ALBANY, NEW YORK

June 2, 1998

3:04 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, the staff to find their places. I'd ask everybody in the chamber to please rise and join with me in saying the Pledge of Allegiance to the Flag.

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

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

(A moment of silence was observed.)

The reading of the Journal.

THE SECRETARY: In Senate, Monday, June 1st. The Senate met pursuant to adjournment, Senator Fuschillo in the Chair upon designation of the Temporary President. The Journal of Sunday, May 31st, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: If we could do the motions at this time and any substitutions that may need to be made.

ACTING PRESIDENT KUHL: Senator Meier, a motion?

SENATOR MEIER: Mr. President, on behalf of Senator Skelos, I wish to call up bill Print Number 308, recalled from the Assembly, which is now on the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 56, by Senator Skelos, Senate Print 308, an act to amend the Vehicle and Traffic Law, in relation to out-of-state convictions.

ACTING PRESIDENT KUHL: Senator Meier.

SENATOR MEIER: Mr. President, I

now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: Senator Meier.

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

ACTING PRESIDENT KUHL: The amendments are received and adopted.

The Chair recognizes Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Hannon, please remove the sponsor's star on Calendar Number 479.

ACTING PRESIDENT KUHL: The star is removed.

Senator Fuschillo.

SENATOR FUSCHILLO: On behalf of Senator Padavan, on page number 43, I offer the

following amendments to Calendar Number 1075, Senate Print 3192, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 1075 are received and adopted and the bill will retain its place on the Third Reading Calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: On behalf of Senator Marchi, on page number 7, I offer the following amendments to Calendar Number 243, Senate Print Number 6007-A, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 243 are received and adopted. The bill will retain its place on the Third Reading Calendar.

The Secretary will read the substitutions.

THE SECRETARY: On page 7, Senator Maziarz moves to discharge from the Committee on Rules Assembly Bill Number 5748 and substitute it for the identical Third Reading Calendar 266.

On page 20, Senator Cook moves to discharge from the Committee on Rules Assembly Bill Number 2578-B and substitute it for the identical Third Reading Calendar 686.

On page 22, Senator Trunzo moves to discharge from the Committee on Rules Assembly Bill Number 4790-A and substitute it for the identical Third Reading Calendar 716.

On page 25, Senator Skelos moves to discharge from the Committee on Rules Assembly Bill Number 10046-A and substitute it for the identical Third Reading Calendar 774.

On page 34, Senator Meier moves to discharge from the Committee on Rules Assembly Bill Number 8834-A and substitute it for the identical Third Reading Calendar 932.

On page 40, Senator Marcellino moves to discharge from the Committee on Rules Assembly Bill Number 10253-A and substitute it for the identical Third Reading Calendar 1028.

And on page 51, Senator LaValle moves to discharge from the Committee on Rules Assembly Bill Number 10416 and substitute it for the identical Third Reading Calendar 1165.

ACTING PRESIDENT KUHL: The

substitutions are ordered.

Senator Skelos.

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

ACTING PRESIDENT KUHL: We'll return to the report of standing committees.

Can we have a little order in the house, please. The staff please take their chairs, the members take their places. If you have to have a conversation, take it out of the chamber.

We'll return to the reports of standing committees. The Secretary will read the report of the Finance Committee.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Sheriff of Delaware County, Leonard J. Rutherford, Jr., of Walton.

SENATOR SKELOS: Move the confirmation.

ACTING PRESIDENT KUHL: The question is on the nomination of Leonard J.

Rutherford, Jr. to become the sheriff of Delaware County. All those in favor of the nomination indicate by answering aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Sheriff of Montgomery County, Michael J. Amato, of Sprakers.

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

SENATOR FARLEY: Thank you, Mr. President.

I would like to move the nomination of Michael Amato as sheriff of Montgomery County, ably qualified and presently serving.

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

(There was no response.)

Hearing none, the question is on the nomination of Michael J. Amato to become the sheriff of Montgomery County. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will continue to read.

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

Senate Print 7072-B, by Senator Goodman, an act to amend the Education Law, in relation to student financial aid.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Consumer Protection Committee in the Majority Conference Room.

ACTING PRESIDENT KUHL: Senator

Skelos, I couldn't hear you. Will the members please take their chairs, the staff remove themselves from the chamber if you're going to have a conversation. Can we have it quiet in the chamber.

Senator Skelos, for an announcement.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Consumer Protection Committee in the Majority Conference Room.

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

Senator Skelos.

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

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

THE SECRETARY: Calendar Number 411, by Senator Skelos, Senate Print 332-A, an

act to amend the Social Services Law, in relation to access to certain conviction records.

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

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 424, by Senator Leibell, Senate Print 6119-A, an act to amend the Public Officers Law, in relation to the qualification for deputy sheriffs.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 519, by Senator Velella -

SENATOR SKELOS: Lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 580, by Senator Larkin, Senate Print 3982-A, an act to amend the Tax Law, in relation to determination.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 627, by Senator Libous, Senate Print 4227-A, an

act to amend the Real Property Tax Law, in relation to including cooperatively owned home dwelling units.

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

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: For some reason it's very noisy today, and I'm not able to hear you think.

ACTING PRESIDENT KUHL: Maybe because I'm not thinking.

SENATOR SKELOS: You're not thinking. All right. If we could just have some order so we can move expeditiously through the calendar.

ACTING PRESIDENT KUHL: Senator Skelos raises a good point. Ask the members to contain themselves. Be as reticent as you can. Still think.

That means you, Senator Maziarz.

Call the roll -- read the last

section on Calendar Number 627.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 711, by Senator Leibell, Senate Print 6433, an act to amend the Public Housing Law, in relation to sale or lease.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 725, by Senator Saland, Senate Print 5962, an

act to permit the reopening of the optional 20-year retirement plan.

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

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 736, by Senator Wright, Senate Print 6954, an act to amend the Mental Hygiene Law, in relation to establishing.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 745, by Senator Goodman, Senate Print 6880, an act to amend Chapter 161 of the Laws of 1970.

ACTING PRESIDENT KUHL: There is

a local fiscal impact note at the desk. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 762, by Senator Larkin, Senate Print 1987, an act to amend the County Law and the Judiciary Law, in relation to compensation of assigned counsel.

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

THE SECRETARY: Section 5. This act shall take effect on the first day of October.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 765, by member of the Assembly Magee, Assembly Print Number 9686, an act to amend the General Municipal Law, in relation to the publishing of notices.

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

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

ACTING PRESIDENT KUHL: Call the roll.

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 768, by Senator Maziarz, Senate Print 6595, an act to amend the Volunteer Firefighters Benefit Law, in relation to the payment.

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

THE SECRETARY: Section 2. This act shall take effect July 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 789, by Senator Spano, Senate Print 6939, an act to amend the Workers' Compensation Law, in relation to penalties.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 828, by Senator Goodman, Senate Print 3543, an act to amend the Penal Law, in relation to possession of a loaded firearm.

ACTING PRESIDENT KUHL: The 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 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 831, by Senator Volker, Senate Print 3785-A, an act to amend the Criminal Procedure Law, in relation to motion to dismiss.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 838, by Senator Skelos, Senate Print 5624, an act to amend the Penal Law, in relation to

sentencing of persistent violent felony offenders.

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

THE SECRETARY: Section 4. This act shall take effect on the first 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 52, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 853, by Senator Holland, Senate Print 7277-A, an act to amend the Social Services Law and the Tax Law, in relation to providing.

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

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 863, by Senator Holland, Senate Print 5984, an act to amend the Not-for-Profit Corporation Law, in relation to corporations.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 880, by Senator Libous, Senate -

ACTING PRESIDENT KUHL: Senator Holland -- excuse me. Senator Holland, why do you rise?

SENATOR HOLLAND: There's an immediate meeting of the Civil Service and Pensions Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room, Room 332. An immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room, Room 332.

The Secretary will continue to read the non-controversial calendar.

THE SECRETARY: Calendar Number 880, by Senator Libous, Senate Print 5554-B, an act to amend the Insurance Law, in relation to workers' compensation classification.

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

THE SECRETARY: Section 3. This act shall take effect in 180 days.

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 891, by Senator Hannon, Senate Print 6973, an act to amend the Civil Service Law, in relation to the age requirement.

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

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of the Senator Dollinger.

THE SECRETARY: Calendar Number 938, by Senator Fuschillo, Senate Print 7417, an act to amend the State Finance Law, in relation to permitting.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

996, by Senator Saland, Senate Print -

SENATOR HOLLAND: Lay the bill aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day at the request of the Majority Leader.

THE SECRETARY: Calendar Number 1022, by Senator Skelos, Senate Print 6561, an act authorizing the assessor of the county of Nassau to accept.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Ayes 52, nays 2, Senators Cook and Dollinger recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1028, substituted earlier today, by member of the Assembly Sidikman, Assembly Print 10253-A, an act in relation to the appointment of a second acting village justice.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1040, by Senator Seward -

SENATOR HOLLAND: Lay the bill aside for the day, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day at the request of the Majority Leader.

THE SECRETARY: Calendar Number 1042, by Senator Seward, Senate Print 6544, an act to amend the Public Service Law, in relation to exempting.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1044, by Senator Seward, Senate Print 7448-A, an act to direct the Commissioner of Taxation and Finance to prepare a study.

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.)

ACTING PRESIDENT KUHL: The bill is passed.

Senator Wright, to explain his vote?

SENATOR WRIGHT: Explain my vote, Mr. President. Thank you.

I would like to commend Senator Seward on this legislation this afternoon. He was particularly receptive to an amendment that I offered that included real property tax provisions in the study of the impact of the energy -- electric deregulation in the state.

I represent Oswego, the city of Oswego, in Oswego County that will lose upwards of 70 percent of their property tax base as a result of deregulation of this field. That's but one example of what will impact a number of communities across this state.

So I'm very pleased to see the Senator put forward this legislation as chair of the Energy Committee. I'm very pleased to vote in favor of it.

Thank you.

ACTING PRESIDENT KUHL: Record Senator Wright in the affirmative on Calendar Number 1044. Announce the results.

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1046, by Senator Farley, Senate Print 7167, an act to amend the Environmental Conservation Law, in relation to making technical corrections.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1051, by Senator Meier, Senate Print 7419, an act to amend the Executive Law and the Social Services Law, in relation to making reports.

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

THE SECRETARY: Section 5. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1081, by Senator Goodman, Senate Print 55...

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1084, by Senator Breslin, Senate Print 6468-B, an act to amend the Tax Law, in relation to the income tax liability.

ACTING PRESIDENT KUHL: The Secretary read the title to Calendar Number 1084 in error. I'll ask the Secretary to read the title again.

THE SECRETARY: Calendar Number 1084, by Senator Meier, Senate Print 6468-B, an act to amend the Tax Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1113, by Senator DeFrancisco, Senate Print 6662, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to works of art.

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

THE SECRETARY: Section 9. This act shall take effect on the first day of September.

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 1115, by Senator Volker, Senate Print 6240, an act to amend the Agriculture and Markets Law, in relation to certain claims against the agricultural producers.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1126, by Senator Present, Senate Print 3753, an act to amend the Public Authorities Law, in relation to exempting information.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1133, by Senator Marchi, Senate Print 6815, an act to amend the Public Authorities Law, in relation to the general powers.

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

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1159, by Senator Lack, Senate Print 4787, an act authorizing the State University of New York to lease and contract.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1162, by Senator Larkin, Senate Print 6091, an act to amend the Education Law, in relation to fostering compliance.

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

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1174, by Senator Leibell, Senate Print 7458 -

SENATOR HOLLAND: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day at the request of the Majority Leader.

Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: May I have unanimous consent to be recorded in the negative on 891.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator DeFrancisco will be recorded in the negative on Calendar Number -- you said 891, Senator DeFrancisco?

SENATOR DeFRANCISCO: I did.

ACTING PRESIDENT KUHL: That bill, I believe, was laid aside and not acted upon yet.

SENATOR DeFRANCISCO: Okay.

ACTING PRESIDENT KUHL: Nice try.

Senator Holland, if we might get a little order first, then I assume I'll recognize you to proceed. Will the members please take their chairs, the staff please take their seats.

Senator Holland, that completes the reading of the controversial calendar -- the non-controversial calendar. Excuse me.

SENATOR HOLLAND: Can we have the controversial calendar now, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the non-controversial calendar -- I'll try that again. The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 725, by Senator Saland, Senate Print 5962, an act to permit the reopening of the optional 20-year retirement plan.

ACTING PRESIDENT KUHL: There is

a home rule message at the desk.

Senator Saland, an explanation has been requested by, I believe, Senator Dollinger.

SENATOR SALAND: Mr. President, this bill has been requested by the village of Red Hook, the purpose of which is to enable one Rexford L. Maine to have the opportunity to avail himself of the reopening of the 20-year optional retirement plan.

Apparently through no fault of Mr. Maine's he had made application to the retirement system and apparently for reasons unbeknownst to anybody they never received his application. That application was made some seven or eight years ago and the village mayor has sent me a letter to that effect as has the village attorney, and the legislation has been introduced at their request.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yeah, just very briefly, on the bill.

ACTING PRESIDENT KUHL: Senator

Leichter, on the bill.

SENATOR LEICHTER: I don't want to deny this fine individual or anybody else pension benefits they're entitled to. I just make a plea that's been made particularly well by Senator Gold and at other times I joined in, that we ought to have a procedure for handling these, that these should not be determined by the Legislature because we have absolutely no means to assess the accuracy of the statements that are made and, frankly, the cost to the taxpayers of our passing these bills often exceeds the amount involved in the pension.

We did have such a procedure through the comptroller's office which seemed to work. Apparently that law has expired. It certainly ought to be renewed. I understand the problems not so much with this house but in the Assembly, but I think it's unfortunate that we keep on getting these bills before us and having to act on issues and facts that really we have no knowledge of and no way of making an accurate determination.

ACTING PRESIDENT KUHL: Senator Dollinger.

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

I echo the sentiments of Senator Leichter. I'm somewhat surprised to hear that the bill -- did I understand you correctly, Senator, that the bill that we passed had allowed the retirement system to make these adjudications on a case-by-case basis to prevent the exact problem we run into here.

First of all, it takes up legislative time and, two, it sets up that unique situation in which a local official who's got local friends in office gets his pension problem remedied at taxpayer expense and the occasional employee who may be outside the political process may not be enrolled in the right political process party, may not be a member of the right group, ends up on the short end of the stick. I thought the whole purpose of our reform ably carried by Senator Trunzo seven years ago -- several years ago was to prevent exactly what's happening here.

I'm going to adopt a policy with respect to these kinds of bills. I'm going to vote against them until we go back to the old

system. Let the pension system decide whether, through no negligence of his own, he was -- he failed to apply the papers. If the town did not do the paperwork, this individual shouldn't have to carry that cross, but I would rather have an adjudication on those through the system that we set up several years ago rather than do it under this system on the basis of who knows who, who knows their Senator, who knows their local officials.

Senator Saland's doing the right thing for his constituent here and the right thing for this individual perhaps, but the real thing to do is to set up a system that takes these out of the political process entirely and adjudicates them on the basis of fairness or the negligence of the town officials that make these applications.

I'll be voting in the negative, Mr. President.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

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

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 891, by Senator Hannon, Senate Print 6973, an act to amend the Civil Service Law, in relation to the age requirement.

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

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

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

SENATOR DOLLINGER: Just to explain my vote, Mr. President.

This is -

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

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

SENATOR DOLLINGER: Mr. President, just so I make sure, this is Senator Hannon's bill on the age requirement for the police officers?

ACTING PRESIDENT KUHL: Calendar Number 891, Senate 6973, by Senator Hannon.

SENATOR DOLLINGER: That's correct.

Mr. President, I just rise, I'm going to vote in favor of this bill. I know there have been a lot of questions asked about what provisions apply with respect to minimum hiring ages for police officers. I'm willing to pick 29 and I guess I'll agree with Senator Hannon and pick 29 but, frankly, I think this is something that we should have a little more study on because is it 29, 28, 30, 31; should it vary depending on the physical circumstances of the applicant? This plunges us into an area of

law that's been hotly contested, that is, whether there can be minimum ages of requirement -- as a requirement for hiring by our State Police, by other state agencies.

I'll abide with Senator Hannon's determination that 29 is the right year to pick, but it seems to me that we may be inviting a ton of litigation over this very issue.

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

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

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1081, by Senator Goodman, Senate Print -

SENATOR HOLLAND: Lay it aside temporarily, please, Mr. President.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1126, by Senator Present, Senate Print 3753, an

act to amend the Public Authorities Law, in relation to exempting.

SENATOR PATERSON: Explanation.

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT KUHL: Senator Present, an explanation of Calendar Number 1120, Senate 3753, has been requested by both the Acting Minority Leader and Senator Oppenheimer.

SENATOR PRESENT: Mr. President, this legislation is introduced at the request of the Environmental Facilities Corporation.

The purpose of the legislation is to ensure the confidentiality of information furnished by small businesses to the New York State Environmental Facilities Corporation in connection with the Environmental Facilities Corporation provisions of a multi-media environmental assistance program.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

I'll just speak on the bill. I'll speak on the bill, because I think -

ACTING PRESIDENT KUHL: Senator

Oppenheimer, excuse me just a minute.

SENATOR OPPENHEIMER: I know it's a little hard to hear me.

ACTING PRESIDENT KUHL: I can't hear -- hello.

Senator Oppenheimer -- Senator Oppenheimer, just a minute. There are a lot of members talking, moving. Will the members please take their seats, the staff take their places.

SENATOR OPPENHEIMER: I understand what the bill is trying to do, but I think it's a very bad precedent that we would be getting into.

We're saying to small business, please come and participate in this state program which will give you all kinds of information on how to comply with our environmental regulations and our laws and we're saying in exchange for your coming forward, you don't have to reveal any information. It will all be closed. That will be the end of anyone ever seeing your files.

That seems to fly in the face of the fact that we sort of have told the taxpayers

of this state that we believe in open government. We believe in the availability of governmental records and here we're saying we are closing our government files and nobody can see them and I mean we are already giving money and assistance to these corporations in order to comply with our laws.

So why we are now saying, well, if you comply with our -- if you come forward, we'll see that your files are closed forever, nobody has to see them. I think it's a terrible precedent. We already say that important trade secrets are exempt from the FOIL Law, the Freedom of Information Law and, therefore, the only thing I can think that these companies are wanting to hide is their violations of our environmental regulation and law.

I see no reason to say to them that you can violate the law, take our assistance and there will be no scrutiny, nothing will follow after that, and it's a terrible precedent to start.

I would also say that many people joined me last time we discussed this issue, and I think I will mention who they are so they can

be reminded and that Senators Abate, Connor, Dollinger, Kruger, Leichter, Markowitz, Montgomery, Nanula, Paterson, Santiago and Seabrook, Gold, Smith, also Senators Goodman, Leibell and Levy -- yes, I didn't mean that - and I think to say that we will be secretive in this compact with small businesses who come forth for our assistance is contrary to what we believe in this state.

So I'll be voting no. Also EPL has it down as two smokestacks.

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

SENATOR PRESENT: Mr. President.

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

SENATOR PRESENT: Mr. President, I would like to contradict what was just said.

ACTING PRESIDENT KUHL: Senator Present, on the bill.

SENATOR PRESENT: In 1994 the Legislature recognized a similar problem so we're not setting a precedent. "With the small business assistance program, which was part of the small business stationary source technical

and environmental compliance assistance, a program being stifled by the fear of future regulatory action, the Legislature exempted information provided by small business from FOIL in Chapter 700 of the Laws of 1994."

I think that by opposing this bill we're stifling those small businesses who want to comply and are going to the Facilities Corporation for assistance and guidance in how to bring themselves into compliance and you are just keeping it under the rug. Let them provide the information knowing that it's going to be confidential and move on and clean up our air and waters.

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

SENATOR OPPENHEIMER: I -

ACTING PRESIDENT KUHL: Excuse me, Senator Oppenheimer. Senator Dollinger was next in line here.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, I'm willing to yield to Senator Oppenheimer.

ACTING PRESIDENT KUHL: Senator Dollinger, do you wish the floor?

SENATOR DOLLINGER: I would yield to Senator Oppenheimer.

ACTING PRESIDENT KUHL: Senator Dollinger, do you wish the floor at this point?

SENATOR DOLLINGER: I do. I wish to be recognized.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Could I now yield to Senator Oppenheimer?

ACTING PRESIDENT KUHL: No. Senator Dollinger, do you wish the floor or not?

SENATOR DOLLINGER: I'll take the floor, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: If Senator Present would yield to a question.

ACTING PRESIDENT KUHL: Senator Present, do you yield to a question from Senator Dollinger? The Senator yields.

SENATOR PRESENT: Certainly.

SENATOR DOLLINGER: As I understand it, Senator Present, this refers to containing information supplied by the small business to the corporation but the records that will actually be exempt are information -- is information that's funded by the state of New York, is that correct?

SENATOR PRESENT: No, I don't believe that's true. The small business and - the small business in this is referred to as one who employs less than 100 people. They provide the information of what they're doing, what their needs are to meet a new regulation, a stricter combination of regulations to meet the air quality and water qualities of New York State.

SENATOR DOLLINGER: Again through you, Mr. President.

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

SENATOR PRESENT: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: So I understand the process, Senator Present, someone

applies for state money for multi-media environmental assistance which includes studies, investigations and analyses, technical assistance, advice and related activities that are provided to the small business by the Economic Development Corporation, correct, or by the Environmental Facilities Corporation?

SENATOR PRESENT: Correct.

SENATOR DOLLINGER: That's correct. So this is all state money that we expend to help the small business, correct?

(Senator Present nods head.)

SENATOR DOLLINGER: And such multi-media environmental assistance involves either hazardous waste, solid waste, air emissions and water discharges, is that correct?

SENATOR PRESENT: Correct.

SENATOR DOLLINGER: And the -

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Yes, Mr. President.

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

continues to yield.

SENATOR DOLLINGER: And what this intends to do is to say that the information given to us by the small business which we then incorporate into those studies, in other words, we spend taxpayer money to do all of those studies, that that information that the small business gives us is exempt from disclosure?

SENATOR PRESENT: Correct.

SENATOR DOLLINGER: How can - through you, Mr. President, if Senator -

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

SENATOR PRESENT: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: How can someone determine whether the state's money has been properly spent without knowing what the small business -- what the information that the small business has given them about their solid waste, hazardous waste, air emissions and water discharges? How can you judge whether it's been properly spent?

SENATOR PRESENT: I think we

leave those up to the administration of the program.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Present -

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

SENATOR PRESENT: Sure.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: In other words, just so I make sure I understand it. The small business gives us a lot of information about all of these environmental issues. We spend a chunk of money developing technical assistance for them based on what they tell us and we produce a report or a multi-media environmental assistance, whatever it may be.

My question is, how can a watchdog or the government or anyone determine whether that money has been properly spent, the people's tax money has been properly spent without being able for the public to know what information was given by the small business and if there's a qualification -- for example, if there's a qualification, you have to have such

and such a problem in order to qualify for the grant. You have to have a water discharge problem or an air emission problem and the small business gives a bunch of data to the state of New York and says, I want technical assistance and then someone in the Department of Environmental Facilities Corporation says, we'll give you that assistance. The question is did they qualify? How could the public make a judgment as to whether or not they qualified if they didn't know what the information was that was supplied by the small business? They couldn't, could they?

SENATOR PRESENT: No.

SENATOR DOLLINGER: Okay. Through you, Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I appreciate Senator Oppenheimer's guidance with respect to the environmental issues that may be involved here, but quite candidly, Senator Present, it seems there's a fiscally conservative reason to be against this bill too, which is that when someone provides data to the state of New York

and the state of New York takes that data and spends public money, not my money, not your money, everybody's money, to help that business, be it big or small, to comply with state and federal laws, to comply with regulations, it seems to me that subject to the trade secret protections, subject to the protections which are already in the Freedom of Information Act, which are time tested, challenged in the courts, reasonably well established in this state, subject to those restrictions, that is, we won't give away their trade secrets, it seems to me you strip away from the public the ability to determine whether the money's properly spent if you don't allow them to determine whether the small businesses met the threshold.

That's what I've heard on the floor today and it seems to me that a good fiscal conservative would stand there and say, well, the public should be able to find out what the small business gave to the state of New York to determine whether it properly expended its money in technical assistance.

It seems to me it's not an unusual request to simply require that subject

to trade secrets, if it's something that should be protected under the law, it already is, but for the most part, that information should be available to anyone that wants to find out whether the public's money is being properly spent.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results when tabulated. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1126 are Senators Breslin, Connor, Dollinger, Gold, Kruger, Lachman, Leibell, Leichter, Markowitz, Mendez, Montgomery, Nanula, Onorato, Oppenheimer, Paterson, Sampson, Seabrook, Smith, Stavisky and Waldon. Ayes 39, nays 20.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Mendez, why do you rise?

SENATOR MENDEZ: Mr. President, I was out of the chamber. I wish to have unanimous consent to be recorded in the negative on bill Calendar Number 853.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Holland -- excuse me-- Senator Mendez will be recorded in the negative on Calendar Number 853.

Senator Waldon, why do you rise?

SENATOR WALDON: Mr. President, I respectfully request to be recorded in the negative on Calendar Number 838. I was out of the chamber on other necessary business on behalf of the people.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Waldon will be recorded in the negative on Calendar Number 838.

The Secretary will read Calendar Number 1081 on the controversial calendar.

THE SECRETARY: Calendar Number 1081, by Senator Goodman, Senate Print 5523, an act to amend the Alcoholic Beverage Control Law, in relation to modifying the list.

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

THE SECRETARY: Section 2. This act -

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT KUHL: Excuse me. Senator Padavan, why do you rise?

SENATOR PADAVAN: Mr. President, I would simply like to comment on the bill.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Thank you.

What this bill would allow is if a bar, a liquor license was given -

SENATOR GOODMAN: Mr. President, excuse me. Mr. President.

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

SENATOR GOODMAN: I rise because I believe an explanation was requested of the bill, and I would like to explain.

ACTING PRESIDENT KUHL: An explanation has not been requested, but if Senator Padavan would like to request -

SENATOR PADAVAN: I defer to

Senator Goodman.

SENATOR GOODMAN: I think that it might be well if the sponsor explained this bill.

ACTING PRESIDENT KUHL: Senator Goodman, an explanation has been requested.

SENATOR GOODMAN: Thank you. I'm honored.

Mr. President, this bill is brought before us at the request of the Governor. It's a program bill and it comes from the State Liquor Authority. It's an act to amend the Alcoholic Beverage Control Law, in relation to modifying the list of instances when the alteration of a licensed premises must be approved by the State Liquor Authority.

It eliminates the requirement that an application to alter a licensed premises be filed with and approved by the State Liquor Authority when any physical change to the exterior of the licensed premises involves the creation or relocation of any window or door, any change in the physical structure that existed at the time of licensing and any enlargement or contraction of dining or kitchen

facilities is occurring.

The existing law provides that if the alterations described above as well as any alteration reduces visibility or any change in the interior of a licensed premises that materially affects the character of the premises and in cases of premises licensed for on-premise consumption, any change in the size or location of any bar may not be effectuated until an application is filed.

In short, this is an effort to cut red tape and to permit alterations to be made without an attenuated bureaucratic procedure which often the result is great delay and great financial hardship to the owners of bars and for that reason, yes, I would like to yield to Senator Padavan.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

Senator Goodman's reading of the bill engenders a very significant contradiction in terms of what this bill would do.

To put it in a context that I

think might be more understandable, if a premises were to seek a license, an establishment that would be predominantly a restaurant where perhaps 80 percent of the floor space would be dining tables with an entrance that would be appropriate to that type of facility, and a recommendation which is requested by the SLA from the local governing body in the city of New York, its community planning boards outside the city of New York, its other local entities, they would take a look at that configuration and perhaps within the area specified feel it would be appropriate.

Now, in the city of New York we have many commercial strips surrounded one side or the other by residences, sometimes private homes, sometimes apartments and where the Community Planning Board might look with favor upon a restaurant opening up, where alcoholic beverages is a small component but obviously an appropriate one, under this provision, after such a proprietor would get a license, a year later he would be allowed to eliminate virtually all of the dining and turn it into a full-fledged bar, change the entrance, change

the awning, do all of those things, even though the remaining law talks about the character of the establishment. The contradiction there is obvious. That place would have a remarkable change in character.

In the city of New York taverns or bars are allowed to stay open and serve to 4:00 a.m. Before they empty out, the sun is rising and in many communities too many bars and activities associated with them are a problem.

It would seem to me that if a change of the type that I describe were to take place, that the local governing body or the Community Planning Board of the city of New York should have an opportunity to be notified and to comment and that's why I feel this bill does not make sense and would be unwise to enact.

SENATOR GOLD: Mr. President.

SENATOR GOODMAN: Mr. President.

ACTING PRESIDENT KUHL: Senator Goodman.

SENATOR GOODMAN: May I respond briefly to Senator Padavan by simply reminding him that earlier this year, Senator, we passed Senate Bill 3680 which was signed into law by

the Governor and one of the provisions of that bill prevented, first of all, the -- it removed the restrictions on on-premise licensees having any covering preventing a clear view into the premises from the sidewalks. It would also remove the restrictions on swinging doors, boxes, stalls, partitions or any obstructions that prevent a full view of the entire room by any person present. Now, while it's not directly related to the present bill, this bill would permit licensees to make the changes now already permitted without application to the State Liquor Authority for approval.

So what's at stake here is not whether they have permission to make changes but rather whether it's necessary in making these changes to apply to the State Liquor Authority for approval.

SENATOR PADAVAN: Senator, would you yield to a question?

SENATOR GOODMAN: Yeah, sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PADAVAN: In the bill, without any input from anyone, without there

having to go back to the SLA which would then involve obviously a public awareness, under your bill, they could make any enlargement or contraction of dining and kitchen facilities, meaning that they could virtually eliminate the dining room leaving perhaps a couple tables and turn that establishment into a full-fledged bar in every respect and all the problems that some of them engender particularly in residential communities. That's what this bill does.

It also says it would provide for an opportunity for the owner to make any physical -- any physical change to the exterior of the licensed premise that involves the creation or relocation of any window or door. So where you might have a very tasteful entrance to an acceptable restaurant, now you have something quite different which a community might find objectionable.

So with due respect to the statute that you referred to that was signed by the Governor, we are dealing with the bill before us now and this bill presents problems and would present problems in communities that I represent that currently are attempting,

sometimes successfully, sometimes unsuccessfully, to deal with a proliferation of bars and taverns and the problems that some of them produce.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Gold.

SENATOR GOLD: Thank you.

Mr. President, I have great respect for my colleague from Queens, but I think he's misreading this bill and I intend to support Senator Goodman's bill.

The section of law that we're dealing with is a section which was amended a number years ago and I'm glad to say that I carried that law, which said that if you had smaller alterations, we would not have to bother the Liquor Authority at all.

Now the Liquor Authority, which is overworked and which is trying to get its ducks in order, says that this is one area where they don't have to be bothered. If you're making alterations and you are not changing the character, there was always concerns about whether you could see in a premises and Senator

Goodman protects that in his language and it seems to me if an agency which should be protecting the public as Senator Padavan points out is telling us that there is some kind of paperwork that they don't need done in order to protect the public so their employees can spend more time weeding out the bad premises and weeding out organized crime or all the things that people talk about, giving them more time to handle enforcement provisions of the law, I don't know why we should be fighting the Governor and fighting this agency.

There are many of us over the years, and Senator Goodman, I'm glad to say is one of them, who have tried very hard to get this agency into such a condition that it takes care of that industry, protects the good people in the industry and weeds out the bad.

I think that Senator Padavan is someone who is concerned and I respect that, but I think it is really stretching this bill out of proportion to think that this is going to do damage to the communities. It defines what is substantial in terms of changes. If there are substantial changes, certain things have to be

done.

Under the law that was amended prior to this, we said that even if it wasn't more than $10,000, you had to make an application if it was certain kinds of things.

All Senator Goodman's bill does is to help save some paperwork that the Liquor Authority itself believes is unnecessary.

SENATOR PADAVAN: Mr. President, will Senator Gold yield to a question?

SENATOR GOLD: Yes.

ACTING PRESIDENT KUHL: Senator Gold, do you yield to a question?

SENATOR GOLD: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PADAVAN: Senator, if I've heard you once, I've heard you a thousand times make a statement that let's read the bill and go by the words on -- thereon and what we are about to vote on.

SENATOR GOLD: Is that the question?

SENATOR PADAVAN: No. It's a preface to the question. So now I'm going to

ask you to read the bill. Any physical change to the exterior, any. That could be anything. Any change in the structure that existed at the time of the licensing and any enlargement or contraction.

Now, I would suggest to you that that's a big barn door to go through and whatever -

SENATOR GOLD: What about the rest of the language?

SENATOR PADAVAN: Senator, the rest of the language, you can read it if you wish.

SENATOR GOLD: But the rest of the -

SENATOR PADAVAN: I'm pointing out -

SENATOR GOLD: I'm sorry.

SENATOR PADAVAN: If you want me to read the entire bill, I will.

SENATOR GOLD: I'm sorry.

SENATOR PADAVAN: I'm pointing out to you the areas that I perceive or the communities that I represent as potential problems. When you, in effect, can allow a

licensed premise, which is unique in many ways in terms of what goes on and the fact that a full-fledged bar, as you know, the city of New York, is open to 4:00 a.m. as I discussed earlier and things of that sort, if you are allowing them in an unlimited fashion to go from what might be primarily a restaurant to now primarily a bar in a commercial strip surrounded by residences, I think you have something that's significant and all we are allowing -- all I'm actually asking for is for there to be notice of that change.

We're not prohibiting it. I'm not saying that they can't do it, but what this bill does, it eliminates any public awareness of these potential changes by the licensee, and I think that's fundamentally wrong.

If they were -- if they were allowed to be aware of it, if they were allowed the opportunity for input at the outset, when a significant change is made, I think they are entitled to the same opportunity.

SENATOR GOLD: Mr. President, I didn't hear the question mark, but I would be glad to respond to it.

SENATOR PADAVAN: Well, there is one.

SENATOR GOLD: I'll be glad to respond.

SENATOR PADAVAN: Put it wherever you wish.

SENATOR GOLD: Good. Senator, the reason why I wanted you to read the whole bill is because if you read all the language, you'll find out that this bill does no damage.

This bill starts out by saying if you're going to make a substantial alteration, you must file with the Liquor Authority. Senator Goodman doesn't change that. He doesn't change it at all, but it says under the old law that a substantial change will be a change, et cetera, et cetera, that affects visibility and what Senator Goodman is saying is as long as you're not affecting the visibility, which is what the Liquor Authority always was concerned about -- the Liquor Authority was concerned that if you had a premises, they could walk along the street and look into the premises and make sure that the activities were legal. That's what it was all about. So they didn't want you to be

able to change doors or windows because you might be able to obstruct Liquor Authority employees from doing their job. Senator Goodman takes care of that. Senator Goodman leaves in language that says "that reduces the visibility that exists at the time of the licensing." So he takes care of that.

Then it goes on and talks about certain physical changes but he leaves in the words which say that -- where is it -- "or any changes in the" -- et cetera, et cetera -- hold it -- "that changes the character of the premises."

So the point of the matter is that all that's been done here is Senator Goodman protects the character of the premises. He protects that if you make a substantial change, you must file with the Liquor Authority. That is not changed under this law. All it's saying is if you make certain kinds of changes and they are not substantial and they don't exceed $10,000, you don't have to do the paperwork. There's nothing wrong with that amendment.

SENATOR PADAVAN: Mr. President.

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

SENATOR PADAVAN: Senator Gold, would you yield?

Senator Gold, I heard you and I read that part of the bill and you were here when I first commented. I said there's a contradiction in this bill and the contradiction lies between what you just read, change in the character and what is permitted by the bill.

My question to you is simply this: If you are allowed to enlarge or contract without any limitations, which is what this bill provides for, there is no limitation either in dollar value or in square footage. Is that not significant in terms of a change?

If you were allowed to change the entrance irrespective of the window, is that not significant? If you were allowed to make a physical change that involves the creation or relocation of any window or door, is that not a significant change? And some, Senator, are not these provisions that are allowed if this became law significant in nature?

SENATOR GOLD: The answer is no

and I'll explain why. If somebody has a door to a premises and they change that door for under $10,000, they have not ruined the community, all right? All this bill says is that under existing law, even if the change of the door would have cost $3,000, you have to bother the Liquor Authority.

What Senator Goodman is saying is if you're not affecting the visibility in the premises and you're not spending more than $10,000, who cares if the change the bill?

This bill also says something else. Under existing law, you are not permitted to change the size of a bar in a restaurant no matter how much it costs. So you have somebody and they've got a six-foot bar, they want to make it seven feet, maybe adding that one foot costs $500, under consist existing law, you have to go to the Liquor Authority. Senator Goodman says if you're not spending more than $10,000 and if you're not affecting the overall character, you don't have to go. There's no contradiction in Senator Goodman's bill.

Senator Goodman's bill is protecting the community. It's protecting the

character of the establishment. It is protecting the $10,000 limit. It's just saying that instead of specifying some specifics, which are no longer important and which would cut back on the paperwork, this bill from the Authority, the Pataki-Goodman-Gold bill does really no harm and from here on ask Goodman to answer the questions.

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

THE SECRETARY: Section 2.

SENATOR DOLLINGER: Mr. President, may I be heard on the bill?

ACTING PRESIDENT KUHL: Excuse me. Senator Dollinger, do you wish to speak on the bill?

SENATOR DOLLINGER: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I rise to support my colleague from Queens. He's right on the nose again and that's why I'm going to vote with Senator Padavan, because the way I read the bill, what it says is it says that you can

change the character of a licensed premises from largely a restaurant to largely a bar without the kind of community notice and notification that you need.

I think that's a significant change. I think it affects the neighborhoods. It certainly affects the neighborhoods in the 19th ward in the city of Rochester where I live.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Will the distinguished gentleman from Rochester yield to a question?

SENATOR DOLLINGER: Absolutely, Mr. President.

SENATOR GOLD: Senator, is it your position that under existing law if someone in your community who had a restaurant, without spending a dime, decided not to use those tables and, without spending a dime, decided that they wanted to have music, if that's allowed by your local law and if they wanted to have some dancing -- now, in New York you might need a different kind of license, a cabaret license but

you wouldn't have to spend any money -- are you saying that they couldn't do that under existing law?

SENATOR DOLLINGER: Mr. President, the way I read existing law, the way this bill is drafted, the way the current law is drafted, what it says is that it will consider -- it will constitute a substantial alteration in the case of establishments licensed for consumption on the premises if any enlargement or contraction of the dining or kitchen facilities occurs. I interpret that to mean that if you have fewer tables or if you have a smaller restaurant operation, that you have to go back and it's a substantial alteration. That's what the current law says. It triggers the kind of notification provisions that Senator Padavan has made reference to and it seems to me that if we're going to change the character of the small restaurant and bar into a small bar with a tiny restaurant, that that's a change in the character of the operation and it should go to the licensing authority for approval.

I don't think that's unreasonable. I agree with Senator Padavan.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah, Mr. President. Just for the edification of my colleague, if you have a restaurant and you add or subtract a few tables, you are not enlarging or decreasing the dining facilities. They are talking about moving walls. They are talking about structural changes. That is what the word "alteration" means. Adding a table is not an alteration.

And I want to thank Senator Goodman for giving us the opportunity to have this dialogue while he's over there enjoying myself, and I would urge my colleagues to not only support the bill but to please aim your volleys at the sponsor.

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

SENATOR PATERSON: Mr. President, I know I'm addressing the chamber, but I specifically address these remarks to Senator Connor, wherever he may be. Only this conference, only this conference would watch a dispute between two members of the Majority and

take the fight over there to over here. I'm sitting here and I'm going to wait outside until this is over. (Laughter)

SENATOR GOODMAN: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson, you're excused.

Senator Goldman -- or Senator Goodman, why do you rise?

SENATOR GOODMAN: I rise to make a further comment, Mr. President.

ACTING PRESIDENT KUHL: Might I remind the members of the chamber that the rules only allow members to speak twice on a bill.

SENATOR GOODMAN: May I explain my vote, Mr. President?

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives, and the Chair recognizes Senator Goodman to explain his vote.

SENATOR GOODMAN: I would like to make two observations in explanation of my vote, Mr. President.

First of all, I would like to say that it would be my honor to suggest to the Governor that he designate Senator Gold upon his retirement from this chamber which we all regret -- Senator Gold, I'm going to nominate you to be the commissioner of the State Liquor Authority. Thank you for the obvious indication of your high credentials in this area and secondly, I'm reminded of a little thing that I learned when I was a kid on the block. There's an old expression that used to run something like this. Want to fight me, buddy? Meet me buddy. Senator Gold, you're me buddy.

Thank you very much.

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 1081 are Senators Dollinger, Fuschillo, Hannon, Maltese, Marcellino, Montgomery, Onorato, Padavan, Skelos and Stavisky. Ayes 49, nays 10.

ACTING PRESIDENT KUHL: The bill

is passed.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1162, by Senator Larkin, Senate Print 6091, an act to amend the Education Law, in relation to fostering compliance.

SENATOR LEICHTER: Explanation.

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

SENATOR LARKIN: Yes, Mr. President.

This is a very simple bill. This bill would require registration with selective service as a precondition to receipt of New York State aid for higher education.

Since 1982, the federal government has conditioned the receipt of federal grants for higher education upon a male applicant's register with the selective service. There are -- 21 states have taken that lead to date. New York would be the 22nd. It's very simple. If you want money from the state, just register.

SENATOR LEICHTER: Mr. President, will Senator Larkin yield, please?

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

SENATOR LARKIN: My good colleague from the City, yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: Senator, I'm just interested why we would use as leverage the state making educational grants in this particular area, that is, registering for selective service and not in other areas. For instance, how about -- Senator, why didn't you provide that those who want to apply for education aid from the state of New York also have to certify that they filed their income taxes?

SENATOR LARKIN: Well, very simple. There's a federal law that provides for registration for selective service. There's a federal requirement if you want federal dollars for education that you must have registered. It's a simple matter. 21 states have done it.

We would be the 22nd and according to national authorities there's about 10 or 12 others that are doing it.

You could make any arguments you would like to make on it but this is very simple. Young males who attain an age register for selective service. They cannot obtain federal grants if they don't. We just want to be in conformity with them.

SENATOR LEICHTER: Well, Senator, if you would be good enough to continue to yield.

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

SENATOR LARKIN: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: Senator, I'm not sure that -- I understand why you did selective service. I don't understand why you didn't do income taxes and maybe some other obligations of citizenship.

Now, your answer is, well, the federal government does it. Well, certainly. It's a federal law. Selective service is a

federal law. Income taxes, state income taxes is a state law. Why don't you show as great a concern for enforcing the state laws as you do of rushing to the federal government and say, Hey, Uncle Sam, let me help you. That's my question.

SENATOR LARKIN: Do you really believe that's a good piece of legislation?

SENATOR LEICHTER: Your legislation? No, I don't think it's good.

SENATOR LARKIN: What you're proposing is to use it for income tax purposes. Do you believe it's a good idea?

SENATOR LEICHTER: Senator -

SENATOR LARKIN: If you put it in, I'll co-sponsor it.

ACTING PRESIDENT KUHL: Gentlemen, I would appreciate it if you're going to have a dialogue, that you take it outside the chamber. If you want to have a debate, let's go through the Chair.

Do you ask the Senator to continue to yield, Senator Leichter, or would you like to speak on the bill?

SENATOR LEICHTER: I will, and

may I say that I've done foolish things, but I would never ask Senator Larkin to step outside.

Senator -- but, Senator, I'm just trying to see, are we having a particular problem? Do you know the percentage of students that have applied for education aid in the state of New York who have not registered for selective service?

SENATOR LARKIN: Well, you know, selective service -- I have a memo here from the Selective Service System which was the basis for our looking at this legislation and it ranks the 50 states where they're at and we're about one-third in compliance with the requirements of selective service.

We believe that this is very simple. It enables us to be in full compliance and it enables us to ensure that the requirements for registration -- it's a matter of a simple form -- can model it after the federal portion of it. It's not a big deal and I personally cannot see why anybody in this chamber and the other chamber or any of the others who don't have compliance would find it a problem for a young male who is required by

federal law to register and if he doesn't register, he should not be entitled to it, period.

SENATOR LEICHTER: Would Senator Larkin continue to yield, please?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: Senator, has the Selective Service System or particularly the Defense Department come to the state of New York, come to you and said, We need help. The registration with selective service in the state of New York is poor. We're not able to enforce the federal laws. Please help us. Have they done that?

SENATOR LARKIN: Yeah. We've received from the Selective Service Region 3 and we've also received it from Selective Service Region 1, Major General Rosetta Y. Burke, retired state director for New York.

SENATOR LEICHTER: And, Senator, would you tell us what this distinguished official said.

SENATOR LARKIN: She would like us to enact legislation as done in 21 other states to put us in line with having young people who -- males who want to, who are required to register for the selective service to sign up, period.

SENATOR LEICHTER: Okay. Senator, am I correct that the Defense Department which oversees the Selective Service System, I believe, has not asked the state of New York -- has not come and said, We can't enforce the federal laws. We look to you, the state of New York, to help us?

SENATOR LARKIN: You know, first of all, the Department of Defense doesn't run the Selective Service System.

SENATOR LEICHTER: Well, the Selective Service System is run out of Washington. I believe it's under the Department of Defense, but whoever it is, other than some retired official having written you a letter, has the system as such come and said to the state of New York -- have they come to the Governor, for instance, and said, Governor, we're in real trouble. We can't enforce federal

laws in the state of New York. Will you help us? Have they done that?

SENATOR LARKIN: You know, two things. We met with a representative of the Selective Service System who came to visit us, General Burke, who some in this chamber knows, a very distinguished member of the state guard for a number of years, General Burke said, quite honestly, we are trying nationally to comply with the federal law and we would like your assistance. We have contacted every state in the Union. There are 21 states that have done it. New York would be 22 and there are 12 other states that hope to enact it during this term.

This isn't pressure. You know, I have to be honest with you. I cannot understand your rationale in saying that you're trying to fight or that we're trying to pressure or that we're trying to do something for somebody else. In effect, what we're really doing is trying to encourage people who attain the age of 18 that are required by federal law to register and an incentive for them is to say, Hey, if you don't register, you're not going to get any federal aid and if you don't register, you're not going

to get any New York State aid. I -- for the life of me, I cannot understand your negative arguments about assisting our people in doing what they're required to do.

SENATOR LEICHTER: Mr. President, I thank my good friend, Senator Larkin, for his explanation. I understand his motive.

Let's be perfectly clear. I think all of us want young people who have to register for the Selective Service System to do so. It's the law. Whether you agree with the universal registration or not, it's the law of the land and it should be obeyed, but I don't know any other instance where we condition state assistance and even you could -- you could call it more than state assistance, an entitlement program that's available to the people of the state of New York if they qualify, where we condition that aid upon conformity with state - with national laws.

Now, there are a lot of national laws that we might decide are important. One of them I pointed out is certainly filing income taxes. Even more important is, of course, filing New York State income taxes, but we don't

condition -- you don't come in here with a bill and say that they have to certify that they filed their income taxes. You don't come in and say certify that they're not in violation of any other laws of the state of New York or of the national government, and I guess what bothers me in this respect is that, one, that the state of New York should decide on its own really, we're going to enforce the federal laws. The federal government does a pretty good job of enforcing federal laws.

Secondly, we're in an area where there's no particular problem. I haven't read that there's a big difficulty that young people in this state of New York are not registering as they're required.

Thirdly, to be very honest with you, Senator Larkin, this sort of seems like a throwback to what was happening in the 1960s, in the 1970s. It's like a hangover from the debates that we used to have over the Vietnam War, when we know that many people didn't register and there was a national dispute. People stated their objections very strongly and some did so by refusing to register, but that's

behind us.

I mean, there's a, to my mind, sort of singling out this area sort of to show and compel patriotism when we don't do it anywhere else. We've had similar bills, I think maybe a little more broadly than yours were drawn. I think Senator Johnson used to propose those bills and maybe they were yours that prohibited admission to, I think, state universities unless you showed that you complied with the registration requirements under selective service, and I know many of us felt it was just wrong to single out this particular law, a federal law, and make it a condition for receiving privileges or rights, however you want to call them, that are available to every person in the state of New York, and that's why I'm going to vote against this bill.

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

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

ACTING PRESIDENT KUHL: Senator Stavisky, did you wish to explain your vote?

SENATOR STAVISKY: Yes.

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stavisky, to explain his vote.

SENATOR STAVISKY: I think there is drastic confusion between something that is an issue of state government and something that is mandated by the federal government. It is absolute confusion. That troubles me.

Why don't we require before anyone is eligible to receive federal aid in business show that there was compliance with this provision of the federal law? We don't do it in that area, and I think it's an absolute mistake for the state of New York in the area of aid to otherwise qualify applicants for state funding to be required to show compliance with this provision of federal law.

It's a mistake, Senator, a dreadful mistake to confuse these two things, to have this as a condition for receiving state assistance. If there is a state law that is

being violated, that's one thing, but this is not a violation of state law. It's a violation of federal law and we ought to ask the federal government to enforce its own laws and not to require the state of New York to jump into compliance.

I'm going to oppose this legislation as irresponsible meddling by the federal government in the state of New York's business, and I don't think that was Senator Larkin's purpose but that's the net effect of what he's doing in this area.

It should be defeated. We should say that Washington has no right to manipulate the state of New York and its policies. Let the federal government find other ways of achieving compliance with federal law.

I'm going to vote in the negative.

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

THE SECRETARY: Those recorded in the negative on Calendar Number 1162 are Senators Gold, Leichter, Mendez, Paterson,

Seabrook, Smith and Stavisky. Ayes 52, nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

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

Senator Seabrook, why do you rise?

SENATOR SEABROOK: Yes, Mr. President. With unanimous consent, I was not in the room when Bill 838 was called, and I would like to be recorded in the negative on Calendar 838.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Seabrook will be recorded in the negative on Calendar Number 838.

Senator Sampson, why do you rise?

SENATOR SAMPSON: Mr. President, I would like unanimous consent to be recorded in the negative on Bill Number 838.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Sampson will be recorded in the negative on Calendar Number 838.

Senator Smith, why do you rise?

SENATOR SMITH: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar Number 838.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Smith will be recorded in the negative on Calendar Number 838.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendars 838 and 853.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendars Number 838 and 853.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, I ask that Resolution Number 3665 by Senator Maltese, that the title be read and move for its immediate adoption.

ACTING PRESIDENT KUHL: We'll

return to the order of motions and resolutions.

I'll ask the Secretary to read the title to Resolution Number 3665.

THE SECRETARY: By Senator Maltese, Legislative Resolution 3665, commending St. John's University Mock Trial Team on their third place finish in the United States in the National Intercollegiate Mock Trial Tournament.

ACTING PRESIDENT KUHL: Senator Maltese, on the resolution.

SENATOR MALTESE: Mr. President, the hour is late, so I will be brief, but I would be remiss if I did not not only commend the St. John's University Mock Trial Team who have waited patiently here for this recognition by this august body.

They are a group of eight students from St. John's University and their two coaches and their two coaches are present here today, Professor Bernie Helldorfer and Professor Oscar Holt III.

The members of the St. John's University Mock Trial Team are Adrienne Croker, who also has received significant individual honors, Kelly Frawley, Patrick Lespinasse,

Autumn Levine, Milagros Matos, Dakota Springfields, Kareem Vessup, who has also received individual honors and Frances Wang, who is the captain of the team.

Mr. President, they are eight students from a prestigious school, St. John's University, the only New York State college to make the national finals and in those finals beating many, many schools, perhaps of less significance like Harvard and others. They achieved a third place finish out of 250 colleges competing from across the United States, and I firmly support this resolution and would respectfully ask those members of the team and the coaches to stand.

Thank you, Mr. President.

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

Senator Seabrook, on the resolution.

SENATOR SEABROOK: Yes, Mr. President. I too would like to commend the students at St. John's and also one of his coaches who is also a Bronxite, Oscar Holt, who

also served as a staff member in the Assembly for many years and commend them for their outstanding accomplishment.

ACTING PRESIDENT KUHL: Any other member wishing to speak on the resolution?

(There was no response.)

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.

We welcome these members of the St. John's University Mock Trial Team to the chamber, congratulate you on your achievements. Certainly you have a lot to be very, very proud of and thank you for coming and sharing just a couple of moments with the members in the chamber.

Will -- the members of the mock trial team I guess are all standing and we would like to recognize you and thank you for your victorious award.

(Applause)

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Senator Maltese's Resolution 3725. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the title to Resolution 3725.

THE SECRETARY: By Senator Maltese, Legislative Resolution 3725, honoring the heroic work done by the Bureau of Emergency Medical Services of the New York City Fire Department.

ACTING PRESIDENT KUHL: Senator Maltese, on the resolution.

SENATOR MALTESE: Mr. President, today is a day of recognizing significant contributions. Also present here today are the officers of the Bureau of Emergency Medical Services of the New York City Fire Department. Certainly a most significant heroic group.

They are represented by Local 2507 whose new president Kevin Lightsey is present with them. I would simply, Mr. President, like to read just one brief line.

"WHEREAS, in 1995, there were close to one and a half million calls, one and one half million calls for emergency medical assistance for New Yorkers.

"In 1997 with just 2500 EMTs and paramedics on board, these ambulances responded to approximately two million alarms", two million alarms protecting the lives of New York City residents, Mr. President.

"In addition, they save thousands of lives per year and in 1997 suffered the first verified line of duty death as a result of on-duty service."

Mr. President, it is my proud honor today to recognize those officers who are present here -- representatives present here in the chamber.

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

(There was no response.)

Hearing none, the question is on the Resolution 3725 by Senator Maltese. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

Again, on behalf of Senator Bruno, Senator Maltese and all the members in the chamber, we welcome these distinguished public servants to the chamber and congratulate the members of the Emergency Medical Service of the New York City for the fine job you do. Keep up the good work. We know you'll continue to make us proud. Thank you for joining us in the chamber.

(Applause)

Senator Skelos.

SENATOR SKELOS: Mr. President, I move to adopt the balance of the Resolution Calendar in its entirety.

ACTING PRESIDENT KUHL: The motion is to adopt the Resolution Calendar that's on the desk of the members with the exception of Resolution 3665 and 3725.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I would like to add Resolution Calendar Number

3645 to that list that we would consider separately.

SENATOR SKELOS: Mr. President - Senator Paterson, is that in the form of an amendment to my motion or is it a new resolution?

SENATOR PATERSON: It's a request and it's an amendment to your motion.

ACTING PRESIDENT KUHL: Excuse me.

Senator Paterson, can you explicitly state what you're requesting at this point?

SENATOR PATERSON: Mr. President, what I'm requesting is that I would like to discuss Calendar Number 3645 so as not to confuse it with the other resolutions on the Resolution Calendar which is what just happened with the Resolutions 3665 and -

SENATOR SKELOS: Mr. President, I believe the motion has been to adopt the entire Resolution Calendar.

ACTING PRESIDENT KUHL: The motion is. To make another motion would be out of order but, Senator Paterson -

SENATOR PATERSON: Mr. President, I just would like to amend the motion and would like to ask that of the exceptions just cited in Senator Skelos' motion, that we include Calendar Number 3645 because I want to discuss that motion and, if I discuss it, I don't want it to be confused with all the other motions on the calendar which neither myself nor any of the members of the Minority have any problem with.

SENATOR LEICHTER: Just point of order, Mr. President. Mr. President.

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

SENATOR LEICHTER: Mr. President, I just wanted to help the Chair and the chamber and share my recollection that we've always had a procedure as to resolutions similar to the controversial calendar that if somebody wanted to lay a resolution aside to debate it, it was then laid aside, and I don't remember that it ever took an amendment to any particular motion. Somebody would say I have a problem with a particular resolution, I would like to debate it, it was then put aside and it would seem we ought to follow that procedure, Mr.

President.

ACTING PRESIDENT KUHL: Thank you for your recollection, Senator Leichter.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe the motion has been made to adopt the Resolution Calendar in its entirety.

SENATOR DOLLINGER: Mr. President.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: The motion has -

SENATOR PATERSON: Mr. President. Mr. President, I have -- we really conduct business here very much by consent. Now, what we could do is we could go through every single resolution on the Resolution Calendar separately, but what we do to try to facilitate time here is that we put all the motions together and we adopt them as a calendar, but I'm asking to discuss one particular resolution and I have amended Senator Skelos' motion. I haven't heard anyone in the chamber give me a reason why we can't separate this. They're all resolutions. They're all the

same. They're all offered by different members of the Senate. This particular motion was offered by Senator Bruno and I would like to discuss it separately. I think that I have a right under our procedures to talk about that particular motion, and I don't really understand why this would be any different than the motion in which we properly recognize the work of the EMS workers and the St. John's legal team.

So I'm just moving again that my amendment to the motion be heard in which I'm asking to discuss this motion separately.

ACTING PRESIDENT KUHL: Senator Paterson, just so that the Chair may clarify what we're doing here for your benefit and the other members' benefit is we have a Resolution Calendar which is traditionally placed on the members' desks. Senator Skelos has made a motion to adopt the Resolution Calendar in its entirety with two exceptions. You now are making a motion to amend Senator Skelos' motion to exclude another resolution.

That motion is before the house to be discussed at this point. If you would like to be heard on that motion, you're entitled

to that under the rules of this house.

So if you would like to be recognized. If not, we'll take a vote on your motion to amend Senator Skelos' motion.

SENATOR PATERSON: Mr. President, I am not necessarily interested in bringing this to a vote, to be perfectly honest with you. What I am really putting forth is a request, which I think as a member of the Senate, I feel that I have a right not to have to vote on an entire calendar when I only have issue with one of the separate motions.

Now, if this were one bill that had different measures to the actual bill, that would be different, but these resolutions that are on today's calendar came to the calendar separately and I want to discuss this motion separately.

ACTING PRESIDENT KUHL: Is there anybody else who would like to be heard on Senator Paterson's motion?

SENATOR GOLD: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, on Senator Paterson's motion to amend.

SENATOR GOLD: Mr. President, I every once in a while really do get mystified as to why we elevate certain issues to the point where we're asked to go to the wall on issues.

As long as I have been here, the procedures have been exactly as described by Senator Paterson, and that is that if somebody had something on a resolution, we would deal with it.

Now, if you want to change it, you see, the problem with the Republican Party in this house is you want to change the rules every other minute that you want to do it and you think we don't have any memories here, but we do.

Now, if you want to change the procedure here today and we will never have these consent resolutions again, that's up to you. I can't speak for Senator Connor, but it seems to me that as one offended member, I have a right to retaliate. Why are we going to the wall on this nonsense? We all understand what's at stake here.

You want to do something unprecedented which you have no right to do. It

violates your own rules which you do all the time and you don't want to be embarrassed by having it out there. So you think you're going to have the Democrats put in the position where you're going to tell me I've got to vote against a resolution honoring the memory of Rosemary Gunning in order to stand up for the principles of this house, but it is foolishness. It is childishness. You think nobody in the press is going to understand what you're doing? No one in the press is going to understand that you violate your own rules?

Well, maybe your opinion of the press which must be pretty low is accurate, because that's what you're saying, because the public will not understand what you're doing, but I don't know why you want to go to the wall on it.

We have issues that come before this house that are very significant and we differ on those issues and they are good, legitimate debates. The public knows there is a difference between your side of the aisle and our side of the aisle. Very often the public agrees with you or agrees with us, it doesn't

matter, but you're going to go to the wall on whether or not one resolution which is ill advised, was put on the calendar and you're trying to bury a Joe Bruno resolution among all those other resolutions hoping nobody is going to see it?

If Senator Bruno is the leader of this house and is entitled to our respect, and I hope we do respect our leader, why do we have to camouflage his work by putting it in with a lot of other resolutions? Why is not a resolution carried by the leader of this house able to stand the light of day in scrutiny and stand by itself without being buried?

I think that the failure to accede to the wishes of Senator Paterson is an insult to Joe Bruno. I may agree or not agree with Senator Bruno, but I certainly respect the man. I respect the individual. The attempt by the assistant Majority Leader to hide the resolution and to protect Senator Bruno from himself is insulting.

Now, if you want to debate the entire Resolution Calendar for whatever period of time is necessary and then go through roll

calls and all this nonsense, we could do that.

All Senator Paterson is asking to do is to get on with all those resolutions which we all want to do. Rosemary Gunning. There are some other people who are being honored and whose memories are being honored. We get those out of the way. We all agree on that and then we'll discuss whether or not we believe we ought to be doing things for living members of Congress who we've never done before and do things that violate our rules and we'll center on it and we'll take a vote and if I -- if I can be a fortune-teller in this case, I would imagine that the majority of votes in this house will be to vote for the resolution even if it violates the rules, but do it. I mean, do it like men and -

ACTING PRESIDENT KUHL: Excuse me, Senator Gold. Excuse me.

Senator Skelos, why do you rise?

SENATOR SKELOS: Mr. President, just for your edification, in case you don't have the Resolution Calendar in front of you, the resolution by Senator Bruno, which is a public document reported from the Finance

Committee with due deliberation, would memorialize Congress to rename Saratoga National Cemetery in honor of Congressman Gerald H. Solomon who is retiring from the Congress, chairman of the Rules Committee of Congress. That's what this resolution that Senator Gold would say we're trying to hide from the press, hide from the public, protect Joe Bruno, slip through. This is a credible resolution that, Senator Gold, I'm amazed that you're so offended by it.

SENATOR GOLD: Well, then why don't you put it out by itself and let's deal with it by itself?

SENATOR SKELOS: A motion has been made to adopt the Resolution Calendar in its entirety.

SENATOR GOLD: Yes. And as I was saying -

SENATOR SKELOS: That was the motion.

SENATOR GOLD: Yes. Thank you.

And as I was saying, Senator Skelos, this proud, quotes-unquotes, "resolution" you're so afraid to get a single

vote on it that you won't vote on it by itself. You can wave the flag at me, Senator, but the facts are the facts.

The fact is you are afraid to put that thing up for a vote by itself and if you're not so, do it and I will respect that and I'll vote yes or no, but the fact is that you're afraid to do it. So you say I move the whole Resolution Calendar because you don't want anybody here to look at this and say, Oh, my gosh. I've got to vote against the Jubilee Year Celebration of Temple Israel.

You know, Senator Skelos, the problem with your side of the aisle is you lost credibility already. I remember when we had a fight in this very house over gubernatorial vetoes and the leadership of our side said let us vote line by line and I think -- what was it -- 300 lines or 200 lines and we said we'll vote 200 times, 300 times if that's what it takes and your leadership says, Oh, no, no, no. The vetoes aren't three bills. You've got to vote yes or no to sustain the vetoes. You get three votes. So after a big debate on this floor over the procedure, which, of course, you

won because you have the Majority, we voted three times. Then you instructed the Journal Clerk to record 2- or 300 separate votes which is fantasy land.

So there's no doubt in my mind, Senator Skelos, that you'll move the Resolution Calendar as one motion and anyone who votes no, you will then run around to -- I don't mean you personally -- but someone will run around and say, Do you know that Senator Gold voted against the 50th Anniversary Celebration of the Jewish community of Bergen Beach? How could that Jewish Senator do that and the fact is, as everybody knows, I would not vote against that resolution.

So the answer is, Senator, that if you don't accede to what is the practice in this house, what's the courtesy in this house, number one, you're bringing us into the last two or three weeks of this session and begging us to show you no courtesies and maybe that will be more exciting. I heard there was going to be a yawn at the end of this session anyway. So maybe we'll have a little excitement even if it's only procedure, or else what you're doing

is you're saying once you jam your motion down the throats of the people in this chamber, I and others will have to stand up and specifically say, Well, you know, I would vote for the Leibell resolution and I would vote for the second Leibell resolution and go through it all and then we could write to all of these organizations and tell them that unfortunately they had to be cover for an illegal resolution that was put through on the floor of this house.

Now, I don't know why you want to do all of that. I mean it's just so nonsense. I don't know why you want to do all of that.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Perhaps my distinguished colleague from the North Country will tell me.

ACTING PRESIDENT KUHL: Excuse me.

Senator Stafford, why do you rise?

SENATOR STAFFORD: Thank you.

Yes, Mr. President. Thank you, Senator Gold, for yielding the floor.

Mr. President, I will now try to make a broad stroke with a conceptual brush trying not to be contentious and trying to ease our feelings as we move on into the evening hours. May I suggest -

ACTING PRESIDENT KUHL: Excuse me -- Senator Stafford, excuse me just a moment.

Senator Paterson, why did you rise? Did you wish to withdraw your motion? (Laughter.)

SENATOR PATERSON: Mr. President, with respect -- Senator Stafford has asked me to yield, so I will wait until Senator Stafford -

SENATOR STAFFORD: Thank you, Senator Paterson, also for yielding -

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: -- as we go into the evening. I would suggest, Mr. President, that possibly I can -- let me just continue. What I feel we'll be able to do here is to share with you that maybe things are not as crucial, critical, serious or the world is not coming to an end.

We've been talking about a

resolution here and it is a resolution memorializing Congress to name the veterans cemetery in Saratoga the Gerald H. B. Solomon Cemetery.

I believe there are two questions that have been raised and we have every right in this body to raise questions. We have the right in this country to raise questions and some of the people who -- no, all of the people who are buried in this cemetery we're talking about have fought so that we could question in this country. I will attempt to answer.

I will suggest to you that this is not a resolution without the bounds of the rules of the Senate. First, it memorializes Congress to name the cemetery for Jerry Solomon. It does not memorialize Congress concerning any federal legislation. Our rules -- pardon me?

SENATOR DOLLINGER: You have to do it by law.

SENATOR STAFFORD: Pardon me?

SENATOR GOLD: Point of order. The gentleman has the floor.

SENATOR STAFFORD: I was going so

well. It's always Senator Dollinger. There we are again. It does not memorialize Congress to do anything concerning legislation. It memorializes Congress to name the cemetery in honor of Jerry Solomon. It also is directly germane to the affairs, business, rights, benefits and obligations of the state of New York because these people who are buried are citizens of the state of New York.

Also, I believe a question has been raised and again I reiterate, we have every right in this state, nation and body to raise questions. Wars have been fought so we could raise questions and these people are buried there.

SENATOR GOLD: Mr. President, will the gentleman yield to a question?

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: I would rather not, but I have never done so well. Yes.

SENATOR GOLD: Well, Senator, if the statements you're making are accurate and if there is no difficulty legally with this resolution, do you have any idea why this

resolution has to be coupled with many, many other resolutions in an attempt to gain votes rather than just stand out there on its own as we have done so many, many times when members have requested separate consideration of a resolution?

SENATOR STAFFORD: I will continue and answer Senator Gold. I guess we're here because questions have been raised so now I'm trying to answer the question.

It has been said that we should not pass a resolution concerning a sitting public official. I would suggest to all of us that this public official is retiring as Judge Titone is retiring, and I believe that resolution passed on September 1st, retired public official. I believe also a resolution today -- May 12th -- no, no, no -- passed May 12th -- see, you broke my train of thought - passed May 12th when he's retiring September 1st.

Now, I just noticed here a few minutes ago or a second ago -- I even do research myself. I want everyone to know that. I see a resolution honoring a Supreme Court

justice who's retiring and that is right in here.

SENATOR GOLD: What are we naming him?

SENATOR STAFFORD: That is a good question. I think that I would say the spirit of a resolution concerning anyone, whether you're naming something after them or whether you're just recognizing them in a resolution, I suggest there that we're splitting hairs and it really isn't really germane. We're not. We're just memorializing but, of course, memorializing is, in effect, asking to name, but I think that's a valid point.

I guess what I'm attempting to say here, Mr. President, that I think we're raising the issues here and balancing the equities and explaining that maybe we don't have as much of a problem as anyone would think. I think the usual resolution was made to pass the resolutions. I know someone is bringing up a question now.

I want to say that Senator Skelos was doing his job in an orderly fashion the way we usually do things, and I think we will all

say the floor has never been run better.

I am attempting to just show exactly what some of the questions are and I'm attempting to give some of the answers and if I do say so -- and I very seldom stand up here and tell you again how well I've done, but I would suggest that I've answered really any of the questions and I think if anything we laid the issues out, and I think everyone understands what we're doing here.

I would only say about the person who we're doing this, I have known him a long, long time, as all of you have. He was a supervisor, a county legislator, member of the Assembly, served in Congress, became chairman of the Rules Committee. He has been very involved in international matters and, as a matter of fact, I believe he sponsored the legislation that brought about the veterans -- Department of Veterans Affairs.

So this is what we're doing here, and I think that we sort of have it all here and I would suggest that this, I hope, would be - would answer any of the questions and, Senator Gold, I'll answer a question again.

What was your question?

SENATOR GOLD: My question is simply if this resolution is proper and it's right and it's the right thing to do and it's legal, why can't it be separated and we can vote on it and everyone will know the vote on that resolution versus the vote on other resolutions instead of lumping it the way it's being lumped in order to protect it.

SENATOR STAFFORD: Always being the effective protagonist, effective adversary, I would suggest you've done about as good of a job in separating it and bringing it right out by itself as anyone I've ever seen.

SENATOR GOLD: But meanwhile the vote won't be recorded that way.

SENATOR STAFFORD: Well, I thought that I had explained it so you would want to vote on it.

SENATOR GOLD: And, Senator, assuming that you explained it so I would want to vote for it, I would want the public to know that I voted for it, but the way you're doing it, the public would not know that I wanted to vote for it or not vote for it, because it has

to be protected, and I think that that is an insult to Jerry Solomon and I think it's an insult to Joe Bruno and from where I come from, I think that the public has a right to know what we do and what we think for better or for worse, and I can only assume that Senator Bruno puts in this resolution because he believes in it and he would stand in front of his constituents and say, This is what I did. This is what I believe in. There's no problem with that.

SENATOR STAFFORD: Pardon me for saying "it" because that was something I am always corrected at home about. Whenever I use the word "it", they would correct me and I mean the resolution and I apologize. It's a resolution.

We often vote here and much of what we do is joined together. I don't -- let me put it this way. I don't see the real serious problem here, if anyone could explain their position. I think maybe -- I think maybe we're just -- you know, I guess that's a long way of saying I don't agree with Senator Gold.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I think that there are a few presumptions that have been made here, and I think that they support the need for my amendment to pass.

It's already been said that there is a problem voting for this particular resolution. I don't know that there is a problem because the reason that I asked to have it separated was I wanted to ask some questions relative to what the rules of the Senate provide in order to pass this resolution and based on the answers to those questions, I think I've got an open mind as to whether or not I would actually vote for the resolution.

I think that I did have a right to ask the questions and in asking the questions, I thought that we would address the resolution separately rather than an aggregate, which is the way we do it to accommodate speed and to accommodate what is really our consent, that there is a consensus of all Senators in that respect.

I just would like to reiterate that that's what the strength of my amendment to Senator Skelos' motion is, that we just discuss

this resolution separately.

SENATOR LEICHTER: Mr. President. Mr. President, point of order.

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

SENATOR LEICHTER: Point of order. I'm going to ask for a ruling of the Chair. I'm going to disagree with my distinguished colleague here, Senator Paterson. I don't think that there is an amendment to be made, and I believe that we have a very clear procedure, Senator, that I remember and maybe Senator Stafford, Senator Marchi remembers.

When I came to this chamber, the Resolution Calendar, we would read the name of every resolution. We then decided collectively that that was a waste of time and we would have a Resolution Calendar that would pass on consent and if any member then wanted to discuss a particular resolution, that resolution was laid aside and if we had done it in this instance, we would have been out of here 15 minutes ago. Now we'll probably be here for an hour and a half or longer going through this whole procedure which just doesn't make sense. It is contrary to the

way we've proceeded.

Mr. President, I pointed out the procedures of the house before which you seem to be underwhelmed by. So I'm going to ask you now for a ruling of the Chair that the resolution - what's the -- Resolution Number 3645 be laid aside at the request -- not amendment -- at the request of Senator Paterson. I ask for a ruling on the Chair that that be done.

ACTING PRESIDENT KUHL: Senator Leichter, the -- Senator Leichter, there is a motion on the floor and I haven't heard you state a proper point of order at this point in accordance. So there is no point of order that you're raising that I need to rule on. There is a motion on the floor that the Acting Minority Leader, Senator Paterson, has made to amend a motion which was submitted by Senator Skelos. That is the issue before the body.

SENATOR LEICHTER: Mr. President. Mr. President, I made a point of order.

ACTING PRESIDENT KUHL: State your point of order.

SENATOR LEICHTER: My point of

order is out of order, that no amendment need to be made, that Resolution 3645 be laid aside at the request of the Deputy Minority Leader that -- under the procedures of this house. That's my -- that is my request for a ruling to you under my point of order.

ACTING PRESIDENT KUHL: Your point of order is not well taken. We're on the motion, Senator Leichter.

SENATOR LEICHTER: Well, then I appeal the ruling of the Chair. I appeal the ruling that I have not stated a proper point of order.

ACTING PRESIDENT KUHL: The motion is to -- Senator Paterson, would you like to be heard on the motion to appeal the ruling of the Chair?

SENATOR PATERSON: Mr. President, if I were to withdraw my motion, then I guess there couldn't be an appeal of your ruling on my motion. Isn't that correct?

ACTING PRESIDENT KUHL: That would be correct.

SENATOR PATERSON: Then, Mr.

President, I'm going to ask one more time. I really think so that we never have to have a vote on anything here, that the best procedure at this point is to let the motion be discussed separately. We discussed two other motions separately -- the resolution. I'm sorry. Let the resolution be discussed separately and that way there never has to be recorded in this proceeding that there was ever a motion -- ever a vote taken on anything that would in any way diminish from the character of the individual who this motion is supporting because I don't have any interest in creating that kind of situation.

I'm just asking if I can ask my questions about this motion separately, and I know that you can't answer that, Mr. President. I'm really asking the Majority Leader to give me the courtesy that just came to me of being heard and being allowed to ask a couple of basically technical questions about this house's ability to pass that resolution. That's what I'm asking the Majority.

ACTING PRESIDENT KUHL: Senator Skelos, it seems -

SENATOR SKELOS: My motion has been to adopt the Resolution Calendar in its entirety.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: The Majority Leader's motion is not on the floor right now. The amendment is on the floor and I'm asking the Majority to yield for a question as to whether or not I would be allowed -- he didn't know when he moved. He was unaware when he moved to adopt the Resolution Calendar that I had that concern and I'm now asking Senator Skelos to yield for a question and I'm asking him -

ACTING PRESIDENT KUHL: Senator Paterson, I think that might be just a little premature. We're at the point where Senator Leichter has raised an appeal to the ruling of the Chair. You did indicate that -- you asked the question of the Chair -

SENATOR PATERSON: No. I understand that.

ACTING PRESIDENT KUHL: - whether or not that would be appropriate if, in

fact, you withdrew your motion. So we're at that point that either the Chair is going to rule -- take a motion or a vote, I should say, on the appeal to the ruling of the Chair or you are going to withdraw your motion to amend; one or the other.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: So that we can proceed in the proper format.

SENATOR PATERSON: I understand, Mr. President, and I'm actually considering -

ACTING PRESIDENT KUHL: Senator Paterson, if you want to have a conversation quickly with Senator Skelos that doesn't necessarily have to go through the Chair as to whether you withdraw or not, that's fine. If not, I'm prepared to take a vote on the appeal to the ruling of the Chair.

SENATOR PATERSON: His place or mine?

ACTING PRESIDENT KUHL: Outside or in?

SENATOR ONORATO: Mr. President. Mr. President.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Mr. President, respectfully, I withdraw my amendment to Senator Skelos' motion to adopt the Resolution Calendar.

At this time I would like to ask for a ruling of the Chair on my request, not amendment, my request under Rule IX -- Rule VI -- excuse me -- Paragraph (9), Subdivision (e), and I would wish, Mr. President, for a reading of that rule by the Secretary.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, I believe the request has been made, but the request was denied when I made the motion to adopt the Resolution Calendar in its entirety.

SENATOR PATERSON: Point of order, Mr. President. I agree, Senator Skelos' motion is on the floor and on the motion I'm asking for a ruling from the Chair. I'm raising this rule and I'll paraphrase it that -

SENATOR LEICHTER: Let me read it.

Mr. President -

ACTING PRESIDENT KUHL: Senator Paterson has -- Senator Leichter, I appreciate your help but Senator Paterson does have the floor.

SENATOR LEICHTER: And I'm asking -- I'm asking for the floor, Mr. President. Do I have the floor?

ACTING PRESIDENT KUHL: Senator Leichter, you know, one of the real responsibilities, and I take it very seriously, of this position that the -- on the rostrum is to maintain some order and decorum and some proper procedure and for one member to just grab something and say I want the floor is not the proper way in order to proceed.

So Senator Paterson does have the floor, and I will recognize him and continue to recognize him as long as he likes the floor.

SENATOR LEICHTER: Mr. President, I'm asking -

ACTING PRESIDENT KUHL: Why do you rise, Senator Leichter?

SENATOR LEICHTER: To ask Senator Paterson if he would yield so that I could read Rule IX -- Rule VI.

ACTING PRESIDENT KUHL: If you're asking Senator Paterson to yield to a question, Senator Leichter, then that is the proper procedure.

SENATOR LEICHTER: Okay, fine. Then I will ask Senator Paterson if he would yield.

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

SENATOR PATERSON: Mr. President, I will yield to a question from Senator Leichter. I will also yield my rules to Senator Leichter.

SENATOR LEICHTER: Yes. Senator, I'm reading to you a rule of this house and ask you if this is the rule that you are relying on, and it provides, Rule VI, Section 9 (e), "All resolutions other than those mentioned and treated in the preceding Subdivision C and D of this section and reported by the committee of reference designated by the Temporary President shall be placed on the calendar. When in the order of business the resolutions are reached, the Senate may adopt such resolutions as a group

by one vote upon the question of the entire calendar resolution excepting that any member may request that any one or more of the resolutions on such calendar shall be voted upon or debated separately."

Senator, was that the rule that you are now invoking?

SENATOR PATERSON: Yes.

SENATOR LEICHTER: And, Senator, if you'll yield again, was that not the same rule -

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

SENATOR PATERSON: Yes.

ACTING PRESIDENT KUHL: He yields.

SENATOR LEICHTER: Was that not the same rule and procedure that I tried to call to the attention of the Chair as being the procedures of this house?

SENATOR PATERSON: Generally, yes.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Yes, Mr. President. That was the rule I was referring to and that is the rule that I'm asking for a ruling as to whether or not under that rule I now have a right to separate that resolution from the rest of the calendar. I will now hum the Jeopardy theme.

ACTING PRESIDENT KUHL: Senator Skelos, do you wish to be heard on that point of order before the Chair rules?

Senator Paterson, did you have something that you would like to address the Chair with?

SENATOR PATERSON: Yes, Mr. President. You know, I was thinking about it. It's really a point that I want to withdraw my request for a ruling of the Chair at this time.

ACTING PRESIDENT KUHL: The Chair will accept the withdrawal of the request.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: I believe at this time there's a motion on the floor to adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT KUHL: That is correct.

SENATOR SKELOS: We will now debate -- have you withdrawn your motion to amend?

SENATOR PATERSON: Yes.

SENATOR SKELOS: Senator Paterson has withdrawn his motion to amend. The only motion now before the Senate is my motion to adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT KUHL: That is correct.

SENATOR SKELOS: The Minority now wishes to debate against that motion.

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

SENATOR ONORATO: Mr. President, I would like a little clarification. In the 15 years that I have been here, we've always had two calendars, the Third Reading consent calendar and we always had a right to lay a bill aside for discussion. We've never voted on a consent calendar in its entirety in one lump sum without having the opportunity to vote yea or nay on a given particular bill. I believe I

should be accorded the same privilege on a Resolution Calendar.

Now, there is a calendar -- a resolution there that I would like at this particular time to be laid aside and the Calendar Number -- the Resolution Number that I would like to be laid aside is Calendar - Resolution Number JL3645 so that I can discuss the Resolution Calendar number.

SENATOR GOLD: Can I make an inquiry of the Chair, Mr. President?

ACTING PRESIDENT KUHL: Excuse me just a minute, Senator Onorato.

Senator Gold, why do you rise?

SENATOR GOLD: Yeah. To be helpful to my friend. My understanding is that we are now free to discuss everything on the motion calendar and then, Senator Onorato, we are free to do that without your request, and I think we're going to get our separate vote.

So maybe thanks to Senator Skelos and Senator Paterson we can just do the merits, Senator. We seem to be all right.

ACTING PRESIDENT KUHL: Is that acceptable to you, Senator Onorato?

SENATOR GOLD: Yes. He says. May I now address -

ACTING PRESIDENT KUHL: Senator Gold, on debate on the motion to accept the Resolution Calendar.

SENATOR GOLD: Thank you very much, and I'll be very brief, Mr. President.

I intend to vote in the negative on Calendar Number 3645 with no disrespect to Mr. Solomon.

Mr. Solomon and I have probably serious political differences, but that would never, never cause me to vote not to honor the individual and indeed at an appropriate time if I were a member of this house, which I won't be at an appropriate time, I might very well be able to support this resolution.

I only think that it's premature. I think we have honored people who are retiring and we wish them well and we wish them good health, and I want the record to indicate that in the case of Jerry Solomon, I wish him good health and a happy retirement. He has served this country admirably. His votes may be different than mine. They're as honest

certainly as any vote I cast and I respect that, but this is improper. It is too early to do this. The kind of thing we're being asked to do here is a step that, I think, is in the wrong direction and, therefore, Mr. President, while I understand there will be a voice vote on this particular resolution, my voice will be in the negative on this resolution and should Mr. Solomon hear about it, I want him to know that I mean it not in any disrespect to him. I mean it in no disrespect to the service he has given his country. I just disagree with the concept of it doing this.

I was at the opening of the Benjamin Rosenthal Library at Queens College. We have honored a great Congressman. It happened after he died. I have been at the -- I have seen Assembly Speaker Weprin honored and it was after his death. I hope that Jerry Solomon has many years of good health, and I think at an appropriate time if the -- this chamber or the Congress wants to do something by way of honoring him along these lines, we do it, but it is a precedent which I think is a mistake. I think Senator Bruno means well, and I think

Senator Bruno's intentions are honorable. I think it is the wrong thing to do.

So when the time to vote comes, I will be voting in the affirmative on every single resolution we have left with the exception of 3645 which I will vote in the negative.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'm going to join Senator Gold in voting against this resolution because I can't, quite frankly, believe that Jerry Solomon would want this resolution to pass.

Jerry Solomon has a long tradition of supporting veterans in the United States Congress, but what this resolution seeks to do is to change the name of a cemetery dedicated to the greatest victory in the American Revolution, the victory that changed the course of the war.

I would suggest to you that had not General Gates won that battle against General Burgoyne and prevented the British from dividing the colonies in half, Jerry Solomon

would be a member of the English Parliament or a Congressman in the Middle-Atlantic states of America and that there would be -- we would be just as fractured as Europe.

The reason why we stand as one nation is because that battle was won by the United States of America by volunteers and militia from Senator Stafford's district.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR DOLLINGER: I won't yield, Mr. President, with all due respect. I'll yield at the end.

I would just suggest -

ACTING PRESIDENT KUHL: Senator Dollinger, you do have the floor.

SENATOR DOLLINGER: I would just suggest, Mr. President, that the -- that the Battle of Saratoga and the celebration of the Battle of Saratoga which involved armed regulars from the Albany area, this is a dedication to a battle and a time, quite frankly, that we ought to preserve and even if for some reason it's just the name "Saratoga", it symbolizes a battle. It symbolizes a tradition.

ACTING PRESIDENT KUHL: Excuse me, Senator Dollinger.

SENATOR STAFFORD: Will Senator Dollinger yield?

SENATOR DOLLINGER: Yes, I will, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STAFFORD: Senator Dollinger, don't you realize that the turning point in the Revolution and the reason that we're here today was the Battle of Plattsburgh? (Laughter.)

SENATOR GOLD: But you were there. (Laughter.)

SENATOR DOLLINGER: Mr. President, I applaud the member of the North Country who raised this historical revision to a new height but, Mr. President, on a note, I just don't think that Jerry Solomon, who's done so much for veterans -- he's had a distinguished career. I agree with Senator Gold's comments that we shouldn't do this at this time but, quite frankly, Dwight Eisenhower lived in Gettysburg. They never changed the name of the

national cemetery there because it celebrates another great battle and people who died for this country 220-plus years ago, a whole bunch of people from this country picked up arms and fought off a British force and made us all free.

Jerry Solomon has done a lot of great things but he never anything as great as that little group did up in Saratoga. Let's keep the name "Saratoga" at the national cemetery.

ACTING PRESIDENT KUHL: Any other member wishing to speak on the motion?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would just like to join my two colleagues in questioning whether or not Congressman Solomon wants his name there.

Someone came to me to ask me if the Congressman was deceased and, of course, it's my understanding that he's not. He's very much alive and if his name appears on the gate of that cemetery, people are going to undoubtedly be misled to believe that he is dead.

So I'm not sure that this is a good idea for us to be putting this distinguished Congressman who is very much alive, to put his name on the gate of a cemetery.

So I think we should all vote against it.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, to close the debate on this issue, I would like to point out that we seem to be expanding the definition of what our resolutions memorialize by the passage of this resolution.

What we're actually doing is we're memorializing a person who is still a sitting member of our House of Representatives and we are commanding the Congress to pass a law. There has to be some way that our Congress changes the name of the Saratoga National Cemetery to the Gerald B. H. Solomon Veterans Cemetery, and so by doing this we are engaging in a practice that I think that if we look at it in a non-partisan way -- and that's the reason I would like to point out, Mr. President, that I'm

going to vote for the resolution.

I'm going to vote for the resolution because the real intent of the resolution is to honor an individual for a number of years of service to their district and to this state and to this country, but the problem I have with the resolution is one that I think can be understood and can be addressed in this chamber without us having to take a vote on it, that I would like to honor a Congressman, Charles Rangle, from my particular district. I think he's been an outstanding American. Carolyn McCarthy is someone I think we might honor at some point that she's retiring and we might have a number of people in this chamber we would like to honor, Senator Leichter on the occasion of his retirement.

SENATOR LEICHTER: Not on a cemetery.

SENATOR PATERSON: We might want to rename -

ACTING PRESIDENT KUHL: Senator Paterson, if we could, let's keep this motion non-controversial. (Laughter.)

SENATOR PATERSON: Thank you, Mr.

President.

And so what we are just pointing out is we don't want to get our resolutions involved in the kind of political realm that is brought to this resolution.

We made Martin Luther King's birthday a national holiday but we didn't do it for 18 years after Martin Luther King was shot. The reason is in that period of time his place in our national -- in our national heart became such that we had to take this action.

The Congressman, with all due respect, is still a sitting member of the House of Representatives and he still has political points of view. He still speaks. He is still a very visible person in this particular area. To take this kind of an action really is not non controversial considering his current stand.

Why don't we let him retire. Why don't we let him take his place alongside all those who have preceded him in the House of Representatives and then come back and decide whether we want to go from honoring his retirement to taking an extra step in naming a national cemetery after him, especially given

the rich history that Senator Dollinger described. That was what I was going to say.

I'll support the motion because of the great regard that Senator Bruno has for the character of the individual, but I must oppose the process that brings us here today and the one that for so long obfuscated the opportunity for me to address this issue singularly as it should be.

ACTING PRESIDENT KUHL: The motion is to adopt the Resolution Calendar with the exceptions of Resolutions Number 3665 and 3725 which have previously been adopted. All those in favor signify by saying aye.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Yes, Senator Skelos.

SENATOR SKELOS: Mr. President, at this time I would like to withdraw my motion to adopt the Resolution Calendar in its entirety, and I would like to move at this time to adopt the Resolution Calendar in its entirety with the exception of Resolutions 3665, 3725 previously adopted and 3645.

ACTING PRESIDENT KUHL: The

motion is as Senator Skelos has stated to adopt the Resolution Calendar with the exceptions of Resolution 3665, 3725 and 3645. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted unanimously with those exceptions.

SENATOR SKELOS: Mr. President, I would like to move at this time to adopt Resolution Number 3645.

ACTING PRESIDENT KUHL: The motion is to adopt Resolution 3645. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The ayes have it.

The resolution is adopted.

SENATOR SKELOS: Mr. President, at this time on Resolutions 3730 and 3731, Senator Wright and myself would like to open them up for co-sponsorship. 3730 concerns United States Small Business Awards and 3731

concerns the Biotechnology Association.

ACTING PRESIDENT KUHL: Can I see a show of hands of those members who would like to be on the Resolution 37... it seems to be multiple.

Senator Skelos, would you like to put all the members on the resolutions with those exceptions that don't wish to be on?

(Senator Skelos nods head.)

ACTING PRESIDENT KUHL: If those members who do not wish to be on either Resolution 3730 or 3731 would indicate to the desk afterwards, we'll make a notation. Otherwise, all members will be placed as co-sponsors of Resolution 3730 and 3731.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: We have one substitution, Senator Skelos.

SENATOR SKELOS: Please make the substitution.

ACTING PRESIDENT KUHL: I'll ask the Secretary to make the substitution.

The Secretary will read the substitution.

THE SECRETARY: On page 14, Senator Spano moves to discharge from the Committee on Rules Assembly Bill Number 9511-A and substitute it for the identical Third Reading Calendar 514.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Chair recognizes Senator LaValle.

SENATOR LAVALLE: Mr. President, can I have unanimous consent to be recorded in the negative on Calendar Number 1081.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator LaValle will be recorded in the negative on Calendar Number 1081.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business, I move we adjourn until Wednesday, June 3rd, at 11:00 a.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Wednesday, June 3rd, at 11:00 a.m.

(Whereupon, at 5:41 p.m., the Senate adjourned.)