ALBANY, NEW YORK

May 19, 1998

3:10 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

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

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

We're very pleased to be joined by the Reverend Monsignor Michael J. Cantley of St. Anastasia Church, of Douglaston, New York, to deliver the invocation.

REVEREND CANTLEY: Mr. President, Senators, guests: We place our selves in this hall of the Legislature before the Eternal God. In prayer, we do not inform You of our needs. You already know what we need before we even ask. Rather what we do is to place ourselves in Your presence and, alone with our consciences, hearts exposed to Your clear sight, we re-examine our obligations and tremble at the responsibility we must justify before You each night before we go to sleep,

and will have to justify at the very end of our lives, our eternal destiny, the end for which we were created.

"Our liberties do not come from charters, for these are only the declarations of pre-existing rights. They do not depend on parchments or seals; but come from the King of kings and the Lord of all the earth." Our Founding Fathers before me knew these words and asserted the claims of all citizens of our country and state to freedom and the development of the human potential based on the assertion of principles that they termed "self-evident" because they were and are truths about the human person derived from the knowledge of human nature, built into it by "nature's God".

Both charters of legal existence, the Constitution of the United States and that of our state of New York, had the boldness to bring into existence not merely a territory of jurisdictional identity, but more an experiment in human governance unknown until its time, and since then emulated throughout all of the world. George

Washington called it an experience -- an "experiment in ordered liberty." It is an experiment in which every man and woman, without prejudice for race, religion or social standing could pursue happiness, serve the common good and enjoy the freedom to realize every legitimate inborn talent limited not by any force of government but only by the limits one placed on the self.

The continuing success of our American democracy as we live it in the state of New York depends on each new generation, native-born and immigrant, making its own the moral truths and the ideals on which the country and the state were founded. The commitment to build a society free, just and caring begins anew with each opening of this Legislature, each bill discussed, each signing into law, each interaction of the branches that constitute the efficiency of government. Many in this Legislature will carry the state into the new millenium. It's an awful and awesome responsibility to end that era and begin another. "No expression of today's commitment to liberty and justice for all can

be made that could be more basic than the protection afforded to those in society who are most vulnerable -- the unborn or the sick and the old. The credibility of our state will depend more and more on its promotion of a genuine culture of life and on a renewed commitment to building a society in which the weakest and the most vulnerable are welcomed and protected."

Eternal God, with thankfulness that our state Senate in New York has established a record of concern for the most vulnerable, we ask the courage and the insight that its record in the future be even more glorious, that all of the country and all of the world may look to it as a paladin willing and successful in addressing all need not from a position of expediency, but from the principles that make for greatness. Amen.

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 18th. The Senate met pursuant to adjournment. The Journal of Sunday, May 17th, was read and approved. On motion, Senate

adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees. The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, offers up the following nomination: As a judge of the Court of Claims, Ferris D. Lebous.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Lack, on the nomination.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination and I rarely ever correct -

SENATOR SKELOS: Mr. President -- excuse me, Senator Lack. If we could just have some order in the Senate chamber, please.

ACTING PRESIDENT KUHL: The

acting Majority Leader raises a very good point. Would the members please take their seats, staff their position.

Senator Lack.

SENATOR LACK: Well, thank you, Mr. President. I rarely would ever correct, because we have a Senator Libous but we're standing up to -- I'm standing up to move the nomination of one Ferris D. Lebous, of Vestal, as a judge of the Court of Claims.

I do so notwithstanding the fact that coming down from Cornell one day, I got a speeding ticket in Vestal, but I'll still stand up -

SENATOR GOLD: Mr. President. Mr. President. A point of high personal privilege.

I got a speeding ticket coming down from Cornell, in Vestal.

SENATOR LACK: In Vestal too?

SENATOR GOLD: In Vestal, New York.

SENATOR LACK: Well, Mr. President, since it seems to be bipartisan both sides of the house, Senator Gold, are you

suggesting that we should postpone doing this?

SENATOR GOLD: Not unless I wanted to get killed.

SENATOR LACK: Well, in any event, Mr. President, notwithstanding what happens when you drive through Vestal where our nominee happens to come from, it is with great pleasure that I rise to move Ferris D. Lebous of Vestal's nomination as judge of the Court of Claims.

He was found highly qualified by the Governor's Screening Committee. He appeared before us this morning, was unanimously moved to the floor of the Senate, and it's with great pleasure that I yield to Senator Thomas W., not Lebous, but Libous, not of Vestal but of Binghamton, for the purposes of a second.

ACTING PRESIDENT KUHL: Chair recognizes Senator Libous, on the nomination.

SENATOR LIBOUS: Thank you, Mr. President.

It is indeed an honor for me to rise to move this nomination, and I think, Mr. President, I need to clear a few things up.

I've had several people ask me over the course of the last few weeks why Ferris spells his name Lebous and I spell mine Libous, and I think that's pretty simple, that when his grandparents and my grandparents came to this country and came to Ellis Island, they needed a convenient way to figure out how to sort the mail since they were all going to live in the same home so, therefore, part of the family became Lebous and the other part became Libous and, as the story goes, the Lebous part of the family became successful and the Libous part is still working on that.

But, Mr. President, I'm not here to talk about family name. I'm here to talk about the honor and pride that I have to stand before this body today to move the Governor's nomination to the Court of Claims of Ferris D. Lebous.

Ferris has served in tremendous capacity as he graduated law school and came back to our community. He served in the district attorney's office as assistant district attorney and then went on to be senior assistant district attorney for a

number of years prosecuting many, many tough cases, and then after that he went on to become a successful member of the law firm, Pearis, Ressiguie, Kline, Barber and Lebous, where he focused his time on municipal law, dealing and covering for the last 15 years the town of Sanford, village of Windsor, town of Dickinson, where he worked tirelessly in helping those individuals in those towns as they deal with the many laws that come down to them from this body.

His activities did not cease, though. He also worked in the community as a member of the Sertoma Club, a member of the Binghamton JCs, counsel to the Broome County Republican Committee, a member of the Board of Directors of Broome Legal Assistance Corporation, Commissioner of Election for Broome County, board member of the YMCA, of course, his work on the Binghamton Symphony Board and, as he mentioned earlier this morning, he is a proud member of the American Federation of Musicians Local 380, in Binghamton, New York.

He has served the Broome County

Bar Association as its president, vice-president, director, member of public relations, and on the Scholarship Committee.

Mr. President, it is a pleasure for me to stand here with a bit of emotion and a lot of personal pride to move this extremely qualified nominee that the Governor has brought before us and, before I close, I just want to say that I hope this summer, as I visit him on the lake, he'll still let me ride in the paddleboat with him.

ACTING PRESIDENT KUHL: Senator Spano, on the nomination.

SENATOR SPANO: Thank you, Mr. President.

Let me first say that, Mr. President, the Governor has selected a member of the Libous family that spells their name correctly to be appointed to the Court of Claims, and let me say that I'm sure he chose the successful part of the family to be appointed. Look what we're left with here in this chamber.

But it is a pleasure to join with Senator Lack and, of course, my good

friend and colleague, Senator Libous, in saying that the Governor has selected someone who's had an outstanding record as an attorney, someone who I've certainly known for a long time, who hails from that Southern Tier of the state and I've had the opportunity to visit, and to say that it's a proud day, a proud day certainly for your family, proud day for your parents, proud day where they can call you "judge" and a very happy day for the people of this state in the fact that the Governor has recognized your potential and has nominated you and hopefully in a few moments will be confirmed by all the members of the Senate as an outstanding member of the Court of Claims.

It's my pleasure to join with my colleague in seconding that nomination and offering you my own best wishes and congratulations.

ACTING PRESIDENT KUHL: Senator Seward, on the nomination.

SENATOR SEWARD: Thank you, Mr. President.

I'm also very proud to stand to

second the confirmation of Ferris D. Lebous to go on the Court of Claims. I have the pride and honor of representing the northern part of the Southern Tier if there is such a region, along with Senator Libous, and thus I'm a neighbor of Ferris Lebous, and I can say that without question that Ferris Lebous is known throughout our region as one who has built a distinguished reputation and record not only in the legal affairs that he's been involved in over the years but also, of course, his outstanding civic activities. He's worked hard on behalf of his community over the years.

I can also say that he is known far and wide throughout our region as a man of intelligence, integrity, energy, fair-minded. He's got all the attributes that will make him an outstanding judge of the Court of Claims, so I am very honored and pleased, Ferris, on behalf of the people just north of you, to stand and to lend my support to this confirmation.

I congratulate the Governor on making an outstanding choice, and I'm proud to

join all my colleagues in supporting your confirmation.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the nomination? Hearing none, the question is on the nomination of Ferris D. Lebous, of Vestal, as a judge of the Court of Claims. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is unanimously confirmed. We're very, very pleased to have Ferris Lebous in the chamber with us in the gallery to your left along with his parents, Patrick and Edna Lebous, and a friend, Casey Krause. Judge, we're very, very happy to have you with us. You do us proud.

(Applause)

Secretary will continue to read.

THE SECRETARY: As a judge of the Suffolk County Family Court, Dudley L. Lehman.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Lack, on the nomination.

SENATOR LACK: Thank you, Mr. President.

I very proudly stand up to move the nomination of Dudley Lehman of Nesconset as a judge of the Family Court of Suffolk County.

I've known Dudley Lehman for over 20 years personally. He's my constituent. We're joined behind me by my friend, and Dudley's friend, Assemblyman Bob Wertz. Together Bob and I have worked with Dudley Lehman for years on all sorts of projects affecting our constituency.

He's a very active member of the Smithtown community, a graduate of New York University, of Brooklyn Law School, member of the Suffolk County Bar Association where he has done great work on the Grievance Committee, the Torts Committee, Criminal Law Committee. He was a law assistant, one of the early ones, for the judges of the District Court of Suffolk County. He is in the private

practice of law for over 30 years, special counsel to the board of zoning appeals and the planning board of the town of Smithtown for over a 20-year period.

He became a judge of the Suffolk County District Court in January 1996 and since January '97 he's been the principal law clerk to the former supervisor of Smithtown, now a judge of the Suffolk County County Court, the Honorable Charles Cacciabaudo.

It's with great pleasure that I congratulate the Governor on his appointment of Dudley Lehman who, in his run for District Court and now as a candidate for Family Court, has been rated as qualified. The only qualified position the Suffolk County Bar Association does is find people qualified or not qualified to run for both District Court and now for Family Court. He will be a great addition to the Family Court bench, which is one of the most active courts in Suffolk County that desperately needs another judge and the Governor is coming down with this judicial appointment at this time, it's

particularly necessary in that court and he has found a wonderful candidate who is compassionate, knows the needs of Suffolk County, the needs of the people of Suffolk County, and will be a very, very good judge on a very, very active bench.

So, Dudley, congratulations from Bob and myself. Bob can't talk on the floor, so I have to speak for him. Dudley is joined today by his wife Marilyn and by his daughter Susan.

So, Mr. President, thank you very much for giving them the courtesies of the floor and congratulations to you on your nomination and, Mr. President, I would move the nomination.

ACTING PRESIDENT KUHL: Any other member wishing to speak on the nomination? Hearing none, the question is on the nomination of Dudley L. Lehman, of Nesconset, as a judge of the Suffolk County Family Court. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is unanimously confirmed. We're very, very pleased to have Judge Lehman in the chamber with us in the gallery to your left, together with his wife Marilyn and daughter Susan. Judge, congratulations and good luck.

(Applause)

Reports of select committees.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

Mr. President, there is going to be an immediate meeting of the Racing, Gaming and Wagering Committee in Room 330 - 332, I'm sorry.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Racing, Gaming and Wagering Committee in the Majority Conference Room, Room 332. Immediate meeting of the Racing, Gaming and Wagering Committee in the Majority Conference Room, Room 332.

Communications and reports from state officers.

Motions and resolutions. Chair

recognizes Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Skelos, on page 52 I offer the following amendments to Calendar Number 922, Senate Print Number 6427-C, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 922 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Libous.

SENATOR LIBOUS: On behalf of Senator Meier, on page 49, I offer the following amendments to Calendar Number 887, Senate, Senate Print 6927, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 887 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Libous.

SENATOR LIBOUS: Mr. President,

on behalf of Senator Lack, on page 19, I offer the following amendments to Calendar Number 403, Senate Print 5162-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 403 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Libous.

SENATOR LIBOUS: On behalf of Senator Marcellino, on page 57, I offer the following amendments to Calendar Number 977, Senate Print 6289, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 977 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Lack, on page 58, I offer the following amendments to Calendar Number 981, Senate Print 6704, and ask that said bill

retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 981 are received and adopted. The bill will retain its place on the Third Reading Calendar.

SENATOR LIBOUS: And, Mr. President, on behalf of Senator Goodman, on page 44, I offer the following amendments to Calendar Number 846, Senate Print 7007-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 846 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Secretary will read the substitutions at the desk.

THE SECRETARY: On page 44, Senator Volker moves to discharge from the Committee on Rules Assembly Bill 9788-A, and substitute it for the identical Senate Bill 6309-A.

On page 51, Senator Maziarz moves to discharge from the Committee on Rules

Assembly Bill 9827 and substitute it for the identical Senate Bill 6961.

On page 52, Senator Johnson moves to discharge from the Committee on Rules Assembly Bill 10,023-A, and substitute it for the identical Senate Bill 6674-A.

On page 4, Senator Cook moves to discharge from the Committee on Rules Assembly Print 9443 and substitute it for the identical Senate Bill 6275.

On page 4, Senator Kuhl moves to discharge from the Committee on Rules Assembly Bill 10,280, and substitute it for the identical Senate Bill 6827.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

Mr. President, at this time may we please adopt the Resolution Calendar with the exception of Resolution Number 3525, 3505, 3506 and 3507.

ACTING PRESIDENT KUHL: Motion is to adopt the Resolution Calendar as

presented on the members' desk with the exceptions of Calendar or Resolutions Number 3525, 3505, 3506 and 3507. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Resolution Calendar with those exceptions is adopted.

Senator Balboni, why do you rise?

SENATOR BALBONI: I wonder if I might have the opportunity to speak briefly on the resolution mourning the death of Paul G. Hearne.

ACTING PRESIDENT KUHL: Resolution number?

SENATOR BALBONI: 3519.

ACTING PRESIDENT KUHL: Senator Balboni, speaking on the resolution.

SENATOR BALBONI: Mr. President, oftentimes there passes in our lives moments that we don't necessarily focus on. Today perhaps is one of them.

Paul G. Hearne was a man of

distinction who started -- began life with greater challenges than most of us in this chamber know. He's physically disabled. He was the first graduate of what is now known as the Viscardi School on Long Island, one of the premier schools for the physically challenged in the nation.

He became the president of the Dole Foundation for employment for people with disabilities, and his life was an example of success in the face of adversity. The Americans for Disabilities Act, the most significant passage of legislation in this nation for people with disabilities, was in large measure due to his effort.

His death signals a victory for people with disabilities and a celebration of his life, so his family mourns him deeply, and I just wanted to stand up briefly and take a moment to say how proud I am to be a part of this body and take a moment in this time of mourning to consider his life of achievement.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Thank you,

Mr. President.

May we have Resolution Number 3525, by Senator Seward, read in its entirety and move its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the Resolution 3525, by Senator Seward, in its entirety.

THE SECRETARY: By Senator Seward, Legislative Resolution congratulating Oneonta High School Senior Girls' Basketball Team and Coach Tom Moriarty on their outstanding overall team record and upon winning their Second Consecutive New York State High School Athletic Association Class B 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;

Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork and encouraging a standard of healthy

living, imparting a desire for success and developing a sense of fair play and competition;

The Oneonta Senior High School Girls' Basketball Team were the 1997 New York State High School Athletic Association Class B Champions;

The team reprised its success in 1998, again capturing the Class B title;

In addition to winning their Second Consecutive New York State Public High School Athletic Association Class B Championship, the Lady Yellowjackets are two time Susquenango League Champions, two-time Section IV Class B Champions and they are the 1997-98 New York State Federation Class B Champions; the Lady Yellowjackets finished their 1998 season with an unbeaten record of 27 and 0 and achieved a cumulative two-year record of 53 and 1;

The athletic talent displayed by this team is due in great part to the efforts of Coach Tom Moriarty, 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 Oneonta Senior High School Girls' Basketball Team, from the opening game of the season to participation in the championship, were a sisterhood 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 Tom Moriarty has done a superb job in guiding, molding and inspiring the team members toward their goals;

Sports competition instills the values of teamwork, pride and accomplishment, and Coach Tom Moriarty and 14 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 Oneonta Senior High School Girls' Basketball Team; its members: Kellee Roberts, Kristin Werdann, Brinn Spencer, Nikki Miller, Erin Shackleton, Marci Riddell, Krissy Zeh, Kelly Sosa, Laura Erbe, Dana Wilkens, Karyn Pierce, Tiffany Hurley, Stacy Knapp and Kristen Konstanty; and Coach Tom Moriarty and Assistant Coach Brad Zeh, and Ononta Senior High School Athletic Director Robert Zeh on their outstanding season and overall team record; and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to the Oneonta Senior High School Girls' Basketball Team and to Coach Tom Moriarty.

ACTING PRESIDENT KUHL: Chair recognizes Senator Seward, on the resolution.

SENATOR SEWARD: Thank you, Mr. President.

As a 1969 graduate of Oneonta High School and now the Senator representing the area, I rise for the second year in a row

with a great deal of pride to congratulate the Oneonta High School Lady Yellowjackets Varsity Basketball Team on another outstanding season.

This is another very special team that has accomplished a great deal, particularly over the last two years, the two time Susquenango Champions, two-time Section IV Class B champions, two times the New York State Public High School Athletic Association Class B Champions, the 1997-98 New York State Federation Class B Champions finishing this year with a 27 and 0 record, a two-year record of 53 and 1. This is truly an outstanding team.

The team is in the gallery with us to day. They're joined today by head coach Tom Moriarty and his wife, Ann. The athletic director of Oneonta High School is not with us today, but he's ably represented by his wife Dorothy Zeh. Teacher Joe Hughes and very special fan Ashley Cammarata are all in the gallery with us today.

Now, this team, even though they're still in their teen years, has taught

us all a great deal about hard work, working toward a goal, teamwork, fair play, healthy living, team spirit, and what it means to compete, all of those things that this team has taught us a great deal about.

These are young people we all can be proud of and they represent the very best of our future. Congratulations, ladies.

ACTING PRESIDENT KUHL: 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.

On behalf of Senator Bruno, Senator Seward, all the members in the chamber, we welcome these young women, marvelous athletes, the Lady Yellowjackets from Oneonta High School, to the chamber. Congratulations on your wonderful spin through the basketball world. Good luck in life and thank you for coming and spending just a moment with us. We hope you enjoy your stay. If you would all stand, I know the members

would like to recognize your presence.

(Applause)

Senator Holland.

SENATOR HOLLAND: Mr. President, there will be an immediate meeting of the Veterans Committee in Room 332, please. Immediate meeting of the Veterans Committee in Room 332.

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

Senator Holland.

SENATOR HOLLAND: Mr. President, can we have a reading of the non-controversial calendar, please.

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

THE SECRETARY: Calendar Number 19, by Senator Johnson, Senate Print 1593, an act to amend the Penal Law, in relation to including court officers.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 330, by Senator Johnson, Senate Print 737-A, an act to amend the Public Health Law.

SENATOR COOK: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 441, by member of the Assembly John, Assembly Print 9892, an act to amend Chapter 812 of the Laws of 1987.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2.

This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 443, by Senator Wright, Senate Print 6422, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 642, by Senator LaValle, Senate Print 6751, an act to amend the Town Law, in relation to

authorizing.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 673, by Senator Volker, Senate Print 6797, an act to amend the Executive Law, in relation to electronic equivalents.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

SENATOR LEICHTER: Will you lay that aside.

ACTING PRESIDENT KUHL: Lay

aside. 642, you're asking to be laid aside, Senator Leichter? 673?

SENATOR LEICHTER: That's fine.

ACTING PRESIDENT KUHL: That's fine. Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 681, by Senator Nozzolio.

SENATOR PATERSON: Lay it aside.

THE SECRETARY: Senate Print 5195-A, an act to amend the Correction Law.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: 692, by Senator Wright, Senate Print 5292, an act to amend the Education Law, in relation to county awards.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2.

This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 706,by Senator Lack, Senate Print 6452, an act to amend the Surrogate Court Procedure Act.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 739, by Senator Larkin, Senate Print 5300, an act to amend the General Municipal Law, in

relation to eliminating.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 750, by Senator Skelos, Senate Print 6558, an act to amend the Real Property Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 754, by Senator Saland, Senate Print 6907, an act to amend the Family Court Act, in relation to presiding.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 757, by Senator Libous, Senate Print 1931, an act to amend the General Business Law, in relation to unlawful possession of tobacco.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 761, by Senator Alesi, Senate Print 6417, an act to amend the General Business Law, in relation to prohibiting.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 769, by Senator Present, Senate Print 6823, an act to amend the Town Law and the Public Officers Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 773, by Senator Hannon, Senate Print 4132, an act to amend the Public Health Law and the Education Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR DOLLINGER: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 778, by Senator Maziarz, Senate Print 6960, an act to amend Chapter 841 of the Laws of 1987.

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 780, by Senator Holland, Senate Print 7177, an act to amend the Public Health Law and Chapter 674 of the Laws of 1997.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 820, by Senator DeFrancisco, an act to amend

the Vehicle and Traffic Law, in relation to the maximum speed limit.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 837, by Senator Meier, Senate Print 5497, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act -

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

867, by Senator Stafford, Senate Print 6772, an act to amend the Public Authorities Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 875, by member of the Assembly Connelly, Assembly Print 9184, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 979, by Senator Johnson, Senate Print 6357, an act to amend the Penal Law, in relation to aggravated harassment.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1021, by Senator Cook, Senate Print 6482, an act authorizing the village of Hunter, Greene County.

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.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, I believe I was outside the chamber briefly when the vote was taken on Calendar 642, Senate Print 6751. Could I have unanimous consent to be recorded in the negative on that bill.

ACTING PRESIDENT KUHL: Without objection.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Dollinger will be recorded in the negative on Calendar Number 642, Senate Print 6751.

Senator Holland, that completes the reading of the non-controversial calendar. What's your pleasure, sir?

SENATOR HOLLAND: Could we have a reading of the controversial calendar.

ACTING PRESIDENT KUHL: The Secretary will begin the reading of the controversial calendar, beginning with Calendar Number 330, Senate Print 737-A, by Senator Johnson.

THE SECRETARY: Calendar Number 330, by Senator Johnson, Senate Print 737-A, an act to amend the Public Health Law, in relation to public notification of health hazards.

SENATOR COOK: Mr. President.

ACTING PRESIDENT KUHL: Senator Cook.

SENATOR COOK: Will Senator Johnson yield?

ACTING PRESIDENT KUHL: I'm sure he will, but -- Senator Johnson, Calendar Number 330, Senator Cook has asked whether or not you would yield to a question.

SENATOR JOHNSON: Yes, Mr.

President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR COOK: Thank you, Senator Johnson, my dear neighbor sometimes.

Senator, are there any similar provisions in law relative to chlorine?

SENATOR JOHNSON: Well, actually, I don't have all the law here, but there's a whole list of chemicals which, if they're too much in the water they have to declare it a contaminant and make an announcement and stop the usage.

SENATOR COOK: So this puts fluoride in the -- fluoride in the same category as other things that are already in the law; is that what you're telling me?

SENATOR JOHNSON: Yes, that's true, Senator. I might have some figures on the others.

SENATOR COOK: Well, as long as you're telling me that that's already -- this is in the law.

I would say, Mr. President, my concern, if I may, on the bill.

ACTING PRESIDENT KUHL: Senator Cook, on the bill.

SENATOR COOK: Senator, Mr. President, I'm going to support this bill based on Senator Johnson's assurance that this is in keeping with other things, but I am concerned that -- about the labeling of fluoride as a contaminant. Certainly it is possible to have an overdose of chloride and -- of fluoride in the drinking water, and certainly people should be notified in any event when any additive to a public water system may become an overdose, but I am concerned that putting in law the contention that fluoride is a contaminant because, indeed, it has been shown consistently that it's a very good way of assuring the dental health of the children of this state. I think that the dental health of our children has improved markedly over the past several decades that we've been adding fluorides to the drinking water, and I really wouldn't want us to do something in this house which might indicate that there was something dangerous about doing that beyond the simple point that,

of course, adding anything to the drinking water in an excessive amount could create a hazard.

I am assuming that the latter is what Senator Johnson is attempting to address and, therefore, I'll vote for the bill.

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

Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Johnson will yield to just one question.

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to a question from Senator Dollinger?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Senator Johnson, how does the public notification occur when this event happens? What's the cost -

ACTING PRESIDENT KUHL: Senator

Dollinger, excuse me for just an interruption. There are a couple members who are standing up in your line. If we might just have the members take their seats. Senator Onorato, you're right in the line of debate.

SENATOR GOLD: Mark your ball.

ACTING PRESIDENT KUHL: Mark your ball, and please come back later. Thank you for -

SENATOR DOLLINGER: I saw Senator Gold kick it under the table.

Senator Johnson, who does the notification and who pays for it? How much does it usually cost?

SENATOR JOHNSON: I have part of that code here, the State Health Code, and this is already classified as a contaminant if it's over 2 parts per million. That's already in the law.

The notification is done by the Health Department after notifying, the water authority notifies them that it's contaminated and they make the announcement.

SENATOR DOLLINGER: Again

through you, Mr. President, is it just an announcement or publication or other data? I'm just interested in what the cost of the requirement of notice is?

SENATOR JOHNSON: I couldn't tell you the cost, but it's the same way for all the other listes contaminants, when they have an over-supply in the water, they tell you don't drink the water, run your water, boil the water. You will hear it on the radio yourself. You know how it is when there is a contaminant, sewage contaminant or something, they -- everyone is notified and don't use the water. It would be the same method, I'm sure it -

SENATOR DOLLINGER: O.K.

SENATOR JOHNSON: -- wouldn't be more expensive than the cost of health if someone consumed fluorine two or three times the level which is acceptable.

SENATOR DOLLINGER: Again through you, Mr. President, that answers my question.

On the bill, just briefly.

ACTING PRESIDENT KUHL: Senator

Dollinger, on the bill.

SENATOR DOLLINGER: Again, on the bill, I share the sentiments of Senator Cook. It's hard to believe that there's too much of a good thing could become a contaminant. I agree fluoride has been a wonderful thing for the people -- the children of this state, particularly with respect to their dental health, and we had a debate, I'm sure, on this floor 30 or 40 years ago about whether fluoride in the water was part of the a Communist conspiracy, and all those other things, and I would just hate to think that we were -

SENATOR JOHNSON: You missed that debate.

SENATOR DOLLINGER: I did miss that debate. Were you there, Senator Johnson? I should ask.

SENATOR GOLD: It was his bill.

SENATOR JOHNSON: It's a new one on me, Senator.

SENATOR DOLLINGER: But I agree with Senator Cook. I'm going to vote for this bill. If there is a health hazard posed by too

much fluoride, we should follow public notification procedures.

ACTING PRESIDENT KUHL: Secretary will read the last section. Oh, Senator -- excuse me, Senator Leichter. You wish to speak on the bill?

SENATOR LEICHTER: Yes. Would Senator Johnson yield, please?

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to a question from Senator Leichter?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator Johnson, I assume there are a number of things that are put into water to purify it. Obviously if you put in too much it could create a problem and a hazard, but are you telling us that every chemical or every substance that's put into water to purify it that the public health code now provides specifically what levels are safe and that, if there's an overdose of that particular level, that it's a hazard?

SENATOR JOHNSON: I believe that's so, Senator, although I can't -- there are literally thousands of contaminants and this list has 20 or 30 on here, so maybe some have been excepted. I can't tell you for sure, but there's no doubt about it that chlorine and fluorine are both poisons and you can have too much of a good thing, you know, like a little arsenic did a lot of good for Rasputin, but you know, too much got him.

ACTING PRESIDENT KUHL: Senator Leichter.

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

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

SENATOR LEICHTER: Senator, absent listing the fluoride or fluorine with a quantity or a content of greater than two and two-tenths parts, wouldn't the public health authorities if they feel there's a threat to the drinking water, have the authority to ban the addition of that chemical to the water and also to notify the public that there is a

health hazard?

SENATOR JOHNSON: Well, Senator, we're talking about an error, breakdown in machinery, or error in the dosage of the ingredient going into the water. We're not talking about the general philosophy, whether you should or shouldn't have it, nothing to do with this bill.

This bill says if you exceed the limits which are in the present public health regulations, if those limits are exceeded you notify people so they shouldn't consume it until the levels are brought back to normal. That's all it does; it's a notification bill, pure and simple.

SENATOR LEICHTER: O.K. Mr. President, if Senator Johnson would continue to yield.

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

SENATOR LEICHTER: I understand what you're trying to do. What I'm trying to find out is whether you're singling out fluorine because of some antipathy that you may have toward the use of chlorine, and I'm

asking you whether the provisions of your bill as they apply to chlorine exist to every other substance that's put in the water where a substance is perfectly safe and is used if it is used in an excess quantities may cause a problem.

Do we, in every such instance, actually list what that amount is and the substance which we're trying to avoid the over use of?

SENATOR JOHNSON: Senator, I haven't studied the entire Public Health Law or regulations, but there are many other articles in here which, if they're contaminated, you have to do something about it and make notification, and so forth, and even tells you how to do it, disinfection, flocculation, I don't really know all the details, Senator. All I know is that if there's an over-supply of something which is a contaminant and a poison which you find in the law presently, some kind of contaminant, we shouldn't have the people consume the water with that gross amount of contaminant in it, but just whatever the amount is specified, .06

or 1.4.

SENATOR LEICHTER: Mr. President, if Senator Johnson continues to yield.

Senator, I don't think there's any dispute between you and me that, if there is a contaminant in the water that action ought to be taken. What I'm concerned about is that we, by legislation, identify one particular water purifier, fix in law what the safe levels are, and then ask the -- and really bind the hands of the public health authorities in that respect when we don't do a similar identification and set quantity - safe quantity levels for any other substance, at least as far as I know.

SENATOR JOHNSON: Well, I think we do, Senator. There is a list and there are details here about notification of the various other contaminants in the water. I just can't read you a complete list of all the contaminants, but all I know is that if they were my -- if I represented a group of people and I found out that the machinery broke down and there was an excess supply of fluoride or

chlorine or anything else I would tell you to notify the people because these things are poison and too much has been heard about people with kidney troubles, elderly people are very susceptible to overdoses of fluoride so I think it's just plain common sense to notify the public that there could be a hazard and not to consume it until that problem is cleared up. I think it makes sense. I don't think it's -- it's no debate on fluoride; it's just a debate on good common sense relating to public notification.

SENATOR LEICHTER: Mr. President, if Senator Johnson would yield to another question, please.

Senator, I have no problem, but what may be common sense to you may seem to me as being possibly driven by ideology, and I just want to make sure that it's common sense and that we're applying the very same standard to chlorine that we are to every -- to every other chemical or substance put in the water, but let me ask you this question: Where does the two point two tenths come from?

SENATOR JOHNSON: That is in

the state health code right now. That is their standard. I'm not coming up with another figure. That's their figure for contaminant, because it's a gross over-supply being fed in there, and -- and they feel it's a health hazard at that point. All I'm saying is, if that's so let people know about it.

SENATOR LEICHTER: O.K.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR JOHNSON: I'll give you a copy of this, Senator, if you'd like.

SENATOR LEICHTER: Yeah, I appreciate that, Senator Johnson. If you would yield for another question, please.

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

SENATOR LEICHTER: Senator, you're telling me, and I don't have the public -- I have the law in front of me, but I don't have the regulations that obviously you're reading from. You're saying that these presently provide that the safe usage of chlorine or fluoride is two point two-tenths

apart; is that correct?

SENATOR JOHNSON: No, that's the level beyond which it's considered contaminant; the safe level is .06 or 1.4.

SENATOR LEICHTER: O.K.

SENATOR JOHNSON: But this -

SENATOR LEICHTER: As I understand it, the code says if you have more than two point two tenths.

SENATOR JOHNSON: It's a con taminant.

SENATOR LEICHTER: It's a contaminant.

SENATOR JOHNSON: That's their list; that's their terminology.

SENATOR LEICHTER: O.K., and under the law as it exists now if, through some mechanical breakdown or some mistake, 3. -- 3.0 or three parts, whatever it is, over the contaminant level is put in the water, what happens?

SENATOR JOHNSON: Well, people get ill.

SENATOR LEICHTER: What do the public health authorities do?

SENATOR JOHNSON: Right now they tell them to correct the problem. They tell the water authorities to correct the problem.

SENATOR LEICHTER: O.K. All right.

SENATOR JOHNSON: But they don't notify anybody that the contaminated stuff is in the water supply. It will be there for a few days.

SENATOR LEICHTER: Senator, if you would be so good as to continue to yield. Under this list that you have in your hand stating what the safe levels are of these various chemicals -

SENATOR JOHNSON: Right.

SENATOR LEICHTER: If that level is exceeded as regards any other chemical, what do the public health authorities now do?

SENATOR JOHNSON: There are notification things for many of these items. I say not all. You have the law, I have the regulations. You have the complete law; I don't have all the regulations, but there are

listings for many other chemicals as well.

SENATOR LEICHTER: All right. Excuse me, if you will continue to yield, Senator.

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

SENATOR LEICHTER: Did you say that in some instances, if the contaminant level is exceeded, the regulations now require or the law -- I don't see it in the law, but in the regulations, that notification be given to the public and that would be understandable because there's a danger to the public. If somebody put acid in the water, you want the public to know, don't drink this water.

SENATOR JOHNSON: Right.

SENATOR LEICHTER: But you're saying that, in some instances under the current law and regulations, including fluoride, that if more than 2.2 parts are put into the water which is the contaminant level which you say is stated in the regulations, there is no requirement that the public be in formed.

SENATOR JOHNSON: I didn't say that. I said I don't know if that's so in every case. I said I don't know if that's so in every case.

SENATOR LEICHTER: Well, what I'm trying to understand from you, Senator Johnson, if you continue to yield, please.

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

SENATOR LEICHTER: When you -

ACTING PRESIDENT KUHL: Excuse me, Senator Leichter. Just let me find out if the Senator continues to yield. Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Under the - under the current law and regulations, in all instances where contaminant levels are exceeded as stated in law and regulations, do the public health authorities have to give notification to the public?

SENATOR JOHNSON: I -- you're going to make me study this for half an hour,

Franz? I would say the answer is no if you ask me in every case does it have to be done. I can't tell you about every case, but there are contaminants listed here; there's a procedure for notification, and so on. I can't tell you that they have to do it in every case. I think this is a case where the known contaminant could be harmful to people subject to kidney trouble, older people, and so forth, and I think we should let people know about it, simple as that.

If you want to study the law, if you want to put in a regulation yourself for other contaminants, I'd be glad to do it. I'm not sure that everything is covered in public notification.

SENATOR LEICHTER: Well, Senator, again if you'd continue to yield, Senator Johnson.

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

SENATOR JOHNSON: Yes.

SENATOR LEICHTER: Presently it's currently left to the discretion of the public health authorities in what instances

they will notify the public, although -- and that's really my question -- that the Public Health Law, the regulations identify certain contaminants where, if the safe level is exceeded, the public health authorities are mandated to give notice to the public, is that correct?

SENATOR JOHNSON: I would say that's probably true, yes.

SENATOR LEICHTER: Excuse me?

SENATOR JOHNSON: I would say that's very likely true. What you said may be very well -- may be true.

SENATOR LEICHTER: Well, Senator Johnson, it would seem to me that wouldn't it make more sense if any bill at all is needed to have a bill that says that where drinking water is not safe because contaminants have been added to it, that the public health authorities using their judgment ought to give notification to the public? Why don't -- why don't we have a bill of that sort?

SENATOR JOHNSON: Well, because it's not as -- as simple as you may think.

Some contaminants occur naturally in the water supply or because there is some problem a long way from the source and have to be dealt with in a different manner than something where you're deliberately adding it to the supply and you could make an error and the machine could break down.

There are other contaminants which exist in the soil for one reason or another and have to be taken out. That's so that -- so they're all on the same list. I'm saying I can't give you a blank answer. All I can say is this is a poison when it's exceeded. People should know about it and action should be taken promptly and people have a right to know about it. Simple as that, Senator.

SENATOR LEICHTER: Mr. President, one final question of you, Senator Johnson. That's exactly my point, that you've identified a certain chemical that you have a certain antipathy toward and have directed the Public Health Department to give notification if levels above that which supposedly the regulations state are not safe, if you exceed

those levels that notification should be given.

It seems to me that, if notification should be given, then it ought to broadly state that the public health authorities ought to give notification whenever -- whenever there are contaminants which would create a danger to the health of the public that drinks that water. That, it would seem to me, would make good sense, Senator Johnson.

SENATOR JOHNSON: Well, I think I'm going to do that in my next bill, Senator. I have one bill left. I'm going to put that one in, but right now we're talking about this bill. This is something is added gratuitously. Everybody doesn't want it, in fact some areas don't have any additional fluoride at all; some do. It depends upon the community and their wishes, and the health commission in that area, so I'm saying this is something you can get too much of a good thing and it's not like chlorine. Chlorine is there for the purposes of disinfecting the water, protection from disease. This doesn't protect

anybody from disease at all. This is added for another reason completely. This is a nutrient, or some people consider it a nutrient or chemical which some people think you should ingest. Some people may like to, some may not like to but if you get more than is good for you, it's bad for you, see, and that's why you have this bill, to let people know about that.

SENATOR LEICHTER: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: Mr. President, this may not seem of great moment, but for that matter, almost nothing we've done has been of great moment, but I know it's a bill that means a lot to Senator Johnson, and I appreciate the way that he wants to express his concern, but whether it makes sense as public policy, I think, is another question.

It's clear to me that anything that is a contaminant that endangers the health of the public drinking the water, that the public health authorities have to take

appropriate action not only to tell those persons who are responsible for putting that contaminant in there not to do it or in some instances to move against them criminally but to warn the public.

There can be thousands of contaminants. For us, in legislation, to take this particular contaminant and to say that 2.2 is the safe level, I don't know whether it is or isn't, but I'll accept Senator Johnson's word that that's the safe level, but we don't do that, as I understand from Senator Johnson, for any other number of contaminants.

I think there ought to be a general direction given to the public health authorities. My belief is that right now if water is contaminated, whether by fluorine, fluorides or any other contamination which could create a public health menace, that the public is notified. I know that happened in the city of New York where we had a problem, so I suspect, Senator Johnson, that much as you say that you're just concerned that people don't get too much of a good thing, that you're expressing what I gather has been a

long-standing antipathy that you have to putting fluorides in the water.

That's your view. I don't think it's the view of most public health authorities. I don't think really it's the view of the majority of this body or of the Assembly, and I think that to put this in the law in the manner that you do does stigmatize chlorine and fluorides in a way and may well hamper the activities and the proper discharge of duties by public health authorities.

If you want to do it broadly across the board and say something which I think is probably already the law, certainly the practice, if the water is contaminated let the public know without identifying specific contaminants, I think that's fine, but for this Legislature now to say, Well, this is a contaminant where you've got to give notice but we don't get -- we don't tell them that they've got to give notice for any other contaminant. I don't think that makes sense.

I'm -- in spite of Senator Johnson, I agree with you. We don't want too much of a good thing. I'm not sure this bill

is a good thing.

ACTING PRESIDENT KUHL: Secretary will read the last section. Excuse me. Senator Gold.

SENATOR GOLD: Yeah, Mr. President, just briefly.

I think that the last few minutes is a really good example of the value of my distinguished colleague, Senator Leichter, to this chamber and why he'll be missed so much.

Senator Johnson, I agree with you, and I'm going to vote for the bill. I think that the key word is the word "overdose" and we all know that there are many good things out there, medications, et cetera, where people get hurt, and we all read in the paper about the word "overdose" and I don't think that we stigmatize something if we try to protect against an abuse, but when I - going back to my colleague, Senator Leichter, I really do encourage the members of the house to consider his comments because it is a good point, and I respect Senator Johnson's sensitivity to the chlorine issue, but perhaps

as a result of this debate, we can be sensitized to the broader issue and perhaps get a broader solution.

SENATOR COOK: Mr. President.

ACTING PRESIDENT KUHL: Senator Cook.

SENATOR COOK: I just wanted to sort of underline this -- the concerns that have been expressed on the other side of the aisle, because for years when we had surface water in our village, it smelt like cow manure, a good bit of the time and nobody every informed me that there were contaminants in it and I think we ought to be told that that happens; so I urge support for the bill.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I'd like to point out that the state standard of 2.2 parts per million liters of water containing fluoride was really a standard of risk, I

would say, rather than a standard of contamination because the federal standard is 4 parts per million of fluoride, and what I would imagine is that Senator Johnson set this standard to be well within the federal -- the federal mandate, and also complying with what the New York State Department of Health interpretation of what would be a very high risk.

The question really centers around where do we move from what we might term as risk into an actual danger zone. There are questions where, above 4 parts per million of fluoride in the water, that there has been evidence of mottling where there are brown spots that are located on the teeth of particularly children who are exposed to this, but this probably is a subject, as Senator Gold suggested, that this probably would be something that we might want to look into on a wider perspective.

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

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes fifty....

ACTING PRESIDENT KUHL: Record the negatives; announce the results.

THE SECRETARY: Ayes 56, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, could we please take up Calendar Number 757, Senator Libous.

ACTING PRESIDENT KUHL: Before we do that, Senator Fuschillo, could I recognize Senator Alesi? Why do you rise?

SENATOR ALESI: Mr. President, may I ask unanimous consent to be recorded in the negative on Calendar 642?

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Alesi

will be recorded in the negative on Calendar 642.

Senator Nozzolio, why do you rise?

SENATOR NOZZOLIO: Mr. President, I wish to be recorded in the negative on Calendar Number 642.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Nozzolio will be recorded in the negative on Calendar Number 642.

Secretary will read Calendar Number 757, by Senator Libous.

THE SECRETARY: Calendar Number 757, by Senator Libous, Senate Print 1931, an act to amend the General Business Law, in relation to unlawful possession of tobacco.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I don't have any questions for - for the sponsor, but I would like to just point out to my colleagues that this legislation will establish illegality for young people under the age of 18 who possess

tobacco in any form.

The legislation further establishes that any person under the age of 18 who unlawfully possesses tobacco may be summoned to court, and the court may impose a fine and/or community service.

So, therefore, it says to me that we are once again treating possession and use of tobacco specifically by young people as a crime. We're criminalizing smoking by young people, and certainly if you impose community service, that is a sentence that is frequently imposed for people who come before the judge for some form of minor criminal activity, a misdemeanor or what have you.

I am opposed to this, not because I don't want young people to smoke but certainly I will -- I think it is -- it is a very slippery slope that we are embarking on when we have criminalization because of the use of tobacco, so I would like to just point that out to my colleagues, and I know that some of us opposed it last year, the last time, and I certainly hope that more people will oppose it because I just think we should

not be doing this.

We've done this, we've made this error in the past with marijuana, and now look at what we have on our hands, no less use but we have a lot of people who are incarcerated because of it, so this is just another example of a wrong direction, this policy.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Libous.

SENATOR LIBOUS: Thank you, Senator.

I just wanted to clarify a point based on Senator Montgomery's comments because they're good comments, and that's why the bill, Senator, does not make it a criminal offense. As a matter of fact, we had had several people in the first drafting bring that to our attention.

It becomes a violation, which is not a criminal offense, does not go on the record. The fine would be up to $50 and/or community service. It's very similar to the

legislation that we passed in this house, I believe sponsored by Senator Cook several years ago, that dealt with possession of alcohol. Again that legislation, this is patterned after that because we too, Senator, were concerned that making it a criminal offense is not the way to go.

What we're trying to do is add onto the tobacco act, the prevention act that was passed in 1992 in this house that restricted the sale of tobacco products in vending machines, and we felt that this legislation would then take added responsibility. Certainly a minor today walks into a store under age, buys tobacco products. That store keeper, if caught, is always fined and penalized. It is our intent here to make it the responsibility to the minor, that the minor understands that they've done something wrong and that to purchase that product, possess that product, is not right, it's not legal and that the intent here is basically to do that.

It is not to have any criminal record or criminal offense.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I voted for this bill last year. I'm going to vote for it again, Senator Libous, but just in sitting here thinking about it, I understand the sentiments of my colleague, Senator Montgomery, and I guess one of my concerns is, it seems as though this bill means that, if you're smoking outside your high school, you're going to be arrested, you're going to be stopped by the police and they're going to confiscate even your single butt if that's all you're smoking is a single cigarette.

It seems to me that we sort of go around the edges of this problem with tobacco, and I think there is a very serious problem of children smoking too much. This is extremely dangerous to your health and extremely addictive, but this bill is a real, I think a good step but a small one. I think what we need to do is come up with a real well-defined tobacco policy in this state.

I'm afraid that this bill may be used more to harass teenagers who are doing something that they shouldn't be doing because it's terrible health for them, rather than curing the problem of childhood smoking.

ACTING PRESIDENT MARCELLINO: Senator Marchi.

SENATOR MARCHI: Mr. President, many years ago I voted against raising the legal drinking age to 21, and I had held what I felt was a very objective, analytical review of this with a blue panel of people, presidents of colleges. I thought they were a splendid array of people.

The unrealistic nature of bringing it from 18 to 21 is to build a lot of cynicism in the feelings of young people because there is absolutely no disposition to enforce it and it is violated with regularity. In fact, the other states which had a 21-year-old law also had wild melees, in New Jersey and Connecticut where they had to call out the National Guard. We didn't have any of that. Nevertheless we proceeded to legislate in that area.

I -- I looked at tobacco at that time and I felt that tobacco also represented, in its abuse and in its use an even earlier threat, and -- but very simple to tackle it because they were enforcing the 18-year-old with fairly good results, so I added tobacco. So -- or I made a separate bill with tobacco. It wouldn't go anywhere. So finally I said, let's put them under regulatory regulations where you don't have to -- where your forum of decision can end up with a suspension, and, of course, maybe rightly so, a lot of people objected to that. They said that it would only involve the mama and papa shops that really lived on cigarettes and tobacco.

But these are the differences between practicality and what happens when it hits society. It's very significant, Mr. President. Despite the fact that we have a law, no one has ever been put in jail, to my knowledge, as having committed a crime if they were under the legal drinking age, but the State Liquor Authority had the authority to suspend that license, and that's what made it

tick.

So when I suggested that, well, the outcry was even more vociferous, you know, to regulate the vendors under the penalty of suspension of their right to sell, say for a month or whatever.

Well, I reluctantly have to vote against this bill, because I still feel it's somewhat out of touch with reality, and despite the indisputable qualities of the sponsor, I am constrained to vote against this bill.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Mr. President, to explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Leichter, to explain his vote.

SENATOR LEICHTER: I supported the bill last year, and I certainly support Senator Libous' efforts to reduce teen-age smoking which is a terrible problem, but I think the points that have been made by my colleagues, Senator Marchi and Senator Montgomery, are probably correct that we may be creating more of a difficulty and a problem for ourselves.

I'm also concerned what it would mean if suddenly hundreds of thousands of cases now have to be taken to the criminal court. We have a criminal court system in the city of New York that is greatly overburdened, as you know. Are we going to take now the time of judges to deal with children smoking when they should be dealing with more serious offenses to the public?

I think well intentioned as this bill is, Senator Libous, I'm not sure that it's really going to work. I think what will work, hopefully and I think it will, is what's being done in the Congress now where the price of cigarettes is going to be raised possibly by as much as $1.50 and that more

than anything else will discourage teen-age smoking. I think maybe that sort of economic incentive not to smoke is going to be much more effective than this bill.

I'm going to vote in the negative this year.

ACTING PRESIDENT MARCELLINO: Announce the results, please.

THE SECRETARY: Those recorded in the negative on Calendar Number 757 are Senators Farley, Leichter, Marchi, Markowitz, Montgomery, and Stavisky. Ayes 52, nays 6.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Seward.

SENATOR SEWARD: Yes, Mr. President. I was unavoidably out of the chamber when a bill passed earlier today, and I would ask unanimous consent to be recorded in the negative on Calendar Number 642, Senate 6751.

ACTING PRESIDENT MARCELLINO: Without objection.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT MARCELLINO:

Continue reading the controversial calendar, please.

THE SECRETARY: Calendar Number 681, by Senator Nozzolio, Senate Print 5195-A, an act to amend the Correction Law and the Criminal Procedure Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, an explanation has been asked for by Senator Paterson.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, this bill before us would curb the practice of "scare" mail. "Scare" mail is that unwanted harassing victimizing correspondence that takes place from inside our prisons that has ramifications outside those walls.

This measure provides that anyone, particularly a victim, can make notice that they do not want to be the recipient of correspondence or telephone -- and/or telephone calls from said inmates, that it is a practice that goes on all too frequently,

further victimizes victims and that it is a practice that the Department of Corrections, under the leadership of the Governor, wishes to curtail and that's why this measure is before this house for consideration.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: For whatever reason, it would seem a good idea that, if an individual contacts the Department of Corrections and makes the Department aware of unwanted letters or telephone calls emanating from a state facility that that individual should be allowed the right to prevent the inmate from contacting them, particularly while they are being incarcerated in a state facility.

However, there's a section of the bill that I think to some degree under mines the strength of it, and that is ab solving the state of any responsibility should an individual be victimized in such a situation, and wish to, because of the damage

that they have suffered, bring an action against the state.

It is a general policy that the state cannot absolve itself from any responsibility that is created by a law. In this case, we are actually making a law, a law that protects individuals and, although I don't exactly know off the top of my head how someone would prove damages from phone calls or letters, but I guess there certainly could be that case. There could be intentional infliction of emotional harm or some kind of action in which the aggrieved would be able to prove damages.

It's my opinion that the state, since we are passing this law, can't, with the one hand, pass it and then on the other hand say, but just in case we don't meet our responsibility, you can't turn around and sue us. So I think that the bill's merit is something whose time has come, and there are a number of incidents where numbers of letters come from inmates, I think maybe even a few legislators might want to invoke that possibility, but in all seriousness, I don't

think you can pass a law that has built into it what would be a restriction on bringing a lawsuit when the -- the law is actually violated.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gold.

SENATOR GOLD: Mr. President, I read the memo from the Trial Lawyers on this point, and I think Senator Paterson is exactly right in most situations, but in this one, I think the bill needs the language and let me explain why.

There is now going on in America a new kind of scam, and it was on the radio just a couple days ago, and for reasons I don't want to go into too much today, it does involve, in some instances, the prisons and there are situations, Senator Paterson, where there is now a system whereby some prisoners have found a way to make long distance calls and local calls and communications out of the prison in a way that the prison authorities don't even know it's being done. It's a scam on the phone

companies, it's a scam on the general public, but until if ever they can beat that, it seems to me that it is fair to give the state an out because unless there's some other language in the bill I didn't see, Senator Nozzolio, it seems to me that it's unfair to hold the state responsible if there are technical mechanisms that are now being used which go around what the technology of the state is, so that we would be creating an insurance policy which I don't think the bill wants to do.

So I'm going to support the bill in its current form, although in other situations I think that, Senator Paterson, you're right and we shouldn't take away the liability.

ACTING PRESIDENT MARCELLINO: Senator Paterson, do you rise to rebut that testimony?

SENATOR PATERSON: Excuse me, Mr. President.

ACTING PRESIDENT MARCELLINO: Do you rise to rebut the Senator Gold?

SENATOR PATERSON: Absolutely, Mr. President.

ACTING PRESIDENT MARCELLINO: I kind of thought you would.

SENATOR PATERSON: Mr. President, if someone brought an action against the state and the action was that the state was derelict in its duty, one of the - one of the constructions of that argument would be that you would have to prove that the state was involved in some kind of duty that was not performed so, for instance, if you wanted to send a letter to Person A, you could send the letter to Person B and have them send the letter to Person A. You would still in a sense harass Person A. You've sent "scare" mail, as Senator Nozzolio has described, but you've done it in a way that would not be - there's no speculation that the state would have had any way to stop you from doing that.

So the scam for which the state does not have any responsibility is something that the state can actually -- and I know that Senator Gold has ducked away and is running away from this, because he knows that I'm right and it doesn't matter which side of the aisle he sits on, it's clear.

SENATOR GOLD: Speaking from this side of the aisle, I don't agree with you at all.

SENATOR PATERSON: But all I'm saying to you is that the general principle that is that a person would have a right to bring an action and at the point that it was raised that it was impossible for the state to actually prevent this, then I think the action would have no cause and would be thrown out, but the general rule I'm just saying, in my opinion, is violated by part of the construction of this bill.

What the bill is trying to cure, I think, is something that's long over due.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 773, by Senator Hannon, Senate Print 4132, an act to amend the Public Health Law and the Education Law.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Hannon, an explanation has been asked for.

SENATOR DOLLINGER: Actually, Mr. President, I'll waive the explanation.

I believe there's an amendment at the desk we'd ask that be considered. I've served it upon Senator Hannon and told him; I think he knows it's coming.

ACTING PRESIDENT MARCELLINO: I assume you're waiving the reading.

SENATOR DOLLINGER: I would, Mr. President. I'd ask that it be waived, the reading of the amendment.

ACTING PRESIDENT MARCELLINO: The amendment is at the desk, Senator. Please

explain your amendment.

SENATOR DOLLINGER: Thank you, Mr. President.

This is an amendment we dealt with last year. The amendment deals with a question on Senator Hannon's bill, and he and I have had a number of discussions about this: The question of how do we encourage volunteer physicians to participate in the health care system if, as a consequence of, that they have to pay liability insurance and at least from my perspective, Mr. President, having a volunteer position not be subject to suit is the wrong way to handle the problem.

The wrong thing to do is to say to a physician, if you volunteer down in one of the health care facilities in downtown Rochester and you happen to commit malpractice on someone who can't afford to pay, then you're immune from a malpractice action. It just seems to me that what that suggests is that a group of people who don't have significant resources won't be able to recover if they're damaged by someone who commits malpractice.

What the amendment seeks to do is to provide malpractice coverage for physicians through our bank of excess liability coverage. We all know we have a system in this state established during the malpractice crisis 10 to 15 years ago in which we set up a reserve system. We surcharged premiums to create an excess liability pool that would cover verdicts in excess of a million dollars, so that a physician in this state only has to buy liability insurance up to $1 million. If there is a verdict in excess of that, the funds are paid out of the excess liability coverage.

Now, and I -- perhaps the chairman of the Health Committee would know for sure, but my recollection is that the most recent calculation said there was a billion dollars or more in that account and that this Legislature on previous occasions and other governors have tapped that account to cover general fund expenses.

So my suggestion is, since we have this huge pool of liability -- excess liability insurance coverage sitting there,

since we know that over the course of the last 15 years we haven't significantly drawn down those funds, there's a huge pool of unaccounted for and unused funds that could be used to purchase or to provide general liability and malpractice insurance for physicians who do the good thing which is to provide their services on a volunteer basis.

If we did that, we would have a reliable way to provide liability insurance. We wouldn't short change those who need volunteer services rather than paid for services for health care. We would still give them access to a liability fund in the event that the voluntary physician, volunteering physician committed malpractice.

So that's the point of this amendment, Mr. President. It's very similar to a system that was proposed in the state of Florida where they have used excess liability pools to provide liability, general liability, malpractice coverage for physicians. I think the chairman of the health committee properly points out that we've got a problem with encouraging volunteer contribution of services

by retired physicians. It seems to me that the way to do it is to allow them to tap in the excess liability pool and hopefully give them an incentive to provide coverage for those who need services on a volunteer basis.

Thank you, Mr. President. I'd move the amendment and ask for a party vote in the affirmative.

ACTING PRESIDENT MARCELLINO: Senator Hannon, on the amendment.

SENATOR HANNON: Mr. President, on the amendment.

Senator Dollinger, you had let me know before you were going to offer an amendment and you said it was something we had discussed last year and I had assumed it was the same amendment as last year, but it's not.

Last year you dealt with the scope of who may be in this pool and you dealt with nursing professionals. This topic which was raised but was not the subject of amendment was something I discussed with Senator Leichter.

The difficulty with your

amendment is it tries to address a fund that really is not available, and even if it were available, I'd have a policy problem, but let me just tell you why it's not available.

Before we did the health care deregulation, there was an ongoing revenue stream that fed money into in pool. That was cut off in 1996. The monies for '96, '97, '98 are basically coming out of the earnings of interest for the excess. It has been a question as to how close we were going to get and it turns out that we'll probably just have enough to extend it one more year, so that excess program is just barely being contained. Tapping it for any purposes, however laudatory and minimal, may endanger that, so I don't believe it's there.

The second point is just on the policy ground, once you start doing primary medical malpractice care for anybody I'm sure there'll be very -- a number of other people who say we have as legitimate an argument as those folks do to be covered. We should do it and then we're into a business if we ever were to do that. We're into a business that we're

not in now that the private sector is doing appropriately, et cetera, et cetera.

So I don't believe that the mechanics and the workability of this is appropriate, and I would speak against your amendment.

ACTING PRESIDENT MARCELLINO: Question is on the amendment. All those in favor of the amendment signify by saying aye.

(Response of "Aye.")

Opposed nay.

(Response of "Nay.")

The amendment is defeated.

On the bill. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 773 are Senators Breslin, Dollinger, Gentile, Montgomery, Onorato, Paterson, Rosado, Smith

and Waldon. Excuse me, Senator Onorato in the affirmative. Voting in the negative Senator Connor. Ayes 49, nays 9.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR WALDON: Mr. President.

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

SENATOR WALDON: Mr. President, I was elsewhere on Senate business when the house dealt with 757. I would respectfully request unanimous consent to be recorded in the negative on 757, Calendar 757.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Waldon will be recorded in the negative on Calendar Number 757.

Senator Maziarz, why do you rise?

SENATOR MAZIARZ: Thank you, Mr. President.

Mr. President, I also would like to request unanimous consent to be recorded in the negative on Calendar Number

642, Senate Bill 6751.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Maziarz will be recorded in the negative on Calendar Number 642.

Senator Balboni, earlier today you had passed a resolution, Resolution Number 3519. It's my understanding you wish to open sponsorship of that resolution to other members, is that correct?

SENATOR BALBONI: That's correct, Mr. President.

ACTING PRESIDENT KUHL: Members who would like to be a co-sponsor of Resolution 3519 -- it is in your Resolution Calendar -- if you would like to notify the desk, Senator Balboni has consented to your being co-sponsors.

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

ACTING PRESIDENT KUHL: Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 837, by Senator Meier.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I was out of the chamber to vote negative on a couple bills.

ACTING PRESIDENT KUHL: Without objection.

SENATOR DeFRANCISCO: On Calendar 642 and 757.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator DeFrancisco will be recorded in the negative on Calendar Number 642 and Calendar Number 757.

Senator Gold, why do you rise?

SENATOR GOLD: Yes, Mr. President, if you don't mind, if I could have unanimous consent to be recorded in the negative on Calendar Number 773.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Gold will be recorded in the negative on Calendar Number 773.

Senator Leichter, why do you rise?

SENATOR LEICHTER: Yes, Mr. President. May I also have unanimous consent to be recorded in the negative on Calendar 773, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 773.

Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 837, by Senator Meier, Senate Print 5497, an act to amend the Criminal Procedure Law, in relation to the forfeiture of bail.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR FUSCHILLO: Mr. President, may we please return to reports of standing committees and I believe there is a report of the Veterans Committee at the desk.

ACTING PRESIDENT KUHL: Return to the order of reports of standing committees. Secretary will read the report of the Veterans Committee.

THE SECRETARY: Senator Meier, from the Committee on Veterans and Military Affairs reports:

Senate Print 2706, by Senators Leibell and others, an act to amend the Public Service Law, in relation to utility rates, directly for third reading.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, is there housekeeping at the desk?

ACTING PRESIDENT KUHL: Return

to the order of motions and resolutions, the Chair recognizes Senator Meier.

SENATOR MEIER: Mr. President, on behalf of Senator Marcellino, on page Number 51, I offer the following amendments to Calendar Number 916, Senate Print 7058, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to 916 are received and adopted. The bill will retain its place on the Third Reading Calenda.

Senator Stavisky, why do you rise? No? Senator Stavisky passes.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, there being no further business, I move we adjourn until Wednesday, May 20th, at 11:00 a.m.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, the Senate stands adjourned until tomorrow, Wednesday, May 20th, at 11:00 a.m.; tomorrow, May 20th, at 11:00 a.m.

(Whereupon at 4:49 p.m., the

Senate adjourned.)