ALBANY, NEW YORK

April 14, 1997

3:08 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Would everyone please rise and join with me in the Pledge of Allegiance.

(Whereupon, the assemblage joined in the Pledge of Allegiance to the Flag.)

The invocation today will be given by Reverend Peter G. Young from Blessed Sacrament Church in Bolton Landing.

Reverend Young.

REVEREND PETER G. YOUNG: Let us pray.

We pray today for all New York State people and that their wealth and their power might become a force for peace rather than conflict, a source of hope rather than discontent, an agent of friendship rather than enmity.

May the actions of this Senate, then, set the example for the citizens of our state.

THE PRESIDENT: Amen.

Thank you.

The reading of the Journal.

THE SECRETARY: In Senate, Sunday, April 13. The Senate met pursuant to adjournment. The Journal of Saturday, April 12, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Volker, would you please place a sponsor's star on Calendar Number 349.

THE PRESIDENT: So ordered.

SENATOR FARLEY: On behalf of Senator Kuhl, Madam President, on page 20, I offer the following amendments to Calendar 494,

Senate Print 2705, and I ask the bill retain its place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR FARLEY: On behalf of Senator Levy, Madam President, I wish to call up his bill, Senate Print -- no, Assembly Print Number -- no. It's Print Number 928A, which was recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 326, by Senator Levy, Senate Print 928A, an act to amend the Railroad Law and the Penal Law.

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

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 40.

THE PRESIDENT: The bill is before the house.

Senator Farley.

SENATOR FARLEY: I now offer the following amendments.

On behalf of Senator Maltese, I wish to call up his bill, Print Number 1219, which was recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 174, by Senator Maltese, Senate Print 1219, an act to amend the Election Law.

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

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 40.

THE PRESIDENT: The bill is before the house.

Senator Farley.

SENATOR FARLEY: Madam President. I now offer the following amendments.

THE PRESIDENT: Amendments on

both bills received.

Secretary will read.

THE SECRETARY: On page 28, Senator Johnson moves to discharge from the Committee on Higher Education Assembly Bill Number 937 and substitute it for the identical Third Reading Calendar 576.

THE PRESIDENT: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Transportation Committee in Room 328 of the Capitol.

THE PRESIDENT: There will be an immediate meeting of the Transportation Committee in Room 328.

SENATOR SKELOS: Madam President, may we please take up Privileged Resolution 1019, sponsored by Senator Montgomery, and ask that it be read in its entirety, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senators

Waldon and Montgomery, Legislative Resolution congratulating the Long Island University Basketball Team and Coach Ray Haskins on their outstanding season and on winning the 1997 Northeast Conference Championship.

Whereas, excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

Whereas, athletic competition enhances the moral and physical development of these young people of this state preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

Whereas, the Long Island University Basketball Team is the 1997 Northeast Conference Champion; and

Whereas, the athletic talent displayed by this team is due in great part to the efforts of Coach Ray Haskins, a skilled and inspirational tutor, respected for his ability

to develop potential into excellence.

The team's overall record is outstanding and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large.

The hallmarks of the Long Island University Basketball Team from the opening game of the season to participation in the championship were a brotherhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none.

Athletically and academically, the team members have proven themselves to be an unbeatable combination of talents, reflecting favorably on their school.

Coach Ray Haskins has done a suburb job in guiding, molding and inspiring the team members toward their goals; and

Whereas, sports competition instills the values of teamwork, pride and accomplishment, and Coach Ray Haskins and 11 outstanding athletes have clearly made a contribution to the spirit of excellence which is a tradition of their school; now, therefore,

be it

Resolved, that this Legislative Body pause in its deliberations to congratulate the Long Island University Basketball Team; its members: Corey Goodall, Dave Masciale, Shawn Browne, Charles Jones, Richie Parker, Mike Campbell, Jason Cragan, Matt Picinic, Omar Noureddine, Karim Smith, Johnnie Drew, Coach Ray Haskins, Assistant Coaches Julius Allen, Wendell Saunders, Joe Palermo and Khalid Green; Athletic Directors Alan Chaves and Margaret Alaimo; Trainers Said Hamdan and Jayne Kitsos; Sports Information Director Greg Fox; and Managers Nicole Johnson, Jerri Hedrington and Ekwah Haskins, on their outstanding season of overall team record; and be it further

Resolved, that a copy of this resolution, suitably engrossed, be transmitted to the Long Island University Basketball Team and to Coach Ray Haskins.

ACTING PRESIDENT KUHL: Senator Montgomery, did you wish to speak on the resolution?

SENATOR MONTGOMERY: I'll yield to Senator Waldon.

ACTING PRESIDENT KUHL: Senator Montgomery yields to Senator Waldon.

Senator Waldon, on the resolution.

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

I really appreciate your kindness, Senator Montgomery.

There was a time in my life when nothing counted as much as basketball. As a teenager growing up in Brooklyn and playing for Boys High School, there was nothing that I would not sacrifice for to play that game.

My mother was concerned because she thought I didn't eat too much. That is now a thing of the past. My father was concerned because he didn't think I concentrated sufficiently on my books.

And being as poor as we were - being as poor as we were, they saw the key to my escaping Patchen Avenue in Brooklyn as education. But I had the dream that every young African-American has and had at that time to play ball at a higher level; and though I did not realize my dream as well as Lenny Wilkins,

who was my partner and is now my son's God father and I am his daughter's Godfather, or Tommy Davis, who went on to play great baseball, or Frank Thomas, who is the head of the Ford Foundation, but because of the discipline and friendships developed during that experience, my life has been helped tremendously.

New York, for all too long, has been devoid of a team which could capture the imagination as did the Knicks in '69 and '70 and '72 and '73 or as City College did with the Grand Slam in '50 and '51 or St. John's during its heyday or even St. Francis College at one time so many years ago, or LIU under Clair Bee in the '40s, when he was considered along with Hank Iba and others to be one of the great basketball minds of this country.

But this year -- this year basketball was resurrected in New York City. This year, a group of young men under the leadership of Ray Haskins created history. They resurrected basketball for LIU, and they resurrected the spirit of those who live the game.

I saw seven games in person and

one on TV. Each game left me sitting on the edge of my seat. Each game required that I take Gelucel or whatever it is that you take to calm your stomach, because even though the team won almost all of those games, the way they won sometimes made Al Waldon a nervous wreck, but I want to tell you that the excitement of watching Dave Masciale and Mike Campbell, Richie Parker, Charlie Jones, Shawn Browne and even Omar Noureddine and Karim Smith, who are here -- did I get all of the names, fellas? Did I miss anybody? I don't think I missed anyone who is here. The excitement -

Seabrook says I missed him but I've always missed him. The excitement of those games did good for my heart, because it allowed me to vicariously return to the streets of Brooklyn in the early '50s, late '50s. These young men and their coach under the tutelage of the Provost of the school, Mrs. Haynes, have given us a spirit in Brooklyn that is so nice to be a part of.

And so, it was with this spirit that Senator Montgomery and Assemblyman Green and I decided that we had to do something to

recognize them. We brought the West Pointers in here. We brought other people here who have achieved significantly, from the state of New York. These young men made all of us happy, brought all of us pride and showed us that someone can meld together a group of young men, in a sense, in terms of focus and achievement that is magnificent to behold.

So I am privileged and honored to be the person along with others who sponsored this resolution and to be a part of this experience. It made me a happier person this past year, and I am sure that this is just the beginning. So I'm considering buying a portable television to put in my office so that whenever LIU plays anywhere in the country I will be able to follow those games.

Ray, my brother, you did it. To each of the players, you did it.

Now, let me tell you just about three of the players who are here. Richie Parker, tremendous jumper. You wouldn't think a kid 6'-4" could jump the way he does. But he has hops similar to anybody in the NBA, and he showed us that tenacity and courage and

commitment to the game proves that you can be a winner.

Dave Masciale has the biggest heart I've every seen for a man less than 6'-5" tall. This kid from Hoboken ran through brick walls in order to ensure that the team had success while on the floor. Tremendous leader.

And Charles Jones. You've heard of Dr. "J". You've heard of "Clyde, the Glide". You've heard of Michael Jordan. Get ready for the future, ladies and gentlemen, because we have a kid who, athletically and his understanding of the game, is art and poetry in motion. I saw him do some things that in a 360 sense -- those of you who understand the game, "helicopter moves 360" -- that I've not seen any other human being do. He is a pleasure to watch. He is a super, super player. And we have in our chamber today, the highest scorer in the nation this past year in NCAA ball, Division I, a kid from Brooklyn.

So let's put our hands together, please, for the Long Island University Basketball Team, led by Charles Jones, Richie Parker, Dave Masciale, Mike Campbell, Shawn

Browne, et al, et al, et al, Coach Haskins and our dear Provost Haynes.

Please.

(Applause)

ACTING PRESIDENT KUHL: Senator Montgomery, did you wish to speak on the resolution?

SENATOR MONTGOMERY: Yes.

ACTING PRESIDENT KUHL: Senator Montgomery, on the resolution.

SENATOR MONTGOMERY: Thank you, Mr. President. I rise to join my colleague who has the advantage that I don't have of having a very personalized relationship with the coach as well as the game, but I certainly do have a very good and what I believe to be very positive relationship with Long Island University which is about a block and a half from my district office. There are many great things about LIU, including the fact that we have an African American woman who is the provost there, Provost Gail Haynes, who is here with us today, along with one of the Deans from the school who is also an African-American woman. So that is something to be especially proud of for a major

university in our state.

We also know that the state has invested in LIU because last year -- we have a particular investment. Last year we were able to provide some assistance to the university for a new building that has already gone up. I have visited that building several times. It's the new health professions building, I believe. And, in fact, I serve on an advisory committee for the nursing program which is supposed to be giving some support and direction for the development of new nursing careers which will be offered at that university.

And, in fact, Long Island University is one of the major adult education centers in the borough of Brooklyn and I dare say in the city of New York which has a large number of people who are returning to school or they are going to school for the first time to receive any number of opportunities, including certificates in various fields and as well as degrees in other fields. There are large numbers of women there, Caribbean-Americans, African-Americans, Latinos and others.

And so I'm very, very proud of

the legacy and the contribution of Long Island University; and today, of course, is another reason to be exceptionally proud and that is that LIU has brought to us once again a group of young people, bright, young, very, very mannerable, very wonderful young men who are, I'm told, the Blackbirds, who are being recognized by us today, especially because of their outstanding performance this past season.

But it is a very, very prideful moment to be able to recognize young African American men, in particular, who are making a contribution to society in a very significant way that goes far beyond their being a member of this team. They do not just represent their team. They represent that university, and they represent what for us in New York State is most important and that is what our future portends as they grow up and go out into the world and hopefully come to take our places.

And I want to say, just lastly, to Coach Haskins, you are certainly to be commended because it is not easy to be a person who takes on building character and building "teamship" and building the lives of young

people, especially young African-American men in this society.

So we thank you not only for your victory as it relates to your team this year but we thank you for the tremendous investment in what New York State needs the most and that is success in bringing young men into the world so that they will be able to provide the leadership that we all wish and hope to look forward to ourselves.

Thank you very much, Mr. President.

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

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

On behalf of Senator Connor and the entire conference, we would like to thank Senator Waldon and Senator Montgomery for this idea of bringing this resolution forward today.

Senator Waldon -- I could not help, Mr. President, hearing him say that there was a thought at one point that basketball was

the only thing on his mind as he went on to become a policeman and had a distinguished career beyond that in law enforcement, went to law school and became an attorney, was an outstanding singer, has served in the New York State Assembly, in the New York State Senate, the New York House of Representatives in Congress in Washington, D.C., and also has been a distinguished agency head in this state. I suggest that there must have been a couple of things on his mind while he was thinking about basketball. He is also an accomplished singer, contracted by a major recording industry, and actually gave us the benefit of that earlier this year.

So, Senator Waldon is a man with a rare combination of skills, not the least of which were his comments about what Long Island University has done for New York City basketball. He so aptly described the loss of interest that seems to exist and just the thirst in the New York fan to have some of the excitement that was reminiscent of the old City College days or even the old LIU days or the championships of the New York Knicks in 1970 and

'73, and I think that really was the catalyst for this resolution because Senator Waldon, as he so aptly put it, also felt that need to have some excitement in the basketball community, and I agree with him.

Personally, I lost interest in basketball since the day I was cut from the Nets; and since then, I tried to really find something that inspired me, and Coach Ray Haskins and all the players at LIU, who were under tremendous scrutiny from the press and tremendous public pressure, flourished under that and had a tremendous basketball season.

I thought it was interesting that the conference championship that was won when Charles Jones drove to the basket that, commenting later, Coach Haskins said that was the only time that year that LIU had run that play. So it's interesting that sometimes at some of the most important moments some of the most creative situations are developed, and I think this was an important time in the history of LIU as they have shown the rest of the basketball college community that some of the most difficult situations are actually an

immense opportunity to flourish and to demonstrate how athletics can become something that is more than just playing games on a field or on a court but becomes an opportunity to build the human character and enhance the human condition.

And so, I would like to thank LIU for all they've done and all the players and coaches for all they've done, and Senator Waldon for bringing it before us so that we could give you really the prompt and deserving congratula tions that you have so richly earned.

ACTING PRESIDENT KUHL: Senator Seabrook, on the resolution.

SENATOR SEABROOK: Mr. President, it's certainly a good day today. Being an alumnus of LIU makes me very proud to be here for this occasion, but I think it's also good to have the opportunity to compliment the Provost for having the courage and the will to give people a second chance, because that's what LIU is all about, opportunities and second chance; and certainly the Coach, Ray Haskins, should be commended for following in the footsteps of Benjamin Mays, making men over at LIU; and

certainly to the team that has risen to the occasion to have a sense of camaraderie and esprit de corps to allow you to excel.

And I was so proud to have the only team in New York State participating in the NCAA finals -- or in the NCAA. They're Finals next time; right? But in the tournament, the only New York team. Syracuse and all the other ones didn't make it. LIU was the only New York team.

So certainly, today, we're honored to have you here and with a tremendous amount of success, and the future is certainly beyond, and we're looking forward, Al, so in the Final Four we will be there with LIU.

Congratulations.

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

Hearing none, the question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Waldon. Senator Waldon, I'll control the applause. Thank you.

Coach Ray Haskins and members of the team, we're very, very honored you chose to come and spend some of your lifetime with us, a few minutes with us. We're very pleased at your successes.

We wish you the very best in your stay here in Albany, and may you have a wonderful life in the years ahead. Thank you for coming and joining us.

Please stand and be recognized by the members.

(Applause)

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President. If we could take up Privileged Resolution 1020, sponsored by Senator Libous, I would like to have the title read and move for its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the title to Resolution

Number 1020, by Senator Libous.

THE SECRETARY: By Senator Libous, Legislative Resolution 1020, honoring Wendy C. Loomis upon the occasion of her designation by Broome County Chamber of Commerce as the first Small Business Advocate of the Year.

ACTING PRESIDENT KUHL: The question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President. I believe Resolution 780 is at the desk, sponsored by Senator Cook. May we please have it read in its entirety.

ACTING PRESIDENT KUHL: Secretary will read the Resolution 780, previously adopted by this body, by Senator Cook, in its entirety.

THE SECRETARY: By Senator Cook, Legislative Resolution 780, commending five

students upon the occasion of their designation as recipients of the first "American Dream Awards, School-to-Work Scholarships" and honoring three teachers for their commitment to our youth.

Whereas, it is the sense of this Legislative Body that work force development and lifelong learning are synonymous with economic prosperity in this state; and

Whereas, parents, educators and representatives of the business community must be engaged as partners at both the state and local level in discussions to establish the academic standards necessary to best prepare students for the careers of tomorrow; and

Whereas, resources must be aligned to assure that all students have access to educational opportunities which prepare them for the workplace of the 21st century.

Students must be prepared for the broadest range of career options to enable them to enter and reenter the world of work at several points during their lifetime.

Students must see the relevance of their academic learning to the workplace of

today and tomorrow.

School-to-work is the bridge to success between high academic learning and productive citizenship; and

Whereas, students recognized by the "American Dream Award" have participated in school-to-work and are themselves better prepared to be among tomorrow's productive workers and citizens; now, therefore, be it

Resolved, that this Legislative Body pause in its deliberations to commend students Michele Barber of Falconer Central School, Robert Brinskelle of Half Hollow Hills Central School District, Octavio Campos of Wilson Technological Center-Northport Campus, Nyasia Harvey of Rochester City School District, and Sheldon Rankin of Niagara Falls High School, as recipients of the first "American Dream Awards, School-to-Work Scholarship"; and

Whereas, teachers and business mentors are significant partners in the School-to-Work experience; now, therefore, be it further

Resolved, that Cohoes High School teacher Maria Russo, Greece Central School

District teacher Larry Lacy, and business mentor Jack Lyda from Rochester General Hospital, be recognized for their commitment to school to-work principles and practices; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to Cynthia T. Laks and Margarita S. Mayo, co-chairs of the New York State School-to-Work Advisory Council and Michelle Barber, Robert Brinskelle, Octavio Campos, Nyasia Harvey, Sheldon Rankin, Maria Russo, Larry Lacy and Jack Lyda.

ACTING PRESIDENT KUHL: Chair recognizes Senator Cook to speak to the resolution.

SENATOR COOK: Mr. President, thank you very much.

It is a great day here of saluting people for their accomplishments, and we certainly join with all those who are celebrating the success of Long Island University.

This resolution celebrates success of a different type. It probably did

not make very many headlines. In fact, it may be something that was kind of hidden in the middle of the inside pages even of the hometown newspapers, but it is something that is extremely significant; and that is, that five students of New York State have been chosen for the "American Dream Scholarships" under the National School-to-Work Program.

This is a brain child, if you will, of the 1996 Miss America, Shawntel Smith, who, unfortunately, I think, had to leave because she had a plane to catch and, therefore, wasn't able to stay for this part of the tribute.

But it is significant that out of 40 of these awards made across the country, New York State recipients numbered five and, in addition, we are honoring three teachers or mentors of students who are participating in the School-to-Work Program.

This indeed is a wave of the future. It is an effort that we are making to move the education system so that it is in touch with the world of reality, so that students when they graduate from school will, in fact, be

ready to go into the workplace and that, furthermore, they will have the skills that will enable them throughout their lifetime to readjust to the career changes that are going to be a part of the life of everyone over the next several decades as our economy, as our society continues to change and to move forward.

So I'm very honored to be able to stand today and to, once again, congratulate these winners of the "American Dream Scholarships," people who have shown in their own way a great degree of personal leadership, shown that you have the stuff to make it in this world and, in fact, that you will also be leaders who will help lead your generation, your cohort of our population, as we reach this new millennium that we're entering and as we move into the workplace of tomorrow.

I congratulate you personally, and I say this, that you are also the pioneers, the people who are breaking the new ground that other people will follow as our education system, hopefully, begins to catch up with the demands and the needs of this new century.

Thank you, Mr. President. I

think most of the recipients are with us today in the gallery, and I would be pleased if you would be willing to recognize them.

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

As the Chair previously indicated, the resolution was previously adopted. We'd ask the recipients of the "American Dream Awards" scholarships to rise and be recognized by the body.

We welcome you here today, congratulate you on your effort. Good luck in the future.

(Applause)

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there is a report of the Transportation Committee at the desk. I ask that it be read.

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees. Secretary will read the report of the Transportation Committee.

THE SECRETARY: Senator Levy, from the Committee on Transportation, reports the following bill direct to third reading:

Senate Print 4329, by Senator Maltese, an act to amend the Highway Law, in relation to designating a portion of the state highway system as the Jackie Robinson Parkway.

ACTING PRESIDENT KUHL: Without objection, the bill is ordered directly to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time, may we please take up Senate 4329, which was just reported from the Transportation Committee.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 579, by Senator Maltese, Senate Print 4329, an act to amend the Highway Law, in relation to designating a portion of the state highway system as the Jackie Robinson Parkway.

ACTING PRESIDENT KUHL: Senator Maltese, an explanation of Calendar Number 579, which is Senate Print 4329, which has just been

reported out of the Transportation Committee, has been requested.

SENATOR MALTESE: Mr. President, first of all, I wish to acknowledge that this is an event that is an historic event; and because it is an historic event, I would like to precede my remarks with an indication that all members will be asked if they wish to go on the bill as co-sponsors.

SENATOR CONNOR: Explanation satisfactory, Mr. President.

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

Senator Waldon, on the bill.

SENATOR WALDON: Mr. President, my colleagues.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Excuse me, Senator Waldon.

Senator Skelos, why do you rise?

SENATOR SKELOS: If I could - and, certainly, any colleague that wishes to speak on this bill, I'm not looking to cut them off. There will be a resolution taken up concerning Jackie Robinson right after this bill

is passed and, if members want to speak about Mr. Robinson at that time, fine.

But, Senator Waldon, if you wish to speak on the bill, that's fine also.

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

I think what I want to say should be said now. It is not negative or whatever but, you know, I was moved to do it now, so let me do it now.

When I was in the fifth grade, I lived at 146 Patchen Avenue in Brooklyn. We had just moved from Halsey Street, between Reid and Patchen, and I had a newspaper route. Mrs. Gardner was my teacher at P.S. 70, where John D. King was the principal. My newspaper route took me along McDonough Street between Patchen and Ralph.

Jackie Robinson lived with Rachel and their firstborn three houses in from Mr. Reavis' candy store. I was his newspaper delivery boy, and I was in awe of this man who had so changed the world in terms of the divisive elements which were known in pro sports

until the arrival of Jackie Roosevelt Robinson, and he was a nice man. He was very warm with the children in our block. He came over to our assembly, and he spoke to all of us on assembly days telling us the kinds of things that we should do with our lives.

But the thing that caught my imagination then even though I couldn't well understand it and has maintained my fascination with Jack Roosevelt Robinson all of my adult life since then is that he was a person who brought people together. Despite the hate that Chapman and other managers around the league foisted upon him, despite the fact that Dixie Walker and other guys on his team would not even speak to him or shake his hand, he took it and he moved forward, trying to get people to work with each other and to be accepting of each other.

One of the great moments that I remember from that period of time is that one day we were in Mr. Reavis' candy store, and you have to understand, and you cannot without this information know that Henry Reavis, Mr. Reavis' son was in my fifth grade class, so we used to

hang out in Henry's father's store. In came Jackie Robinson, and he bought ice cream cones for all of the kids at that moment. I don't know if you know what a mellow-roll is, but those of you who grew up in Brooklyn remember mellow-roll was different than a scoop of ice cream. All of the kids that Jackie bought the ice cream and the cone for ate theirs in its entirety, except Alton. I was so fascinated with what Jackie had done for me that I ate the ice cream without any way messing up the cone. I took it home. My mother got me a cigar box. I scotchtaped the cone into the cigar box, and I took it to school the next day for Show and Tell, and the class was fascinated with this cone that Jackie Robinson had bought me.

I was at the Urban League Dinner in New York City some time ago, and Mrs. Robinson was there with their daughter and their son. Jackie Junior, as you may know, is dead, but David is still alive, and I told her of the story, and she thought it so fascinating she went and got her children and brought them over and had me tell the story again of this kid who was her newspaper boy and what had happened on

this day.

Mrs. Robinson is very much like her husband. She wants everybody included in everything that she does. If you look at the board that she has for all of her construction projects, if you look at her foundation and what she does in helping children, it is inclusive, not exclusive.

I share these thoughts with you because I have a personal knowledge of Jackie Roosevelt Robinson. I have a personal knowledge of Mrs. Robinson, and I would encourage us to follow the life of Jackie in the sense that he was a person who wanted everybody to work together for the betterment of our entire society.

I think a lesson can be learned even in this house regarding the life of Jack Roosevelt Robinson, what he stood for and what his wife stands for now. He is a great man. He changed the social fabric of America forever, and I'm pleased to join with Senator Maltese and others in honoring him in regard to naming of the parkway in his name and whatever other praise that we may be able to lend to the name

of Jackie Roosevelt Robinson. Truly, not just an African-American, born in Georgia, raised in California, who made his mark through sports but an American who was a giant in terms of causing people to come together. If there is a legacy from Jackie Roosevelt Robinson, it is that he brought people together.

Thank you very much, Mr. President. Thank you, my colleagues.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Thank you so much.

Will Senator Maltese yield to one question?

SENATOR MALTESE: Yes.

SENATOR GOLD: Senator, I was listening to Senator Waldon's remarks and, unquestionably, if there was one thing that Jackie Robinson stood for, it was inclusion. It has, as he said, changed the fabric of American society.

I was wondering -- and this is my question -- when you stood up today, you graciously asked if everybody or anybody was

interested in co-sponsoring the bill, and my question is whether or not it's going to be reprinted?

Because I say to myself the Robinson family upon what I know will be a lot of pomp and circumstance of the signing of this bill will probably get a pen certificate, and I wonder how they're going to explain to their grandchildren that that pen certificate will have the names of I think it's seven very distinguished white gentlemen, when this Senate has some very distinguished Afro-American gentlemen, some ladies, some people from all different kinds of origins, and Jackie Robinson was a treasure for all of us, and I don't even see anyone from Brooklyn, and I don't think you can mention Jackie Robinson without thinking of Brooklyn.

So I was just curious whether or not after the buck slips are in whether there was any intention to reprint the bill?

SENATOR MALTESE: Mr. President, in response to the inquiry, I will be speaking to the leadership as to the procedure. But the distinguished Senator from Queens must realize

that this was initiated by our distinguished mayor from the city of New York. It was done very quickly and expeditiously. It was done in an atmosphere of good faith and good will.

It was only this afternoon that I was made aware that, as is sometimes the custom, it had been circulated only to a few and that we then acted to open it to all, although that is at the time of discussion of the bill somewhat dramatic, if you will, or unusual procedure.

In response to the question, I will use my best efforts to see that the bill that is given to those persons who receive copies of the bill includes all the cosponsors.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yes, I want to thank Senator Maltese for that statement of gracious intent. I do appreciate it.

Senator, I would like, though - and I know it's not your fault -- to inform the house that there have been situations such as "Son of Sam" where we were concerned in a matter of time in passing a piece of

legislation. We did it 48 hours with bipartisan sponsorship in both houses, and these things seem to be able to work out when they can be worked out.

At any rate, I appreciate your remarks, and I think that if we are that concerned for the Robinson family and we are trying to send a message, which we are and I think it is very appropriate -- I don't think there was one human in America yesterday who didn't feel that "Tiger" Woods was the hero of America, and I know that's the feeling that people get when they talk about Jackie Robinson. He belongs to all of us.

And I think that if what he stood for is to have true meaning, then the minimum cost of reprinting a one-page bill is worth it so that posterity will see that it was an entire Senate filled with many different kinds of people that supported this legislation.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

I just want to say two things.

One is to thank Senator Maltese for at least offering to have all members on this legislation and, hopefully, as in following up with Senator Gold's inquiry that in fact will happen.

I would certainly hate to see this go down in history without -- not one single African-American on it nor one single person from Brooklyn at least on this legislation, and let me just say that it would be very shameful, I think, to have a person of the stature of Jackie Robinson give his entire life, suffer all kinds of indignities and insults and acts of bigotry and racism quietly just so that he could make a statement on behalf of his people, and for him not to have his - this act that we're doing reflective of his contribution to this society, to all of us in this room and outside and all Americans, I think it would be the grandest insult to him and his life and his legacy.

So, Senator Maltese, I appreciate your offering, and I certainly hope that you can correct this today. Thank you very much.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Any other

Senator wishing to speak on the bill?

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. Anyone who examines the history of the civil rights movement in this country would probably come to the conclusion that before Martin Luther King there was Jackie Robinson. Before some of the collective struggles that were waged in places like Mississippi and Alabama, there was an individual struggle waged in cities like Brooklyn and St. Louis and Boston, where an individual tried to win acceptance in this country in spite of great ability not having the requisite color that it took to play in major league baseball at that particular time.

Jackie Robinson was selected not because he was the best baseball player in the Negro leagues. In fact, it was known he was not one of the best. He was selected because of his personal acumen, his education and his ability to withstand the kind of pressure and the kind of degradation that coming to major league baseball would bring upon him.

Jackie Robinson served this

country in the military, and there's one piece of his military service that isn't discussed very often. He was court-martialed. He was court-martialed for refusing to sit in the back of a military bus. Does that sound familiar? Does that sound like another American who did that on December 1 of 1954?

What we're saying is that Jackie Robinson embodies the efforts of many African-Americans, both the living and the dead, who struggled unremittingly and courageously throughout the centuries to bring together a viable national movement that was directed toward achieving economic, political and social justice, and it wasn't just African-Americans. It was many Asians and whites and Hispanics who fought collectively so that we could sit in this chamber today, looking at each other and noticing that all parts of this state and all people who live within it are represented and that they have the opportunity to even run for office and be a part of this great government here in New York State.

And so, while I am thankful for Senator Maltese' graciousness and that he would

open this piece of legislation for cosponsor ship, I just happen to notice what Senator Gold's referred to earlier as a list of individuals that were not indicative of the cross-section of this body when I got here this morning. But I did notice that when the Assembly bill that -- seeing that Republican or Democrat, black or white, whichever delineation there was, Brooklyn or Queens or otherwise, that they had members of their body that were represented.

How much more foresighted would it have been if the drafters of this legislation had immediately understood the full historical meaning of Jackie Robinson's presence in major league baseball.

In 1947, he came to the Brooklyn Dodgers. Interestingly enough, he preceded another baseball player who played in the American League by the name of Larry Doby by only six weeks. Now, Larry Doby is not well known to people around the country but endured the same suffering.

So Jackie Robinson, when we honor him, we're really honoring all the people whose

names we don't know, whose struggles we could never endure, whose pain we would never experience, but somehow fought through it all because they believed in America. Many of us wave the flag, many of us salute the flag and many of us pay homage to it; but how often do we actually practice what is inscribed in those words that we say before session every day?

It is interesting to love America, but, too often, we don't love Americans, and it's interesting that this American came forward at a time when this country so needed it, and from his struggle, he won the Rookie of the Year in the National League in 1947, became the first African-American to play in the World Series that year, and was then asked to speak before Congress afterward. He was not the first African-American to win a World Series ring. That was Larry Doby in 1948 playing for the Cleveland Indians.

And so, after his service in major league baseball, Jackie Robinson went on to serve in the government, served in the government of this state under the Republican

Governor Rockefeller, who saw the opportunity through this unique individual, a chance to give him an opportunity to give to this state all that he had learned and all that he had taught in his time as a baseball player. He was certainly one of the great minds of his time and died prematurely at the age of 54, probably from some of the stress produced by a contract he signed not to make any public comment on some of the circumstances that he went through during his first three years in the major leagues.

I would certainly hope that we would listen to the last public words that were known to have been spoken by Jackie Robinson at the 1972 World Series, when, in throwing out the first ball, he made the comment, "I don't think I will rest peacefully until I look down the lines of the baseball field and see an African-American manager managing a team." He never saw that.

And so that is the reason, I think, that Senator Gold and Senator Montgomery and others raise this issue today not for any partisanship or politicizing of an historical moment but to try to bring clarity and to try to

bring meaning to something that perhaps, even in the '90s, we still somewhat misunderstand.

ACTING PRESIDENT KUHL: Senator Maltese has offered the opportunity to members of the chamber to join as cosponsors. Would those people who would like to be cosponsors of the bill, please raise their hands.

It looks as though most of the members, not all of them -- we'll leave it that we'll put on all the members on the bill, Senator Skelos, except for those people who indicate -

SENATOR SKELOS: There is a process where a form has to be filled and given to the sponsors.

ACTING PRESIDENT KUHL: It just was going to make it easier.

SENATOR SKELOS: We ask each member to do that.

ACTING PRESIDENT KUHL: Okay.

Secretary will read the last section.

Senator Gold.

SENATOR GOLD: I'm not trying to slow this down. I sent a young man from my

office to the desk, and we were told we couldn't get a slip because everyone was being put on it, so at least -

SENATOR SKELOS: We will make sure that everybody has a slip.

ACTING PRESIDENT KUHL: Yes, that's what we're doing, Senator Gold, just trying to facilitate the process.

Secretary will read the last section. Senator Markowitz, why do you rise?

SENATOR MARKOWITZ: On the bill.

ACTING PRESIDENT KUHL: Senator Markowitz, on the bill.

SENATOR MARKOWITZ: Senator Maltese, I have little recollection of Jackie Robinson. My older twin brother does; and having admitted that, nonetheless, growing up two blocks away from Ebbets Field, going on the roof of my apartment building because even in those days at times it was rough to pay to get in, although those of us that knew Ebbets Field knew how to sneak in, and that's the truth - for those of the older generation.

The excitement of witnessing a game of Jackie Robinson, it was among the most

exciting experiences that a young man could have and a young woman, and it's days that all of us that live in Brooklyn can never forget, that were blessed -- that were lucky to have lived during that time.

The excitement of walking down Empire Boulevard and Bedford Avenue, waiting outside -- Senators, some of you may remember - waiting outside for those batting practices to occur, catching balls if we were lucky enough, and the excitement of seeing one of America's greatest sports people performing beyond belief and being the first of color.

It's only natural that that should have occurred in Brooklyn. It's only natural because Brooklyn always leads the way of good things in the state of New York and throughout the nation.

I think today of some of those baseball players that earn more in one game than Jackie Robinson ever earned in his life, to think that many of them have little time for their fans. They run. After the game is over, they run as fast as they can. Few of them live in the area that they play in. Those days that

we knew of Jackie Robinson residing in our borough, being a part of the fabric of Brooklyn, all the good things and being a true role model to young people, those days are gone but the memories are not gone.

So I'm delighted, Senator Maltese, that a part of Brooklyn -- and I have a hunch that Interborough -- does it go into the other borough? If I'm not mistaken, it goes into the borough that we call Queens. Am I right?

So from Kings, it meanders into the borough of Queens, but I'm real pleased that the name of this tremendous sportsman will be there for all to see of my generation.

And for younger generations that weren't lucky enough, I hope we'll raise the question, Senator Montgomery, "Who is Jackie Robinson and why is this major highway in our city named after this great baseball player?"

And if that is accomplished, then our action this afternoon is one that will be positive for the years to come.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, could we at this time take up a privileged resolution 982, sponsored by Senator Johnson, ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT KUHL: Return to the order of motions and resolutions. Secretary will read a resolution introduced by Senator Johnson, in its entirety.

THE SECRETARY: By Senator Johnson, Legislative Resolution 982, paying tribute to Jackie Robinson, major league base ball's first African-American baseball player, upon the 50th Anniversary of his first game.

WHEREAS, it is the sense of this legislative body to commemorate individuals of

historical significance who have contributed to the richness and ethnic diversity of New York State and our nation; and

WHEREAS, Jack Roosevelt Robinson, or "Jackie", as he was known, was born on January 31, 1919 in Cairo, Georgia; and

WHEREAS, Jackie Robinson was major league baseball's first player of color in modern times. He was an athlete of outstanding physical skills and a burning single-minded desire for victory. He played his first major league game for the Brooklyn Dodgers on April 15, 1947. The Dodgers played the Boston Braves and defeated them by a score of 5 to 3, and

WHEREAS, Jackie Robinson, a versatile athlete, also excelled in football and track while in college at the University of California in Los Angeles. While playing with the Kansas City Monarchs of the Negro National League, he was signed to a major league baseball contract by Branch Rickey and assigned to the Dodgers' Montreal farm team of the International League in 1946; and

WHEREAS, in 1947, Jackie Robinson joined the Brooklyn Dodgers of the National

League at the age of 28, he hit .297, scored 125 runs and led the league in stolen bases (29) as the Dodgers won their first pennant since 1941. He was named "Rookie of the Year". He was instrumental in leading the team to six World Series appearances in ten years; and

WHEREAS, although he was primarily a second baseman, he was an outstanding fielder. In 1949, he was named Most Valuable Player. He led the league in batting (.342) and stolen bases (37), scoring 122 runs, batting in 124 runs and amassing 203 hits, and

WHEREAS, in 1962, Jackie Robinson was elected to the Baseball Hall of Fame, a fitting climax to an illustrious career that triumphed over adversity and led the way for other African-American baseball players to emulate;

NOW, THEREFORE, BE IT RESOLVED that on April 15, 1997, this legislative body pause in its deliberations to pay tribute to Jackie Robinson, major league baseball's first African-American player, upon the occasion of the 50th Anniversary of his first game; and

BE IT FURTHER RESOLVED, that

copies of this resolution, suitably engrossed, be transmitted to his wife Mrs. Rachel Robinson, the Jackie Robinson Foundation and the National League Baseball Hall of Fame, Cooperstown, New York.

ACTING PRESIDENT KUHL: Senator Johnson, on the resolution.

SENATOR JOHNSON: Mr. President, as the resolution indicated, it's 50 years tomorrow since Jackie Robinson integrated the major leagues and became the first Afro-American to play for the Brooklyn Dodgers. Contrary to what you've heard here today, it wasn't only people from Brooklyn who had pride in "Dem Bums" as they called them. Even farm boys in Suffolk County were Dodger fans in those days, and I certainly was one. Though I wasn't here -- I was away in the Marine Corps -- I became very aware of that and was very excited by his initial performances and the fact that they won the -- he was Rookie of the Year in '47, Most Valuable Player in '49 again when I was home, and he was a great star and a great person, I thought, a great personality, and he helped the Dodgers win their first pennant since 1941.

I think it was -- it was, shall I say, strange after being in the service with men of various races to find that there was no black baseball player in the major leagues at that time. It didn't occur to me, but when he came there he was like a breath of fresh light and a breath of fresh inspiration to a lot of other people.

I think it's been alluded to here already by some members about his struggle off the field as well as on the field, and it's certainly true, he was very active, as I noticed when I was in the service that some people had to go to the back of the bus, and it seemed so unfair, and he was one of the men that helped to change those rules, and I think it's very admirable.

He certainly did a lot for his race by not only enduring that, combatting it, but holding his head high through the process of being the best possible baseball player he could be and certainly a role model to a lot of other Americans of other ages, races and religions, and he's really been admired for his courage and his wisdom as much as for his baseball skill

since the true story of Jackie Robinson has come out over the years.

We saw yesterday, I think, another young man, Afro-Asian-American, if that's the right way to say it, "Tiger" Woods, who is another role model for this generation of young people and, of course, I'm talking about the man who broke the barrier yesterday by being the first non-white to win the Masters in Atlanta. It was really an inspiring thing, and it really shows that we are becoming one nation. We are becoming open to all. It is all-inclusive despite what some people might say, that everyone has an opportunity in America.

It's a wonderful thing; it's a timely thing and something that's long overdue, and I think that persons like Jackie and "Tiger" Woods have really shown the way, so I'm really very proud to sponsor this resolution and have it sponsored by everyone in this house. As you know, you're all on it.

I think it's a great inspiration to our young people that we do have an open society, that opportunity is there and that

Jackie Robinson, we're honored today has helped to lead the way, and I will be down at Cooperstown to present the citation, the resolution passed, to Mrs. Robinson in a few months when the ceremony takes place, and I invite others to be there if they'd like to. It certainly will be a wonderful day and, after all, baseball is a New York State game. We have the Hall of Fame in our state and we should be very proud of Jackie and all the things we're doing together today to honor his memory, both the naming of the road, the resolution, and so forth. As you know, it's being taken up right now by Clarence Norman in the other house, and he will be there with me, I hope, at the presentation.

Thank you all very much.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President, thank you.

I think we've had some really very moving and wonderful words here today about what Jackie Robinson has meant to the nation and to our society, and I was particularly touched

by the very eloquent words of Senator Paterson.

I just want to point out that actually Jackie Robinson played a major league game in New York before April 15th. How do I know that? Because I was there. The practice in those years was that the Yankees and the Dodgers, as they ended their spring training, would play a series in New York. I think actually it was just two games, maybe one at Yankee Stadium and one at Ebbets Field, and that year 1947 the first game of the -- it was a practice game but between major league teams in New York, and it was the first appearance of Jackie Robinson playing in a major league game in New York City at Ebbets Field, and I went there and I was a dyed-in-the-wool Yankee fan, but I went there to root for Jackie Robinson. I still remember he went 0-for-4 but he did drive in a run with a long fly to left field. It was really a memorable day obviously, and I just wish I'd kept the score card.

But what I also think we need to point to is that we've seen enormous changes in our society since 1950, all to the good, and people like Jackie Robinson who are really

catalysts for these much needed changes, and I think it's wonderful that this chamber recognizes these changes, that the whole nation does, that the President, as I understand, is going to come to New York for this occasion.

But I think it also needs to be an affirmation by us that the job is certainly not finished of achieving equality for all our citizens. It's certainly for African-Americans and Hispanics and others who, as all the statistics show, tend to have a much more difficult life than the rest of us. That's really what Jackie Robinson was about. You can talk about his wonderful baseball skills and they certainly are to be honored, but what we honor really is a person that has changed the society for the better and that fight, that struggle, that work continues.

Thank you.

ACTING PRESIDENT KUHL: Senator Lachman, on the resolution.

SENATOR LACHMAN: First of all, I very much appreciate the honor to be a co-sponsor of this resolution, and I would just like to say a few words that I hope will be on

target and give it a different dimension.

I happen to be of the age of Senator Markowitz' older twin brother and I had the pleasure as a youngster of eight or nine of leaving school early and latching onto a Catholic Youth Organization group that went to Ebbets Field to see a Dodger game and witnessed Jackie Robinson play, and it's an experience that I will never forget.

The strength and the grace of this individual, knowing afterwards even as a child the insults that he endured on and off the field, and the greatness of the man not only in his baseball record but that he established a major precedent as being the first black to play in major league baseball.

But we should not forget the fact that there were two who accomplished this, and the other person who accomplished this was Branch Rickey, the owner of the Brooklyn Dodgers. Branch Rickey had to divest himself of the prejudices of his youth and the insults of many of his colleagues who were owners of major league teams. As a rockribbed Methodist, he relied upon his faith and he knew he did the

right thing. Without Jackie Robinson, Branch Rickey could not have appointed a black that year, and without Branch Rickey, Jackie Robinson would not have been appointed.

This tells us something about our society today. For America to advance into the future, we have to be one nation and one people, black and white together, both on and off the baseball field. So in honor of Jackie Robinson and the man who had the guts to appoint him and make him and help him show his strength as a great baseball player, I'm honored and privi leged to co-sponsor this resolution.

Thank you.

ACTING PRESIDENT KUHL: Senator Maltese, on the resolution.

SENATOR MALTESE: Mr. President, in the, spirit of cooperation and not only with the members across the aisle but with Senator Johnson, we sought to have the debate on both these related pieces of legislation together, but we don't mean to in any way limit the discussion and the tributes to Jackie Robinson.

I think that -- of course, I never knew the man, but I think based on his

actions, his heroic actions, heroic in many ways, he would be pleased that in a relatively few days the mayor of the city of New York acted to rename a portion of a parkway, a parkway in the city of New York linking Brooklyn and Queens, that we in this house and the Assembly put together legislation in an expeditious manner, that the President of the United States is visiting Shea Stadium for the first time a sitting President has ever visited Shea Stadium, that there will be ceremonies marking his achievement of 50 years ago.

But it isn't only marking that achievement of stepping onto a playing field, it is marking his lifetime from -- from that action in 1947 and his actions prior to stepping onto that field.

I think it's been mentioned by the prior Senators who spoke, and I know that it's being mentioned in the Assembly now as my good colleague, Jeff Aubry, has led the way in his house to discuss and debate and pass this historic in many ways legislation, but I think it's the life that -- the life that Jackie Robinson led that adds to his luster.

Passing away at a relatively young age, he still made many milestones for youngsters to emulate and follow, youngsters of every race, creed and color.

This is what we are celebrating today. This is what we are commemorating today, so just as Interborough, previously Interborough and now Jackie Robinson Parkway, links Brooklyn and Queens, that we link the historic site of Ebbets Field and Shea Stadium and we link the players, the ball players of 1947 with the ball players of today, and the actions of this state Legislature and our President and our nation and our state with Governor Pataki, who has indicated that he will sign this bill today, we link all that as a tribute to Jackie Robinson and what he stood for, and what he stood for is the American way, America, our great country, where the grandson of a slave could aspire to be a landmark for Americans of all races, religions and colors, an example for all of us to emulate and a person who we know will be remembered as long as baseball and Ebbets Field is remembered.

ACTING PRESIDENT KUHL: Senator Montgomery, on the resolution.

SENATOR MONTGOMERY: Yes. Thank you, Mr. President. Just briefly, on the resolution.

I would like to join my colleagues in thanking Senator Owen Johnson for being the lead sponsor of this resolution and including all of us and, once again, I would just like to reiterate the significance of Jackie Robinson in this society of ours and taking it in a little bit different area.

I think he epitomizes the extreme importance of the idea of having people, especially youngsters, involved in sports and because we know that sports teaches sportsman ship and cooperation and builds character and discipline for young people, in addition to them building skills, and it also gives them motivation to do other things and to do everything that they do very well. It happens in basketball and it happens in football, and it happens in hockey and soccer and baseball and every single sport, organized sport, and it - what Jackie Robinson has done is to break open the -- the area of sports in the society to include every single young person, and now we

have even have young women who are very much involved in organized sports, in organized athletic teams, based on the federal law Title IX, and witnessed yesterday, I believe it was, that the most recent outstanding contribution that has been made to athletics in our society was done by "Tiger" Woods who is a young African-American who has broken into, so to speak, the world of golf and has shown and proven that it does not matter the color or it does not matter even the age, it just matters that if you have all of those qualifications that I mentioned before as a sportsman, you can compete successfully and compete very well.

So for that, we owe a great debt to Jackie Robinson's contribution and I might add that I believe the legacy that Robinson has left for us is that we should invest in athletics, in sports for our schools, for after school and for communities, so that young people can indeed at least compete and have an opportunity to develop all of those skills that are so important as it relates to organized sports.

So thank you, Senator Johnson.

Recognizing Jackie Robinson means so much more even than the wonderful history of Jackie Robinson. I think it means for us additionally it gives us a path to -- for, as a Legislature, for us to pursue in our attempt to address the needs of young people in this state and nation.

Thank you.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the resolution? Hearing none, the question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is unanimously adopted.

Senator Skelos.

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

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

THE SECRETARY: Calendar 357, by Senator Cook, Senate Print 2729, an act to amend

the General Municipal Law and others, in relation to enhancing the use of mediation.

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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 391, by Senator LaValle, Senate Print 2586, an act to amend the Education Law, in relation to registration of a pharmacy.

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. )

ACTING PRESIDENT KUHL: Record

the negatives; announce the results.

THE SECRETARY: Ayes 55, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 431, by Senator Lack, Senate Print 3133-A, an act to amend the Real Property Tax Law, in relation to duties of the Director of Real Property Tax Services.

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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 445, by Senator Kuhl, Senate Print 1977, an act to amend the Penal Law, in relation to criminal possession of a weapon in the third degree.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Mr. President, Mr. President. May we have a day on that bill?

ACTING PRESIDENT KUHL: Secretary will lay the bill aside for the day.

THE SECRETARY: Calendar Number 448, by Senator Volker, Senate Print -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 490, by member of the Assembly Hoyt, Assembly Print 205-A, an act to amend the Public Health Law, in relation to requiring statements of patients.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. 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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 495, by Senator Hannon, Senate Print -

SENATOR SKELOS: Lay aside for the day.

THE SECRETARY: -- Print 3000-A.

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

THE SECRETARY: Calendar Number 512, by Senator DeFrancisco, Senate Print 1541 A, an act to amend the Surrogate's Court Procedure Act, in relation to retention of commissions.

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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 521, by Senator Larkin, Senate Print 2368, an act to authorize the town of Newburgh, Orange

County, to abandon Mill Road -- Mill House Road.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. 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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 526, by Senator Rath, Senate Print 3611, an act to amend the Real Property Tax Law, in relation to service of a petition.

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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 531, by Senator Levy, Senate Print 41, an act to amend the Vehicle and Traffic Law, in relation to requiring suspension and revocation of a driver's license.

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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 554, by Senator Present, Senate Print 764, an act to amend the State Administrative Procedure Act, in relation to adjudicatory proceedings.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. This

act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 570, by Senator Marcellino, Senate Print 2246, an act to amend the Environmental Conservation Law, in relation to issuing integrated facility 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 56.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR SKELOS: Mr. President,

if we could take up the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar, beginning on page 17, Calendar Number 448, by Senator Volker.

THE SECRETARY: Calendar Number 448, by Senator Volker, Senate Print 3407, an act to amend the Criminal Procedure Law, in relation to the authority of police officers.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Volker, an explanation has been requested by Senator Leichter.

SENATOR VOLKER: Mr. President, my colleagues, I hope you'll bear with me a little bit today if I'm a little emotional. This has been a very long and difficult day for us in Buffalo. I came directly from the funeral of a police officer who some of you may have read about, was killed earlier this week in a senseless killing. As I said, very emotional, young man 36 years old, four children. I realized, as I read some of the stories in the paper, that of the last half dozen police officers killed in Erie County, four of them

were friends of mine. One of them was a client and a good friend.

It is very difficult sometimes, and I'd be the first to admit to you, to discuss some of these issues and as much as I realize that they should be discussed completely objectively, it is not necessarily easy to do. In fact, you might be fascinated to know -- and, Senator Gold, you and I have talked about this before, and there's a reason I mention this and you'll know why when I tell you -- the individual involved who has been arrested and who turned himself in was arrested approximately 30 times, and I say "approximately" because I'm not sure of his juvenile record. I know that he was arrested more than 20 times as an adult, 19 years old, suspected in three murders. He not only shot an individual, he was out on bail pending three felony convictions.

As far as I can determine, he was a non-violent felon and the reason he was a non-violent felon is that he had never been convicted of a violent felony that I could determine -- drugs, guns. Had been charged, as I say, on a number of occasions but never

convicted, and admittedly you could say, Well, this has nothing to do with the Police and Public Protection Act of 1997. In a way, it does.

These are the kinds of people, like it or not, that our law enforcement people are facing today out on the streets. We're facing a situation, I think, where I don't think we completely realize -- yes, David, I get the point -- that it is still a very scary situation even though the numbers of violent crimes have been declining; but all that aside, still our police officers face a situation, in fact, in some ways much more serious because of the declining feeling for law enforcement people and for our institutions.

One thing I think our media should understand is, the media in Buffalo just finished tearing apart the police department in Buffalo with the involvement in several cases, so I don't think they quite realize that they never really, in my opinion, revealed the situation that was involved in the police killing. They only talked about one side of the case and did not really get into some of the

other sides and made the case look even worse in many ways than it was.

The Police and Public Protection Act of 1997, which is essentially the same bill as passed last year, passed this house 38 to 12, it tries to deal with the mish-mash of Court of Appeals decisions, Appellate Division decisions, in this state and every time I go through these and reread them, I shake my head.

I think the problem is that if you objectively look at some of the things that are said in this bill without reading these Court of Appeals and Appellate Division cases, you really can't begin to understand what has been occurring in this state, and some of the almost loony decisions -- it's the only way I can characterize them -- that have been occurring where wanton criminals were allowed to walk out the door essentially because a judge had some idea that he was driving the thought of constitutional privilege to its ultimate, penultimate, whatever you want to call it, depth.

Basically what this bill tries to do is to put New York's statute on police stops

-- these are stops and questionings -- back the way the rest of the nation is, because it's - the Court of Appeals of this state has set up a standard not by law -- that is, not by statute, but they have interpreted our statute.

Our statute which has been on the books for years talks about a reasonable ground of suspicion that the person is committing, has committed or is about to commit a crime. Now, that standard's been around for a number of years, but what has happened is that the court has interpreted that so stringently so that a number of cases, real substantial stopping and questioning has become very, very difficult, if not impossible, and in fact I read one case that to me is unbelievable where the judge said, Well, the person has the right to flee.

Now, you have to think about it. There is no question about the right not to respond unless there's some criminal act or something like that. No one's arguing that, but the right to flee is something that is a little bit beyond me. I guess, as somebody who was in the street, it's beyond me how a judge could do that unless except for one thing, if you do not

understand what is truly involved in police procedures and in what's happening in the streets and you have to put that in perspective.

What this bill would do is set up a standard that talks about an objective - where is the provision here because I want to get it exactly right. The -- oh, "objective, credible, reason not necessarily indicative of criminality." The reason for that reminds me of the time when a fellow, police officer of mine, stopped a person who was shot, didn't know he had been shot, thought that there was something wrong with him. He thought he was sick, whatever, stopped him to see if he was all right. He didn't obviously know that there was any crime involved. Technically speaking, he didn't have a right to stop and question him, did question him. After some questioning, the fellow said, "I've been shot," and he said, "I've got to get some help," and then he realized this fellow had a gun and then he realized a little bit later that the fellow had killed somebody.

The point I'm trying to make is

technically, under the rules of the Court of Appeals of New York today, that entire matter would have been thrown out because there would have been no -- no knowledge of criminality, no standard of criminality. Under this standard, something of that nature that is pretty obvious, it seems to me, would objectively be allowed.

The other main provision of this bill dates and involves the question of evidence. What the Supreme Court has done is use an old standard, Supreme Court of the United States, that basically goes back to a case called Mapp vs. Ohio. The federal standard says that we still have rules that deal with the proper -- the proper evidentiary rules for lawful searches, but it also says that if the officer did not act in bad faith and was attempting to protect the safety of the individual or the police officer himself or herself and the individual, then that -- that search could be found to be valid.

What this bill basically does is go back to that standard and try to use that standard which is the standard which practically every jurisdiction in this country uses.

There's a kind of a strange provision in the bill that talks about violations of state statutes and the reason for that is, if you read the bill through, you'd realize it's not that the bill would invalidate any state statutes, but what it says that you can't use state statutes to go beyond the federal constitutional limits, and that's what it really means.

It doesn't intend to say that we don't have our own constitutional restrictions, but the bill attempts to clearly define statutes that our Court of Appeals has reinterpreted which they've been interpreting for years in one way, and the Constitution of the United States has interpreted, and not be in violation and what the Court of Appeals has said, no matter what we've said through all these years, no matter what the federal Constitution says, no matter what the state Legislature says, this is what we say they said.

What this legislation attempts to do is to say that we need to go back to the reasonable standards for stopping and frisking and to the reasonable standard for search and seizure and for withholding in searches, and

that basically is what this bill does.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

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

ACTING PRESIDENT KUHL: Senator Volker, do you yield to some questions from Senator Leichter?

SENATOR VOLKER: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator, the first part of your bill which deals with the right or purports to give the right to police officers to approach people and ask them questions when they have a credible reason, not necessarily indicative of criminality.

SENATOR VOLKER: Right.

SENATOR LEICHTER: You gave an example where a police officer thought that somebody was ill or sick. Did I understand you correctly?

SENATOR VOLKER: Right. Right.

SENATOR LEICHTER: Now, there's nothing under the law presently that prohibits a police officer coming to somebody that they believe is in distress and saying, Are you in trouble, can I help you?

SENATOR VOLKER: Except if you follow -- if the following -- if you follow the language of what the courts have done, anything that you find after that stop, any questions that you make could well be thrown out and, in fact, have been thrown out and any evidence that you obtain after that because you didn't anticipate that there was any criminality involved, also has been thrown out and that's the key.

It's not the stopping as such; it's what happens afterwards that the courts have interpreted.

SENATOR LEICHTER: All right. But Senator Volker, if you continue to yield.

SENATOR VOLKER: Yeah.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR LEICHTER: You keep saying that, but the question is that had the

person who was stopped and asked, Are you in need of help, and the person says, No, I'm fine.

SENATOR VOLKER: Right.

SENATOR LEICHTER: Your bill would seem to allow the police officer to continue to ask questions, once having stopped the person to conceivably take some other police action.

SENATOR VOLKER: No, I don't think it would. I think all it would do is, yes, it would continue to, if there was some suspicion, if there could be some suspicion. If the person continued to say, No, and continued to answer the questions objectively there's nothing the police officer could do from there. Let's make that clear. In fact, that's one of the things that's been a bit annoying about the court cases, is the question about saying that you know, well, if you find something that the fact that you asked the questions is a restraint of rights.

You -- Senator, you and I discussed the fact that you do have the right not to respond. If you want to say, No, I have no problem, so forth. Of course, on the other

hand if you drop a gun or if the -- if something is objectively found, that's a different - that's a different story, but I agree with you. I don't think there is anything in this bill that, if nothing else is determined, that would stop that person from saying, No. That's it, and if there's no objective evidence, they can walk away and that's it.

SENATOR LEICHTER: Mr. President, if Senator Volker will yield.

SENATOR VOLKER: Yeah.

SENATOR LEICHTER: Senator Volker, I think the plain language of the statute belies what you say. Maybe one of the reasons why the court sometimes does some of the things that we object to is, very frankly, that we also author statutes that are not clearly expressed, because the key to this section is stopping somebody.

Now, you've given a grounds for stopping which is, are you in distress, the way you do now, but then you go on and if you look at line 17, "may ask such questions and take such other actions".

SENATOR VOLKER: Right.

SENATOR LEICHTER: "Ask such questions and take such other actions", so what your bill does, once you give the police officer the right to stop -- and that's what your bill purports to do -- you then say the police officer may take such -

SENATOR VOLKER: Right.

SENATOR LEICHTER: -- take such other actions.

SENATOR VOLKER: Right.

SENATOR LEICHTER: So in the case that I've given to you where the police officer stops somebody and says, Are you sick, are you in distress, do you need help?

SENATOR VOLKER: M-m h-m-m, right.

SENATOR LEICHTER: I think the person clearly -

SENATOR VOLKER: What would that police officer do, arrest him?

SENATOR LEICHTER: Let me just finish the question.

ACTING PRESIDENT KUHL: If you would permit me, Senator Leichter, if I might just interrupt you a minute. We do have a

reporter who has to take this down and when you turn your back to the microphone and talk directly to Senator Volker, it's very difficult for us up here or other people here or in the rest of the complex to hear you, and when you jump right in, Senator Volker, it makes it extremely difficult to record the content and because it's so important today on this historical day in Albany to have it recorded exactly as it's debated, I would plead with you to each respect the rights of the other and use the mechanisms that are here so that we can get it all down to the last exclamation point.

And now if you want to proceed with your explanation.

SENATOR LEICHTER: I don't think Senator Volker needs to be chastised. I think as usual you have given us very good instructions, Mr. President, and I thank you for that. I just want to finish my question of Senator Volker and just say that it seems to me that what your bill does is establish vast parameters for stopping people, and then once you've stopped, you may ask such questions and, in your example, I think that after the person says, "No, Officer, I'm

not in distress, I'm fine," that the officer has the right to ask other questions, and take such other actions as he deems appropriate even though the person says, "No, I'm not in distress." The officer says, "Well, let me see," and maybe pats him down or asks him some other questions. I think that's clearly what you seek to do.

SENATOR VOLKER: No, Senator, I don't agree with that. In fact, I was trying to think of what could happen. Let's say the guy, you ask him a couple more questions, he says, "No," and he falls down, he falls down and a gun falls out of his pocket. You find out he's been shot. Then you, of course, get an ambulance for him. Then the question becomes was what you did proper? I think that's the further actions that would be taken.

But let's assume that doesn't happen. Let's assume he just says, "No, I'm sorry, I have no problem and I have nothing to say to you." There's nothing under this bill that would allow a police officer, to my -- to my way of thinking, and I think it's pretty clear, to do anything else, unless he has other

objective evidence to allow him to do something further.

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

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: Senator Volker, let me say -- and I appreciate how difficult it must have been today for you to be at the funeral of an officer. I've been at funerals of officers who have been killed, and I know there's nothing more painful, and I think all of us certainly extend the deepest sympathy not only to his family but the people of Buffalo, and we've had police officers shot in my city, in New York City. It's a terrible thing, and we're ever grateful for police officers who protect us, who risk their lives. We know it's a dangerous job, and I think we want to give them all appropriate protection.

But having said that, Senator Volker, I don't think, and I urge my colleagues to read this bill carefully because, as heart felt as the situation is that Senator Volker has brought to our attention, it should not be the

reason or the means, the vehicle by which we pass a bill that I believe violates the Constitution of the state of New York and quite likely the Constitution of the United States.

I think this bill shreds basic constitutional rights. One of the most cherished rights that we have in this country, and maybe I appreciate it more than some other people because I came from a country that was under a police state, and one of the most terrible and terrifying things is that a police officer can stop you at any time for any reason and ask you any questions.

Now, I'm not suggesting that that's what Senator Volker is trying to do. I know it isn't, but I must say, Senator, that the effect of this bill is to greatly broaden the instances that a police officer can stop somebody and to stop somebody because you feel there's a reason of criminality obviously, that should be permitted. It is permitted, it's the law today. But to say you can stop them for reasons that are not related to criminality and then take such other action -- what your bill says is, take such other actions as the officer

deems appropriate. That, Senator, opens up a whole area of police oppression where people in this country, I think, don't want to be stopped by police officers.

One thing, and it's a wonderful thing, a police officer comes up, somebody says, Do you need help? Do you need help crossing the street? Do you need help carrying a bag or are you sick? Can I in some other way be of assistance to you? He can do that now, but then to use that as an excuse to stop somebody and ask him some other questions, as I think your bill does, I think is extremely dangerous and I plead with everyone, much as we're committed to giving the police all of the tools that they need, and much as we want to provide ways in which we can reduce crime, bring it down even lower than the reductions that we've achieved so far, let's not do it at the expense of basic rights.

We're talking of the most basic right of all which is to be left alone, not to be questioned by the police. Commit a crime, police officer thinks you may have committed a crime, has reasonable objective grounds to

consider that a crime has been committed, of course, the police officer can stop you. That's the law, but now we're saying a police officer can stop you even when there's no indication or belief that a crime has been committed.

I find that very offensive. I find that not just questionable. I find that that really is violative of some of the basic principles that make the freedom and liberty of this country the envy of other countries throughout the world.

The bill does two other things. The second thing is in terms of requiring courts to set forth the reasons when evidence is sup pressed. I don't find anything objectionable. But then it also deals with the suppression of evidence, and there, Senator Volker, this is not an effort, contrary to what you say, this is not an effort to bring New York State in with what exists in the rest of the nation.

I can't speak for every state of the Union, but I don't believe that we now -- we shouldn't say "we", that other states provide that evidence that is gotten in a -- in -- where the grounds for acquiring this evidence are not

ones that presently, under the U.S. Constitution would be permitted, where evidence is suppressed because it was acquired illegally, even if it was done in good faith that other states say that evidence can be used.

I know that the federal rule tends to be less restrictive than the New York rule. But the point is that we have a Constitution here in the state of New York, and I heard you say something which I frankly found difficult to believe, that the effort of this bill is to see that the Court of Appeals does what is required -- what is -- may be permissible under the U. S. Constitution, even though it's not permissible under the New York State Constitution. We can't do this as a legislative body. We have a court. This is gross interference with the judicial process.

I guess one of the reasons I may not have explained it as clearly as I would like and as I think it needs to be explained is because as the law presently is, unless you have a valid and good grounds to search somebody, to take property, so on, that you find evidence as a result of that search even if the police

officer acted in good faith, thought that he had the right to do so, that that evidence will be suppressed, and it's all based on the search and seizure which is again one of the rock principles in our Constitution, in our society, and it's not only in the U. S. Constitution but it's stated and somewhat differently in the New York Constitution, and it's been interpreted by the Court of Appeals over many years, and it has required that the police officer, irrespective of his good faith or bad faith, that he follows the law.

What we're saying is that the constable has to follow the law. So I think that this is clearly, to my mind, unconstitu tional. Certainly unconstitutional under the New York Constitution, but I think it's also unconstitutional under the federal Constitution because the Supreme Court, although it's somewhat given greater latitude on search and seizure, has never gone to the point of saying that -- that unless it was committed in bad faith, and then you go on and you say not in whole or in part for the purpose of protecting the safety of the actor or another person.

I mean that's a wide open loophole because almost anything can be considered as pursuing the safety of either the one who is patting down the individual or taking the evidence or he's doing it to protect society at large. So it's really no standard at all as far as I can see this.

Then you go on, and you have a provision in there which I have difficulty understanding, limiting in effect the current statute that we have and even statutes in the future are limited insofar as the exclusionary rule is concerned.

So I think you have gone way beyond what's permissible constitutionally, but I think you have also violated the separation of powers. This is a clear interference in our part in the judicial process, in the province of the judiciary to interpret the Constitution and to interpret law, but we're saying that, no, you've got to interpret this in a particular way.

Let me finally say, Senator Volker, there are all sorts of studies that have been made that the suppression of evidence is

not a hindrance. The suppression of evidence as it's now applied by the court is not a hindrance to getting convictions, to putting criminals away, to pursuing a criminal case with proper evidence, and prosecutors will tell you that.

Now, it's perfectly true some - there have been some cases that have been debated where people have different opinions but to take those cases and based on two or three of them, where you may disagree with the outcome and to completely change the exclusionary rule, I think is a bad mistake and I think as you do it, as I've said, I think you've done it in violation of the Constitution of this state and probably of the federal Constitution.

So much as there may be a lot of emotional reasons for passing this sort of legislation, we can't do it. We shouldn't do it and we should keep in mind basic principles of liberty in this country.

ACTING PRESIDENT KUHL: Senator Waldon.

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

My colleagues, I heard what

Senator Volker said in regards to his experience at the funeral today, and I respect that, and so instead of asking questions of him, I will attempt to do what I want to do by just speaking to the bill, Mr. President.

I wonder why this is being presented to us again. Last year the vote was 36 to 18, but it was only in our house that a vote was taken. So if last year it did not emerge in the Assembly, one could guess that the same thing will happen this year, so this is an exercise in futility to deal with this issue on our floor.

So if my presumption is accurate, then why are we going through the exercise, seems to be a question that can be asked. For one, it shows, from the Governor's perspective, I would assume, that he's very tough on crime, and that's commendable. It is good to be tough on crime.

But yesterday's paper, driving up here today on the news broadcast, and over the last week or two, I've heard that crime is plummeting, 12 percent by some estimates, 14 percent by others. The three major assault

categories have dropped about 14 percent as described in the media in the last day or so. So there doesn't seem to be -- and I'm not speaking from the perspective of the victim, but there doesn't seem to be sufficient reason to change the fundamental guarantees of our nation in regard to its Constitution and the state's Constitution regarding crime because crime seems to be curtailing itself by itself.

What does this bill do? It attempts to expand the authority of the police. Doesn't attempt. If we pass it and if it became law, it would. But aren't our police considered the best trained in the world? That's what we say. So why should we have to clear short-cuts for them to accomplish their end under the Constitution, if they are, in fact, so good?

But there's a more troublesome and meddlesome area of this proposal. That is prohibiting the court from suppressing evidence and then requiring that a court cannot grant motions to suppress tangible property. I'm sorry. If a court should suppress tangible property in regard to the case, they must then put it in writing. The Governor then becomes

the watchdog of the courts.

Our founding fathers, in their wisdom, said we need three separate and apart entities to govern ourselves. Final review is by the court. The Legislature passes the bills and the Executive administers the government. What we would do if this were to become law in this state is to allow the Governor to expand beyond his parameters and control the courts. I don't think the founding fathers intended that, and I think that is a huge, huge mistake.

But let's just presume that this were to pass. If this were to pass, a police officer is walking along the street and he sees someone who has not done anything which is reasonable cause, that gives him reasonable cause to believe a crime has been committed, et cetera, et cetera. Who does he stop? Who will the police officers in the state of New York stop? Will they look to stop illegal aliens, people who do not look like them? Will they look to stop even those who are not illegal aliens or aliens, but who do not look like them? Will this become a reason to hassle and harass to a greater extent than they are already being

hassled and harassed young black men who wear "dreads", who wear their caps on the backs of their heads, who wear loud and funky colors, who I find often obnoxious and I can't handle it, and I am African-American? Who will the police hassle and harass if this becomes law?

I think it becomes a situation for those who will be most hassled and harassed will look somewhat like me. I don't think we need this. I think we're better than this. I think our police are sufficiently trained not to need to resort to such devices in order to express criminality, but isn't that what police are there for, To deal with crime and criminals, not whim as described by this particular bill?

And so because of these reasons and because I think it contravenes our Constitution both at the state and the federal level, and because it would interfere with judicial discretion and because it creates a situation where the Governor is "uber alles", I think it is not wise for us to deal with this and to pass it. But I'm sure we will pass it, but I'm sure in the Assembly it will not come up

for consideration, and so we have again an exercise in futility.

Unfortunately, these things happen here. Stuff happens even in the Senate, but I encourage us to improve the vote over last year. Last year it was 36 to 18, 50 percent. Let's make it better this year, let's have some more wisdom from amongst those of us who sit in this chamber.

I thank you very much, Mr. President, for your indulgence and the indulgence of my colleagues. I recommend that we vote no on this proposal.

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: Mr. President, let me just say, in all sincerity, and I mean this very sincerely, I know you feel very strongly. The passage of this bill will have very little impact on the street except -- let me finish -- except for one thing.

The question was asked by someone, then why do it? The answer is, it will have very little impact on the day-to-day operations of the street except for one thing,

that a lot of people who are now taking advantage of police officers out there on the streets now and escaping justice and assaulting police officers and doing a lot of the things that we all abhor will have more difficulty doing it.

Let me explain something to you about some things that happened many years ago and, by the way, what's been happening in our society has been coming a long, long time, and I thought about today when I was going to expound and I was really in a kind of a foul mood, I suppose for obvious reasons, and I won't get into that.

But, as a young police officer, one of my jobs was -- before I left was to train young police officers, and I'm proud to say one of them is the chief of police today, one of them is an F.B.I. agent. Another one is a retired DEA agent, so forth, not that I had anything to do with it, but at least I was with them. And I used to say to them, Look -- they'd say, "Dale, you're a lawyer" -- by this time I was a lawyer and a police officer -- "How do we deal with this stuff in the streets? How do we

deal with it? We're not lawyers and we don't know how to deal with it," and I said, "Look, use the guide that I've always used and you'll be all right. Do what's reasonable under the circumstances. If you do what's reasonable under the circumstances you'll be all right."

Unfortunately, in this state that has -- what has occurred is that a number of people who do not understand our streets, who do not understand what crime is all about, have been interpreting statutes way beyond what this Legislature intended and are saying, "We don't care what you believe is reasonable, we're not going to follow that."

For instance, Senator Leichter, and you and I weren't there, I know that for sure, but in 1938 there was a Constitutional Convention. You and I were -- in fact, I don't think we were even born, but there was a Constitutional Convention and they specifically rejected the exclusionary rule that now our Court of Appeals is saying New York has. Well, we don't have it, but they're saying we do and the article of the state's Constitution that they're interpreting as more stringent than the

federal constitutional provision is exactly the same language.

Not only are they doing that but they're taking statutes that this Legislature passed and saying, basically we don't care what that Legislature said, we're reinterpreting it because that's not -- it wasn't clear enough for us, even though we've had case after case over the years that have said, Yes, Legislature, you did say that, and we're going to follow that. Well, they're not following it.

So when you talk about the exclusionary rule, you'd better understand no one is saying, this bill does not say that New York is going to change our whole Constitution. What we're saying is that, in modern times, in other words, within the last few years, we've had interpretations that go way beyond anything that New York has ever interpreted before this. That's what we're saying.

The second thing about the streets, and as far as stopping is concerned, I don't agree -- if I agreed that police would be stopping and harassing people because of this statute, I would be the last one to do this bill

and I can assure you of something, that there are bills that come to my committee, tough hard-nosed criminal justice bills that favor police that don't get out of my committee because I don't think they're a good idea, because I think I know a little bit about -- I don't profess to know a great deal, but I know about some of the things that occur.

So I happen to believe that what we're trying to do here is to put more credibility into the streets and not give police officers enormous powers, but more than anything to allow where they acted reasonably that evidence that's uncovered and criminality that's uncovered can be reasonably treated after that. That's what we're really trying to do here.

And, Senator Waldon, I want to tell you something about bills that pass this Senate and don't pass the Assembly. I had about seven of them last year that have been passing this house year after year after year after year and people said, They'll never pass the Assembly.

Well, we changed them a little bit and they passed the Assembly. In fact, one

bill, I'd been sponsoring I think for eight or ten years and it passed the Assembly because finally we were in a situation where we were able to deal with the Assembly and get an agreement.

I'll make a prediction to you about this bill. This bill may not pass the Assembly exactly the way it is, but I will make a prediction to you that this house's version of this bill will pass the Assembly before the next election.

ACTING PRESIDENT KUHL: Senator Abate.

SENATOR ABATE: Yes. Would Senator Volker yield to a question?

SENATOR VOLKER: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ABATE: Senator, I have about 12 pages of my questions and statement from last year. I will spare you.

SENATOR VOLKER: Thank you for that. I remember very vividly.

SENATOR ABATE: Yes, I'm even shocked by the length of the discourse from last

year, but I just have one question that still remains in my mind to be answered.

Is it your intention by this bill to have our state standards consistent with federal standards in terms of stop, in terms of search and seizure?

SENATOR VOLKER: Generally speaking, yes, reasonably so. I think that, you know, what I think the argument that we make here is that the general standards throughout the country is a lesser standard than New York has adopted, not adopted, but that the Court of Appeals has determined not by statute, but by court decision.

Senator Leichter talked about the separation of powers. I agree with him on the separation of powers, and I have a tremendous - I take tremendous umbrage to what I believe has been reinterpretation of statutes that have been done over the last decade way beyond anything that anyone has ever seen in this state, at least in our time, certainly not in my time and I think he's absolutely correct, and I think that there should be a separation of powers but I think it's the courts that have taken the

initiative to reinterpret our statutes; and so my answer to you is, generally speaking, yes, we -- in this bill we attempt to go back to the federal standard.

SENATOR ABATE: So, Senator Volker, it's not your intent to make the state's exclusionary rule more stringent than the federal standards?

SENATOR VOLKER: In all honesty, over the years our exclusionary rule has somewhat -- well, we don't have an exclusionary rule as such, but our search and seizure rule before the most recent Court of Appeals decision, if I'm not mistaken, were somewhat more stringent anyway, but what we're doing basically is not necessarily to just go to the federal standard but in no case would we be less than the federal standard which I think is under Mapp vs. Ohio if I'm not mistaken. Mapp vs. Ohio.

SENATOR ABATE: So, Senator, it's your intention to have our state exclusionary rule no more than the federal government, no more and no less?

SENATOR VOLKER: Yeah, correct.

Let me point out to you once before what I said once again. The exclusionary rule, New York exclusionary rule, was rejected specifically by the convention in 1938 and, technically speaking, we have some case law and statutory law but technically we don't have a statutory rule.

SENATOR ABATE: I mean the exclusionary rule that's been, not by statute but rather by case law, the stop, frisk and search capacity?

SENATOR VOLKER: Right.

SENATOR ABATE: So if, in fact, what you're attempting to do is to mirror that of the federal standard, why did you use different language? The federal law talks about "good faith" and this statute talks about "bad faith".

SENATOR VOLKER: I think we used a version of the federal -- I think there's several ways in which the federal -- the federal standards are used, and we used basically the same standard but in a little bit different way if that's what you mean. It's true, I suppose, you could go exactly with the federal standard

but if you look at the way in which this statute is set up, it is virtually the same except that the -- the language is changed a bit and, in some ways, I suppose it could be determined to be maybe even maybe more stringent, but I guess it depends on how you look at it, but it is basically the same standard.

SENATOR ABATE: Would the Senator continue to yield?

SENATOR VOLKER: Sure.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ABATE: Mr. President.

ACTING PRESIDENT KUHL: I was just counting the questions, Senator. I think we got to seven now, but in any case, continue.

SENATOR ABATE: Yes, it's part seven of the first question.

So. In your mind, there's no difference between a good faith exception and a bad faith exception.

SENATOR VOLKER: Well, of course, there is a difference between a good faith exception and a bad faith exception, but it depends on -- what it means the same as either

you do have good faith or you have bad faith, or you don't. In other words, you're using basically the same standard you're using for harassment purposes, and so forth.

By the way, I think that one of the things is that we're not saying, remember what's happened here, we've had a series of cases that has been looked at in a vacuum. What they've done they've looked at search and seizure in a vacuum and have taken the criminal, the person who is allegedly a criminal and have said, Well, we're not looking over the issue here of bad faith or good faith or anything. We just see a technical rule was violated here and; therefore under New York's Constitution we say that that -- that material, that drug, that gun whatever it is has got to be thrown out.

What we're saying here is that you should look when technical rules are dealt with, where there's no other indication of any constitutional violation to the issue of bad faith obviously by the police officer or good faith, which is the reverse of that to determine whether that evidence should be put in or not.

SENATOR ABATE: Senator Volker,

could you explain to me why you decided to use bad faith instead of good faith?

SENATOR VOLKER: Senator, I didn't decide that. This is the Governor's program bill. The decision was his, in all honesty.

SENATOR ABATE: So it's the wisdom of the Governor we must applaud for that, applaud or criticize.

SENATOR VOLKER: I must be very honest with you, it is not my language. It is a Governor's program bill, but I think what the Governor decided to do in this bill is to use the same principle that the federal decisions have made, but from the reverse perspective and I think that you get to the same point, at least that's how it seems to me.

SENATOR ABATE: Thank you, Senator.

Just very briefly, on the bill. My concerns are manifold, but let me just highlight a couple of my concerns about this bill.

I believe that this bill goes beyond the standard set by federal law. What is

bad faith? I'm not sure. What is good faith? It is not defined in the bill. Certainly we want to give guidance to police on when they are stopping and searching and because of the vagueness of the standards in this bill, we will not be giving guidance. In fact, under the bill it says the police can stop people for any reason, good or bad, and how is the court or how is any individual going to challenge this statute? How can they go into the head of a police officer? It's hard enough to show the actions of good faith. How are they going to determine bad faith?

Why are we doing this? I think we have to ask ourselves. If you practice criminal law and if you're in the courts and if you've had an occasion to argue a motion to suppress, it's an extraordinary event where any evidence is suppressed. In fact, in 99 percent of the cases, the motion to suppress is denied. Now, every now and then, we see these headlines and we may not agree with the Court of Appeals decision but they are few and far between and we have to ask ourselves, when we are reducing crime, when we are paying attention and training

our officers, when it is important that they be trained, and why are we changing the standards to such an extent that we are tipping the balance in the wrong direction?

And the reason for exclusionary rules is to have a balance on the street, so the officer has all the capacity and power they need to function on the street, but also that there will be enough rules and laws in place so that an innocent person is not stopped for any reason. So an exclusionary rule is about protecting all the innocent people in New York State and also about giving sufficient power to the police.

I have not heard any argument today that we need to change the balance. Because there is some Court of Appeals cases we disagree with should not be enough basis to make such a fundamental change in our system. What we don't have before us and which is never documented is how many innocent people are subject to unwarranted intrusion, are subject to unreasonable searches and seizures? Those individuals may be searched, may be stopped. There's no contraband found, no crime

committed. They go on their way. That kind of evidence is not documented. We as a state need to be concerned if we tip the balance in the wrong direction, and we open up the flood gates to have more and more innocent people stopped for no reason or for not a legitimate reason, particularly if it's not indicative of criminality.

So we shouldn't tamper, we should not allow people and innocent people to be stopped just because of a hunch or suspicion. I believe that there are rules in place that protect all of us. Let's not use the excuse today because one criminal got off where we know full well in our community that there are many innocent people who are stopped unnecessarily, who are put in pain and burden and they should not be placed in the situation. So there are many reasons and my colleagues have articulated very well why this bill goes too far. It's not necessary. The officers have all the capacity in law and ability to stop people now and to arrest people, to prevent crime, and this tips the scales in a very dangerous direction, a direction we should not venture into.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Record the negatives.

Senator Waldon to explain his vote.

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

On the street is where this bill really counts. In the city of New York 25 to 30 people are fatally shot each year by the New York City Police Department. Most recently, a young man was shot in the back of his head. It was said that he was menacing the police officer and coming towards the police officer. There are two other such shootings similar to the Cedeno shooting, Kevin Cedeno.

The point I am trying to make is that now in some instances with all of the constitutional guarantees and all of the restraints of the media and all of the good

supervision that the New York City Police Department has, people are being shot in the back and alleged to have been coming towards the police officer when they were killed.

I remember attending a few press conferences when I was a Lieutenant in New York City, and regrettably at those press conferences we were there to protest the fact that black police officers had been shot by white officers, while performing their duty and having identifiable markings, either the pins or the head bands that we wore at that time.

The point I'm trying to make is that the police can do their job now very capably with the laws which are on the books. To allow them to go in a wanton sense after criminals, I think creates a bad atmosphere and will result in even more shooting by the police which are unnecessary.

I agree when an officer is shot. I've attended funerals of officers. I have a cop even now who has been shot. Some of these guys were my buddies who died, but I don't think that giving them unparalleled power just to stop and frisk and perhaps even kill people is the

way to go. I would hope that we would show more restraint. I hope the vote is better this year than it was last year.

I vote in the no.

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

Senator DeFrancisco, did you wish to explain your vote?

SENATOR DeFRANCISCO: Yes, I do.

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

SENATOR DeFRANCISCO: I vote no for some of the reasons that were discussed earlier, but it has nothing to do with my concern of police officers overstepping their bounds. I believe most, if not all police officers do, in fact, do what they think is reasonable under the circumstances as Senator Volker had mentioned.

My concern -- well, one of the good parts of the bill I think before I mention the bad, the good parts about the bill, I think is every court, if they're going to suppress evidence, should be required to in writing articulate their reasons why. That gives the

record for the appellate court to make a determination as to whether those reasons were legitimate or not legitimate, rather than just by having a vote or a ruling without any explanation. I think that every court should be subject to review in that sense.

The difficulty I have with it is I don't know how a police officer could possibly understand the standard under which this bill would govern their actions. An officer can stop someone when he has an objective credible reason, not indicative of criminality, an objective, objective -- objective, credible reason of what? And I don't know how you follow that standard as a police officer in trying to enforce the law under these circumstances.

So for those reasons, I will vote no, and I would certainly hope that this bill could be corrected to not only give police officers a broader flexibility in how they do their actions but also to give the police officers a standard which they can legitimately interpret so that they know the bounds of their responsibility.

ACTING PRESIDENT KUHL: Senator

DeFrancisco will be recorded in the negative. Announce the negatives.

THE SECRETARY: Those recorded in the negative on Calendar Number 448 are Senators Abate, Connor, DeFrancisco, Gold, Kruger, Lachman, Leichter, Markowitz, Mendez, Montgomery, Nanula, Paterson, Rosado, Sampson, Santiago, Seabrook, Smith, Stavisky and Waldon. Ayes 39, nays 19.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR MARCELLINO: Mr. President, any housekeeping at the desk?

ACTING PRESIDENT KUHL: No.

SENATOR MARCELLINO: Mr. President, there being no further business, I move we adjourn until Tuesday, April 15, at 3:00 p.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, tomorrow, Tuesday, April 15, at 3:00 p.m.

(Whereupon at 5:29 p.m., the Senate adjourned.)