed to be brought before a city court, city housing court judge, for a quick determination, so that in fact, unlike presently what we have is you can go many, many months and have no determination. Let the court make the decision whether or not, in fact, payments were just, whether as you're saying for utilities, let the court make a very prompt expeditious decision and reconcile the issue very quickly.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator Leibell. Thank you very much. You may

have found it repetitious, but you did respond to my questions.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: Senator Leibell is saying, let the court make the decision. Let the court come to the inevitable conclusion. Let the court be the fact finder, but he won't let the court do anything after the second adjournment. He mandates in this legislation that the tenant deposit the back rent, perhaps late charges that never should have been there, perhaps other fees that are speculative to the situation that the landlord just added on -- major -- who knows, major capital improvements that don't exist, and he only accepts those situations where there's fraud, where the landlord isn't who they say they are or circumstances where there's some sort of constructive eviction.

He does not recognize that we have a law that we passed in this Senate that

passed the Assembly and the Governor signed, enabling tenants to spend money for necessary remedial work that needed to be done in the apartment such as paying the utility bill when the utility cut off getting oil for the oil burner, and maybe if the court decides something that was life threatening that the tenant was left with no choice. If there is now a second adjournment because the landlord -- because the tenant could not get to court on two occasions when this becomes a matter that's being litigated in the appropriate Housing Court, because that is now occurring, we are passing a law that mandates that the tenant who's out of money, having paid this money to other sources, that that tenant now has to pay additionally all of the fees that the landlord requested to the court to be -- to basically be decided later on by a court decision.

There are a lot of people that don't have the money to wait for a later court decision, and I think it would have a chilling effect on those individuals who wanted to use

the law that we already passed and spend the money because unless they can assure themselves that they're going to be in court on time, with the exception of two penultimately, every time. Then we're going to have a situation where tenants are going to be put in jeopardy.

Now, Senator Leibell wishes to provide for fairness in this particular legislation and we understand his point that if enough rents are not paid that it starts to become an economic problem for the landlord to keep up the condition of the building in the first place, but if there is a true desire to establish fairness in this kind of proceeding, then I would suggest that the issue that I've raised is the -- is an issue that needs to be amended and put into this piece of legislation because we already have a law that tells the tenant that the tenant can do that.

Additionally, the strain on court personnel is apparently far more than we may have forecast when we first started considering this bill. Now that we have an administrative

judge in the Civil Court of New York City stating that he thinks we'd have to add 130 clerks just to deal with the deposits and all the issues that that would -- would involve herein, we have a situation where, what we need to do in -- in addition to Senator Leibell's other work on the issue, is to start to make sure that we have enough judges and enough support personnel to actually litigate these types of cases.

What is, in my opinion, sad about the whole circumstance, is the presumptions that we are making when these types of court cases usually involve individuals who are leaving their jobs, who can't get permission to leave, and are faced with a circumstance that they have invoked. What is their remedy as we provided in the past to hold back the rent when we feel that the landlord is being unfair? If that is something that is so anathema to the desires of lawmakers in this chamber, then maybe we need to change that law, but having not addressed that particular issue, what we are doing is stripping

the tenant, number one, of really the right to withhold rent as a remedy for inadequate service and then secondly, just totally diminishing and obfuscating the spirit of the law that was passed previously which allowed the tenant to make certain repairs and pass them along to the landlord by withholding the rent and then raising it in the appropriate court jurisdiction later on.

So I would urge that there not be passage on this legislation, because of that, but that is my suggestion as to how we could upgrade the legislation to make it truly fair and workable for all parties.

ACTING PRESIDENT KUHL: Senator Onorato.

SENATOR ONORATO: Mr. President, will the Senator yield to some questions?

ACTING PRESIDENT KUHL: Senator Leibell, do you yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ONORATO: Senator, I'm sure you're familiar with many of the rent strikes that have occurred in the city of New York and the newspapers have been full many, many times over with what we call slumlords who just take everything out of a building without putting anything back into it.

Now, we're discussing a multiple dwelling, but most of the incidents that you're referring to occur to maybe one-, two-, three family homes where there's much more access to get in and out of a building, but when a rent strike occurs because there are multiple violations that have been stated and they're officially on record and nothing is being done about it, and I had a bill similar to yours that really addressed this here, but when the rent strike occurred that they must put -- deposit the rent with the court in an interest-bearing account and that the court, until the dispute is resolved, would be able to use the funds to maintain the building until it was resolved.

Does your bill cover that

particular situation?

SENATOR LEIBELL: This bill covers it to this extent, that this is a summary proceeding and by its definition is meant to be expeditious. It's supposed to go very quickly and, as a result, the court should be able to make a determination immediately and then on the basis of that, apply the funds as necessary.

SENATOR ONORATO: Well, then Senator, with all due respect, knowing the city of New York and the court system the way it is that when they tell you expeditiously your idea of expeditiously may be two months. New York City's court system idea of expeditious may be 11 months or 12 months or 14 months, so again, we're in a very, very cloudy area here as to what constitutes expeditiously. A month or - everybody would consider that could be expeditious, but if you're talking about 12 or 13 months, that's not expeditious.

SENATOR LEIBELL: But I would say to you that probably it's -- this problem obviously is a controversial area. Anything in

housing is. You say that probably anybody would consider a month fair. There are probably some people who would consider 24 hours too long. O.K. It's a controversial area.

SENATOR ONORATO: Currently, and I believe the Housing Court is only about 16 to 18 months in backlog of cases pending on both sides of the aisle, those brought by the tenant and those by the landlord.

SENATOR LEIBELL: One of the reasons is adjournments, which this bill is aimed to address.

SENATOR ONORATO: Again, Senator, I think if you sort of amend the bill to address some of these problems, it may make it a little more palatable because everybody wants fairness. They don't want landlords not being paid their rent because we know there are - there is a scam out there with some tenants have learned the system so well that they move from one place to another without ever paying rent in a five-year period of time. There is no question about it.

But your bill does not address those particular scare models. I would like to broaden it to really cover these particular type of situations, and I think if you made some of these more amendments to it that you might get a little bit more support from all of us on it. I would really hope that you would consider such a move.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the bill? Hearing none, the Secretary will read the last section.

SENATOR PATERSON: Slow roll call.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Could we have a slow roll call, Mr. President?

ACTING PRESIDENT KUHL: Secretary will call the roll slowly.

Senator Libous.

SENATOR LIBOUS: Mr. President, I was just going to comment that the Rules Committee is still meeting, so if the Secretary could call the roll very slowly and if the bell could ring, we certainly want to give all the members who are outside the chamber right now who are working on Senate business an opportunity to come in. It's very important that they be here obviously because there is a slow roll call on this legislation.

So, Mr. President, if we could begin that in a moment or so, it would be very helpful.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

SENATOR STAFFORD: Mr. President.

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

SENATOR STAFFORD: Could I have my name called out of order, please.

ACTING PRESIDENT KUHL: Secretary will call Senator Stafford's name.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

ACTING PRESIDENT KUHL: Senator Stafford will be recorded in the affirmative. Continue to call the roll slowly.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

(Affirmative indication.)

THE SECRETARY: Senator Connor.

(Negative indication.)

Senator Cook.

(There was no response.)

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator

Dollinger.

(There was no response.)

Senator Espada.

(There was no response.)

Senator Farley.

(There was no response.)

Senator Gold.

(There was no response.)

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

SENATOR GOODMAN: No.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann.

(There was no response.)

Senator Holland.

(There was no response.)

Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Kruger.
(There was no response.)
Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lachman.
SENATOR LACHMAN: No.
THE SECRETARY: Senator Lack.
(There was no response.)
Senator Larkin.
(There was no response.)
Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

(There was no response.)

Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

(There was no response.)

Senator Markowitz.

SENATOR MARKOWITZ: Just to explain my vote.

Much as I respect the chairman of our committee, I must vote no.

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

Continue to call the roll slowly.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I want to explain my vote.

ACTING PRESIDENT KUHL: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: I vote on this bill with qualifications. I too have had cases, as explained by Senator Onorato, where landlords have contacted me and these are constituents who own their property, who most of the time live in their building and have had tenants who did not pay and the court case extends for over a year and the tenant eventually leaves without paying. It happens time and time again, but I think that we need to again, as Senator Onorato has stated, we need to have legislation that deals more specifically with that, does not, in fact, penalize tenants or keep them from being able to legitimately withhold their rent in a rent strike action, but at the same time protects the interest of landlords who really do try in all honesty to maintain their property, to do a good job in providing housing, but who have such experiences with tenants who don't pay that they are unable to do so.

So I'm voting no, Mr. President, but I hope to see a bill come back that does include some of the provisions raised by Senator Onorato.

Thank you.

ACTING PRESIDENT KUHL: Senator Montgomery will be recorded in the negative. Continue to call the roll slowly.

THE SECRETARY: Senator Nanula.

(There was no response.)

Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Explain my vote.

ACTING PRESIDENT KUHL: Senator Onorato to explain his vote.

SENATOR ONORATO: Mr. President, I -- again I'm in favor of the concept of the bill but again I don't believe it goes far enough in offering equal protection and again, I urge Senator Leibell to take a look at some of the things that I had in my bill which would

mandate where there was a prolonged decision that the courts have the ability to maintain the buildings when we're dealing with multiple dwellings and the services are in great demand. Until that time, I will be voting no.

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

Continue to call the roll.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: No.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

(There was no audible response.)

Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago

excused.

Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Sears.

SENATOR SEARS: Yes.

THE SECRETARY: Senator Seward.

(There was no response.)

Senator Skelos.

(There was no response.)

Senator Smith.

(Negative indication.)

THE SECRETARY: Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

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

Senator Stavisky excused.

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.
SENATOR VELELLA: No.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
(There was no audible response.)
THE SECRETARY: Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT KUHL: Secretary will call the absentees.
THE SECRETARY: Senator Babbush.
SENATOR BABBUSH: No.
THE SECRETARY: Senator Cook.
SENATOR COOK: Yes.
THE SECRETARY: Senator Dollinger.
SENATOR DOLLINGER: No.
THE SECRETARY: Senator Espada.
SENATOR ESPADA: No.
THE SECRETARY: Senator Gold.
SENATOR GOLD: No.
THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Hoffmann.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator -

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Are we -- usually we take the four putt and go on to the next hole.

ACTING PRESIDENT KUHL: I'm still reliving the four putt, Senator Gold.

SENATOR LEICHTER: Mr. President,

do we have any time limit short of infinity that this roll call can extend to?

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter, while you were on your way to the Rules Committee meeting, Senator Onorato in trying to make sure that your vote was appropriately recorded, raised the issue about committee meetings going on and Senator Paterson seconded the issue, and Senator Libous, who was sitting in the chair, indicated that they would would give all those people who are in the Rules Committee a chance to vote.

I think those committee meetings are closed and the members have returned to the chamber, so I think we're ready right now to continue the roll, just so that you know. I'll ask the Secretary to continue the roll call.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Nanula.

(There was no response.)

Senator Seward.

(There was no response.)

Senator Skelos.

(There was no response.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 31, nays 23.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, there will be an immediate conference of the Majority in Room 332, and I will repeat, immediate conference of the Majority in Room 332.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, there will be an immediate conference of the Minority in Room 315 where we will discuss the logarithmatic coefficient of the number of 31.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Senate

Majority in the Majority Conference Room, Room 332. Immediate meeting of the Senate Majority in the Majority Conference Room, Room 332.

There will also be an immediate meeting of the Minority in the Minority Conference Room, Room 315. Immediate meeting of the Minority in the Minority Conference Room, 315.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar 615.

ACTING PRESIDENT KUHL: Without objection, Senator Montgomery will be recorded in the negative on Calendar 615.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar 615.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 615.

Any other Senator wishing to register a vote? Hearing none, the Senate stands at ease.

(Whereupon at 12:21 p.m., the Senate stood at ease until 1:10 p.m.)

SENATOR VELELLA: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Velella.

SENATOR VELELLA: Would you recognize Senator Lack, please. He has some housekeeping measures.

ACTING PRESIDENT LIBOUS: Senator Lack.

SENATOR LACK: Thank you, Senator Velella. Thank you, Mr. President.

Would you please remove the star on Calendar Number 142.

ACTING PRESIDENT LIBOUS: Remove the star to Calendar -

SENATOR LACK: 142.

ACTING PRESIDENT LIBOUS: So moved.

SENATOR LACK: Thank you.

SENATOR VELELLA: Would you recognize Senator Saland, please.

ACTING PRESIDENT LIBOUS: Senator Saland.

SENATOR SALAND: Mr. President, I too would like to remove a sponsor's star from Calendar Number 479, Senate 6145-A.

ACTING PRESIDENT LIBOUS: The star is removed.

Senator Velella, we have some housekeeping.

SENATOR VELELLA: Yes. Any other housekeeping?

ACTING PRESIDENT LIBOUS: Senator Farley.

SENATOR FARLEY: Thank you, Senator Libous -- Mr. President, rather.

As soon as I get my glasses, I will be right with you. I see you're wearing them. On behalf of Senator Volker, I wish to call up his bill, Senate Print 587, which was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: By Senator Volker, Calendar Number 115, Senate Print 587, an act to amend the Penal Law.

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

ACTING PRESIDENT LIBOUS: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT LIBOUS: The amendments are received.

SENATOR FARLEY: On behalf of Senator Volker again, I wish to call up his bill, Print Number 2445, which was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 434, by Senator Volker, Senate Print 2445, an act to amend the Civil Practice Law and Rules.

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

ACTING PRESIDENT LIBOUS: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT LIBOUS: The amendments are received.

SENATOR FARLEY: On behalf of Senator Wright, Mr. President, I wish to call up Calendar Number 410, Assembly Print Number 9124-A.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 410, by Member of the Assembly Murtaugh,

Assembly Print 9124-A, an act to amend the Mental Hygiene Law.

SENATOR FARLEY: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Wright's bill, Senate Print 6300-A, on 6/3/96.

ACTING PRESIDENT LIBOUS: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

SENATOR FARLEY: I now move that Assembly Bill Number 9124-A be recommitted to the Committee on Rules and that Senator Wright's Senate bill be restored to the order of third reading.

ACTING PRESIDENT LIBOUS: Recommit the Assembly Bill and restore the Senate Bill to the third reading.

SENATOR FARLEY: And I offer the following amendments to that bill.

ACTING PRESIDENT LIBOUS: The following amendments are received.

SENATOR FARLEY: Mr. President, on behalf of Senator Levy, on page 4, I offer the following amendments to Calendar 108, Senate Print 4337.

ACTING PRESIDENT LIBOUS: The Secretary will read -- the amendments are received.

SENATOR FARLEY: Mr. President, I move that the following bill be discharged from its respective committee -- this is on behalf of Senator Bruno -- and be recommitted with instructions to strike the enacting clause, and that is Senate Print 5614.

ACTING PRESIDENT LIBOUS: The enacting clause is stricken.

Senator Velella.

SENATOR VELELLA: There will be an immediate meeting of the Higher Ed' Committee at Room 517-A.

ACTING PRESIDENT LIBOUS: An immediate meeting of the Higher Ed' Committee in Room 5...

SENATOR VELELLA: In the Capitol.

ACTING PRESIDENT LIBOUS: ...17-A in the Capitol.

SENATOR VELELLA: Mr. President, would you recognize Senator Saland who has a resolution that was previously passed and ask the desk to read it.

ACTING PRESIDENT LIBOUS: Senator Saland.

SENATOR SALAND: Mr. President, I believe there is at the desk a previously adopted privileged resolution.

ACTING PRESIDENT LIBOUS: There is at the desk. The title will be read.

SENATOR SALAND: Thank you, Mr. President.

THE SECRETARY: By Senator Saland, Legislative Resolution honoring Jules Kerness upon the occasion of his designation as recipient of the 1996 Howard A. Levine Award for Excellence in Juvenile Justice and Child Welfare by the New York State Bar Association Committee on Children and the Law.

ACTING PRESIDENT LIBOUS: Senator

Saland.

SENATOR SALAND: Mr. President, on the resolution.

I take great pleasure in bringing this resolution before us because, not only does it recognize a long and continued commitment of one member of my staff and before that, the staff of other Senators, but the gentleman, Jules Kerness, who was recognized for this award is a gentleman who has served this house admirably for more than 30 years and has been instrumental in each and every children and families measure that has ever been considered by this house.

For me, our relationship has been all too brief. He has been an extraordinary resource, a superb talent and a person who I have turned to time and again when looking for not merely the history of what has gone on in this house dealing with those types of issues but certainly the substance.

This is not only a pleasurable moment but a bittersweet moment because Jules is

leaving this house at the conclusion of our regular session and will be, in fact, leaving the area and enjoying a well earned and well deserved retirement.

He will be sorely missed. His contributions have been absolutely enormous. I'm not quite sure if I could reasonably expect to enjoy the kinds of confidence, the kinds of relationship that I have enjoyed with him in the immediate future with any other individual simply because of that not only superb talent but wealth of history.

His loss will be deeply felt and yet I'm pleased that he was able to, in effect, pick his time and not merely pick his time but do it in a fashion which suited him and this body as best as could reasonably be expected.

He's seated here in the chamber with us today, and I would hope that we would recognize him not merely for being honored by receipt of this extraordinary award, the best that the Bar Association has to offer, but even beyond that for his absolutely extraordinary

dedicated service to not merely the Senate Majority but to this house and to the people of the state of New York.

My colleagues, I would ask that you please recognize Jules for his continued superb commitment. I'm at a loss of words to share with you just how much I have benefited as chairman of Children and Families from his service and his expertise.

As I said earlier, he'll be sorely missed, but his honors are well deserved.

ACTING PRESIDENT LIBOUS: Senator Cook.

SENATOR COOK: Mr. President, Jules has never been a member of my staff but I can tell you I have benefited through the years from his talents and abilities almost as though he were a staff member. It seems as though almost from the point that I came to Albany, I have known Jules, and in a number of connections of things that we've tried to do through the Commission on Rural Resources, through the Education Committee, he has been one of those

people that when you go to Jules with an idea and you say, "This is the problem and we think maybe this is the way we ought to deal with it", he would just kind of burst forth with a full solution or a full answer or sometimes saying, you know, "You got rocks in your head. That idea doesn't work", but really, he is a resource that is just invaluable and we're going to miss him tremendously, but as Senator Saland said, we certainly can't wish that he would hang around and abbreviate further his retirement, and we certainly wish him well in everything that he does.

ACTING PRESIDENT LIBOUS: The resolution was passed previously -- Senator Farley.

SENATOR FARLEY: Thank you.

I just rise to congratulate Jules and to say, incidentally, Howard Levine, for whom this award is named, is from Niskayuna, my hometown. We ran several in elections together when he was district attorney, a great Family Court judge and on the Court of Appeals right

now, and certainly this award is a very, very high honor and Jules is very well deserving and, again, it's a sign that the members of the Senate family that have -- are recognized as being outstanding contributors to this state. So often staff around here are truly not appreciated by the general public. They work in a job that is not protected by Civil Service. They work in a job of long hours and generally speaking underpaid and I don't think fully appreciated, but they're certainly appreciated by their principals and, Jules, we're grateful for all that you've done not only for the Senate but for the people of the state of New York. We wish you well.

ACTING PRESIDENT LIBOUS: Anybody else wishing to speak on the resolution?

(There was no response.)

The resolution was previously adopted. Jules, on behalf of Senator Bruno and all of our colleagues, we want to wish you the very best and we say congratulations to you for a very well established career and particularly

to your commitment to the Committee on Children and Families.

Thank you for your years of service.

(Applause)

ACTING PRESIDENT LIBOUS: Senator Velella.

SENATOR VELELLA: Mr. President, can we return to the reports of standing committees. I believe there's a Rules Committee report at the desk, if you'll have it read.

ACTING PRESIDENT LIBOUS: The Secretary will read the Rules Committee report.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 738, by Senator Maltese, an act to amend the New York City Civil Court act;

3088-A, by Senator Lack, an act to amend the Labor Law, in relation to direct sellers;

4142, by Senator Kruger, an act

to allow Jack Walfish, a retired member of the New York State Teachers Retirement System;

5386-A, by Senator Goodman, an act to amend the Real Property Tax Law;

5747-A, by Senator Hoblock, an act to amend the Education Law, in relation to property of the State Museum;

6096, by Senator LaValle, an act to amend the Social Services Law and the Mental Hygiene Law;

6249-A, by Senator Skelos, an act to amend the Public Service Law, in relation to the tariff filings;

6578, by Senator Nanula, an act in relation to allowing certain persons;

6615-A, by Senator Hannon, an act to amend Chapter 535 of the Laws of 1983;

6729-A, by Senator Stafford, an act to amend Chapter 266 of the Laws of 1981;

7254-A, by Senator Trunzo, an act to amend the Retirement and Social Security Law, in relation to authorizing credit;

7297-A, by Senator Lack, an act

to amend the Real Property Tax Law, in relation to duties;

7455, by Senator Hannon, an act to amend the Facilities Development Corporation Act;

7556, by Senator Present, an act to amend the State Administrative Procedure Act;

7561, by Senator Rath, an act to amend the Real Property Tax Law and the Agriculture and Markets Law;

7562, by Senator Rath, an act to amend the Real Property Tax Law, in relation to the definition of special franchise property;

7563-A, by Senator Nozzolio, an act to amend the General Municipal Law, in relation to planning;

7580, by Senator Hannon, an act to amend the Emergency Tenant Protection Act of 1974;

7589, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to the maximum length of buses;

7591-A, by Senator Kuhl, an act

in relation to authorizing the city of Canandaigua, county of Ontario;

7679, by Senator Farley, an act authorizing the city of Schenectady to discontinue;

And 7696, by Senator DeFrancisco, an act authorizing a transfer into retirement plans.

All bills ordered directly for third reading.

ACTING PRESIDENT LIBOUS: Senator Velella.

SENATOR VELELLA: Mr. President, can we go to the controversial calendar, the regular order.

ACTING PRESIDENT LIBOUS: Senator, would you move to accept the Rules report.

SENATOR VELELLA: Oh, I'm sorry. Move to accept the Rules report.

ACTING PRESIDENT LIBOUS: All in favor of accepting the Rules Committee report signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The report is accepted.

Senator Velella.

SENATOR VELELLA: Now can we go to the regular order of the controversial calendar.

ACTING PRESIDENT LIBOUS: Regular order. The Secretary will read.

THE SECRETARY: Calendar Number 1002, by Senator Marcellino, Senate Print 5776-C, an act to amend the Executive Law, in relation to emergency.

SENATOR VELELLA: Senator Marcellino is at a committee meeting right now. Could we lay that aside temporarily.

ACTING PRESIDENT LIBOUS: We'll lay that bill aside temporarily.

THE SECRETARY: Calendar Number 1079, by Senator LaValle, Senate Print 6572, an act authorizing the commissioner of General Services.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator Johnson, Senate Print 575, an act to amend the Penal Law, in relation to the administrative provisions.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: I'm sorry.

SENATOR VELELLA: Could we lay that aside for the day.

ACTING PRESIDENT LIBOUS: We'll

lay that aside for the day.

THE SECRETARY: Calendar Number 1173, by Senator Saland, Senate Print 4060, an act to amend the Correction Law, the Criminal Procedure Law, the Penal Law and the Executive Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT LIBOUS: Senator Saland, Senator Paterson is asking for an explanation.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this bill endeavors to create a -- a notification mechanism where an individual who is a -- either a persistent or repeat violent felon has been released into a community. It's a response to a -- to an extraordinary tragedy that occurred in my district, oh, about a year and a half or so ago when an individual who is a multiple felon had been released into this particular community, the town of Red Hook, and nobody was aware of the individual's background and

subsequently, this individual, in fact, murdered the son of a local law enforcement official, in fact, a state trooper.

It indicated the glaring weaknesses in the notification system, and this bill endeavors to try and remedy that grievous wrong -- not the grievous wrong of the fatality of this young man who was killed, but the grievous wrong to that community or communities throughout New York by basically failing to properly notify those communities when such repeat and violent felons and persistent felons had been released into their midst.

ACTING PRESIDENT DiCARLO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If the Senator would yield for a -

ACTING PRESIDENT LIBOUS: Senator Saland, do you yield to Senator Paterson?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT LIBOUS: The Senator yields.

SENATOR PATERSON: Senator, it is very difficult to vote against this legislation based on the tragedy that you have just described and certainly you've set forth the criteria that had notification been allowed, there would not have been this terrible circumstance that occurred in the town of Red Hook.

What I'm asking is are we legislating the exception? Are we legislating what is really something anathema to the normal situation where what we're going to have is a stigma placed against those who have served their time and are now released back into the community?

SENATOR SALAND: Well, Senator, I don't believe we've painted with too broad of a brush. What we've endeavored to do with this legislation is to basically deal with a limited portion of the criminal justice spectrum, namely persistent violence, persistent and repeat

violent offenders.

I believe that there is an obligation imposed upon us to endeavor to provide notification. We've obviously failed to do that, I believe by way of -- by way of their prior records, not merely isolated incidents of violence but repeat incidents of violence. They require perhaps a greater degree of what I will term for lack of any other term, observation, community awareness than would be somebody who might be merely a one-time felon or a non-violent felon returning to a community.

ACTING PRESIDENT LIBOUS: Senator Paterson.

SENATOR PATERSON: Thank you, Senator.

I was thinking scrutiny, that kind of thing. If the Senator would continue to yield.

SENATOR SALAND: Yes, Mr. President.

SENATOR PATERSON: Senator, what is the threshold that would create the

circumstance where somebody would become a persistent violent offender under the legislation?

SENATOR SALAND: Well, the legislation provides for -- and I'm looking for the section -- it's on the first page of the bill, 149 (b), subsection (a) talks about second violent felony offender, persistent violent felony offender, which would be 3 and 2, persistent felony offender, and those would be three or more felons or felonies committed in terms of persistent and vi... the persistent violent would be three or more persistent - three or more violent felonies.

SENATOR PATERSON: Senator, would you yield for another question?

SENATOR SALAND: Yes, Mr. President.

SENATOR PATERSON: There are some instances of second felonies in the legislation, am I correct?

SENATOR SALAND: I'm sorry?

SENATOR PATERSON: There are

instances of second felony convictions as the criteria for this.

SENATOR SALAND: Second violent felony.

SENATOR PATERSON: Second violent felony.

SENATOR SALAND: Correct.

SENATOR PATERSON: Okay. Thank you very much, Senator Saland.

SENATOR SALAND: Thank you.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT DiCARLO: Senator Paterson, on the bill.

SENATOR PATERSON: As I said before, certainly if a person is convicted of an offense and if they're convicted and become a predicate felon to a certain degree, as Senator Saland points out, they have really, by the commission of the crime, relinquished a number of their rights, and it would probably be in the best interests of society and of public safety to have notification as to the whereabouts of

these individuals.

I'm just a little concerned about the scarlet letter. I'm just a little bit concerned about the recidivism that might be caused by a society that turns its back and stigmatizes individuals. We restricted the employment of people in certain areas based on prior criminal record. Now we are holding them out as outcasts of society.

I don't think I object to this piece of legislation. What I think I object to is the conglomerate effect of a number of bills when looked at in aggregate, I think really are sending a bad message about rehabilitation, because no matter how long we incarcerate people and no matter how many people we tell that they're out and where they are, if we really are going to try to protect society from individuals, we're going to have to find some better methods than we're using now.

But as for the thrust of the legislation, the situations where there is a tragedy and a fatality and there's some kind of

indication that a different conduct may have changed the circumstances certainly justifies the presence of this piece of legislation. I just think that in terms of some of the actual counts that it goes too far.

ACTING PRESIDENT DiCARLO: Senator Montgomery.

SENATOR MONTGOMERY: Thank you.

Senator Saland, could I -- would you -- Mr. President, would Senator Saland yield to -

ACTING PRESIDENT DiCARLO: Senator Saland, would you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT DiCARLO: The Senator yields.

SENATOR MONTGOMERY: Thank you.

Senator Saland, the second offender -- the second felony offender, do you have -- do you have an idea of the number of people in this category and the number specifically related to drug crime?

SENATOR SALAND: I'm sorry?

SENATOR MONTGOMERY: To drug crime in the second felony offender category?

SENATOR SALAND: The -- the category is not second felony offender. It's second violent felony offender, and by definition -- although I don't have the Penal Law here with me -- I believe that the vast majority of the drug-related crimes are not definitionally considered to be, quote-unquote, "violent crimes". The violent crimes are enumerated. Unfortunately, I just don't have my Penal Law with me.

SENATOR MONTGOMERY: All right. If you would continue to yield, Senator Saland.

Where do these people in this particular category generally return to? Do they -- are they distributed fairly equally throughout the state when they're released from prison? Do they go to one area of the state more likely based on where they came from than other parts, or do they go -- are they more likely to be in your district or in any other

person's district?

SENATOR SALAND: I'm not sure if there is any hard data that I could give you. There is, I don't believe any rule of thumb that says where that person -- to where that person will return, whether it will be to the community from which he or she originally resided or where he or she may have last resided when the act or acts that resulted in their conviction occurred or were performed, but that's not to say that they can't wind up in another community, and in the case which I gave in a rather abbreviated fashion in response to Senator Paterson, the individual who committed the murder in this community which I represent was not from the community and, in fact, had no contact with the community prior to his being released or -- and then moving into the community.

SENATOR MONTGOMERY: Okay. Senator Saland, if you would continue to yield to one other question. I didn't see -

ACTING PRESIDENT DiCARLO: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT DiCARLO: The Senator yields.

Senator Montgomery.

SENATOR MONTGOMERY: I didn't see in here any reference to those prisoners who are paroled. Does this also cover them as well, anyone who is released on parole prior to -

SENATOR SALAND: This, I believe deals with release or escape. I don't believe we've dealt with parole within -- within the context of this bill.

SENATOR MONTGOMERY: Just one last question. I don't -- I asked it before, I think, but I don't think you answered it. Do you know what number of people -

SENATOR SALAND: Let me stand corrected. I'm terribly sorry. I'm looking down at Section 149 (b) on page -- in the first page and it says, "Release shall include but shall not be limited to parole, work release, conditional discharge, benevolent leave,

compassionate leave." So I apologize.

SENATOR MONTGOMERY: So under any circumstance.

SENATOR SALAND: Excuse me?

SENATOR MONTGOMERY: Under any circumstance -

SENATOR SALAND: Correct.

SENATOR MONTGOMERY: -- the reporting is required. Do we know how many people on an annual basis, based on perhaps the last ten years, how many people have been released in this category?

SENATOR SALAND: I'm sure -- I'm sure that is a readily discernible number. Unfortunately, I don't have it. Our population currently runs somewhere in the area of about 70,000, I would imagine in our facilities and a certain number are either released or paroled or -- or are provided leave in one form or another. I would guess that we're probably talking several thousand, somewhere in that area during the course of the year. How many of them would fit into this particular category or

categories, plural, I couldn't give you, although as I said, it probably would be readily discernible.

SENATOR MONTGOMERY: Thank you. On the bill, Mr. President.

I understand what the frustration of what Senator Saland must be to an incident which occurred in his district and needless to say, all of us have had such experiences I'm sure, or at least most of us, but I just want to point out that one of the missions of our penal system ostensibly is rehabilitation and certainly I would hope that that occurs at least in some of the instances.

We've had more success based on the fact that we've had fairly extensive programs which attempted to address the whole issue of recidivism through rehabilitative measures, and in the last couple of years we've lost some of that because of the direction that our budget has taken and of the decisions to cut in some of the areas that, in fact, would help reduce recidivism.

Be that as it may, we do have a number of programs that still exist and certainly one of them is in my own district. There's a very excellent one that's right here in Albany County. I would hope that there are others that we could point to where inmates who are released, many of them on parole -- based on the law that exists now when they're eligible, many of them who serve their time, in fact, come out. Some of them participate while they are in prison in some programs and others of them come out of prison and participate in programs on the outside which help them to -- to reintegrate into society and become, in fact, as the example in my own district, extremely important contributors to the communities that they come back to in the form of working with young people to -- in terms of prevention, working with juveniles to help steer young people from the area of crime because they know what the consequences are better than anyone else. They make tremendous contributions to their communities, and I can point to them personally,

and I would certainly not want to see those people come back to the community and become targets of hostility and anger and fear that is many, many times totally unfounded based on the simple fact that they've been incarcerated, even though they may have been already or be in the process of being rehabilitated.

These are human beings and we would hope we could salvage them. Some of them perhaps went astray early in their lives and have turned around and can do positive things and be positive contributors.

So I think this is a very -- it's the very wrong thing to do simply because it does not address the problem of a few people who -- who come out and for whom there is no -- no change in their behavior, but everybody has to suffer based on this legislation equally to those few, and that is very unfortunate. I think it throws away the possibility of a lot of people being able to redeem their lives.

Certainly, Mr. President, I would ask my colleagues to vote against this

legislation because it permanently prejudices society against people who have already paid most of the time and often have been, in addition, rehabilitated individuals.

I think it's a very bad bill, Senator Saland, and I know that you -- while you certainly want to protect your constituents, I also am concerned about the safety of my constituents, but I can tell you that some of my constituents are these very people, and they have become contributing people in my district to other constituents, and I don't think that I would like to see them tarnished in this way and left without the capacity to reintegrate and be rehabilitated fully.

So I'm going to vote no against this legislation, Mr. President.

ACTING PRESIDENT DiCARLO: Senator Abate.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT DiCARLO: Senator Marcellino, why do you rise?

SENATOR MARCELLINO: Mr. President, there is a meeting of the Small Business Task Force right now, 2:00 p.m., in 123 of the Capitol, Room 123 of this building.

ACTING PRESIDENT DiCARLO: There will be an immediate meeting of the Small Business Task Force in Room 123 of the Capitol.

Senator Abate.

SENATOR ABATE: Yes. Mr. President, would Senator Saland yield to a question?

ACTING PRESIDENT DiCARLO: Senator Saland, would you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT DiCARLO: Senator Saland yields.

SENATOR ABATE: Senator, I have not made up my mind yet on this legislation, so I really ask these questions in -- with an open mind seeking good answers, but I'm concerned. As you know, Megan's Law was passed last year and it's now involved in the courts. There have

been some constitutional issues -

SENATOR SALAND: May I ask you just to yield for one second. Could I just -- a little bit of noise in this general area is making it hard for me to hear Senator Abate.

ACTING PRESIDENT DiCARLO: Senator Saland, you're correct. If we could please take our conversations out of the chamber and please listen to the debate. My apologies. Thank you.

Senator Abate.

SENATOR ABATE: Yes. Megan's Law, as we're all aware, passed and it's now involved in the courts. There's some constitutional issues raised. One was around retroactivity. The other was around some due process issues. I apologize. I have not had the opportunity to study the bill, but have you addressed the issues that are now being constitutionally raised in that court case?

SENATOR SALAND: I have not read the decision, only the media accounts, and I understood -- my understanding of the media

accounts was that the federal court decision in Megan's Law was based primarily on the retroactivity application. The quotes I saw attributable to the judge basically said that he didn't have any problems with its prospective application but the retroactive application preceding the either January 21st or January 29th -- January 19th effective date, whichever it was, he felt was unconstitutional. We have not endeavored to create any retroactive application. This is purely prospective.

SENATOR ABATE: My other concern is how broadly it's crafted. I absolutely agree with you around persistent violent offenders. My concern is around the second time violent offenders.

Let me give you a situation. Someone is involved in drug activity. Within ten years, they're involved with two burglaries. No injury occurs in each of these. They are home burglaries. That qualifies as a violent felon. The person has been involved in drugs. They do their second prison time.

They're off drugs. I'm not making -- I'm not condoning the actions, but is that the kind of crime we want to alarm the community around this particular individual that never, ever physically injured an individual. They've been a nuisance, don't condone their activity, but when you craft the law as broadly as you've done, you now envelop some of these other people that are really involved in drug-related activity, never seriously assaulted people, not sexual offenders, et cetera. Is it just too broadly crafted? That's one of my concerns.

SENATOR SALAND: Two things. Number one, let me just go back to my response to your prior question and let me just, for purposes of your comments about Megan's Law, tell you and again qualify by saying I haven't read the decision.

I was troubled by that particular decision to the extent that that decision seemed to be dealing with what was a notification statute, not intending to be a punitive or additional punishment statute as the judge seen

-- not seen -- as the judge indicated in his opinion that he believed it to be, and tying that back into this, this is not an additional punishment statute but a notification statute. If you're saying that the burglary -- a burglary in which there is no injury should not be treated as a -- as a violent -- and for some - under some circumstances, certainly certain burglaries, if not all -- and again, I apologize as I did earlier to, I believe it was Senator Montgomery. I don't have my Penal Law here, but I believe certainly some, if not all burglaries -

SENATOR ABATE: Partial burglaries are not considered violent.

SENATOR SALAND: And I -- if someone has been a repeat violent offender and we have defined for purposes of statute what constitutes violent felonies, there was a decision that was made within the wisdom of this house, the other house and the Governor that that -- these particular acts were, quote unquote, "violent", and unless we're going to

decide that those are not violent or any longer should be considered violent, I see no reason why there should be an exception carved out for purposes of the notification required under the statute.

SENATOR ABATE: But if, in fact, the goal is to safeguard the community against people that are really going to create the greatest danger to that community -- and those are people that are going to either commit sexual offenses or physically harm individuals, whether that's murder or serious assaults or guns or whatever -- that -- that intent is not covered by this. We could do that explicitly by outlying certain people who are convicted by the following offenses. That could be done and also go on to deal with persistent violent offenders.

So there is a possibility of crafting this bill more narrowly but also taking care of the situation that you faced in your community.

SENATOR SALAND: You're

suggesting then that the list of violent felonies be refined -

SENATOR ABATE: Yes.

SENATOR SALAND: -- in some fashion as to determine which are more violent.

SENATOR ABATE: Yes.

SENATOR SALAND: And those are the ones you would be more comfortable with being provided as, in effect, the touchstones for the notice required here.

SENATOR ABATE: And I hope that if this is a one-house bill this year, that you would take that under advisement to narrow the application because I think, in fact, that's what you're intending in any event. I may be wrong.

There's another -- would -- Mr. President, would Senator Saland continue to yield?

ACTING PRESIDENT DiCARLO: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT DiCARLO: The Senator yields.

SENATOR ABATE: There's another concern. I have always been an advocate for registry within law enforcement and that if someone leaves the jurisdiction or changes their address, there should be a penalty if they don't notify law enforcement about their relocation. I don't know under this bill what it means for community notification, and if a community gets notified, who else gets notified in the general public? Could you explain that to me.

SENATOR SALAND: Well, currently the law provides in certain instances for notice to the county sheriff or the chief law enforcement officer of -

SENATOR ABATE: Which I absolutely support. It's the law, and I support that.

SENATOR SALAND: What is lacking, however, is notice specifically to communities, to -- and in this bill proposes that the chief executive officer of a community would be

noticed. So that in some of the smaller towns such as those that I represent, the town supervisor would be advised of the release into a community of someone who is either a persistent or persistent violent or repeat violent felon, and that in no way, shape or form compromises the existing law with regard to notice to the -- to a county sheriff, and I'm assuming, although I don't know this to be the case, it would probably be the police commissioner of the city of New York.

SENATOR ABATE: And, Senator Saland, what do you envision the town supervisor would do upon receiving this information?

SENATOR SALAND: Well, this bill provides for that supervisor to provide notice by way of general notice to the community either by publication or posting, that this individual who, again, is either a repeat violent -- a persistent violent or persistent has been released into the community.

SENATOR ABATE: Would there -- so would there be an obligation placed upon that

town supervisor regardless of whether it was that young person who committed the burglary and no injury occurred compared to someone who has committed two rapes; the same posting would occur regardless of two case histories and two individual sets of crimes, two individual backgrounds, mitigating versus aggravating circumstances?

SENATOR SALAND: If the offender was one who had committed either two or three or more violent felonies to fit either the repeat violent or the persistent violent or three or more felonies, again by definition under existing language of the Penal Law, which we do not tamper with one iota, the obligation would be on the supervisor to respond by providing notice.

SENATOR ABATE: So in that situation, there would be no discretion given to the chief of police or the town supervisor to determine whether community notification, in fact, was necessary.

SENATOR SALAND: Correct. Again,

it would be driven by the category which we have defined here.

SENATOR ABATE: Right. And the category as you've defined in statute puts that persistent violent offender in the same category as the second-time violent offender. They're treated similarly in terms of the obligation placed on the town supervisor to notify the community.

The -- my last question is are there any guidelines set? What are we going to tell -- I understand what -- the intent, but does that mean the town supervisor posts the notification on people's doors, or is it on radio stations, or is it in newspapers? Are we leaving it up to town supervisors to implement this bill in any way they see fit because I don't know -- again, I apologize. I haven't studied the bill.

SENATOR SALAND: There is a provision for posting, a provision for release to the media and there is descriptive information regarding the offender that is

required to be included in the notice, and that is provided on page 2 of the bill, beginning in line 44 and enumerates several categories that will constitute compliance with notice.

SENATOR ABATE: On the bill.

ACTING PRESIDENT DiCARLO: Senator Abate, on the bill.

SENATOR ABATE: I was sincere because I thought I would vote for this bill.

I find that after asking these questions, although I agree with the concept around persistent violent offenders, people that are predators that are being released, there's in many instances a need for community notification. I hope to be able to support this bill the next time it appears before this house.

I believe it can become a much better bill, that we could narrow the kinds of offenders who, in fact, are predators and that we have to ensure community notification. I think there needs to be some guidelines available to the town supervisor, what it means for community notification. We don't want to

create in every different town another system, create alarm. There's some discretion that needs to be given to law enforcement to determine whether posting should be done in a particular case. I am hoping that this bill will be amended to reflect some of the issues I've raised, and I do look forward in the future to be able to support it.

At this point, I believe it's too broadly crafted, too indefinite in terms of what its implication is. Again, I agree with the concept. The devil is in the details, and I think we don't have enough details, I believe to, in fact, satisfy the intent of the sponsor.

ACTING PRESIDENT DiCARLO: Read the last section.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT DiCARLO: Senator Leichter.

SENATOR LEICHTER: Yeah. Mr. President, I have a great deal of problems with this bill, not just on the details but really with the concept and principles of this bill.

When Megan's Law was proposed to this body -- and I was the only one who voted against it, and I may point out that some of the reasons that I gave for voting against it have since been sustained by the courts, and I suspect that this bill similarly would have - and has some constitutional infirmities, but at least in Megan's Law, Senator Saland, there was a superficial and maybe a significant justification in that -- the high rate of recidivism for people who had been guilty of sexual offenses, but there's absolutely no showing of proof in regard to the people covered by your notification bill that they pose a similar risk to the -- to society or the community.

However, even if they did -- and that was one of the reasons that I could not support Megan's Law -- is that I don't believe that this sort of notification, one, provides any protection for the community and secondly, that unquestionably, it is a continued punishment, if you will, of the person who has

been convicted of a crime. He's paid his punishment. These are, as your bill indicates, people who are -- have committed serious crimes. Certainly it's appropriate to let the police know. It's appropriate if they're on parole or to have some sort of supervision, but to spread that information throughout the community makes it impossible for these people to live in any community and it stigmatizes them. In a sense, it makes impossible the very thing that I would think you would want, that certainly I want, which is that hopefully these people can be incorporated back into society as contributing persons and that they will no longer be a threat to society.

I think your bill really has the effect of putting these people beyond the pale of society which makes it much more likely that they're going to be a threat, that they may commit other crimes, commit anti-social behavior.

So I don't think that we do anything by this bill to protect society. I

think that what we do is further vent our frustration, our anger, if you will, at people who commit crimes. If you think certain criminals are not spending -- because they are a threat to society and for a reason of protection they need longer prison sentences -- and I know you've put forth many bills like that -- maybe that is a way to go. I may disagree with you in a number of instances, but I can at least understand the rationale, but here I think the rationale is seriously flawed.

I think we're going down a very treacherous path with this sort of legislation.

ACTING PRESIDENT DiCARLO: Read the last section.

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

ACTING PRESIDENT DiCARLO: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Mr. President.

ACTING PRESIDENT DiCARLO:

Senator Gold.

SENATOR GOLD: Yes. I'll be very, very brief.

ACTING PRESIDENT DiCARLO: Senator Gold to explain his vote.

SENATOR GOLD: And with great respect for Senator Saland who I think so highly of -- I think he's one of the few people who may even be able to give us some air in this chamber today, but I think that -- no, the hot air you're providing -- don't start.

Mr. President, I understand where Senator Saland is coming from and where he wants to go. I think Senator Abate hit it right on the head that it's an area where getting too broad could be very, very dangerous and while I could support perhaps legislation in this field if it was crafted a little tighter, with my deepest regrets to my dear friend, I vote in the negative.

ACTING PRESIDENT DiCARLO: Results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 1173 are Senators Abate, Gold, Leichter, Marchi, Mendez, Montgomery, Paterson, Seabrook, Smith and Waldon. Ayes 47, nays 10.

ACTING PRESIDENT DiCARLO: The bill is passed.

THE SECRETARY: Calendar Number 1228, by Senator Stafford, Senate Print -

SENATOR MARCELLINO: One second.

ACTING PRESIDENT DiCARLO: Senator Marcellino, why do you rise?

SENATOR MARCELLINO: Mr. Chairman, can we go back to Calendar 1002.

ACTING PRESIDENT DiCARLO: Take up Calendar Number 1002.

The Secretary will read.

THE SECRETARY: Calendar Number 1002, by Senator Marcellino, Senate Print 5776-C, an act to amend the Executive Law, in relation to emergency medical services.

ACTING PRESIDENT DiCARLO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 90th day.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT DiCARLO: An explanation has been asked for by Senator Leichter.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. This bill furnishes the -- this bill seeks to promote the safety and the welfare of those with special needs by creating a voluntary registry of disabled persons. The furnishing of assistance during an emergency evacuation to those individuals with special needs is a matter of vital concern to us all. Such a registry would allow county executives in the state to identify in case of an emergency evacuation those individuals in need of assistance and the type of assistance they would need so that they might facilitate the development of an operational response plan in the case of an emergency situation such as a major storm, a bomb situation and the like. The provision of safe and effective evacuation in these

situations with those of special needs to all of us is, as I said earlier, a vital necessity.

This plan is voluntary. It is not a mandate on local government. It doesn't require local governments to accept this thing. We urge they do so and signing on to this particular registry is voluntary as well. We do not require people to sign on. It is a voluntary thing all the way around.

ACTING PRESIDENT DiCARLO: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Marcellino would yield for a question.

ACTING PRESIDENT DiCARLO: Senator Marcellino, would you yield?

SENATOR MARCELLINO: Be my pleasure.

ACTING PRESIDENT DiCARLO: The Senator yields.

SENATOR PATERSON: In previous prints of the bill, Senator, there was some advocacy groups that were opposed to the

legislation dealing for feeling -- feeling that it might create somewhat of a stigma, and the disability advocacy groups that I've checked with do not seem to have a problem with this legislation and so, you know, there really isn't a major problem with it. However, whenever you're keeping a registry, I just think that it is something that we have to be mindful of that registries in the past have been very dangerous and particularly registries of the disabled.

Now, I happen to be legally blind. That is the legal, or at least the specific classification of visual disability that I suffer from, but we do not have a legal definition for ambulatory ability. We don't have a legal definition of hearing impaired ness. The reason is because there was a belief that in English society that people who were blind were victims of social diseases and, therefore, they registered them all.

Now, that's certainly not the intent of this legislation, but I'm just saying historically speaking, there is certainly some

data in which the registry is somewhat misused at different times and while we still have significant discrimination of people who have physical challenges and disabilities, it's just something I think we need to be mindful of.

I'm glad to see that the -- that the legislation is voluntary on the part of the counties that would -- that would undertake it, but I think it's just something that needs to be just understood even by those who choose to, because even though the intent is to provide assistance and public safety during -- during any kind of an emergency, I hope that it will just be restricted to emergencies.

In other words, your bill is fine, but I'm hoping that it will not be the catalyst for any other attempts to -- just for the purpose of government scrutiny, to register or keep lists or keep any kind of records of individuals except where we're keeping records of the entire society.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, through you. Senator Paterson, I just wanted to point out that we concur that this list should not be used for general use. It is to be kept confidential information in it. We're not looking to promote the fact to people in the community who might try to do harm or to do injury or take advantage of people with disabilities information where they can be found easily.

We're concerned -- and the reason and genesis of the bill was that it came out of the storm people where we've had major hurricanes and major storms on the east coast and people with disabilities have been found after the fact and they were isolated and no one knew they were there.

So we're trying to develop a system, as I said before, a voluntary one, which is why we've gone through "C" prints -- from an "A" to a "C" print to try to address many of

the concerns of groups and as many as we could we have addressed in the time we had. We concur that it should be voluntary. It should not be misused. We're not looking to make this as a first step, although you have eliminated five more bills in my portfolio.

ACTING PRESIDENT LIBOUS: Read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, would the sponsor yield to a question?

ACTING PRESIDENT LIBOUS: Senator, do you yield to Senator Dollinger?

SENATOR MARCELLINO: Sure.

ACTING PRESIDENT LIBOUS: Yes, the Senator yields.

SENATOR DOLLINGER: Thank you, Mr. President.

As I understand it, this bill gives the power to create this registry to the county executive alone. Why wouldn't the county legislature be a part of the decision to make

this registry available?

SENATOR MARCELLINO: Generally, the administrative function would be referred to the administrator or the chief executive officer of a particular county. To maintain a registry, he would be involved or she would be involved in the maintenance and the development of a disaster preparedness plan. This information would be used to make that plan more effective, and generally the responsibility to develop these plans is on the executive branch, not the legislative branch even at a county level.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Marcellino would yield.

ACTING PRESIDENT LIBOUS: Senator Dollinger, Senator Marcellino, would you yield to another question?

SENATOR MARCELLINO: Certainly I would.

SENATOR DOLLINGER: Senator, this bill also has an administrative cost attached to it, that is, there is some cost to prepare these

plans, to maintain the registry, and I'll agree, Senator, it may not be significant, but since it's going to involve the spending of local tax dollars to fund -- there's no state appropria tion to do this -- shouldn't the county legislature which has authority over the budget be a part of -- be a partner with the county executive in making these decisions?

SENATOR MARCELLINO: To my knowledge, Senator, most -- through you, Mr. President -- that most counties prepare these - these evacuation plans now. The plans are in operation and are in existence. We're just suggesting that they add a voluntary list. We're not telling them to go door to door and knock on doors. There's many ways to do this that would not cost the county money. All they have to do -- in this case, they could advertise the availability, the existence of a list when they post their normal advertisements for the meetings and the like. So it wouldn't an additional cost. It would be an extra line in an ad or a flyer that is produced by the county

in the normal order of doing business. So extra money wouldn't be -- we feel, not a significant amount under any circumstances.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Dollinger on the bill.

SENATOR DOLLINGER: I agree with the sponsor that this is probably a minimal cost and I'm going to vote in favor of this bill, but I would urge, I guess, that the -- the intention of the bill is to bring the county as an entity into the development of these plans for the disabled, and I would suggest -- at least based on my experience in the county, although it was four years ago -- that we did have a disaster plan, a preparedness plan, but it was created pursuant to county legislation over which the Legislature had a role and that the plan was actually adopted by the Legislature on a periodic basis. So the disaster preparedness plan, the emergency preparedness plan was all a part of the legislative function.

And I would just urge the sponsor if this bill some day comes back to us, to not only give the county executive the power, but give the county legislature the approval power over the decision to establish the registry. That may also give the county legislature an opportunity to determine the needs of its own individual population through the holding of a public hearing which usually accompanies the introduction of the kind of ordinances or changes in the county charter that are required to produce this kind of registry.

It would create the opportunity for more local input. It would bring the legislative branch on board, and it just seems to me that's the kind of cooperation between legislative and executive that we ought to be fostering in these kinds of local bills.

So I add that suggestion. I think from my perspective this bill tries to do a good thing, and my hope is that perhaps with a change at same later time it will actually get there and accomplish that.

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

SENATOR LEICHTER: Mr. President, on the bill, and I -

ACTING PRESIDENT LIBOUS: Senator Leichter, on the bill.

SENATOR LEICHTER: -- I will be asking also Senator Marcellino to yield. You know, clearly, this is a desirable goal that Senator Marcellino addresses by this bill.

I'm somewhat perplexed, though, why we make this a voluntary program. I mean, probably we ought to tell every county should have these programs in place. So I'm going to ask Senator Marcellino if he would yield.

ACTING PRESIDENT LIBOUS: Senator Marcellino, will you yield to Senator Leichter?

SENATOR MARCELLINO: I would yield to Senator Leichter at any time, sir.

ACTING PRESIDENT LIBOUS: Senator, he said he would yield to you.

SENATOR LEICHTER: All right. He's the good chairman of the committee of which

I have the honor to serve as a ranking Minority member. So, thank you, Senator Marcellino.

Let me ask you, I mean, you start off in sort of an exhortation. Generally we don't exhort local levels of government to do this or that because it doesn't really mean very much. So why don't we say that each of them shall prepare a plan and make it be subject to the approval of the appropriate state agency that deals with emergencies, and so on? Wouldn't that -- wouldn't that be a better way to go?

SENATOR MARCELLINO: Senator, we looked at this plan and we looked at that very question you're raising, and one of the things we did is we recognized that counties are different, that every county has its own unique circumstances, its own unique physical situations and its own unique population. There is no way to know the number of disabled persons that may or may not exist or live within a county's borders. So we felt the best way to deal with this, not wanting to impose unfunded

mandates on counties -- because you know how this side of the aisle feels about that and I'm sure you agree -- we felt -- and I don't mean to be facetious, but we felt it would be best left up to the counties on a voluntary basis as to whether or not they wish to comply or join in on this situation, rather than forcing them to jump into a situation that may not be that significant a situation in their -- in their case.

SENATOR LEICHTER: Mr. President, if Senator Marcellino would yield.

ACTING PRESIDENT LIBOUS: Senator, do you continue to yield?

SENATOR MARCELLINO: Yes, sir.

SENATOR LEICHTER: Senator, I agree with you that it's probably unwise for this Legislature to set forth in detail how that -- plans should be established and the records maintained, and so on -- although I think it's appropriate for us to do as you do in your bill, say that the records are confidential, but I wasn't suggesting that we do that. I was

suggesting that we say that each shall have a plan, that they ought to submit it to the - whatever the state agency is that handles emergencies, and so on. I forget the exact name, but we have it.

SENATOR MARCELLINO: New York State Emergency Management Office.

SENATOR LEICHTER: Right. And that office then would say, Yeah, that's a good plan. That will accomplish the purpose because they understand this and they would allow for each county to tailor a plan based on the nature and character of the county's population, its geographic size, and so on.

Now, why don't we do it that way?

SENATOR MARCELLINO: Well, I'll just go back to what I said, Senator. We simply decided that it would be better to make it voluntary. I concur with you that I think every county should have an emergency preparedness plan. I think every county should have a registry of disabled persons so that they can be

taken care of in case of need and in an emergency situation, such as bombings, explosions, storms and earthquakes and the like -- elections, yes -- a nudge, Okay? I know I don't have to translate that for you. The stenographer will probably have a hard time copying that one down, but the -- I will state that a voluntary way the best way rather than going down and hammering each county into submission.

SENATOR LEICHTER: Mr. President, if Senator Marcellino -

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: -- would be good enough to continue to yield.

SENATOR MARCELLINO: Sure.

ACTING PRESIDENT LIBOUS: Senator, will you continue?

SENATOR MARCELLINO: Yes, I will.

ACTING PRESIDENT LIBOUS: He will be honored to, sir.

SENATOR LEICHTER: Thank you.

I'm also concerned about paragraph 6, starting on line 27 on page 2, where you immunize counties from any claims where there's a good faith exercise or performance in good faith. My concern is I can see that maybe we want to indemnify them in the event there's negligence, garden variety sort of negligence, but this seems to be written very, very broadly. It might even immunize them if there was gross negligence, and I think at that point, it would seem to me that we're defeating the purpose of requiring the counties to do this in such a manner that they achieve the goal and aim that you have in mind.

Do I read it correctly when I say that you immunize them by claims based on gross negligence?

SENATOR MARCELLINO: Not being a lawyer, sir, I wouldn't even attempt to get into a legal debate with you because I'm not qualified to, but it is my understanding that the language "good faith effort" is the key to it all. It does not -- and that would, I think,

bring in -- if there was gross negligence, I don't think that would be described as a good faith effort to do that. We're only trying to say that if there are a large number of people here on the listing and by some chance one's missed in a pickup, although everybody made a good shot at it or made a good effort, the county should not be held liable for it.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: Senator Marcellino, you may -- I'm a lawyer and you may well be right that the good faith language then excludes gross negligence because by definition if you act in gross negligence, you could not be acting in good faith. I'm not sure. Let me just -- for one moment, I want to look at the memorandum in opposition by the Trial Lawyers.

Thank you, Mr. President. On the bill.

ACTING PRESIDENT LIBOUS: Senator Leichter, on the bill.

SENATOR LEICHTER: I'm going to support the bill, but I think that Senator Marcellino really points out a goal which is so important. I think he says, Wait a second. We need to tell the counties that it's important that they have this registry, that they have this plan, deal with the same people, and I think all of us are aware of Senator Marcellino's goals, but then, you know, to leave it voluntary as this bill does, it's really half a loaf because I can see that a lot of counties that are already financial strapped, and so on, obviously there's going to be some cost in doing this. They're going to say, Well, we can't do it.

Now, Senator Marcellino, you say, Well, we don't want to impose unfunded mandates. Well, let's make it a funded mandate. It wouldn't involve that much money. It's certainly important enough to help those of our citizens who are disabled and maybe we can provide the assistance to the counties so they could make this plan.

I'm going to support it because I guess half a loaf is better than nothing, but I'd love to see in this area a full loaf because I think it's important enough.

ACTING PRESIDENT LIBOUS: The Secretary will read the last -- Senator Marcellino.

SENATOR MARCELLINO: Yeah. Just a point. It was the -- my worthy assistant who did most of the work, as is typical, informs me that the words "good faith effort" came from the Trial Lawyers Association and they are happy with the bill at this point in time.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56, nays 1, Senator Libous recorded in the negative.

ACTING PRESIDENT LIBOUS: Senator

Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. Could we take up Senator Maziarz' bill, Calendar Number 1441 at this point.

ACTING PRESIDENT LIBOUS: The Secretary will read Calendar Number 1441.

THE SECRETARY: Calendar Number 1441, by Senator Maziarz, Senate Print 6395, an act to amend the Insurance Law, in relation to multiple employer welfare arrangements.

ACTING PRESIDENT LIBOUS: Senator Maziarz, an explanation is asked for.

SENATOR MAZIARZ: Thank you, Mr. President.

Multiple employer arrangements, when properly managed, are often the only vehicle for small- and medium-sized employers to offer group health insurance at an affordable cost.

This legislation defines multiple employer welfare arrangements, commonly referred to as MEWAs, and brings it within the purview of the state regulation under Article 44 of the

Insurance Law. If enacted, MEWAs would have to file financial reports with the Department of Insurance, and it would enable the Department of Insurance to handle any complaints lodged against it.

At present, MEWAs are largely unregulated by the state. These arrangements had been covered under the federal ERISA Law, Employee Retirement Income Security Act and, therefore, exempted from state regulation. Because of several problems, the federal government decided to allow states to invoke oversight of MEWAs. This legislation would accomplish that goal of oversight without, Mr. President, being unduly burdensome.

ACTING PRESIDENT LIBOUS: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Maziarz would yield for a question.

ACTING PRESIDENT LIBOUS: Senator Maziarz, do you yield for a question from Senator Paterson?

SENATOR MAZIARZ: Certainly, Mr.

President.

ACTING PRESIDENT LIBOUS: Yes, he does, sir.

SENATOR PATERSON: Thank you, Senator.

Senator, the legislation is in an area that I think all of us would agree needs regulation, needs some kind of structure, but I'm just asking, how we can pass this legisla tion that, from my vantage point, seems to actually contradict what the ERISA Law is?

In other words, since the federal government has specifically restricted us from interfering in this kind of joint or collective insurance that -- welfare type arrangements that employees engage in, how can we start to regulate it without consulting with our federal representatives and having them somewhat preempt the federal statute?

SENATOR MAZIARZ: Actually, we have done that, Senator, and the federal government has decided to allow the states to invoke oversight of MEWAs; and, actually, at

this point, New York is one of only a few states that have not.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 60th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Marcellino, what is your wishes, sir?

SENATOR MARCELLINO: Mr. President, go back to the regular order of the calendar, sir.

ACTING PRESIDENT LIBOUS: Regular order, controversial calendar, Number 1228.

Secretary will read.

THE SECRETARY: Calendar Number 1228, by Senator Stafford, Senate Print 612, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LIBOUS: Senator Stafford.

SENATOR MARCELLINO: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Lay that bill aside temporarily.

Secretary will read.

THE SECRETARY: Calendar number 1252, by Senator Volker, Senate Print 5500A, an act to enact the Criminal Justice Omnibus Act of 1996.

SENATOR MARCELLINO: Senator Volker will be here instantly if we can just -

ACTING PRESIDENT LIBOUS: All right. We will just pause for a moment because Senator Volker will be here.

SENATOR MARCELLINO: Here is Senator Volker now.

ACTING PRESIDENT LIBOUS: Senator Volker has just arrived.

Senator Volker, an explanation has been asked of you, sir, Calendar 1252.

SENATOR VOLKER: Thank you. I

apologize. I misinterpreted the time element.

Let me just say, Mr. President, that if -- and I hesitate to bring in the campaign, but I think all of us are political animals. If you want to say during the campaign that you voted for legislation that basically reformed, changed virtually every major problem -- when I say "major problem," I mean the really very serious problems that have been discussed over the last couple of years in criminal justice, then I would suggest you vote for this bill, because this bill has just about every one of what is considered to be some of the serious problems.

You may not like the way they are remedied but this bill deals with a whole series of major criminal justice areas in what would be called a tough and firm way. Much of what is in the Governor's budget substantively is, frankly, in this bill, which is known as the Omnibus Crime Act of 1996.

This bill originally -- and one of my colleagues here pointed out to me that one

thing that is not in here relates -- from the budget -- which is the first felony offender restrictive sentences. That's not in here because this bill was originally drafted in 1995, and the '96 budget is the budget that had those sentencing provisions in it.

Let me just give you a quick rundown of some of the areas that are in this bill.

Number one, it is a thorough redrafting of the juvenile statutes, including the fact that with this bill virtually all major felonies would mean that juveniles would have to be fingerprinted. This bill does provide for the transfer of 16-, 17-year-olds from youth facilities to DOCS. This bill provides for a series of upgrades, and one of the things that it would do is that if you have an individual who is adjudged a youthful offender but within five years commits a serious felony, then the youthful offender status would not apply in keeping that person from becoming a second felony offender. In other words, that youthful

offender status would effectively be revoked; and if in the event that it would have been a predicate felony had that person not been adjudged a youthful offender, then under this statute, the person would be adjudged a second felony offender and would have to suffer the consequences.

Another major part of this bill is that there were two decisions, Ranghelle and O'Doherty, that dramatically limited prosecution in the discovery areas. This bill deals with both those cases in an attempt to, I think, deal in a more fair way with the problems created by those cases.

Also, those of you who have had a lot of pressure on the gun issue, this bill presents one of the most thorough upgrades of weapons penalties, probably the most thorough that we have brought before this floor, and provides dramatic upgrades for the illegal sale of firearms.

Also, in this bill is a dramatic upgrading of assault statutes, something which

is one of highest priorities of the district attorneys of this state. In fact, I think it's their highest priority, which set up -- instead of the present assault one, two and three statutes, it would set up a fourth provision. In effect, what happens is that the entire assault area is upgraded so instead of an assault one being a "C" felony, it becomes a "B" felony and then goes on down from there to an "A" misdemeanor, which the present assault third is.

Let me also say that there is a provision in this bill that, I think, many people have forgotten about that relates to bias crime, and what it is is that years ago, when we had -- we had passed in this house a number of years ago a bias crime bill that the Assembly didn't want to deal with. That bill dealt, in part, with gang violence. Most of the major bias crimes are gang violence crimes. In Section 19, we redefine the felony as a Class - or assault 1st as a Class B felony, but what we also do is find that we upgrade the penalties

dramatically, where a person is found guilty of "assault with intent to cause serious physical injury to another or third person and when aided by two or more persons actually present," and we have several of those provisions in there that provides for severe additional penalties where there is a number of people involved.

So this bill is a conglomeration, as I say, of various provisions to upgrade the criminal justice system and deal with many of the problems that have occurred, not just through court decisions but also because of a realization that we have had some difficulty in dealing with certain crime areas because of the modern trend that has occurred throughout the state of New York.

And that is basically the bill.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 33. This act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Senator Waldon, why do you rise?

SENATOR WALDON: Yes, I would like to know if the gentleman would yield.

ACTING PRESIDENT LIBOUS: Senator Volker, would you yield to Senator Waldon?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT LIBOUS: He will yield, sir.

SENATOR WALDON: I hesitated, Mr. President, in standing, and to Senator Volker, because I had been advised that our very capable leader on the floor from the village of Harlem, Senator David Paterson, would initiate the debate, but being that he has not taken that stance, I will ask a couple of questions, if I may.

I would like to, Senator Volker, just walk through a maze for a moment or two to make a point, and I would appreciate it if you would indulge me. I know that you are most capable of responding to these questions.

I have some information in front of me which speaks to the very sobering fact that the highest rate of incarceration per

100,000 people in the world occurs in our great country. In fact, the figures I have show that for the United States, it's about 426 per 100,000; for South Africa, it's 333 per 100,000; for the Soviet Union, it's 268 per 100,000; hungary, 196; Malaysia 126; Northern Ireland, 120; Hong Kong, 118; Poland, 106; New Zealand, 100; United Kingdom, 97, et cetera, et cetera.

And so I ask the question. Does increasing the severity of punishment, does removing teenagers to adult prisons, does intensifying the penalty for those who are youthful offenders and taking away the discretion of the judge to make an individual determination based upon the facts given to him in court have any saving grace for our country in terms of actually rehabilitating and/or improving the human condition? And I will get around the barn in just a moment. If putting people in prison has any salutary effect on the commission of crime which is the cause of their being there, then, after we put them there, somehow many of them would not return if the

prison system worked.

So my question is, what we're doing with this modification of what the Governor had originally proposed, is it going to help us in terms of the reduction of crime and the reduction of our inmate prison population?

ACTING PRESIDENT LIBOUS: Senator Volker.

SENATOR VOLKER: Yes.

SENATOR WALDON: You were too quick for me that time, Dale. I wasn't prepared for that.

ACTING PRESIDENT LIBOUS: Read the last section.

SENATOR VOLKER: I was trying to give a John Calandra answer. Senator Calandra on this floor one day -- somebody asked a question that lasted for about ten minutes; and when he was done, he looked at him and said, "Right," and sat down.

Obviously, this is a very debatable question. I think it does, and I am totally convinced of it.

And let me just tell you about some of those figures that are a little deceiving, though. I do know that I have seen those numbers about the numbers of people that are in prison. Of course, you have to realize something. The Russian law enforcement system, some would say, is not very good, so that the crime rate in Russia probably is far, far higher than it is in this country. In fact, the crime rate in a number of countries almost certainly is.

We have a lot of law enforcement systems here, and we have a very intricate system that probably apprehends people at a much greater rate than most of these countries do. Now, some people would argue that some of these countries are a lot tougher than we are, and I think you know what I'm talking about. Systems in India and various -- have different ways of punishing people, some extremely severe, some would argue draconian and beyond what we are willing to do in this country.

Let me just point out a couple of

things. First of all, the crime rate in this entire country is declining, has been for some time, thankfully, and I can give you some reasons. I don't believe, by the way, it's just because of incarceration, but I think that's part of it. I think the drug culture is beginning to fade slowly, and I think it has been for some years. A lot of the people who predicted the enormous increase in youth crime are still predicting it even though the numbers, to a certain extent, are very questionable, very honestly, but it's hard for them to deal with it.

I can only tell you a couple of things. When I was in law enforcement, as you were, we used to say, if you could lock up a good percentage of the professional burglars in this state, that the burglary rate would decline. It's estimated now that we have about 65 to 70 percent of the professional burglars in this state locked up for long periods of time. The burglary rate in this state has dropped dramatically during the last decade.

One thing I think is not realized, there are certain crimes that have fallen off rather decidedly. Petty burglaries, obviously, there's still a lot of it. Professional burglary, I think, has dropped off dramatically as a crime, and let me give you one other.

When I was in law enforcement, my father was here in the Legislature, and the Legislature in its wisdom at the time passed a statute called "unlawful use of a motor vehicle." They dropped the penalty from a felony, from grand larceny to a misdemeanor, because the theory at that time was that, you know, mostly it was young people who were stealing cars and, therefore, you shouldn't treat them in the same way as you treat adults, and so forth.

I was out there in the field at the time, the year that statute was passed. The next year the stolen car rate doubled. The next year, it quintupled. Within five years, it had gone up 10 times. It reached an incredible rate

during the early '70s that the stolen car rate in this country -- in this state -- I say this state, not this country -- was out of control, and a lot of the southern operations which still exist for chopping up stolen cars began right after we went to "unlawful use of a motor vehicle" and reduced it to a misdemeanor.

It's only recently since we have now upgraded the penalties back to grand larceny and we are now locking people up for stealing cars that the stolen car rate has finally begun to decline quite decidedly. I say that because I think there is ample evidence that incarcer ation definitely has its place in society, and that there is -- there is some real evidence that some of the stuff that we're doing -- and I will be the first to tell you that I think that we should do more rehabilitation but I think it is difficult to do, but I think we have an impact with incarceration, and I think that's been proved over the years.

ACTING PRESIDENT LIBOUS: Senator Waldon.

SENATOR WALDON: Would the gentleman continue to yield?

ACTING PRESIDENT LIBOUS: Would you continue to yield, Senator Volker?

SENATOR VOLKER: Sure.

ACTING PRESIDENT LIBOUS: He will, sir.

SENATOR WALDON: Thank you, Mr. President.

Senator Volker, what you really said in your last few remarks is that when we interdict the professional criminal -- the chop shops are obviously professionals. When we interdict the professional burglar, people who go out to Manhasset and move out everything that's of value in a house in a few hours, or perhaps even a few minutes, are professionals, but much of this proposal does not address professionals.

For example, let's talk about fingerprinting of juveniles upon arrest for felony -- not conviction, upon arrest. Someone can be arrested and shortly thereafter -- and I

have had this happen in my career as a law enforcement officer -- found out that the kids really hadn't done what we thought they had done, but if we're going to fingerprint them, understanding how prosecutors work -- and you know this as well as I -- we now have stigmatized some young child for the rest of his or her life -- mostly it's his life -- because of this proviso. Could we not revisit that and take it out?

SENATOR VOLKER: Senator, I think I would disagree with you on that. I'm not sure. There's this incredible -- and I understand, by the way, if they are found not guilty, the fingerprints are sealed, and so forth, but I think you and I realize -

SENATOR WALDON: Senator, would you please suffer an interruption?

SENATOR VOLKER: Sure.

SENATOR WALDON: In the realm of human experience, I have been with people trying to get their fingerprints back in my district when their children were proven to be very

innocent. It is a very difficult, difficult process. It's not something which is automatic; and who are you going to to obtain the fingerprints? The prosecutor, and sometimes it just doesn't work.

SENATOR VOLKER: I think that, Senator, in modern society, I think in many ways, it's much easier to do it. I think you know with computers and all the rest of the things that we're dealing with today, I think that once we got into a system whereby juvenile offenders were all fingerprinted, I think it might be much easier to deal with that issue.

But let me just say about fingerprinting, I have been fingerprinted I don't know how many times over the years, when I became a police officer, when I worked for the post office. I don't consider fingerprints a stigma at all. I think it's been kind of strange that -- professional people have been fingerprinted for years, in fact, but there seems to be some sort of feeling that because somebody commits a crime that there's some sort

of a stigma connected with the prints.

It's not the prints that are the problem; it's the crime that's the problem, and, Senator, a big problem in the juvenile area is that a lot of juveniles are wandering around New York City who have committed innumerable crimes and because they are not fingerprinted, they're not able to keep track of them and the crimes have been washed out, and only later did they find out that somebody had been involved in a whole series of crimes that no one knew about; that is, the district attorney in the Bronx is involved in one, the district attorney over here.

That's a big problem, because - you talk about professionals, some of these young people are as bad as any professional criminal in the State of New York. We know that. We know we have some people locked up in our system who are 14 and 15 years old who -- as somebody said, the story about them going to the adult system and being corrupted? The problem is not for the young person; the problem in some

cases is for the adults because those kids are so tough they are tougher than many of the people in the adult system.

I think that we have to face the realities of life, that you have to make some sort of choices, and one of the choices that many people believe you have to make is to make sure that you can properly identify people so that you can weed out the people who need to be taken care of.

ACTING PRESIDENT LIBOUS: Senator Waldon.

SENATOR WALDON: Senator, you make some very fine points in regard to the fingerprint process for those who are, in fact, the hardened criminal element. In fact, when we look at some juvenile offenders who have killed four, five and six people, we recognize that they are no longer retrievable in terms of the remainder of society and the remainder of their lives.

But, all to often, in New York City I have read in the newspaper and had law

enforcement personnel advise me of situations where police have just scooped up large numbers of young black and Latino youth who haven't done anything except to be black and Latino, take them to the precinct, photograph them, and then try to turn them into being informants for the police simply because the police want an extension of themselves to police better, for want of a better way of putting it.

I think that's just as egregious as when someone has committed certain acts. Certainly not as egregious as someone who murders a human being, but it sets the wrong tone, and so when I'm questioning whether or not we should fingerprint without exception, that is the kind of concern that I have.

But let me cut to the chase. In regard to youthful offender adjudication, is there no reservation in your mind's eye -- by the way, Mr. President, I'm having some difficulty -

ACTING PRESIDENT MAZIARZ: I'm sorry, Senator. May we have some quiet in the

house, please.

Senator Waldon.

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

Senator Volker, is there no reservation in your mind's eye in regard to usurping judicial discretion in regard to the wild treatment? Meaning, if someone commits a second crime, especially if it is not a violent felony crime, shouldn't the judge be the final arbiter as to what the punishment should be? Shouldn't he be the one who determines that the punishment fits the crime, not it be mandated by what we do with our legislative proposals?

SENATOR VOLKER: Senator, let me just say -- and, by the way, it does concern me. I think -- and I was just checking with my counsel here. It is optional on the judge's part; as I understand it, on the prosecutor also, if I'm not mistaken.

It says, "It can be considered." What that would mean is, it doesn't necessarily have to be considered, but it could be

considered.

I think, Senator, it does have some concern. A lot of these things have concern. I must tell you the issue of the transfer of youth of 16- and 17-year-olds to adult facilities is something that a lot of us agonized over. Senator Saland, who is the chairman of the Youth and Families Committee, I think, we discussed this for a long time.

I'm afraid that the problems with our youth facilities, especially the older people in our youth facilities, was the thing, I think, that tipped the scales toward making that move from youth facilities to correction facilities.

But in regards, I think, to the fingerprinting issue, yes, it is somewhat of a dramatic change. But, Senator, what has happened is that a great many of the young people who have availed themselves of the youthful offenders have been involved in very serious crimes after that, and I guess the question is in many cases as to whether it

should be a judgment call as to whether they should be put in a position where if they have erred again -- remember, of course, obviously now they are older because they have already committed a crime, but they are still YOed and, technically, they didn't have to pay for the crime because they weren't technically charged with it. Then, obviously, they didn't learn anything, and now, in most cases, these are pretty serious crimes.

I think the determination was made by the people who drafted this bill, the Governor's office, that they should be subjected potentially to some very severe penalties if they commit a similar crime or even a worse crime at a later time.

SENATOR WALDON: If I may, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Waldon.

SENATOR WALDON: Would the gentleman continue to yield?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT MAZIARZ:

Senator Volker, do you continue to yield to Senator Waldon?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT MAZIARZ:

Senator Waldon.

SENATOR WALDON: One, Senator Volker, let me thank you again for your candor in responding and helping me to get some thoughts out into the chamber which will, hopefully, cause our colleagues to reflect in making their decision on this issue, on this proposal.

Let me preface my last question with this. You are in a better position simply because of your background and fortunately, or unfortunately, so am I having been in the bag, so to speak, of law enforcement. Also, I believe because of your sensitivity as the Chairman of the Codes Committee, you have been to the prisons or at least have had dialogue with people in the prisons and you understand that milieu probably better than all of the

people here who are our colleagues, and so you know and I know what really happens in prison.

We know what happens with the fish when the new fish arrive. We know who establishes territorial imperatives. We know who becomes subjected to very violent attacks by those who actually run the prisons, from the perspective of the inmates, and so I ask you, understanding that and knowing that, is it going to help us in regard to rehabilitation and, hopefully somewhere down the road, taking a youthful offender and/or a juvenile 16, 17 years of age and giving him an opportunity to be a whole human being, a productive citizen, to transfer him to an adult prison facility?

SENATOR VOLKER: Senator, as I told you, it was not without great trepidation that decisions on this issue were made, and this -- in all candor, the provision that is here was not one that came, you know, initially directly from the Governor's office. This was a decision, in fact, that was arrived at by a number of people that I think we would probably

have to say -- particularly in this chamber led by Senator Saland and a number of other people, based on the information that we had as regards to what was happening in the youth facilities themselves.

By the way, I am well aware - let me just say about our prison system, and I have been in many maximum security prisons and mediums, and so forth, over the years and I know exactly what you are talking about, but I must tell you that I believe that New York's prison system -- not that we don't have some big problems and that we have some gang problems that they have been dealing with, and so forth. New York's prison system, I think, is less dominated by inmate-run operations than, I believe, most any prison system in the country. I mean, obviously, this is a subjective assessment, although there have been some objective assessments done by some outsiders and the model for New York's prison system has been looked at throughout the country, and some of the things we have done have been used in other

parts of this country.

In fact, I was at a conference here -- I won't get into it here -- a couple months ago where New York was mentioned because what had happened is that then Commissioner Coombe had patterned some of the things he did after another successful state and pointed out how gang violence had been reduced dramatically.

Let me say that the proposed transfer as I understood it, and understand it, is not that these young people would be put in an adult facility and just mixed in the general population, but the plan is that they would be separated and segregated, put in the adult facility and under DOCS' direction and observation, and that the plan also would be to provide some additional treatment and oversight, more than the normal correction inmate would have, adult correction inmate.

It's not the plan -- as I understood, it was not to mix them in directly with adults but to set up, in effect, areas with

these young people under the DOCS aegis.

SENATOR WALDON: Thank you very much, Senator Volker.

Mr. President, if I may, on the bill.

ACTING PRESIDENT MAZIARZ: Senator Waldon, on the bill.

SENATOR WALDON: I must respectfully disagree with some of the things that Senator Volker said, not his responses in entirety.

One, he always conducts his business in a gentlemanly -- and in my interactions with him has been extremely candid in responding to query. However, I believe that on its face this proposal is flawed. I believe that there is a danger, no matter how careful DOCS will attempt to be, whenever you mix youth with hardened adult criminals, despite the fact that on occasion one of the youthful offenders will be as violent or more violent than any of the prisoners in our maximum facility. I'm talking about the collective -- I'm talking

about the norm not the exception.

I believe, also, that taking away judicial discretion in regard to sentencing of anyone, not just youthful offenders, is really a mistake on our part. I believe that what this will do is to exacerbate the number of people who are in our prison system, and I think we can ill afford that because of the limited dollars that we have now.

One of the reasons our budget is not completed is that we're not groveling in the sand but we are certainly digging around trying to find sufficient dollars to make it happen, and I don't think we can make it happen today or tomorrow or some years down the road in terms of coming in with a budget on time if we continue to tip the balance in regard to the criminal justice system but especially in regard to DOCS. We cannot continue to build prisons, build prisons, build prisons, and expect to have money left over for such vital services as health care and education.

I believe that fingerprinting

juveniles is a mistake. There are certain communities in this state where fingerprinting is tantamount to saying that you are ruined for the rest of your life. I was fingerprinted in the service. I was glad to be there. I volunteered. I had a great three years. I left a boy; I came back a man; and I saw the world. I got the G.I. bill; I was educated both at the college level and the law school level. We bought our home. All of that happened because I was aggressive in regard to wanting to be in the service.

I was fingerprinted to take my job at the post office, and I sat night after night boxing mail at Peck Slip Station and at Morgan Terminal. I have seen more mail, perhaps, than -- I don't know how long you worked there, Dale, but I boxed a lot of mail. I had the California skein. I don't know if anyone here besides yourself understands what that means, but that's a lot of mail every night to throw up.

I was fingerprinted when I became

a police officer, naturally. I was investigated to a fare-thee-well when I became the Deputy Commissioner of Human rights.

In every stage of my life, fingerprinting has been okay, but I wanted the fingerprints because I wanted the opportunity. But believe me. Believe me, my friends, my colleagues, there are people who when you say their children will be fingerprinted, they have heartbreak, pain and suffering, because in those communities to be fingerprinted means to be labeled a criminal. So I think that is a mistake.

Overall, I think that our approach is wrong in trying to be so punitive, in regard to the criminal justice approaches of the state. I think we ought to begin to look at things like true rehabilitation. I think we ought to begin to look at things like medicological/pharmacological settings for those people who have as a predicate offense -- now, that may be a faux pas on my part, a predicate offense -- the alcoholism or drug abuse which

got them into trouble in the first place.

I believe that one day Senator Volker will come here to this chamber after we've had our committee dialogue and will present something that all of us can support, and I look forward to that date.

But, on this date, I cannot support this proposal. I encourage my colleagues to join me, and our mission today is to vote down this proposal.

Thank you, Mr. President.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Waldon.

Senator Gold.

SENATOR GOLD: Thank you very much.

Mr. President, this bill creates some problems for me because it is an omnibus bill; and to be very candid, Senator Volker, there are in my humble opinion some very good things in there; and I know there are people on this side who in very many areas I am a natural

ally to intellectually, but I do break away in some respects.

For example, I believe in the Youthful Offender Program, Senator Waldon, and I believe the purpose of the program is to give somebody an opportunity. We say that if you are below a certain age and you get in trouble, maybe you didn't know better. Let's straighten the youngster out.

On the other hand, I put in legislation -- and I'm not ashamed of it - which says that maybe we shouldn't give that YO treatment until the person finishes their sentence. Why? Because there's too many cases where the kid gets in trouble, and before they even finish the sentence they are in trouble again.

So what you are doing is you are not giving a break to a youngster who wants to change his or her life. You are postponing the inevitable and that's wrong, in my opinion.

So the part of this bill which says that "If you get in trouble again within

five years, we are going to count it," does not personally offend me. It doesn't offend me because the purpose of the youthful offender treatment was to give a break and hoping somebody straightens out, not, in my opinion, to give a career criminal one early extra bite.

Senator Volker said that he believes incarceration has its place. I also believe rehabilitation has its place, and I think Senator Volker agrees with that. I think it is also naive to believe that everyone who is sent to prison is rehabilitatable. I think it is also naive to say that every program in our prisons is capable of rehabilitating.

If you teach somebody how to do work on an automobile that's a 1945 car, don't expect them to become employable fixing 1996 intricate machines, and that was part of the experience we found out a number of years ago with some of the programs. There was a program in the prisons where people learned how to fix eyeglasses, how to deal with eyeglasses. That program was so successful, I think the

recidivism rate of those individuals lucky enough to get in the program was almost nil.

There was one program where we taught people how to operate sewing machines. In other part of the prison, they were learning how to fix them, and the people who were learning how to fix outdated sewing machines, they couldn't even fix the machines that people were learning how to sew on. So all of this fits into the mix.

One point I would like to make, and I think it's rather timely. We have been dealing in the last few days on issues, and we know what the problem is, and we're searching for solutions. Senator Volker's bill before us today, Senator Stafford, is searching for solutions.

A few years ago in May, there was a publicized case of an individual with a long arrest record who was arrested in Brooklyn for sodomy, attempted rape, robbery, et cetera, et cetera, and the individual had been put out on parole -- and I believe this happened on parole

-- and the local district attorney in Brooklyn was very critical of the parole board and others in that case.

I'm going to take, if you don't mind, about four or five minutes and explain that case, and then you decide in this case, which is all too typical, who let society down.

December 30, 1977, the first arrest -- reckless endangerment, resisting arrest, possession of stolen property, unauthorized use of a vehicle and criminal impersonation.

In June of '78, about six months later, the individual pleaded guilty to attempted petty larceny and received a one-year probation. That was a guilty plea negotiated with the district attorney's office, the only way he can do that, and then the judge went along with the plea bargain, one-year probation, and the date was June 16, 1978.

July 11th, three weeks later, the individual was arrested, possession of burglar tools, possession of stolen property. Sound

familiar? The following day, he pleaded guilty. He is on his one-year probation, you remember, for three weeks already. His sentence as plea bargained by the district attorney, Senator Padavan, was a conditional discharge. He now has two convictions within three weeks.

August 22, 1978, five weeks later, he was arrested -- listen. Sound familiar? -- grand larceny, possession of stolen property, possession of burglar tools. This time he didn't plead guilty until January of 1979, at which point he was given 90 days. But, remember, he pleaded guilty -- he was arrested in August, he pleaded guilty in January.

While the case was pending, he was arrested in October, grand larceny, possession of stolen property, criminal mischief, unauthorized use of a vehicle. That plea was taken together with the crime before it in January, and he got his 90 days.

But don't jump too quickly because again, before we got to January, he was arrested again in October, nine days after the

arrest on October 14, pleaded guilty two days later; and what was the arrest? You know the line already. Arrested -- grand larceny, possession of stolen property, unauthorized use of a vehicle -- and here he got 90 days.

So by the time we got to January of 1979 -- that's about 13 months after his first arrest -- he has five arrests and five convictions. Now, you tell me why the district attorney's office is still plea bargaining with this individual, and the D.A. will say, "Well, you know, we don't always have a good case," and this and that. Five times they didn't have a good case? Three weeks after the first arrest they didn't have a good case, and four weeks after that they didn't have a good case?

And don't blame the judges because the judges are bound after the D.A.s make their plea bargains to what we allow. But here we go. We have this individual, and as of January of 1979 with five arrests, they finally gave him 90 days in jail. That had a great effect on this individual so that he didn't

commit another crime until October of 1979, which was his sixth; and in this one, any hands, what was he arrested for? Grand larceny, possession of stolen property and, this time, possession of a weapon. And this time when he pleaded guilty, they threw the book at him -- 60 days -- 60 days for his sixth conviction within less than two years.

Now he is away for 60 days, so that gets us into 1980, and it wasn't until June of 1980 that he got caught again, his seventh arrest. Anybody want to guess? Criminal mischief, resisting arrest. Pleaded guilty. This time they did throw the book at him -- 30 days.

So he is doing good. First, he didn't get put into jail for four or five crimes. They gave him 90 days. They saw that didn't do any good, so they said, "Why don't we make it 60." That didn't do any good, "We'll give him 30 days." Seven convictions within that period of time.

In August of 1980 -- this is two

months after this horrendous 30 days that he had to spend in jail -- he was arrested for attempted murder, robbery, assault, reckless endangerment. Is anybody surprised? Is there anybody here that didn't know it was coming? And on this eighth conviction, he was sentenced to two to six years. He was paroled in 1984 in November.

Take heart. It took seven months for him to get rearrested while on parole, criminal possession of a weapon, assault, et cetera, et cetera, and this time he got 7-1/2 to 15, and it was after this when he was arrested again when he got paroled, and then he was on parole again.

The point I'm making is, this is not an isolated case. And, Senator Volker, I have sat in a court and I have listened to sentences and as a "Liberal" -- quotes/unquotes -- I was ready to tear my hair out, because I said to myself, I believe we have to have a justice system which doesn't abuse people, which gives you the privacy of your own home, which

doesn't browbeat people into confessions, but every one of us here -- I'm not pointing only to the Republican side; I'm pointing to the Democratic side. Every one of us here has voted for sentencing laws which we believe are fair and which protect our communities, but when you are in the courtroom, it doesn't work that way.

And I'm telling you, you can't sit around and point to judges and blame judges. Are there judges who make mistakes? You are damn right. Are there cops that make mistakes? Absolutely.

But I'm telling you, preliminary judgments are made by the district attorneys' offices, and they are fighting for truth, justice, and the American way but they make plenty of mistakes.

So, Senator Volker, when it comes to the parts of your bill that say, "We will give you a break but if you don't take the break, you are not going to make a fool of us," I don't have any problem with that.

I am very encouraged in one

respect and that is that -- if this is stricken from the record, I will never repeat it in public -- Senator Volker is extraordinarily reasonable and easy to work with as a member of the committee and, when this was brought up together with Senator Waldon, who is our very, very distinguished ranking member of Codes, we decided to look into cases like this to see why, not to point fingers or to throw stones but to see why this seems to be happening.

I'm proud to say that I've spoken to Justice Lerner in Queens, who is compiling some statistics for us, and I've spoken to the Office of Court Administration, and they are going to try to be helpful, to find out why. It shouldn't be for the newspapers. It shouldn't be for some smart-aleck, fresh editorial writer who's never been in the streets, to criticize everybody. It really ought to be for the Legislature, for us, to take a look at what's going wrong, because I guarantee you, there isn't one member in this house, not one, who hasn't in his or her heart hoped that the

sentencing structures and the fairness structures and the evidence structures would protect our people.

There's nobody here who is lobbying for the criminals. We understand racism in the courts and in the system. We understand civil rights. We understand constitutional rights. But there's nobody here who's lobbying for criminals. We're here to protect society, and we can disagree as to whether this particular bill goes too far, whether it protects or it doesn't, but we're all on the same side. So what's gone wrong?

And I don't intend to answer that question. I intend to say that I think it's about time that we really found out what's wrong, be it through the Codes Committee, be it through the Judiciary Committee, be it through whatever, but something is wrong in Mudsville, and we ought to take a look at it.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Gold.

Senator Abate.

SENATOR ABATE: On the bill.

ACTING PRESIDENT MAZIARZ: Senator Abate, on the bill.

SENATOR ABATE: Just as a preface to my comments, just I welcome your honesty in this. It's a pleasure working with Senator Volker on all the issues. He's one of the most knowledgeable of all the people around criminal justice, and I think we can learn a lot from him.

I think it gives you a number of options when there is an omnibus bill. Unfor tunately, I happen to like all the options and even support it. I happen to like even the fingerprinting because judges need to be informed whether it's the prosecuting attorney in a Family Court or the D.A. in a criminal court from county to county. That's the only way they can track and get information. But many of us will disagree on pieces of it. I'd like to talk about three issues.

The first is process, and a number of us have spent the last six months

talking about last year's bill, and we passed a bill last year based on some premises. The premise last year is we thought we wouldn't need any more prisons, that Willard would mean that a number of non-violent offenders would be diverted from the system so there would be enough space within the system for the violent felons that we determined needed to spend more time in prison.

Well, it didn't work that way. I'm afraid when we pass another omnibus bill, without understanding the impacts of this bill, we will be making the same mistakes again. I don't think we've determined each piece of this bill and what the impact will be on the courts. We haven't determined by eliminating YO, does that mean we need to build 3,000 more prison cells? You use those numbers because I have had conversation with DOCS and people involved in the Governor's office and understand that when we eliminate, not eliminate YO, but the YO provision when someone reoffends and they're treated as a predicate will have an enormous

impact on the prison system.

So I think if we're going to pass an omnibus bill, it's incumbent upon us in this chamber or in the Governor's office to give us as much information as possible so we can be informed.

I happen to think that criminal justice policy should be bipartisan. I think we agree in more instances than we disagree and policy around criminal justice is not a simple way of developing it. It's very complex. We want to reach certain goals. We want to protect victims. We want to aid them in their recovery. We want to prevent offenders from revictimizing. We want to prevent that young person from getting involved in the juvenile justice system in the first instance.

So we have to be very thoughtful, and I think being thoughtful means that we sit down and get all the information we need to make the best and most informed decisions we can, spending all the money we need. I've never been averse to spending money on prisons if that's,

in fact, what we need to produce safer streets. But I don't think we take that approach. We don't look at all the options we have at hand to see how we can most effectively protect the public.

So in terms of process, I'm not prepared to support this omnibus bill because I don't know what the costs are. I don't know the impacts, and I'm afraid what we'll do this year we'll pass a lot of new pieces of legislation and we'll be given the bill next year and the bill might be going back to our constituents. We pass these great bills; we think they're going to be effective, but they're going to cost maybe 500 million, maybe a billion, and we're going to be safe next year saying, Do we need these laws? What do they mean?

It seems to me we need to know up front what we're doing. The impact, the cost, are they going to be effective in making our streets safer? Let's make those decisions all at once.

On the substance, there's one -

I see one big problem with this bill and that's the part that deals with the transfer of juvenile delinquents from the DFY to DOCS, and let me take a moment to explain.

Already on the books are two pieces of law that allow the transfer, one for juveniles over 18 years of age. The director of DFY with his discretion, Director Johnson, can determine that an individual offender can't - is not redeemable, is not benefiting from rehabilitation or they're so problematic, do not obey rules, are disrupting the security of DFY. That director can move anyone from 18 or over to DOCS.

What that issue now is the 16 and over. In that instance, DFY can petition the sentencing court, in this instance it would probably be the Family Court, petition in the same set of circumstances and say, We have an individual that's incorrigible, doesn't benefit from our programs, is disruptive, would be better -- it would better serve DFY, the other youth in DFY, if we move that individual from

DOCS.

So right now, the director has the power to go to the court to move that individual. What this legislation does, it says if you're 16 and above, it doesn't matter who you are, what you've done, whether you are willing to work at rehabilitation and maybe you are cooperating with it in DFY, it says, you reach a certain age, regardless of any other factors, age alone, we're going to move you from DFY to DOCS. That just doesn't make sense.

I agree there's a portion of those 16-year-olds that are incorrigible, that cannot benefit from treatment and rehabilita tion, but there are far fewer of those than the 400 suggested; and so what needs to be done is those that need to be removed should be removed, but not just because the a youth reaches 16 years of age should it mean automatic transfer.

Now, some will say, why not DOCS? They can be served just as easily in DOCS. We have to look at the origin of DFY. It was constructed with a notion that when children are

still young, children by, I guess, definition are still young -- when people are still young and malleable, we can teach them the difference between right and wrong, and that we can build skills and teach them about authority, teach them about how to be accountable for their acts and teach them that they may have a future and that they have choices in their lives.

DFY is built around that notion. Everyone in that system should be trained around that mission. If we're doing this because we think DFY doesn't work and DOCS can better serve these juveniles, then shame on us. What we should be doing is going back to DFY and making DFY work. We're not talking about huge numbers of young people. If we can't figure out a way to, in a cost-effective way, develop security measures as well as rehabilitation measures within DFY, then something's wrong with New York State.

I think we can do it. There are a lot of great minds in this chamber. There is a lot of good leadership within DFY. I think

that's where our attention should be applied, and my last point on the juvenile justice issue, there are many studies, Florida, New Jersey, that have studied similarly situated juveniles, same arrest record, family background, et cetera, and the recidivism rate was much higher when that juvenile was moved to an adult system and released, compared to that juvenile that stayed within the juvenile justice system.

So if we're doing this just to save dollars and we're, in fact, impacting and jeopardizing public safety, shouldn't we take a second look at it? So if, in fact the recidivism rate is less when we supervise them in DFY, then let's do the smart thing, let's keep them in DFY and give the power to the director for existing law to move incorrigible youth from DFY when it's necessary.

My last point is one about a holistic approach. We talk about holistic medicine. We should talk about a holistic approach to criminal justice policy. Every police chief, most law enforcement people around

this country say the same thing in many different ways. They say that if we're going to be effective in crime fighting, we need to take three approaches and invest equally in those approaches. That's vigorous and strong law enforcement, all the police and prisons we need, plus treatment and prevention.

What we've done as a state is said, we've done treatment and prevention but the reality we've never even investigated rationale and enough dollars in treatment and prevention to make any of that work, and let me give you an example why this bill, I believe, would be a better bill if, when we talk about juvenile justice and the enforcement part, we also talk about the community corrections.

I'd like to hear more discussion about JIS, Juvenile Intensive Supervision programs. They're wonderful programs around the state. They're funded so that a handful of juveniles are actually in these programs and if you go to any Family Court judge in this state and you ask them what they need, they need

Juvenile Intensive Supervision programs with probation supervisors for the offender at 20 to one, where probation is in the homes of the offender, where probation has the resources to work in the schools so to find out what these kids are doing in school, to work with child welfare agencies.

What's wrong with our juvenile justice system is not just what we're doing at the back end, it is see the lack of attention in the front end. I relate to this issue as a mother and that is, you have a child and you let them get away three or four times and you don't respond. They think, we'll do it a fourth time. There's no consequences to our act and what's happening in Family Court is not what we're doing in the back end, it's the fact that we're letting kids come in and out of the system right from the ghetto in the beginning without any consequences.

We need to create consequences for their actions in the beginning, resource Family Court so that can happen.

So until I see discussion about prevention, resourcing Family Court, I'm not talking about being soft, I'm talking about being tough, talking about after care programs. I think then we can look at our omnibus bill, that makes some sense.

So I could go on and on. I recognize as well as Senator Volker and other people in this room that many of the people we're talking about are not choir boys. I've dealt with them closely. I've been in the cells along with them. I know that these are very difficult problems. It requires some tough solutions, but it also requires a comprehensive approach to crime fighting and I hope when this gets amended, because there's lots of things in this bill that I can support, but I'd like to see some additional approaches, and I look forward over the next month, hopefully over many, many years where I can stand here and say we're doing everything we possibly can to make sure juveniles stay out of the system, build the skills to become law-abiding citizens and we see

an actual reduction of crime in our streets.

Thank you.

ACTING PRESIDENT MAZIARZ: Senator Volker.

SENATOR VOLKER: Very quickly, if I might just point out, Senator Abate, and as always you're articulate and you hit the very difficult points, and I commend you for your interest and your attention.

Let me just read to you, because I think the only issue I think I would directly disagree with you on is as it relates to the issue of the 16- and 17-year-olds and I know it's a tough issue but let me read you the language in the bill that deals with it.

"Division for Youth may transfer an offender not less than 16 years of age to the Department of Correctional Services if the director of the division certifies to the Commissioner of Correctional Services that there is no substantial likelihood that the youth will benefit from the programs offered by division facilities."

That provision, by the way, was put in there at the insistence of Johnny Johnson, the head of DFY. I might point that out to you because it's not in every bill that has dealt with the issue of 16- and 17 years old, in fact in all honesty I'm not sure whether it's in the budget or not. I just don't remember. It should be, but I just don't remember if it was in the Governor's budget or not, but it is in this bill and as far as I'm concerned, if we actually do a bill as I think eventually we will, doing this transfer, that provision should be in there because I happen to agree with you that I don't think in every case you should necessarily make those transfers without giving the Division for Youth some - some authority to make some determinations. I just want to make that clear.

ACTING PRESIDENT MAZIARZ: Read the last section. I'm sorry. Senator Montgomery.

SENATOR ABATE: I'm very pleased that you included it. All the language up to

this point was just a wholesale removal.

ACTING PRESIDENT MAZIARZ: Senator Abate, Senator Montgomery was up before you to ask. Senator Montgomery.

SENATOR ABATE: That was the end of my statement.

ACTING PRESIDENT MAZIARZ: Thank you.

Senator Montgomery.

SENATOR MONTGOMERY: Yes. Thank you, Mr. President. Just briefly on the bill.

ACTING PRESIDENT MAZIARZ: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: I am just going to speak from my experience. I'm not a lawyer, so my assumption is that we're increasing the degrees when we say -- when Senator -- when the bill says that if the penalties for certain crimes will be increased from class -- Class C to a Class B felony, and so forth and so on. My assumption is that that just simply lengthens the sentence and establishes stricter guidelines for sentencing.

But I do -- I want to speak to -- and my supposition also in relationship to that is that we are now talking about a massive expansion of our prison system based on the need that this bill will require.

But I want to speak more specifically on the issue of juvenile justice reform, that we are now -- based on this legislation, we are now talking about fingerprinting of 11- and 12-year-olds and 13 to 15-year-olds for lesser degrees of crime, and I just want to remind you as I have said on other occasions in debating legislation similar to this, that I have had personal experiences where young people are arrested for various and sundry reported crime and in the final analysis the charge was reduced substantially when they got before the judge or when they got to the D.A., or they were dropped altogether, and I am not speaking of the young people who have gotten to the point where they have become predicate offenders. I'm talking about first-time offenders and possibly young people who have

come in contact with law enforcement even a second time.

So what we're saying here is that any time that applies to a young person, that person -- that youngster, even if that is an 11-year-old child or a 12-year-old child, it is very possible that they could be fingerprinted and go in the system and remain forever.

Now, what I want to say is that I consider this move to lower and lower the age at which we treat children as adult prisoners pretty much, adult predicate felons, they have been referred to in some press media as predators, and I know that this is directed toward poor children in general and African American males in particular, and I see this happening throughout this country. I see it happening here on a daily and weekly basis.

Every week we debate these kinds of bills, and I -- I just think that I cannot sit here and not share with my colleagues in this body my serious concern for the fact that I believe that this is a conscious effort to

incarcerate as many young people as possible at as early an age as possible and I believe that it feeds into the prison industrial complex in this state and in this nation, and so I say to you, Mr. President and my colleagues, this is not only a bad bill, but I think it's a statement that I certainly take personally as it relates to how we view our responsibility to young people.

I have been in high schools. There are young people of -- there are so many youngsters in one high school. I have a high school in my district with 4,000 young people. That means that on an average day, two-thirds of those young people do not have access to speak one on one with any adult in that school because there is just not enough of them. There are no counselors. There are not enough teachers. The classrooms are too large. Oftentimes they don't even have parents. Many of them are homeless. They move around from place to place. We are - we are -- as a society, we have stepped away from any investment in young people, and so what

our -- our answer to it is that we want to build more prisons and we want to get them in at a younger age because we assume that that's where they will remain for the rest of their lives, and then when they come out we are going to notify the community that here -- here is a person who has been in prison for whatever reason, and then the community can exact further retribution of those people.

So, Mr. President, I view this as not -- not just a prison -- as a criminal justice reform. I think it's much more serious and I think we need to really -- we need to examine what it is that we intend to exact with these kinds of bills that we debate weekly in this chamber.

Thank you.

ACTING PRESIDENT MAZIARZ: Thank you, Senator.

Read the last section.

Senator Volker.

SENATOR VOLKER: Just very quickly, and I know I -- Senator Montgomery, let

me -- your indication that you can just stop young people and fingerprint them, that's not in this bill, in any bill that I have. You have to be charged with a felony, a serious offense. To be charged, for instance, with disorderly conduct or something of that nature, which is not a felony, there's nothing in this bill that says that any youth can be fingerprinted.

Senator, the indication that somehow that this bill would be aimed at minority young people, I can assure you in the areas upstate, and certainly there are a number of minority people and minority people are picked up in various cities and in the suburbs, but I can assure you that there are an awful lot of non-minority youths who are involved in a lot of criminal activity, a lot, a great deal, and in many areas it represents a much greater number than do minorities. It is a very serious problem in some of the suburban areas upstate as well as urban areas.

We are not trying to incarcerate all youths. In fact, if you look at this bill,

the only people that would go from youth facilities actually to DOCS, generally speaking, as a result of this bill, would be 16- and 17-year-olds when, as I said, the Division for Youth has some option, and I'd also pointed out to you, Senator, that no state in the United States -- in this country, no state in the world provides more money for schooling than this state. Also we provide more money for welfare, for Medicaid, for all sorts of human services.

The problem is maybe we're not - we're certainly not doing all the right things, but the one thing I must say to you is the amount of money that we put into incarceration, you want to compare it to all the other things that we provide, is comparatively small. Now, it's much too big as far as I'm concerned, and I agree with you on that, but let me tell you something, there's no comparison to the entire prison complex of all the system, the parole system, probation system that's compared to what we spend on education and all the services that we do spend.

Unfortunately, they haven't worked but, to say that we have not continued to spend huge amounts of money and resources in an attempt to educate and to develop a system that does not use our prison system, is just not true and I just must say that.

I understand your concern, Senator, but I say to you that we do not intend in this bill and do not in this bill talk about fingerprinting anybody but those people who have committed serious crimes or have been charged with serious crimes.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 33. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Waldon to explain his vote.

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

I had finished earlier, but Senator Volker's statement just now caused me to rise to explain my vote.

I agree with him in part. I think we're not doing the right thing in regard to education because our children are failing at a much too high rate, and we're not doing the right thing in regard to the Department of Correctional Services and overall with the criminal justice system because we have too high a rate of recidivism, and crime is not plummeting in the manner in which I believe it could if we had true rehabilitation and if we truly addressed the root causes.

But I think he was in error, and that's what really motivated me to stand. The fastest growing part of our state's budget is that part which deals with the Department of Correctional Services and overall criminal justice.

When I became an Assemblyman in 1983, the budget for DOCS was $1.47 billion. The next year it was 1.7 billion; the last two

numbers just reversed themselves. Now, it's way beyond that. In the last ten years, if my information is correct, the Department of Correctional Services budget has quintupled - almost quadrupled -- almost quintupled whereas the education budget in the state has gone up two and a small percentage, two times and a small percentage, in the last 10 or 12 years.

So I think that it is not quite accurate that we're doing all that we can for education, and it's not quite accurate that we're not putting lots and lots -- dispropor tionately money into the Department of Correctional Services and overall the criminal justice system.

I vote in the no.

ACTING PRESIDENT MAZIARZ: Senator Gold, to explain his vote.

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

First of all, I want to thank my colleagues for letting me make the points I made earlier on this bill and, as I pointed out, I

certainly think there are some provisions which are very good. I think the death knell of this bill is the word "omnibus" and when you -- if this was broken down as we break down so many things, I would be glad to support as I indicated to Senator Volker, the prior youthful offender treatment part of it, but since this is an omnibus bill, I think Senator Abate and Senator Waldon and others have pointed out, and Senator Montgomery pointed out just why as an omnibus bill, I can't support it.

I vote no.

SENATOR MONTGOMERY: Excuse me, Mr. President. Thank you. I'd like to explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Thank you. I would just like to respond briefly to Senator Volker. I understand that, as all legislation that we pass in here, it's hopefully not necessarily directed at any one group or another, but I only have to look at the -- the

prison system in our state and who is in that system, and it's primarily African-American males and they're getting younger and younger, and Latinos, and so there is something to be said about the fact that while we may be 12 percent of the population, we are 85 or 90 percent of the prison; so there is something happening there, and I must say that it is - the designation of the charge of arrest is based on who is doing the arresting. That's how the charge gets made and whether or not that charge holds is -- depends on what happens after that process.

Now, so and based on the state's own study, the fact of the matter is that the charges made on two people, one of whom is an African-American and one of whom is not of the same background, the charge is greater or more severe for the African-American than the person who is not.

Now, that has been proven to be the case by the Governor's own study begun in the prior administration and completed in this

administration, so that's public knowledge, acknowledged by the state, the state itself. So to say that this will be meted out equally is truly a farce, and we all know that.

Everybody in this room knows that the criminal justice system does not work equally for every -- everyone and so, as we establish these kinds of laws, we know that ultimately who is going to be primarily impacted by them, and so to say that it is not going to -- it's not targeted to any group, I think, is an understatement and it certainly is not proven based on what we have in our criminal justice system.

So, Mr. President, I vote no on this legislation.

ACTING PRESIDENT MAZIARZ: Announce the results. I'm sorry. Senator Marchi.

SENATOR MARCHI: Explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Marchi to explain his vote.

SENATOR MARCHI: Mr. President, I support this bill because there is a larger coherence and inner logic that ties its elements together, and it's probably a better framework of reference to conduct future dialogue. I have to say that today was one of the best days I've heard on both sides, really on several sides of an exploratory and deep-seated consideration that was accorded to the elements of the problem.

I do want to make one point that's tangential because it's not immediately involved, and that's the question of personal identity. I have sponsored legislation in the past that we -- that we have appointed a commission or people to develop a system of imaging for everybody. There is an element of risk, I think, and danger to persons -- to the individual. If our identity becomes a known, we could be victims of violence on the highway, deprived of documents. There are many circumstances where personal identity, were it known, becomes an element of assurance and

protection, and there is no good reason other than perhaps preconceptions from the past, why our identity should not be a matter of knowledge to the entire population, and in fact, I was anxious about my own family being fingerprinted where they had no occasion really to be fingerprinted, but the fact of identity being an unknown element in large sectors of our population, I don't think enures to the security of our population.

So I would hope that we change our attitudes with respect to finger-imaging or any other system that will establish reliably a system of identification, and I do vote aye on this bill.

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1252 are Senators Abate, Connor, Espada, Gold, Leichter, Markowitz, Mendez, Montgomery, Paterson, Sea brook, Smith and Waldon. Ayes 46, nays 12.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I was out of the chamber when Calendar Number 900 -- when there was a slow roll call on it. If I had been in the chamber, I would have voted in the affirmative.

ACTING PRESIDENT MAZIARZ: Record will so reflect.

Senator Holland.

SENATOR HOLLAND: Mr. President, I understand there is a privileged resolution at the desk by Senator Connor. Could we have the title read and act on it, please.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Legislative Resolution, commending Robert O. Lehrman, President and CEO of Community Bankers Association of New York, and Neil Levin, Superintendent of Banks of New York State, upon the occasion of their designation for special honor at the UJA Banking and Finance Division

Dinner to be held on June 13, 1996.

ACTING PRESIDENT MAZIARZ: All those in favor of adopting the privileged resolution say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Resolution is adopted.

Senator Holland.

SENATOR HOLLAND: MR. President, can we go to Calendar 1228, Senator Stafford's bill, please.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 1228, by Senator Stafford, Senate Print 612, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MAZIARZ: Senator Stafford, an explanation has been requested by the Acting Minority Leader, Senator Onorato.

Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President.

I would first say for the past four years the Senate has been most supportive of passing this legislation. What this is all about is there's a problem and there's a debate going on about PCBs in the Hudson River and there's a debate how they should get rid of them, how we should get rid of them. The professionals don't agree.

There has been talk of dredging it all up, but you know, if they dredge it up, guess where they want to put it? They want to put it right in the heart of the dairy country in Washington County. How foolish!

We have talked to these officials. We have pleaded and said how ridiculous this is. Now, granted EPA is involved right now and we will see exactly what the final determination is. But all this does is, it says if they're going to dredge up all of the Hudson River, miles of it, and then take that fill and put it right in the middle of

where cattle graze, where we produce milk, and spread that all over the United States, we say it is foolish.

We don't want them there. They should be in a sensible hazardous waste land fill, and it is serious for the people who live there. Consequently, on June 25th, 1992, we passed this bill. On June 22nd, 1993, we passed this bill. On June 29th, 1994 we passed this bill. On June 7th, 1995 we passed this bill, and I would hope on June 12th -- thank you - June 12th, 1996 I would hope we would pass this bill.

ACTING PRESIDENT MAZIARZ: Senator Onorato.

SENATOR ONORATO: Mr. President, we're not going to belabor the point. This bill has been around, so I'm going to yield. Our main objection to the bill is that it sets a precedent that would enable any town or community in the entire state of New York to promulgate this particular type of rule, making it virtually impossible to site any facility in

the state and over the past years, I simply allow the members to know who voted for it.

Last year there were participating 14 nays, and voting against the bill were Senators Abate, Connor, Dollinger, Espada, Kruger, Leichter, Markowitz, Montgomery, Nanula, Onorato, Oppenheimer, Paterson, Santiago and Stachowski.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar -

ACTING PRESIDENT MAZIARZ: Senator Mendez.

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

ACTING PRESIDENT MAZIARZ:

Senator Mendez to explain her vote.

SENATOR MENDEZ: I am -- I, like most of my colleagues on this side as well as on the other side, do care enormously for air quality, for the quality of water, for the environment. There is, however, a very interesting phenomenon occurring within the - those who care about the environment and in my district I have seen the results of environment al racism. In fact, a little while ago I was discussing another bill that will soon be considered by us here, and I told them how I feel about it being in this instance and they acknowledged to me that the issue of environ mental racism exists not only in poor minority communities in the city of New York and urban areas as well as in rural areas, and I am supporting this bill because I believe that in this instance that the rural agricultural area is being attacked on the grounds of environment al racism, as my district was attacked a few years back.

I vote yes. Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Mendez voting in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1228 are Senators Abate, Connor, Dollinger, Espada, Kruger, Markowitz, Montgomery, Nanula, Onorato, Oppenheimer, Paterson, Seabrook, Smith, Stachowski, Lachman. Ayes 43, nays 15.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Holland.

SENATOR HOLLAND: Mr. President, can we do bill, Calendar Number 1280, Senator LaValle's bill, please.

ACTING PRESIDENT MAZIARZ: Secretary will read. Senator Holland, you say Calendar Number 1280? That's Senator Kuhl's bill.

SENATOR HOLLAND: Lay it aside, please.

ACTING PRESIDENT MAZIARZ: Lay aside.

SENATOR HOLLAND: (Background noise-inaudible.)

THE SECRETARY: Calendar Number 1433, by Senator LaValle, Senate Bill 7057-A, an act to amend Chapter 741 of the Laws of 1985.

ACTING PRESIDENT MAZIARZ: Senator LaValle, an explanation has been requested by Acting Minority Leader, Senator Paterson.

SENATOR LAVALLE: What did you say? Senator Paterson, this bill was filed -

SENATOR STACHOWSKI: Mr. President.

SENATOR LAVALLE: -- and developed -

ACTING PRESIDENT MAZIARZ: Excuse me, Senator LaValle, a minute.

SENATOR STACHOWSKI: That explanation is satisfactory.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT MAZIARZ: Announce the results.

The bill is passed.

Senator Holland.

SENATOR HOLLAND: 1457, Senator Saland's bill, please.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: 1457, by Senator Saland, Senate Bill Number 7244, an act to amend the Criminal Procedure Law, in relation to circumstances.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes 57, nays 1, Senator Mendez recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Holland.

SENATOR HOLLAND: Senator Cook's bill, please. 1466, please.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 1466, by Senator Cook, Senate Print 7532, concurrent resolution of the Senate and Assembly proposing an amendment to Section 1 of Article 14.

ACTING PRESIDENT MAZIARZ: Senator Cook, an explanation of Calendar Number 1466 has been requested by the Acting Minority Leader, Senator Paterson.

Senator Cook.

SENATOR COOK: Mr. President, this is a concurrent resolution to amend the Constitution. It would permit the state of New York to lease up to 500 acres of land for the extension of ski trails at Hunter Mountain in exchange for 500 acres of land that would be acquired and given to the state of New York by Hunter Mountain.

This is, in some sense, similar to a number of trades of property that have taken place through the years, the difference being that in this case the state is not actually giving up any land, not actually transferring. It's only leasing it, so that it is, in fact, more conservative than the other land transfer bills that we've done in the past.

ACTING PRESIDENT MAZIARZ: Thank you, Senator.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I hate to stand up and oppose my good friend, Senator Cook, but this -- this is a three smoke

stack, Charlie, and it has a lot of serious implications, even though on the face of it, it may not look it, because you say we do have Hunter Mountain and we do have trails there, but then to extend it up to the top of the mountain, that has very, very serious implications and let me mention a few of them.

This bill, the reason it has to be a Constitutional Amendment is because it would amend Article 14 of our state Constitution to permit the leasing of forever wild forest preserve land, and we have spoken in the past about forest preserve land and about wilderness land and about watershed land, and all of them are taken in, in this.

This has very -- for example, very serious and dangerous legal implications beyond the environmental impacts, and believe me there are plenty of environmental impacts. Let me talk briefly about the environmental impacts first.

Hunter Mountain is one of only two high peaks that go up above 4,000 feet in

the Catskill forest preserve, and the protections that have been put down, the constitutional protections that have been put down for forest preserves were put down over a hundred years ago.

In this area, there's a very fragile ecosystem, and we have permanently protected it, in fact, for 75 years. Now, why have we done that? Because it's part of the watershed of New York City water. The watershed of the Catskills as well as the Delaware and the Croton are where we get our water for the vast -- the 10 million people in our greater metropolitan area.

What this proposal would further require is, in creating the additional slopes, the ski slopes that this private company wants to acquire and then create, would take another 500 million gallons of water every year for snow making to cover these additional slopes which would rise up to the top of Hunter Mountain. Right now the slopes only start halfway up. Already we are using 500 million gallons to make

the snow for the existing trail.

The consequences for the larger Catskill watershed are really immense. To take out this amount of water from -- from the watershed would seriously impact the water that then comes down to us in the lower part of the state.

If approved to show how significant this is, I want it noted that this would be the first time the forest preserve was ever leased for a private commercial purpose. Further, it would be the first time the state permitted the forest preserve to be altered and developed from its -- and I'm quoting the Constitution -- "*** forever wild state for a private commercial operation" and further it would be the first time that lands acquired as forest preserve expressly for watershed protection and wild forest recreation were permitted to be altered and developed for a private sector commercial use.

So let me say that the number of groups that have signed on in opposition to this

is very interesting. They're not groups that always work together, but they feel this so threatens our Constitution and creates - pardon? Oh. O.K. -- I would just mention the opposition which really spans the spectrum of environmental/recreation/sporting groups and includes the New York State Conservation Council, the Environmental Defense Fund, National Wildlife Federation, Sierra Club, Long Island Pine Barrens Society, Hudson River Sloop Clearwater, Group for the South Fork, National Resources Defense Council, the Hudson River Keeper, the League of Women Voters, the New York State Trappers Association, Scenic Hudson and indeed many, many others. This is an issue which unites us because it is so potentially threatening.

And I'll yield the floor to Senator Waldon.

ACTING PRESIDENT MAZIARZ: Senator Waldon, why do you rise?

SENATOR WALDON: I would like to ask the gentlelady a few questions.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, would you yield to a question from Senator Waldon?

SENATOR OPPENHEIMER: I've never heard it referred to as gentlelady.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, will you yield to a question from the gentleman?

SENATOR OPPENHEIMER: I will.

ACTING PRESIDENT MAZIARZ: Senator Waldon.

SENATOR WALDON: Senator Oppenheimer, in your deliberations regarding this issue, did you come up with any indications that might indicate to my colleagues and myself the margin, profit margin, for the company that might be developing Hunter Mountain?

SENATOR OPPENHEIMER: Actually, I haven't seen figures on that, but I know what their intention is. I think this is one of the peaks that is 4,000 feet. They are hopeful, by extending the trails up to the top of the mountain -- as I said earlier, they begin at the

middle of the mountain now and by buying up this trail space but not the area between the trails which is, I think, a very interesting and confounding concept, they hope to create an area that would attract an international crowd similar to Stowe.

Now, it's hard to imagine this occurring, but I think it is a -- a wish of theirs to create a great center. I do not think from my position as a skier, not a legislator, that people will be drawn to that area. There is no way that that area can compete with Stowe, so I think they have rather inflated ideas of what will happen in this area.

ACTING PRESIDENT MAZIARZ: Senator Waldon.

SENATOR WALDON: Would the gentle lady respond to another question?

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, will you continue to yield for a question to Senator Waldon?

SENATOR OPPENHEIMER: Yes.

SENATOR WALDON: Senator

Oppenheimer, it is legend here in Albany that you are a great skier. In fact, when we have our silent raffles, the Democratic Senate Campaign Committee, you allow us to bid on ski vacations or at least ski week ends at your place and other things which bespeak your love and affinity and participation in skiing.

Do you have any idea how much money Stowe in Vermont makes on an annual basis?

SENATOR OPPENHEIMER: Unfor tunately, Senator, I don't have those figures, but you do have a unique environment in Stowe.

SENATOR WALDON: And what is that, if I may continue, Mr. President?

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, do you continue to yield?

Senator Waldon.

SENATOR WALDON: What is that unique environment in Vermont which doesn't exist in New York and which would not -- would not allow New York not only not to compete with Stowe but, if I'm hearing you sub rosa, correctly would not allow New York to compete

with other places on a more international basis than Stowe?

SENATOR OPPENHEIMER: Well, I wouldn't generally say we can't compete in New York State. I think we have in New York State created a great ski center.

SENATOR WALDON: But at Hunter Mountain.

SENATOR OPPENHEIMER: At Hunter, O.K., because I was about to say at Lake Placid and at Whiteface. We have created a great ski center with a great mountain which provides the kind of trails that would entice people to come from far away to that spot. The entire commun ity of Lake Placid is a recreation community. I would say the same thing is true for Stowe. There has grown up around that center an environment that provides for all kinds of recreational activities related largely to the snow and to this very extraordinary mountain that they have at Stowe.

SENATOR WALDON: Would the lady, gentlelady, yield for another question?

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, you continue to yield?

SENATOR OPPENHEIMER: Indeed.

ACTING PRESIDENT MAZIARZ: Senator Waldon.

SENATOR WALDON: Senator Oppenheimer, do you have any idea how far in miles or kilometers, by international measure, Hunter Mountain is from Lake Placid?

SENATOR OPPENHEIMER: Help me, help me. We'd say about four hours, maybe three. Three hours, three hours.

SENATOR WALDON: May I continue, Mr. President?

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, do you continue to yield?

SENATOR OPPENHEIMER: This is great.

ACTING PRESIDENT MAZIARZ: Senator Waldon.

SENATOR WALDON: So if somebody wanted to really find a place that is, in fact, a recreational community that is -

SENATOR OPPENHEIMER: Of long standing.

SENATOR WALDON: -- that is, in fact, in place, up and running and has all of the, if you will, accoutrements that one would want in a ski center, it just means driving a few extra miles north to Lake Placid; is that correct?

SENATOR OPPENHEIMER: I would say so.

SENATOR WALDON: O.K. And so someone who wanted to find a place in New York State similar to Stowe with all that Stowe might have to offer, could find it at Lake Placid?

SENATOR OPPENHEIMER: Oh, yes, definitely.

SENATOR WALDON: Would the gentle lady continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, would you continue to yield?

SENATOR OPPENHEIMER: Indeed.

ACTING PRESIDENT MAZIARZ:

Senator Waldon.

SENATOR WALDON: Senator, if what you say is true, we don't have to wonder about the success of Lake Placid because it is already successful; is that correct?

SENATOR OPPENHEIMER: Indeed, m-m h-m-m.

SENATOR WALDON: But if Hunter Mountain were allowed to be developed, there is a risk involved because there is no -- there is no guarantee that you know of that Hunter Mountain would be successful and yet, at the same moment, the state is depriving itself of great resources of water, great resources of land, creating easements on a mountainside that are contraindicated by our Constitution, and I would assume that all of this is the reason that you initially spoke and that you initially spoke because you feel that perhaps you are being somewhat ravaged by this proposal as opposed to, as a state, in terms of its recreation being enhanced; is that a correct characterization?

SENATOR OPPENHEIMER: I could not

have said it better myself, Senator.

SENATOR WALDON: Thank you very much, Senator Oppenheimer.

Mr. President, on the bill.

ACTING PRESIDENT MAZIARZ: Senator Waldon, on the bill.

SENATOR WALDON: I refer to the learnedness of my colleague, Senator Oppenheimer. I support her analysis of this prospect. I must, in supporting, responding to her analysis of this prospect, vote with her and if Senator Oppenheimer is voting in the yea on this particular issue, Al Waldon will also vote -- I'm sorry. You're voting with EPL, you're voting in the nay with EPL. You're voting in the nay. See, even Al Waldon makes mistakes.

I'm supporting Senator Oppenheimer. I'm supporting her on this issue in the state of New York. Will you please make sure I'm recorded in the nay.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Thank you, Mr.

President.

As I understand it, the proponents of this legislation would like to create a scenario here in New York State where through Hunter Mountain, we're able to compete with places like Vermont, and the argument is - no, that's not the reason. (Telephone rings) Hello! -- the feeling is that that would be an adequate way to -- to create that comparison by elongating the trails, extending the facility, allowing for greater use of the mountain.

I, Mr. President, want to propose that we would not be really -- that our economic forecast cannot guarantee us that, and that in many respects we may be taking the commercial prognostications of an entity that's actually profit-making and substituting it for what we might find if we really looked into it, that we would never really be able to come close, even if we did stimulate some economic development.

Rather than competing with Vermont by passing this legislation, I think we would be competing with Massachusetts,

particularly Boston. I think this would be the worst deal since Boston sent Babe Ruth to New York many years ago, and the reason I feel that way is that the 500 acres of land that we would actually be swapping, we don't even know what the 500 acres of land are that we'd be getting back. They certainly could not have the cultural value or the just artistic value and the wildlife factor that Hunter Mountain has. Actually, it's not even 500 acres that are going to be affected. We would be swapping 500 acres for what would be an aggregate of 1500 acres since the actual land area that would be expanded consumes a greater part of the mountain and consumes three times its actual size. Not all of that would be used for the trails, but part of it would be used for the scenery that the consumers -- that the individuals who use the trails would actually notice.

So we'd be, in effect, not adding permanent wildlife status to 1500 acres in exchange for 500, and when we look into that a little closer, we recognize that in the past,

what the state has actually done when we have created these swaps is, we have created a situation where we are dealing a certain area of land for a greater amount of land because the state land was the one that was most preferred.

So in order to -- in order to consummate the trade, it became necessary to proffer a greater amount of land. Here we're getting the same value and actually we're giving up three times the amount of land.

Finally, it must be pointed out that, in this case where we have swapped land it's gone for the public good. Here it's gone for the commercial good of the extension of what is a ski resort without any real concrete evidence that this is going to create the economic boon to our state coffers or to the region that we're guaranteeing; and so for that reason, I don't -- I think it's really a bad trade and as they say in athletics, some of the best trades you make are the trades that you don't make.

ACTING PRESIDENT MAZIARZ:

Senator Dollinger.

SENATOR DOLLINGER: Would Senator Cook yield to just one question?

ACTING PRESIDENT MAZIARZ: Senator Cook, would you yield to one question from Senator Dollinger?

SENATOR DOLLINGER: What year was Hunter Mountain ski resort founded? Was it before or after the state had acquired the top of the mountain?

SENATOR COOK: About 35 years ago.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Dollinger, on the bill.

SENATOR DOLLINGER: 35 years ago someone made an investment in the lower portion of Hunter Mountain, knowing that the state of New York, with the commandment that the top be forever wild, obviously they made an investment decision that was to their benefit to develop a ski resort knowing that no one would ever own

the top part of the mountain because that would always be owned by the state of New York. They'd never have to worry about it being developed by any opposing parties. They'd always know that the top of the mountain was going to be left in its pristine condition.

Now, all of a sudden, Hunter Mountain, for some reason, comes to this chamber and says, Well, we're thankful that the state of New York land-banked that land for the last 35 years and, in fact, has actually land-banked it since 1920 when it acquired the land, and now what we want to do is expand to the top of the hill.

It seems to me, having gotten the benefit for the last 35 years and perhaps even before that, the benefit of knowing that the state of New York wouldn't develop the top, the ski resorts are now coming and saying, We want to develop the top of the mountain and take from the state of New York what we've used for pro tection all these years is a tad disingenuous.

I'm convinced by the arguments

given by my colleague, Senator Oppenheimer, as elucidated by Senator Waldon, that this is not a good environmental deal, but I also think it's a little bit contrary, a bit of "contraryism", let's put it that way, for a private corporation that has been protected by the state of New York for the last 35 years to now come in and say, Oh, we would like to take part of what the state of New York has on the top of the mountain.

It just seems to me it doesn't make good public policy for the reasons elucidated by Senator Oppenheimer and, frankly, it just seems as though this is an organization trying to take advantage of a situation from which it has already benefited.

ACTING PRESIDENT MAZIARZ: Senator Cook.

SENATOR COOK: Mr. President, there's nothing unprecedented about this bill. We've made land trades for dumps, land trades for airports, a Constitutional Amendment which permitted the construction of the Northway up through the Adirondacks, and I'm sure that there

are a dozen more examples that I could cite, the difference being -- one difference being that this is not a land transfer, because the state of New York is not transferring ownership of the property to a private individual. The ownership remains with the state of New York. The state of New York would be leasing to the private individual.

I have to take exception, Mr. President, to the assumption that when you create jobs and you create employment and you create economic opportunity for people that it's not in the public interest. It's great to say let's keep a few trees up there, but you know people have to eat and one of the few things that they can do in a mountainous area is work at the recreational facilities that are available.

Senator Waldon, there may not be along trip to the Adirondacks. It's a beautiful drive up there, but I would suggest to you, if you were in New York City and you were going to drive to the Adirondacks, you would really

prefer to drive only to Hunter because it's a long haul up there in the wintertime, but our problem indeed is that many people go not to the Adirondacks but to Vermont.

We have an opportunity to make this a ski center which can attract more people into the ski centers that are already around us, that help strengthen the cluster, if you will, of ski centers that are available in the Catskills, and to contribute to the economic vitality of that area.

I only want to mention one other thing, and that is the water quality issue. We have a problem with the fisheries in that particular stream, and the reason we have a problem with the fisheries is that during the summer the water level gets down quite low and consequently the temperature goes up, and it's not good for the fish.

But, Mr. President, they make very, very little snow in August, and that's when the streams are low and when they're taking the water out of this stream is in the winter

time and we don't have a water problem in the wintertime, so the whole concept that somehow this is going to be detrimental to the water supply is specious because you don't take the water out. It goes up the mountain and, when it melts, it runs back into into the stream. You aren't shipping it off to some place else. It is simply being recycled, if you will, but being recycled in a way that it has an economic benefit to the area.

So, Mr. President, I think that sometimes we get hung up on symbols. We get hung up on the idea that out of millions and millions of acres of land in this state that somehow it's some kind of a crime when we want to use 500 acres of that to help to promote the economy of a portion of this state that has some of the lowest income of the entire state and perhaps of the entire northeast.

This is an important project for the economy of the area. It's an important project for jobs of people who desperately need those jobs, and I hope that this house will

concur to permit us to move ahead with this project.

Thank you.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: I would just like to -

ACTING PRESIDENT MAZIARZ: Why do you rise?

SENATOR OPPENHEIMER: I would just like to respond, if I could, to some of the -

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Well, I could ask Senator Cook a question to begin with.

ACTING PRESIDENT MAZIARZ: Senator Cook, would you yield to a question from Senator Oppenheimer?

SENATOR COOK: Yes.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: Have you

heard what the length of the lease -- the length of the lease -- have you heard what the length of the lease would be?

SENATOR COOK: I'm sorry. What -- the what of the lease?

SENATOR OPPENHEIMER: The length, how many years -

SENATOR COOK: Oh, how many years? Senator, this is a Constitutional Amendment, as said in the bill, if you read it, that the provisions of the lease will be spelled out in enabling legislation that will be made available to the voters before the time that this appears on the ballot. So those specifics have not been decided, but that is -- that will be part of what will be placed before the voters before they make their decision.

SENATOR OPPENHEIMER: Thank you, Senator Cook.

On the bill.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I have

heard that it is likely that what they are going to ask for is a 99-year lease, which I think we discussed this yesterday. It seems like it's several lifetimes.

The -- you mentioned that people are going to Vermont and not coming to this area or to the Adirondacks. Well, actually the Adirondacks and Vermont would be sort of equal in distance. So that could merely be a choice of going to the Green Mountains or going to the Adirondacks. They do not go to this area as a vacation destination which is what they do when they go to Vermont very often or to the Adirondacks.

This area is a weekend area. It has always been a weekend area because of its proximity to New York City, and the -- what this developer would hope to do, were his proposal to be approved -- and we did the Constitutional Amendment -- is he would try and create a vacation destination place where people would go for a week, and I do not believe that's valid an hour away from New York. People, when they want

to go away for a longer trip, have many alternatives.

The problem with Hunter Mountain could be resolved, were they to invest some money in their equipment. Their lifts are very, very outdated and they have very few intermediate slopes.

Now, if they want to take my recommendation from being a skier in the area, that's what I would say. You can do a lot better on your weekend traffic if you took care of those two things, improved the condition of the lifts and put in intermediate slopes.

I would like to make another point. You say that the water is not important. However, the New York State Conservation Council says here that they cannot understand how the Legislature could possibly consider this proposal, which would destroy so much critical fish and wildlife habitat to satisfy private business initiative, and they are strongly opposed to it, and the fact is that, as you know, the snow water is contained in our

reservoir system. So truly what happens in your area may not have that much impact on what happens down in our areas because the huge reservoir systems collect that water in the wintertime and ex... and the water flows in the summer because we have collected it in the winter, and all I can say is a billion gallons ain't a little bit coming out of the water faucet. It is an immense amount of water to divert, but most of all, I would say that attacking the "forever wild" clause of our Constitution which has served us so well and has protected the top half of Hunter Mountain all these years should not be violated.

So I'll be voting no.

ACTING PRESIDENT MAZIARZ: On the resolution, the Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Slow roll call has been requested.

Senator Paterson, there are only three Senators -- I'm sorry -- there are now eight Senators standing. The Secretary will

call the roll slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

(Affirmative indication).

Senator Connor.

(Negative indication.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

(There was no response.)

Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Gold.

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

ACTING PRESIDENT MAZIARZ: Senator Gold, to explain his vote.

SENATOR GOLD: Literally in 17 seconds, I want to adopt the entire argument of Senator Oppenheimer and just explain that we are now learning more and more from the English. You don't buy land over there. You buy leaseholds for 99 years, 79 years, 55 years. Those are lifetimes.

I vote no.

SENATOR STAFFORD: Mr. President -- Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Stafford, are you seeking recognition? I'm sorry, Senator Stafford. I can't hear you.

SENATOR STAFFORD: Can you call my name, please?

ACTING PRESIDENT MAZIARZ: Pardon me?

Senator Stafford.

The Secretary will call.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Very briefly, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Stafford, to explain his vote.

SENATOR STAFFORD: To explain my vote. I don't think anyone will have any question of where I stand on this bill, but I'd like to emphasize, you know, in this day and age, especially -- this has to do with tourism, skiing -- you know, this type of activity makes it possible for us to eat in our area. Eat!

Granted, it's very, very important to protect the environment, but please believe me, as one who lives in an area where there are ski areas, believe me, these ski trails do not harm the environment. Please believe me. If anything, they enhance it, and how they enhance it is make it possible for a few more of our people to have a job and put food on the table for themselves and their

family.

Now, in addition -- in addition, it does provide a great deal of enjoyment for a lot of people. For those of you who ski, you know what I'm talking about, but there isn't, believe me again, a better sport, a better family sport, a better sport that provides, as I say, enjoyment for people, recreation for people, healthy, but again, in our area, in many areas, this is all we have, and when you start talking about the environment and how it's harming it, it does not -- you're using the environment and, again, you're making it possible for us to have at least some semblance of an economy, and I suggest the environment for the people is rather important.

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

SENATOR STAFFORD: Yes.

ACTING PRESIDENT MAZIARZ: The Secretary will continue the roll.

THE SECRETARY: Senator Gonzalez.

(There was no response.)
Senator Goodman.
(There was no response.)
Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hoblock.
SENATOR HOBLOCK: No.
THE SECRETARY: Senator Hoffmann.
SENATOR HOFFMANN: No.
THE SECRETARY: Senator Holland.
(There was no response.)
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lachman.
SENATOR LACHMAN: No.
THE SECRETARY: Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.
(There was no response.)
Senator Leibell.
(There was no response.)
Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Levy.
(There was no response.)
Senator Libous.
(There was no response.)
Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator -
ACTING PRESIDENT MAZIARZ: Senator Gold, I'm sorry.
SENATOR GOLD: How did Senator Maltese vote?
ACTING PRESIDENT MAZIARZ: Senator Maltese was recorded in the affirmative.
Continue the roll.
THE SECRETARY: Senator Marcellino.
(There was no response.)

Senator Marchi.

ACTING PRESIDENT MAZIARZ: Senator Marchi, to explain his vote.

SENATOR MARCHI: Yes, Mr. President. I -- I believe that the use to which it's proposed that this land be used is wholly and completely compatible with the objectives of naturalists, of people who believe that this great beauty that we have, this national treasure, state treasure that we have will not be impaired in any way. In fact, it will be enhanced.

If human beings go on it, they don't despoil it. They're going there for recreational purposes, for purposes of enjoyment. It does not degrade or debase that area but exalts it and gives us added importance in terms of the lives -- the impact that it has on the lives of people who are utilizing it and those who make a living because they're entitled to live.

So I feel, Mr. President, this is a wholly compatible use and deserves full

support because it serves all of the purposes that we all share on various aspects of the dispute.

ACTING PRESIDENT MAZIARZ: The Secretary will continue to call the roll.

Senator Marchi in the affirmative.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, to explain her vote.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Very briefly. I'd just like to respond to -- I will be voting no, but I would like to mention a couple of things that came up.

I appreciate what Senator Marchi was saying, that we can, with humans walking or hiking or camping in wilderness area, "forever wild" area, forest preserve area that, yes, we just leave our foot fingerprints, hopefully, no trash, and it is an enhancement. It is wonderful for the human being to be able to be out in that kind of "forever wild" environment.

However, a ski slope requires cutting down a goodly number of trees and they're planning on adding 25 or 30 different runs. That means the decimation of an enormous number of trees. In taking up the roots of the trees, you use a lot of water and in addition,

water will be diverted in order to make the snow. So that is where the billion gallons of water would be taken from what is our supply of water in the downstate New York area.

The other thing I would like to say is that Hunter is currently about the size of a mountain that I'm very, very familiar with because I have a home there. It's Jiminy Peak. It's quite close to this area of Albany, and they want to expand it to make it more the size of Gore Mountain. This size would not make it a vacation destination and it's unlikely to attract skiers for longer than the weekend which it now does do.

I can tell you that at my mountain, at the mountain where I've been located, Jiminy Peak, for the last 30 years, we have a very, very successful mountain and we have a successful mountain because the management is excellent, because it has made improvements. Every single year, an improvement is made. The equipment is not permitted to deteriorate. We have slopes for all different

types of skiers. It is probably one of the most successful small mountains in the east here.

And so what I would recommend is in order to attract those -- those additional jobs -- which I certainly feel very strongly about. It's very distressing to me to hear when people are trying to pit economic development and jobs against the environment. There is no need that they be enemies because in the states that have very strong environmental law, they are the same states that are doing very well in economic development.

So I think we have to look at how to accommodate to both, and there is a way, and I would be delighted to talk to Senator Cook about the various improvements that could be made that would vastly increase and improve the situation at Hunter Mountain.

I vote no.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer will be recorded in the negative.

Resume the roll call.

THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: No.
THE SECRETARY: Senator Paterson.
ACTING PRESIDENT MAZIARZ: Senator Paterson, to explain his vote.
SENATOR PATERSON: No, Mr. President.
ACTING PRESIDENT MAZIARZ: Continue the roll call. Excuse me. Wait. Could we just have it a little more quiet in the room, please.
I'm sorry. Senator Stafford.
SENATOR STAFFORD: I'm sorry.
ACTING PRESIDENT MAZIARZ: Continue the roll call, please.
THE SECRETARY: Senator Present.
SENATOR PRESENT: Aye.
THE SECRETARY: Senator Rath.
SENATOR RATH: Aye.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Explain my vote, Mr. President.
ACTING PRESIDENT MAZIARZ:

Senator Saland, to explain his vote.

SENATOR SALAND: Mr. President, I was in the chamber for virtually all of the debate and when I was out of the chamber, I was able to hear much if not all of it on the box.

I certainly understood the direction from which Senator Cook was proceeding, and to be perfectly honest with you, I found some of the arguments in opposition to be rather elitist, rather patronizing and certainly difficult to comprehend.

I well appreciate the importance to many of the EPL ratings, but let me suggest to you what you could do with each of those smokestacks and you can do it one at a time, two at a time or three at a time.

I vote in support of this bill which I believe is imperative for Senator Cook's area, imperative certainly for a portion of the Adirondacks*, an area which is desperately seeking economic development, not merely as something that somehow or other is superfluous but something that is essential to the day-to

day lives and the failure to put this out and put it on the ballot will basically be, in effect, turning our back on a large segment of the population of the state of New York.

I vote in support.

ACTING PRESIDENT MAZIARZ: Senator Saland will be recorded in the affirmative.

Resume the roll call.

THE SECRETARY: Senator Santiago, excused.

Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Sears.

SENATOR SEARS: Yes.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

ACTING PRESIDENT MAZIARZ: Senator Stachowski, to explain his vote.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, not having the same kind of experience or ability with little chimneys that apparently Senator Saland has, I vote in the negative.

ACTING PRESIDENT MAZIARZ: Senator Stachowski will be recorded in the negative.

The Secretary will resume the roll call.

THE SECRETARY: Senator Stafford voting in the affirmative earlier.

Senator Stavisky, excused.

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

(There was no response.)

Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

(There was no response.)

Senator Waldon.

SENATOR WALDON: Explain my vote.

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

SENATOR WALDON: I'm very wont and reluctant to ever vote against the interest of a colleague in terms of their home base, and if you review my record here, that is quite true. However, I am very familiar with Hunter Mountain.

Since 1961, my wife and children and I and her Aunt Regina and Uncle Benny Bather, 110 acres on Story Mountain, have spent many fine summers and winters in terms of vacation and recreation. Benny Bather, my wife's uncle has worked at Hunter Mountain, even as recently as last year for a period of about 15 or 20 years.

I'm familiar with 28. In fact, Dick Coombe invited me to an event to support

Hunter Mountain at Big Indian and those of you who are from the area know the place I'm talking about, the restaurant.

I know Phoenicia. I know Woodstock. I know that entire area, and so it's with great reluctance that I oppose the position that Senator Cook has taken on this issue and Senator Stafford, but I think there comes a time when you have to weigh what is in the best interests of all of the people.

And so respectfully, I submit to you that I believe the best interests of the people of the state of New York is in saving Hunter Mountain as opposed to doing things which may, in my opinion, prove to be destructive.

My dear colleague from the Bronx, the Honorable Larry Seabrook, said earlier wild forever, and so that's what I want for Hunter Mountain, the top of Hunter Mountain, to be wild forever. I think that's what God meant for it to be, and I will vote in the no.

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

The Secretary will continue the roll call.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MAZIARZ: Call the absentees.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator LaValle, to explain his vote.

SENATOR LAVALLE: Thank you, Mr. President.

I have listened to the debate,

and I think Senator Oppenheimer has raised some good points. Senator Cook has raised some good points, along with Senator Stafford, but one of the things that has bothered me about the debate -- and it's unfortunate that there's not a mechanism here as we had with the pine barrens to bring all of the stakeholders together to talk out some of these issues, but what disturbs me is the fact that there can be -- there can be uses of keeping property "forever wild" along with uses for recreation, and we can have entrepreneurial interests that can develop those properties so that many people in this state who enjoy skiing can utilize what the Lord has put here for us to be fully utilized.

As I understand, this is the first passage of this Constitutional Amendment, and I think that there probably has to be a further discussion on this, but I'm going to support Senator Cook in this first passage with the understanding that it will today hopefully bring people together to discuss the issues that have been raised today, and I know we've

mentioned here three smokestacks, two smoke stacks, but I think once in a while you have to put aside what EPL has to say, and I think we've got to advance a process, and that's what this body is all about.

So I vote in the affirmative.

ACTING PRESIDENT MAZIARZ: Senator LaValle will be recorded in the affirmative.

The Secretary will continue the roll call.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: No.

THE SECRETARY: Senator Levy.

(There was no response.)

Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Tully.

(Affirmative indication)

ACTING PRESIDENT MAZIARZ:

Announce the results.

Senator Goodman. I'm sorry.

THE SECRETARY: Senator Goodman.

(Negative indication)

ACTING PRESIDENT MAZIARZ: Senator Goodman recorded in the negative.

Senator Tully, were you seeking recognition?

Senator Levy.

SENATOR LEVY: Senator Levy, aye.

ACTING PRESIDENT MAZIARZ: Senator Levy in the affirmative. The results, please.

THE SECRETARY: Ayes 33, nays 24.

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: Yes. Can I please have unanimous consent to be voted in the negative on Calendar Number 1228, please.

ACTING PRESIDENT MAZIARZ:

Without objection, so ordered.

Senator Montgomery.

SENATOR MONTGOMERY: Yes. Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 1457.

ACTING PRESIDENT MAZIARZ: Without objection, so ordered.

Senator -

SENATOR NANULA: I would like the record to reflect that had I been in the chamber when Calendar Number 900 was voted on, I would have voted in the negative. I had business that took me out of the chamber at that time. Once again, I would have voted in the negative on Calendar Number 900.

ACTING PRESIDENT MAZIARZ: The record will so reflect.

Senator Skelos -- I'm sorry - Senator Rath.

SENATOR RATH: Mr. President, I would like to be recorded in the negative on Calendar Number 1440, please.

ACTING PRESIDENT MAZIARZ:

Without objection, so ordered.

Senator Skelos.

SENATOR SKELOS: Would you please call up Senator Kuhl's bill, Calendar Number 1280.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1280, by Senator Kuhl, Senate Print 3356, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MAZIARZ: Senator Kuhl, an explanation has been requested of Calendar Number 1280 by the Minority Leader, Senator Connor.

Excuse me, Senator Kuhl. Could we please have a little quiet in the chamber. Senator Kuhl has a touch of a cold. It's difficult to hear.

Senator Kuhl.

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

Probably the easiest way to explain this bill is to read it. It's only four

lines in nature, and I don't have to read the entire piece of it, but this bill applies to children under the age of 14, and it says that they don't -- or would not be required to wear bicycle helmets when riding a bicycle if, in fact, their religious tenets were established and prohibited the wearing of those helmets, if they had some other attire that they needed to wear.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

We had a rather extensive and I think quite interesting discussion last week that included Senator Lachman who advised us of some court rulings pertaining to issues in other states that were similar to what Senator Kuhl is raising.

We thought that the language of the legislation was a little bit overbroad and could be interpreted in ways that would be somewhat destructive to public safety and also

bicycle safety in other parts of the state.

But Senator Kuhl is actually speaking to a particular group of individuals in his district, the Mennonites who don't ride bicycles but -- so quickly, but in many cases use bicycles that are as much as 50 and 60 years old and that they don't have any record or reputation for failure to operate the -- the bicycles safely and because of the unique garb that they adorn while operating the cycles, they are actually affected, and it's a problem for the -- these individuals in his district, and we understand that, and what Senator Lachman pointed out in the debate is that it was held in the United States Supreme Court that -- I believe in the state of Wisconsin they had a similar issue and that where you could demonstrate that there was specific conduct in addition to the protected class of people, that you actually could legislate for what would be a specific group.

We have been unable to provide Senator Kuhl with the actual language to amend

the bill, but should this bill not become law and come back next year, we would offer to work with Senator Kuhl to fashion the correct language such that this legislation would be applicable to the individuals in his district but would not create the plethora of problems that we would have particularly in New York City if the actual religious garb could be used in a sense to work around what would be the Public Safety Law.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: Mr. President, we all understand what is behind this, and I am going to support Senator Kuhl. I absolutely believe that it is a proper function of this Legislature to make exceptions to laws in proper cases to allow people to do things which we consider religious freedom. It has certainly happened in other cases.

Having said that, I would ask the chairman of our Rules Committee to please

recognize that with the help of Senator Goodman, there is a bill in Rules which would allow Orthodox Jewish owners of liquor stores and others the option of closing on their Sabbath and remaining open on Sunday if that is the community need, and with the same sincerity and desire to cooperate as I am now going to show towards Senator Kuhl who I greatly respect - even though he does talk while other people putt -- I would like the Rules Committee to consider that this is the year the bill that I have in that committee has been amended to give a consideration to some of the groups who are concerned who own stores, but it is absolutely time to recognize the legitimate needs of Orthodox Jews who operate liquor stores in their community to be able to open on Sunday as every other kind of business is open in those communities.

I vote yes.

ACTING PRESIDENT MAZIARZ: Read the last section.

I'm sorry. Senator Lachman.

SENATOR LACHMAN: I rise at this point in support of Senator Kuhl's bill and Senator Gold's bill in the Rules Committee but specifically on the bill that is under consideration.

In the Supreme Court decision that I cited last time, Wisconsin versus Yoder 1972 which dealt with the Amish population in Wisconsin, the U.S. Supreme Court specifically stated that unless the state can show a compelling interest to intervene with a religious group, they should stay out of it. There is no compelling interest, as I see it, with the legislation that is now before this chamber.

I would have changed, as Senator Kuhl knows, a few words in the legislation, but I'm proud to support the legislation because it's in keeping with the First Amendment of the Constitution which states besides that there should be no establishment of religion, it also permits the free exercise thereof, and I have to commend Senator Kuhl because he is doing this

for a small group in his district, Mennonites who aren't Democrats or Republicans and frequently do not even vote. So in that sense, he has nothing to gain from it or to lose from it.

This, ladies and gentlemen, is a non-partisan issue. It's in keeping with the pluralism of our nation and the desire of the framers of the U.S. Constitution not only to disestablish religion but allow religion to grow without inhibiting it, and this would inhibit the religious beliefs of the Mennonite population in Senator Kuhl's district.

I, therefore, vote Aye.

ACTING PRESIDENT MAZIARZ: Senator Kuhl.

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

ACTING PRESIDENT MAZIARZ: Senator Kuhl, on the bill.

SENATOR KUHL: Those of you who were in the chamber last week when we first brought this bill up remember that we discussed

the many aspects of it and variations, and Senator Lachman had a lot to, I think, lend to the discussion, as did Senator Paterson, also Senator Stachowski. At that time I laid the bill aside at the request of Senator Paterson and Senator Lachman to talk about the possibility of amending the bill, and Senator Lachman did provide me with some language which we had the opportunity to review and discuss, and it was my opinion that perhaps that created more problems than the bill as presently designed. So we had brought the bill back in the same form, but I want to thank all of them for participating in the process to try to make what I perceive as good legislation even better, even though it hasn't resulted in a change, but I certainly appreciate their support.

It is a need in my district, one that as I indicated, allows a religious sect to continue to practice their religion without interference coming from this state Legislature, and I don't think that's what any of us intended to do when we were dealing with the safety

aspects of adopting legislation to provide -- to try to protect our innocent children and provide certain kinds of protections for their benefit that they wouldn't necessarily willingly or knowingly even start to ensue.

So I would ask the Secretary to read the last section at this time.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

Senator Libous, to explain his vote.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

This is a very difficult vote for me. As has been explained by some of my colleagues, I certainly have the utmost respect

for anyone's religion and religious affiliations, and I certainly would never interfere in that.

However, having -- one who chairs the Committee on Mental Health and Developmental Disabilities and one who authored the original legislation for head injury, to set up a Head Injury Institute and one who has sat by the bedside of young children who have experienced a head injury due to a bicycle accident, it is very difficult for me to vote in favor of this and, Mr. President, because of that, I think it's important that I do explain my vote and, again, this is -- should not be interpreted to have any negative reflection on anyone's religion but, as I said, it's those memories of being with a child under 14 who has experienced a head injury, who's been in a coma, I only think that this piece of legislation should be voted against, and I vote no.

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes 57, nays 2,

Senators Libous and Montgomery recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: At this time if we could take up Supplemental Calendar Number 1, regular order -- actually, what we would like to do is with the consent of the Minority, call up Calendar Number 1482, by Senator Goodman, on Supplemental Calendar Number 1.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1482, by Senator Goodman, Senate Print 5386-B, an act to amend the Real Property Tax Law, in relation to the determination of adjusted base proportions.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: Yeah. I believe this bill was the subject of some discussion in the Rules Committee. Is this -- hold on one second.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: As I said, Mr. President, this bill was the bill which was discussed in the Rules Committee and there was some confusion and to be very candid, the reason for the confusion was the failure of the city of New York to clarify their situation.

It wasn't until, I guess late today when the City woke up to the problem as it often unfortunately does at the last minute, and I have now received a memo from the City clarifying it, and apparently this bill would not only help Manhattan but would also be helpful in the counties of Queens and some other counties.

So while we expressed some reservation in the Rules Committee -- at least I

did -- my reservations have been satisfied by the City's memo. We could have saved some time in Rules and even out here if the City was just a little bit more attentive to their duties.

I'm going to vote yes.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Could we then take up the supplemental calendar, regular order, starting with Calendar Number 1480. 1448 will be laid aside for the day.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number

1448, Senator Maltese moves to discharge from the Committee on Judiciary Assembly Bill Number 1111 and substitute it for the identical Senate Bill 738.

ACTING PRESIDENT MAZIARZ: The substitution is ordered. Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1480, by Senator Lack, Senate Print 3088-A, an act to amend the Labor Law, in relation to direct sellers.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Gonzalez.

SENATOR GONZALEZ: Yes, Mr.

President. Without objection, may I be recorded in the affirmative on Calendar Number 900.

SENATOR GOLD: In the affirmative.

ACTING PRESIDENT MAZIARZ: Senator Gonzalez, the record will reflect that had you been in the chamber at the time that you would have voted in the affirmative.

SENATOR GONZALEZ: Thank you.

ACTING PRESIDENT MAZIARZ: But, unfortunately, it was a slow roll call.

SENATOR GONZALEZ: Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator.

The Secretary will read.

THE SECRETARY: Calendar Number 1481, by Senator Kruger, Senate Print 4142, an act to allow Jack Walfish, a retired member of the New York State Teachers Retirement system, to purchase military credit.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Skelos. I'm sorry.

SENATOR SKELOS: I believe there's some housekeeping at the desk that should be taken care of at this point. If we could return to motions and resolutions.

ACTING PRESIDENT MAZIARZ: Return to motions and resolutions.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Rath, Mr. President, on page 24, I offer the following amendments to Calendar 939, Senate Print 7153-A, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: The amendments are received.

SENATOR FARLEY: On behalf of Senator Marchi, on page 41, I offer the following amendments to Calendar Number 1397, Senate Print 7535, and I ask that that bill retain its place.

ACTING PRESIDENT MAZIARZ: The amendments are received.

SENATOR FARLEY: On behalf of Senator Skelos, on page 46, I offer the following amendments to Calendar 1437, Senate Print 2459-A, and I ask that that bill retain its place.

ACTING PRESIDENT MAZIARZ: The amendments are received.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Seward.

SENATOR SEWARD: Yes. On behalf of Senator Spano, I wish to call up his bill, Print Number 6575, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: By Senator Spano, Senate Print 6575, an act to amend the Labor Law.

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

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

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

ACTING PRESIDENT MAZIARZ: The amendments are received.

SENATOR SEWARD: And on behalf of Senator Goodman, I wish to call up his bill, Print Number 6344, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: By Senator Goodman, Senate Print 6344, an act to amend the

Vehicle and Traffic Law.

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

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR SEWARD: Mr. President, I now -

ACTING PRESIDENT MAZIARZ: I'm sorry. Senator Seward.

SENATOR SEWARD: Yes. I now offer the following amendments to Print Number 6344.

ACTING PRESIDENT MAZIARZ: The amendments are received.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: Mr. President, may I have unanimous consent to be recorded in the negative on Calendars 1228 and 1426, please.

ACTING PRESIDENT MAZIARZ: Without objection, so ordered.

The Secretary will read the substitutions.

THE SECRETARY: On page 15, Senator Johnson moves to discharge from the Committee on Rules Assembly Bill Number 3490-A and substitute it for the identical Senate Bill 2281-A.

Senator Maziarz moves to discharge from the Committee on Rules Assembly Bill Number 7760-B and substitute it for the identical Senate Bill 6355-B.

On page 22, Senator Skelos moves to discharge from the Committee on Rules Assembly Bill Number 1311-C and substitute it for the identical Senate Bill 6724-A.

ACTING PRESIDENT MAZIARZ: Substitutions are ordered.

The Secretary will continue with

the non-controversial calendar.

THE SECRETARY: Calendar Number 1483 -

ACTING PRESIDENT MAZIARZ: 1483 is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1484, by Senator LaValle, Senate Print 6096, an act to amend the Social Services Law and the Mental Hygiene Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1485 -

ACTING PRESIDENT MAZIARZ: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1486, by Senator Nanula, Senate Print 6578, an act in relation to allowing certain persons in New York State and Local Employees Retirement System.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1487 -

ACTING PRESIDENT MAZIARZ: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1488 -

ACTING PRESIDENT MAZIARZ: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1489, by Senator Trunzo, Senate Print 7254-A, an act to amend the Retirement and Social Security Law.

SENATOR TRUNZO: Lay it aside.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number 1490, by Senator Lack, Senate Print 7297-A, an act to amend the Real Property Tax Law, in relation to duties of the director of real property tax services.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number

1491, by Senator Hannon, Senate Print 7455, an act to amend the Facilities Development Corporation Act.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number 1492, by Senator Present, Senate Print 7556, an act to amend the State Administrative Procedure Act, in relation to clarifying the definition of a rule.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT MAZIARZ: Lay the bill aside for the day at the request of the sponsor.

THE SECRETARY: Calendar Number 1493, by Senator Rath, Senate Print 7561, an act to amend the Real Property Tax Law and the Agriculture and Markets Law.

SENATOR WALDON: Explanation.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number 1494, by Senator Rath, Senate Print 7562, an act to amend the Real Property Tax Law, in relation to the definition of special franchise property.

SENATOR WALDON: Explanation.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number 1495, by Senator Nozzolio, Senate Print 7563-A, an act to amend the General Municipal Law, in relation to planning for future capital improvement.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number

1496, by Senator Hannon, Senate Print 7580, an act to amend the Emergency Tenant Protection Act.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number 1497, Senator Levy moves to discharge from the Committee on Rules Assembly Bill Number 10583 and substitute it for the identical Senate Bill 7589.

ACTING PRESIDENT MAZIARZ: Read the last section -- the substitution is ordered.

THE SECRETARY: Calendar Number 1497, by the Assembly Committee on Rules, Assembly Bill 10583, an act to amend the Vehicle and Traffic Law, in relation to the maximum length of buses.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1498 -

ACTING PRESIDENT MAZIARZ: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1499, by Senator Farley, Senate Print 7679, an act authorizing the city of Schenectady to discontinue use as parklands.

ACTING PRESIDENT MAZIARZ: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1500, Senator DeFrancisco moves to discharge from the Committee on Rules Assembly Bill Number 10477 and substitute it for the identical Senate Bill 7696.

ACTING PRESIDENT MAZIARZ: The substitution is ordered.

THE SECRETARY: Calendar Number 1500, by the Assembly Committee on Rules, Assembly Print Number 10477, an act authorizing a transfer into retirement plans.

ACTING PRESIDENT MAZIARZ: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

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

SENATOR SKELOS: Mr. President, if we could take up Supplemental Calendar Number 1, controversial.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1489, by Senator Trunzo, Senate Print 7254-A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MAZIARZ: Senator Trunzo, an explanation has been requested by Senator Leichter.

SENATOR TRUNZO: This legislation would allow former members of the New York State Employment Retirement System who are employees of the -- assistant district attorneys, assistant attorney generals, as assistant counsels for the state agencies to obtain up to five years prior service credit for the New York State Police and Fire Retirement System.

These men had to have those qualifications in order to be transferred, had to give up their ERS -- yeah, the Employment Retirement System pension to join the police - the state trooper system and as a result, what we're doing here is let them take credit for at least five years of those years that they were with the ERS, the Employment Retirement System.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: Mr. President, if Senator Trunzo would yield.

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MAZIARZ: Senator Trunzo, would you yield to a question?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: Just so I see that I understand it, that we're allowing prior service up to five years for those people who worked as assistant district attorneys or assistant counsel for any state agency.

SENATOR TRUNZO: Four people - it only amounts to four people, Senator.

SENATOR LEICHTER: It amounts to four people?

SENATOR TRUNZO: Just four people.

SENATOR LEICHTER: Well, that was my next question, Senator, whether, you know, there were any particular individuals we were benefiting, and if we were -- and you indicated already, all four people -- I mean, are there other people similarly situated that should be brought in?

SENATOR TRUNZO: Well, for the positions that they presently hold with the - with the troopers, the qualification background required that they not only leave the ERS, the Employee Retirement System, but have the background of being either an attorney -- a district attorney, you know, the attorney general's office, that type of background, otherwise, they could not hold the positions with the troopers and, therefore, part of the

equity of trying to put it all together.

ACTING PRESIDENT MAZIARZ: Read the last section.

SENATOR LEICHTER: Just a second.

ACTING PRESIDENT MAZIARZ: I'm sorry. Senator Leichter.

SENATOR LEICHTER: I'm sorry, Senator. You know these bills tend to be somewhat confusing. What position do these people hold now, these four?

SENATOR TRUNZO: One is a legal counsel to the State Police. The others are assistant counsels to the State Police.

SENATOR LEICHTER: Senator -- if you would continue to yield, Senator.

ACTING PRESIDENT MAZIARZ: Senator Trunzo, do you continue to yield?

SENATOR TRUNZO: Yes, yes.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: The thing I can't understand -- I can understand that those who worked as assistant district attorneys maybe

were -- let's say if they weren't in the city of New York in a different system, but if they worked as an assistant attorney general, weren't they part of the same state retirement system and didn't they receive credit for their -

SENATOR TRUNZO: No, they did not receive credit. They had to -- they had to relinquish the -- the Employment Retirement System. They had to relinquish that system to get into the trooper system. That was a requirement with the job. They had to relinquish themselves from the Employee Retirement System in order to join the trooper system. That's a requirement of the job. That was a requirement of the job that evidently in law by -- Section 381 (d) of the law says that they have to -- first of all, they have to have had prior service as either a county district attorney's office or a state Department of Law or assistant counsel for a state agency and the service credit in those positions, as most positions within the state Civil Service, applied to the New York State ERS.

Now, when joining the State Police, these individuals were required to leave the Employee Retirement System and join the State Police in the 381 (d) of the Retirement and Social Security Law.

SENATOR LEICHTER: Excuse me. Senator, if you would be good enough to continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Trunzo, do you continue to yield to Senator Leichter?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: The state troopers, aren't they part of the same retirement system?

SENATOR TRUNZO: The state troopers are part of the police and - retirement system -- the police and fire - section of the police and fire system, which is Section 381 (b) of the retirement -- of the police and fire retirement system, all troopers

are in that system, and these four gentlemen who transferred from these other agencies had the background, had to go into that system as well and give up their time that they had with the Employee Retirement System and, therefore, we're requesting here that they can get up to five years of that -- that they can carry over into the police retirement system -- into the troopers.

SENATOR LEICHTER: I think I understand but, Senator, let me ask you this, if you would continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Trunzo, do you continue to yield to Senator Leichter?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: The same situation then would apply to somebody, let's say who was in the Teachers Retirement System and joined the troopers, right? They would also then be in a different -

SENATOR TRUNZO: Chances are they would probably be.

SENATOR LEICHTER: Well, why don't -- well, this bill is obviously very narrowly drawn for these people. Shouldn't there be a bill then which would provide that anybody who has credit -- service that is credited to the state retirement system who then become part of the State Police ought to be given credit for that -- that service?

SENATOR TRUNZO: These specific positions, Senator, they must have the background in those other positions that I mentioned before.

SENATOR LEICHTER: Okay. Thank you, Senator.

SENATOR TRUNZO: Read the last section.

ACTING PRESIDENT MAZIARZ: At Senator Trunzo's request, we'll read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1491, by Senator Hannon, Senate Print 7455, an act to amend the Facilities Development Corporation Act.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Hannon, an explanation has been requested by Senator Leichter.

SENATOR HANNON: Yes. This bill deals with a number of technical changes in regard to the Dormitory Authority, mainly to implement the merger of the Medical Care Facilities Corporation into the Dormitory Authority which was done last year. It would also allow the Dormitory Authority to administer the Mental Hygiene Construction Fund in the same manner that it currently administers other

public construction and financing programs.

ACTING PRESIDENT MAZIARZ: Read the last section.

SENATOR LEICHTER: Just -

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: Yes. Just looking through it quickly, Senator Hannon, if you would be good enough to yield.

ACTING PRESIDENT MAZIARZ: Senator Hannon, would you yield to Senator Leichter for a question?

SENATOR HANNON: Yes, sir.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: Senator, is there any -- other than to implement that merger, is there any changes in the powers of the Dormitory Authority?

SENATOR HANNON: Well, I would think that what I said in my statement about the mental hygiene construction program is to -- to the extent there were any changes before is to

bring that in line with the rest of its public construction. Now, is that change? I don't know if that covers or is not covered by your question, but I just want to flag that.

Now, other changes, it's mainly a cleanup section in regard to all of this. I have a very careful memo from the Authority that I would be very happy to provide to you. It's been on file, and it lists the changes. It lists the existing law and from my reading of it -- my reading of the statute, I don't think this does anything but what I said it does, and I'd be very happy to give you this copy of the memo.

SENATOR LEICHTER: Well, Senator, I'd be happy to look at it, but we have the bill before us now.

SENATOR HANNON: Well, the memo has been in existence, dated February 14th and it probably -

SENATOR LEICHTER: You know, I asked for it on February 15th because I saw that bill was on and, unfortunately, I put it in my

desk and I didn't read it. So I apologize. I know that everybody else has read that memo but -- so bear with me.

On page 15, line 35, I see there seems to be some change regarding procurement contracts. It doesn't seem to be a very significant change but -

SENATOR HANNON: It deals not with -- well, in procurement contracts in the sense that they have to be mentioned in the Procurement Opportunity Newsletter, and it says, though, that if contract is for less than $10,000, I believe the effect of that is it doesn't have to be listed in the newsletter.

SENATOR LEICHTER: Thank you, Senator.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 22. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

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

ACTING PRESIDENT MAZIARZ: There's an immediate meeting of the Rules Committee in Room 332 of the Capitol. An immediate meeting of the Rules Committee.

The Secretary will read.

THE SECRETARY: Calendar Number 1493, by Senator Rath, Senate Print 7561, an act to amend the Real Property Tax Law and the Agriculture and Markets Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MAZIARZ:

Senator Rath, an explanation has been requested of Calendar Number 1493 by the Acting Minority Leader, Senator Paterson.

Senator Rath.

SENATOR RATH: Thank you, Mr. President.

The bill -- there are two bills that you see before you, this one and the next one, both of which were laid aside, and they're both as a result of what is a clarifying bill that's done near the end of session every year at the request of the Office of Real Property Services.

The Assembly -- with the consent of the Assembly, we split the one bill into three sections and they now have corresponding bills in the Assembly. One of the three bills that we split this into passed on June 10th. The other two are in front of us today.

The first one that you're looking at repeals -- let's see -- wait a minute. Make sure I've got the right one going here. This is the one that speaks to the -- okay. This is the

one that speaks to improvements to property that are being made by persons who are disabled and they're attempting to remove architectural barriers and what has happened is that in 1995, Chapter 648 was passed and it wasn't correct in the sense that it wasn't workable, and when the people got out there in the field, they started working through it and they saw that they had to readjust the language. So all we've done is adjust the language. Instead of saying "disabled improvements", we're now saying "improvements to property made pursuant to the Americans with Disabilities Act". It's three or four pieces just like that. If you want me to go further with you I will, but that's basically what this one is.

ACTING PRESIDENT MAZIARZ: Read the last section.

I'm sorry. Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Rath would yield for a question.

ACTING PRESIDENT MAZIARZ: Senator Rath, would you yield for a question

from Senator Paterson?

Senator Paterson.

SENATOR PATERSON: Senator, does this legislation repeal the veterans alternative exemption in property taxes?

SENATOR RATH: No, it does not. This is merely a language change to make it more easily understood, the one that was chaptered last year -- 648 that was chaptered last year.

SENATOR PATERSON: Okay. So then it's already expired, so it's okay.

SENATOR RATH: Yes.

SENATOR PATERSON: Thank you.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1494, by Senator Rath, Senate Print 7562, an act to amend the Real Property Tax Law, in relation to the definition of special franchised property.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1496, by Senator Hannon, Senate Print 7580, an act to amend the Emergency Tenant Protection Act of 1974.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President. Considering the hour and we would

like to speak on the legislation, would the sponsor consider just laying this aside for the day?

SENATOR MARCELLINO: The sponsor would agree to lay this aside for the day.

SENATOR PATERSON: What a kind sponsor.

ACTING PRESIDENT MAZIARZ: The bill will be laid aside for the day at the request of the sponsor.

Senator Marcellino.

SENATOR MARCELLINO: Yes. Mr. President. Is there any housekeeping up there?

ACTING PRESIDENT MAZIARZ: No, there is no housekeeping at the desk.

SENATOR MARCELLINO: Then, Mr. President, we should stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT MAZIARZ: The Senate will stand at ease pending a report of the Rules Committee.

(Whereupon, at 5:50 p.m., the Senate was at ease until 6:02 p.m.)

ACTING PRESIDENT MAZIARZ: Senator Holland.

SENATOR HOLLAND: Report from the Rules Committee, please.

ACTING PRESIDENT MAZIARZ: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers up the following bills directly for third reading:

302A, by Senator Kruger, an act to amend the Penal Law;

2701, by Senator Stavisky, an act to amend the Penal Law;

6579B, by Senator Nanula, an act granting certain retirement service credit;

7594A, by Senator Wright, an act authorizing the apportionment of transportation aid;

7612, by Senator Leibell, an act to legalize, ratify, and confirm the acts and proceedings of the Board of Education;

7613, by the Senate Committee on

Rules, an act to amend Chapter 268 of the Laws of 1989;

7625, by Senator Lack, an act to amend the Surrogate's Court Procedure Act;

7627, by the Senate Committee on Rules, an act to amend the Public Authorities Law;

7638, by Senator Maltese, an act to amend the Election Law;

7641, by Senator Stafford, an act to amend the Retirement and Social Security Law;

7643, by Senator Bruno, an act in relation to authorizing Tier I status;

7648, by Senator Present, an act legalizing, ratifying and confirming;

7655A, by Senator Levy, an act to amend the Transportation Law;

7656, by Senator Rath, an act to amend the Real Property Tax Law;

7657, by Senator Tully, an act to amend the Environmental Conservation Law;

7659, by Senator Volker, an act to amend the Executive Law;

7667, by Senator Maziarz, an act authorizing the payment of transportation aid;

7689, by the Senate Committee on Rules, an act to amend Chapter 884 of the Laws of 1990;

7707, by Senator Maziarz, an act to incorporate the Wheatfield Volunteer Firemen's Benevolent Association;

7709A, by Senator LaValle, an act to amend the Local Finance Law;

7710, by Senator Kuhl, an act to amend the Navigation Law;

7712, by the Senate Committee on Rules, an act to amend the Alcoholic Beverage Control Law;

7730, by Senator Hoblock, an act to amend the Labor Law;

7731, by Senator Holland, an act to amend the Retirement and Social Security Law;

7734, by the Senate Committee on Rules, an act to amend Section 20 of Chapter 231 of the Laws of 1993;

Senate 7764, by Senator Hannon,

an act to amend the Public Health Law.

All bills directly for third reading.

ACTING PRESIDENT MAZIARZ: All in favor of accepting the report of the Rules Committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The report is accepted.

Senator Holland.

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

ACTING PRESIDENT MAZIARZ: There is no housekeeping at the desk.

SENATOR HOLLAND: Then I move we adjourn until tomorrow, Thursday, the 13th of June, at 10:00 a.m.

ACTING PRESIDENT MAZIARZ: On motion, the Senate stands adjourned in honor of our distinguished colleague on the occasion of his 60th birthday, Senator Joseph Holland. All your colleagues stand and give you a rousing

round of applause.

(Applause)

Senate is adjourned.

(Whereupon, at 6:05 p.m., the Senate adjourned.)