ALBANY, NEW YORK

June 16, 1998

11:30 a.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order. I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

In the absence of clergy, I ask that 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 15th. The Senate met pursuant to adjournment. The Journal of Sunday, June 14th, was read and approved. Upon motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Stafford,

from the Committee on Finance, offers up the following nomination: As a member of the Board of Trustees of the State University of New York, Celine Racine Paquette, of Champlain.

SENATOR SKELOS: Move the confirmation -- wait a minute, please.

Mr. President, if we could just lay that nomination aside temporarily, and I would ask at this time if the members who are interested in speaking on various nominations, if they could come over to the chamber because we are going to move through the report of the Finance Committee expeditiously.

If you could now continue with the nominations, Mr. President.

ACTING PRESIDENT MEIER: Lay that nomination aside temporarily.

The Secretary will continue to read the nominations.

THE SECRETARY: As a member of the state Board of Parole: Lawrence C. Scott, of Farmington.

SENATOR SKELOS: Move the nomination.

ACTING PRESIDENT MEIER: The

question is on -- the question is on the confirmation of Lawrence C. Scott as a member of the state Board of Parole. All those in favor of confirming the appointment say aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nomination is confirmed.

Mr. Scott is in the gallery with us today. He also has with him his daughter, Deborah Ann, his daughter, Diane Marie, his son, Larry and a friend, Darlene Hackett.

Sir, we welcome you today. We congratulate you and wish you Godspeed with your important duties. (Applause)

The Secretary will continue to read.

THE SECRETARY: As a member of the Workmen's Compensation Board: Candace Kellogg Finnegan, of Garrison.

SENATOR SKELOS: Move the nomination.

SENATOR STAFFORD: Mr. President, I see we're getting near the end of the session, and I would like to say we're moving right

along.

I would say that at the Finance Committee meeting today-- and many of you have heard this before -- have heard this before, but once again I have to say, the Governor sent excellent nominations. All were confirmed unanimously and it's a credit to the Governor, a credit to the nominees and it just is good for the state of New York and with that, I will yield to, I believe the Senator from Westchester, who we're waiting to come in like I was and again we have the Senator from Dutchess -- Putnam. Is he speaking on the nomination? Westchester too. Very good.

ACTING PRESIDENT MEIER: Senator Leibell.

SENATOR STAFFORD: The captain.

SENATOR LEIBELL: Thank you very much, now that we've determined where I'm from.

Mr. President, I would like to join with my colleague, Senator Stafford, in commending the Governor for the many fine appointments that he has sent us over the last few months.

I especially am very pleased

today to stand up and endorse this and to speak on behalf of Candace Finnegan, who is my constituent and who is someone who has served our community well, who is someone who has worked long and hard for the state of New York and is someone who will bring great talent, energy and integrity to this position.

I know we have a long schedule today, so I will not speak at length, but I am most pleased professionally and personally to support this recommendation, this nomination from the Governor and, Candace, we wish you well.

ACTING PRESIDENT MEIER: Any other Senator wishing to be heard on the nomination?

(There was no response.)

The question is on the nomination of Candace Kellogg Finnegan as a member of the Workers' Compensation Board. All those in favor of confirming the appointment say aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nomination is confirmed.

(Applause).

Ms. Finnegan, we welcome you to the Senate today and we wish you good luck with your important duties.

The Secretary will return to the nomination of Celine Racine Paquette.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York, Celine Racine Paquette, of Champlain.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: We're pronouncing Champlain correctly up there. We appreciate it.

On a serious note, as I -- when I came in, when we had started, I mentioned the nominees that are here today and I can only say again, the caliber, we're very, very fortunate.

Celine hails from Clinton County. She has served in the school districts in East Greenbush. She was Teacher of the Year in the state, was principal of the high school in Ticonderoga. The Racine family, she married into the Paquette family, two of the finest

families of the North Country. She has an excellent insurance business and serves also in public life iin an elected post.

I can only say just as with Candace, with Celine, I could go on and on. I could even mention all their families and embarrass everybody. I won't do that, but this is a fine day, a fine day for the state of New York because we're having the caliber of people being appointed and being confirmed who will make this state a better place in which to live.

So it's a pleasure for me to move Celine's confirmation and also supporting the other very fine nominees that are here today.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the nomination?

(There was no response.)

The question is on the confirmation of the nomination of Celine Racine Paquette as a member of the Board of Trustees of the State University of New York. All those in favor of the confirmation say aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nomination is confirmed.

(Applause)

Ms. Paquette, congratulations and good luck.

Senator Spano.

SENATOR SPANO: Mr. President, I was delayed en route coming over to the chamber. Without objection, if it would be okay if I just say a couple of things about Candace Finnegan who we just confirmed to the Workers' Comp' Board.

ACTING PRESIDENT MEIER: Without objection.

SENATOR SPANO: Thank you, Mr. President, my colleagues.

Just quickly, I wanted to make sure that we made this part of the record as well, but Candace Finnegan was unanimously reported from the Labor Committee, sent over to the Finance Committee, obviously today.

I first met Candace Finnegan in her role with Rockland Children's Psychiatric Center a number of years ago when I chaired the Mental Health Committee and I learned firsthand

the role that she played in helping the lives of children who suffer from mental illness in this state.

She is an outstanding person, has the right temperament to be a member of the Workers' Compensation Board and I want to just congratulate the Governor on that appointment and thank the members for just giving me an opportunity to get up and to say a few things about Candace Finnegan.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, I was inadvertently detained on my way over to the chamber today and I ask to have unanimous consent to comment on the confirmation of Lawrence Scott to the Parole Board.

ACTING PRESIDENT MEIER: Without objection, you're recognized.

SENATOR NOZZOLIO: Thank you, Mr. President, my colleagues.

It is, indeed, an honor and a

happy privilege for me to add my support and compliment to Governor Pataki for his excellent nomination of Larry Scott, Lawrence C. Scott, from Farmington, New York, as a member of the New York State Parole Board.

The Parole Board is under great challenge today and we in this Legislature are working hard with the Governor to give the tools necessary to ensure the integrity of our parole system, but with this nomination of Larry Scott, we have an individual added to the board that will be an outstanding representative of the people.

Larry Scott brings to this challenge a diverse background of law enforcement as a career law enforcement official with the New York State Police, our state's finest, heading as a member of the important Criminal Investigations Bureau. As one who also served in his early days as a uniform trooper, Larry Scott certainly has his roots in law enforcement, but he goes much -- far beyond that.

As a member -- elected member of the judiciary as a town judge in one of the

larger towns of upstate New York, serving in that capacity for almost a decade, has combined with his law enforcement experience great judicial background.

Also as he currently serves in another elected capacity, a capacity that brings both executive and legislative background to his resume and to his career as supervisor of the wonderful town of Farmington, that supervisory job gives him as the executive of one of the fastest growing towns in the state, as one of an extremely dynamic town, also that town's representative on the Ontario County board of Supervisors, the legislative board for the county of Ontario.

Again, a mix of legislative experience, coupled with judicial experience and a career in law enforcement gives Larry Scott an ideal background to serve the very important challenges of the Parole Board.

Mr. Chairman, my colleagues, we have seen many nominees to the Parole Board over the last year. It's an excellent team and that Larry Scott, Lawrence C. Scott, will be an excellent addition and with that, I'm very

honored to have my name attached to supporting this fine nomination.

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the Crime Victims Board, Jacqueline C. Mattina.

SENATOR SKELOS: Move the nomination.

SENATOR STAFFORD: I'm sorry. Move the nomination, please, Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR STAFFORD: I yield to the Senator from the west.

SENATOR VOLKER: As the Senator from the west, I appreciate that from the Senator from the north.

Let me just say that first of all, Jackie Mattina has been a constituent of mine for a number of years, I think is an excellent choice to the Crime Victims Board.

Jackie has been an attorney for, I believe 13 years. She has been an assistant county attorney under two administrations in Erie County. She's been the counsel to Social

Services, been very active in the community. She's a person who I think would understand the process and problems involved in the Crime Victims Board. Comes from one of the old families in Western New York. Her father is probably one of the most respected jurists in the state of New York who's -- Joe Mattina, who is a Surrogate Court judge.

I would highly recommend her and say that I think the Governor made an enormously good choice in Jackie Mattina, and I commend the Governor.

ACTING PRESIDENT MEIER: Senator Maziarz.

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

I want to -- as another Senator from the west, I want to join Senator Volker in seconding this nomination and in congratulating Governor Pataki on a fine nomination.

Although I'm not personally acquainted with Ms. Mattina, I'm very much acquainted with her father, a distinguished jurist from Erie County, Judge Mattina. He is not only an excellent jurist; he is also a super

Buffalo Bills fan, and I assume that this apple has not fallen very far from the tree and that Ms. Mattina is going to do an excellent job for this administration.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Yes, Mr. President.

It gives me a great deal of pleasure to rise also from the west to second the nomination of Jackie Mattina.

The Governor has chosen an exceptional young woman who will have many years of service and by virtue of her experience and her community activity, I believe she'll be a great addition to the board, and I welcome you to that kind of service and congratulate the Governor.

Thank you.

ACTING PRESIDENT MEIER: Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

I just very quickly wanted to

again commend you, Jackie, and congratulate you and your father and my good friend Judge Mattina. We're all very proud out in Western New York of your great accomplishments and certainly I look forward to working with you in your capacity on the Crime Victims Board.

Congratulations.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: I would like to say I'm from the west too, Mr. President, but some people think I'm from Ohio sometimes, but I too would like to join in commending the Governor on this appointment. I think that Ms. Mattina will do a great job. Her father has done a great job in his public service and I'm sure in her other capacity she's been very, very capable.

It's a good appointment by the Governor, and I'm sure we look forward to her doing a great job on the Crime Victims Board.

ACTING PRESIDENT MEIER: Are there any Senators from the west who wish to speak on the nomination?

(There was no response.)

The question is on the confirmation of the appointment of the Jacqueline Mattina as a member of the Crime Victims Board. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nomination is confirmed.

(Applause)

Jacqueline Mattina is with us in the chamber here today. She's accompanied by her husband Ted Chmiel, by her son Brian, her daughter Bethany, also by -- also by her son Jacob. She's also accompanied by her father, the Honorable Joseph Mattina, and by some other relatives, Arthur Sabia, Carolyn Sabia and Joan Alba.

Jacqueline, we wish you well with your important duties and congratulate you.

The Secretary will continue to read.

THE SECRETARY: As a member of the Public Employment Relations Board, Michael R. Cuevas, of Schenectady.

SENATOR STAFFORD: Move the confirmation and we yield to Senator Farley.

SENATOR FARLEY: Thank you very much, Senator Stafford.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: It is with a great deal of enthusiasm and pride that I urge the nomination and second the confirmation of Michael Cuevas.

I've known Michael Cuevas for a lot of years. He's been a distinguished practicing attorney, a public defender and a corporation counsel for the city of Schenectady and most recently in a very, very important position -- in every job that Michael has done he's done very, very well. He has a resume. It is truly outstanding.

He's a graduate of Stuyvesant High School in Brooklyn, and that's why I wanted to find out where he came from, even though he's been in Schenectady most of his adult life and a graduate of New York University with a B.A. in economics, and Albany Law School.

Michael is famous for every job

he's undertaken, he's done well. Currently he is serving as chairman of the Unemployment Insurance Appeals Board. The Governor's office and everybody that has been involved with that board has spoken so highly of him. He's taking on one of the most important positions in the state of New York as chairman of the PERB.

Now, let me just say as somebody that comes from the Capital District, the Public Employment Relations Board is terribly important to those of us that have so many government employees. Michael is an outstanding public servant. We're fortunate to have him willing to serve our state of New York.

Mike, I'm very, very proud of you and it's with enthusiasm and pride that I move his confirmation.

ACTING PRESIDENT MEIER: The question is on the confirmation of Michael Cuevas as a member of the Public Employment Relations Board. All those in favor of confirming the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nomination is confirmed.

Mr. Cuevas is present with us in the chamber. We wish you well with your important duties, congratulate you and welcome you to the chamber today, sir.

(Applause)

The Secretary will continue to read.

THE SECRETARY: As a member of the Public Service Commission: John B. Daly, of Lewiston.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Well, Mr. President, once again as the previous nomination from Schenectady and all nominations, just the finest. I now yield to the nominee's successor and when you have these two people in the room at the same time, you understand just what a great Empire State we have.

Senator Maziarz, again from the west.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President. Thank you, Senator Stafford.

I want to rise and second the nomination of former Senator and Commissioner John Daly. As I often said, I thought the best career move that John Daly ever made was accepting that commissionership with the DOT.

However, Mr. Chairman -- I know Commissioner Daly informed me he was going to be here for this confirmation. I know that he appeared today before the Senate Finance Committee, and I just want to congratulate the Governor. I don't think there's a finer individual who has -

SENATOR STAFFORD: There he is. There he is. Start over again. Start over.

SENATOR MAZIARZ: Mr. President, I may beg your indulgence, please.

Senator Stafford doesn't have to do his renomination, does he?

Commissioner Daly, you missed Senator Stafford's introduction of you and it was about 20 minutes long, so we're not going to repeat it if you don't mind.

I was just telling my colleagues, Commissioner, how thankful I was that you accepted that call from Governor Pataki back on December the 27th of 1994 to become the Commissioner of Transportation. Obviously the Governor has a great deal of faith in you and your abilities, not only in the field of transportation but in this instance in the field of energy and with the deregulation that New York State is currently undergoing, I could think of no finer nominee to serve as a member of the Public Service Commission than John Daly of Lewiston.

I wholeheartedly second Senator Stafford's nomination and congratulate the Governor again on a very fine appointment. I know that Commissioner Daly will carry out this assignment with the same vigor that he did on the very successful ISTEA reauthorization for the state of New York and also with as much vigor as he did as the Commissioner of the Department of Transportation and also as a member of this body.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator

Cook.

SENATOR COOK: Mr. President, Senator/Commissioner Daly and I were in a class of 36 people, I believe, who entered the Assembly at the same time, 24 of them at the time having been Republicans. I think that Senator Volker and I may be the only remaining -- the people who are still remaining in the Legislature.

John, if you expect I'm going to say nice things about you again every time you get confirmed to something, I'm just not going to go through it.

Mr. President, I would ask you to go back and engross into the record everything that I said the last time he was confirmed and take that as all the compliments that I would normally give.

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: Mr. President, we've had accolades from the far west and a little more to the center of the state also and since I represent a constituency that touches the southern -- most southern part of the state

of New York, I want to emphasize and stress the fact that this is not parochialism that dictates this, I have to admit friendship but also a tribute to a colleague that I remember so well when he was with us and spoke so eloquently and knowledgeably of all of the public issues that we were addressing.

So anyone who has known him, no matter where they come from in the state of New York and beyond, more than delighted and pleased to see this marvelous, splendid public servant before us, and I certainly want to join in asking for the confirmation of his nomination.

ACTING PRESIDENT MEIER: Senator Waldon.

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

When I returned to elective office and became a member of the Senate, one of the first persons I got to know on a very positive and personal basis was John Daly and since that time it has been one of the warmest personal relationships I have had not just here in the Senate but in my entire elective office.

I guess part of the reason for

that is that there's not such a dissimilar background between John and I. He was a ball player and the older we become, John, you know the greater ball players we were in our youth.

He also went to a school that has outstanding credentials in the city of New York, Regis High School and only one of the kids who grew up with me was smart enough to get into that school and that speaks to his acumen, but the thing that I love the most about John is he's regular people. He's a good guy. He keeps his word. He's a friend. He doesn't let politics interfere with the ability of people to relate to each other.

And so I rise with the other giants in this arena, in this chamber to second his nomination and to praise the Governor on again doing the right thing.

I know of no one who's a better person to serve the people of the state of New York and no one who to me is a dearer friend.

John, all the best.

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: Thank you, Mr.

President.

Mr. President, when John Daly was elected to the Assembly and I heard about it, I had nice things to say about it and when he was elected to the Senate, I thought that was terrific and I had some nice things to say about it and when he was confirmed for Commissioner of Transportation, it was a pleasure to second that nomination and to say nice things about John Daly. He left that and he lobbied for us in the ISTEA issue and I could only say nice things about John and, John, I want you to know that it will be an honor to second your confirmation and say nice things about you constantly until you find a job you like.

The fact of the matter is that in undertaking this new job, everybody has noticed that John is still going to retain certain other commitments and when you were talking at the committee meeting about energy, energy, John, you're the one who's going to need the energy to do all of the things that you're going to be assigned, but I'm delighted that if the Governor had to pick one person to give all of this responsibility to, he's giving it to John Daly.

You know, we come up here as Republicans or Democrats or whatever, but every once in a while somebody reaches a position where they're not a Republican anymore. You're part of all of us, John, and your warmth, your friendship, your decency just overwhelms most of us and I want to wish you the very best, and I want to congratulate the Governor for knowing what all of us know, and that is that you are really one of the most talented people in this state.

Good luck.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I don't represent the district that John lives in. I didn't know him when he was in the Assembly. I didn't know him when he was a state Senator. I know his replacement. We were elected in the same class. John, come on back. I'm only kidding. I'm only kidding.

I met John when he was Commissioner of the DOT and that's not an easy job and many times we in the districts come to

the commissioner and we make requests that are somewhat outrageous and the commissioner sometimes has to tell you no, a painful task on both ends.

John always found a way to say yes graciously and make you feel that you did it and say no and take all the blame on himself, which made it easier on the elected official in the district.

He was a great commissioner. He represented this state well in the ISTEA negotiations and what's coming back to the state from the federal government is no small way accountable to his actions and his good work.

John is a good person, a good friend to all of us here. He's one of the Governor's finest appointees, and I'm proud to and pleased to stand up and speak on his behalf. There's the old adage that nice guys finish last. It's good to know that not in this case.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President.

I think Senator Gold had indicated that John Daly would go on until he found a job that he liked.

I would say to you that the PSC, other than being in the state Legislature, is that very position that he will not only like but bring his many, many years of experience to that position and as I said in the Finance Committee, probably of any nominee or any person to serve on the PSC, John Daly will go without needing a single day of training. He will hit the pavement running.

John, you have excelled in every position you have been at, whether it was in the Assembly, serving in this body, being Commissioner of Transportation or bringing back the dollars under the -- the ISTEA dollars for New York State.

On a personal note, I thank you publicly for playing cupid that brought my wife and I together and that probably was one of your best accomplishments as far as I'm concerned.

Good luck to you.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Thank you, Mr. President.

Whether we call you Senator Daly or commissioner or friend, we have a lot of titles for our colleague, John Daly, and I would say ditto to all of the comments that my colleagues have made but there's something very special that I think I might suggest at this moment and it was said by, of all strange persons, a Supreme Court judge who is not one I know terribly well but one I see occasionally and his comment was this, that being on the bench, it was wonderful to have served in the Senate because he knew, or he thought he knew what they meant when they sent things through, quote-unquote, and I think that happens in a lot of places in government, and I think as John Daly proceeds in this new era of his wonderful and outstanding career, he will know what, quote, "they" meant when it came through. He will have some idea of legislative intent, which unfortunately does not always come through and in the role you're about to assume is extraordinarily important.

So as we all wish you Godspeed

and the wind at your back and all those good Irish sayings, John, help them find out and try to figure out what we mean over here and you can do that better than anyone.

Good luck.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: I also rise to endorse the nomination of my good friend, Senator John Daly, to his new position on the PSC.

When he was first nominated to be Transportation Commissioner, I felt chagrined by that because I didn't want to lose him from this chamber. He was a stalwart, stand-up reformer, crusader and he always had a good argument and many times his arguments prevailed and his support was certainly helpful to many of us getting our legislation through. So I miss you, John, but I was happy to see the job you did at Transportation, more happy to see you go down and get that ISTEA money, and now I think more than ever a man of your caliber is certainly needed on the PSC because now you have an entirely new crusade to embark upon or to join,

which is getting us to the 21st Century, competitive environment, unregulated environment, see that people are well served and these utilities perform adequately for the public.

John, you're going to do a great job there as you did in every other position. Godspeed and good luck to you, John. We have every confidence in your capabilities and your accomplishments which we'll soon hear about.

Thank you.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I rise to wish my Irish buddy good luck. You know, John Daly has served in so many facets of this government. In every one of them he did an outstanding job, but I do want to just emphasize something that several people have alluded to, his most recent job.

When he was sent to Washington to try to attack a real dismal situation in ISTEA, he not only got us restored, he brought home all of the bacon. It was tremendous the job that

you did for New York State, John, in your last function. As commissioner, as Senator, as Assemblyman, I think it's evident how everyone has spoken about you and the love and respect that you're held in, and I know that you're very excited about going on to the PSC because this is an area that you have always been interested in, but you know so many of the areas that you've worked in, so many facets of it, from housing to every area that you have been involved in in the Legislature, you've done an outstanding job.

We're very, very proud of you. You can see that your replacement is even proud of you and we don't want you back necessarily because the Irish legislators have never been the same without you. They've never had a chorus or anything since you've left, but we're still looking for you to play the spoons when the Irish legislators meet.

All the best to you, John, and good luck and good health.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: I too rise

to second the nomination of John Daly. I'm tickled for John. I think other than president of NYRA, there's no job that John would rather have than this one.

I think that John will do a great job. He's always been interested in energy. As Senator Volker said in the committee meeting, due to him being in the hospital, John passed the biggest energy bill during the time when he was here, and I think that John is just going to do a superb job as good as he did lobbying in Washington which I was more than capable at.

I think that it's interesting that John will do this. We're happy in Western New York because we have somebody that knows our problems with energy and will have a good ear for us when we come to him with them and talk about all the energy we need to keep the plants there that we have.

So that makes this appointment all the more important to us in Western New York now and, John, I have to admit, I enjoyed working with you when you were a Senator. I especially enjoyed working with you when you were the chairman of the Hazardous and Toxic

Waste Commission, but unfortunately I think that you and I carry that commission over when we make our selections in August.

Congratulations, John.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, I guess I have to be a little careful what I say here because I probably know John Daly better than just about anyone.

As Charlie Cook said, we all came together. Daly and I both -- I know it's probably hard for you to believe, but we were young and kind of crazy guys in a way. We both had primaries. We both -- in fact, both of us had what I call double primaries, Republican and Conservative primaries. In all honesty, I don't think too many people in Western New York gave either one of us a very good chance to win. I was supposed to lose because I was so late coming into the process. John was supposed to lose because he actually came from the outside, ran a primary against an incumbent, but fortunately we both won. We became very close friends obviously and, in fact, when John got

the call from the Governor, I think I was one of the first people that he called to tell me that he was being named to the Department of Transportation, and I have to admit to you it was -- the two of us talked for about five minutes because much I think as John obviously relished a challenge, we both realized that it was the end of in a sense an era for both of us because we had been so close over the years and now John was going on to other things.

Let me just say that -- I'm not going to go on in detail except I will tell you one story which I probably shouldn't tell you, but I will tell it anyways about John. You have to realize that John followed me a little bit later. I came in '75. I think it was 1976, I think, that John came to the Senate, if I can't remember -- it was '78. I'm sorry. So John had a little more practice in the Minority in the Assembly and those of us that know John know that he's never been shy about expressing his opinions.

He came over to the Senate here, was here a couple years and he came into the Senate one day and John was up debating as he

had a habit of doing and Warren Anderson, who was then the Majority Leader, walked over to me and whispered in my ear. So I went over to John and he was standing there debating and he looked over at me next to him and he stopped for a second and he said, What's going on, and I said the Majority Leader just asked me to tell you to remind you that you are now in the Majority. You are not in the Minority anymore and you don't have to speak on every bill.

John looked at me, laughed and said, I think I just got a message that it was time for me not to speak anymore and he sat down and that's a true little story because one thing about John -- and we kid ourselves about war, because I always used to tell John that he literally wasn't happy unless he was at war. He had an issue or something that was going on, something he felt so strongly about that had to be done, whether it was pension reform, energy changes, housing, whatever it was, John launched into it big time, and let me just finish by saying something. Unfortunately, in this time when we don't want to say good things -- I mean, we have a media particularly in this town that

is a bad news media. I don't think people really realize what this gentleman up there just accomplished in Washington.

He went to Washington on the ISTEA issues. The situation in Washington was very bad for New York and I won't get into all the details of why. We are a state like few other states and we are a big transit state as well as a big highway state and in Washington the way they work it is those are sort of two separate entities and they're part of ISTEA.

The other states had ganged up against us. What they were trying to do to us is cut our transit money and cut our highway money but in any case what they were trying to do is cut one or the other for sure and the story out of Washington was that we were virtually doomed. It was John Daly and the people in Washington were telling me as this was going on what a tremendous job he was doing of organizing and trying to make sure we got our just due.

The result of his efforts was that New York ended up not only getting the same amount of money we had in the past from ISTEA,

we got more money both in transit and in highway money. The people of this state probably will never know how much that is going to save us in taxation, in highways, in bridges done, in transit fares and things of that nature. It's unfortunate, as I say, I think that people really don't realize it, but he did a super job. I have no doubt in an era in the PSC when enormous changes are coming that John Daly will be one of the leaders in making sure that this state's ratepayers are properly protected.

My best to you as always, John. Good luck.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Mr. President, I rise to second the nomination but also to join in a celebration. Unfortunately, recently we have considered the lives of colleagues who have left this house, when they have passed from our ranks. Today we have the opportunity to consider the life of someone who is very much with us but nonetheless as much of a giant as the other men who served here.

John Daly quite simply put is a

hero. He is someone who has served in every portion of this government and has done terrific things. He is a legislator above all expectations. He is an administrator with a heart and compassion. He is a friend to all who have ever served with him and when I consider on occasion I will go before a group at an Eagle Scout and talk about leadership and the qualities of leadership, the greatest thing that John Daly provides is that he is a role model and to those children who are up in the gallery today, if you look across this Senate chamber and you see that man standing there, that is a public servant in the best sense of the word and for that we owe you a debt, John, and I know that you're going to continue to distinguish not only yourself but this fine body and this state.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Mr. President, John Daly is one of the most amiable people that I have ever met in politics or in public office but anybody who mistakes his amiability, which is very genuine and sincere, for lack of

interest or lack of concern or lack of ability makes a very grave mistake because John has shown that you can be a nice guy and also be an incredibly effective public servant. He certainly proved that. I served with John in the Assembly. I served with him in the Senate. We had many a good debate. He's a great debater, a tough foe, but afterwards one of the nicest people that you could ever meet.

John, I think really is a model for us to avoid the partisanship which sometimes crops up and the pettiness which sometimes crops up. Nobody can ever reply -- apply the term "partisan" or "petty" to John Daly.

John is committed to dealing with issues on the merits and he's also committed to dealing with people on a very human, on a very personal basis, and I think that's what makes him so effective.

John's taken on some tough jobs, DOT, representing the state in negotiations down in Washington and now taking on the very, very tough job of the Public Service Commission.

I know as in all the other jobs that he's had, he's going to give it his all.

He's going to bring to it that special John Daly quality, decency and competence.

I look forward, John, to working with you, writing you some -- not that much longer because I'm leaving, but I hope I have a chance to write you some letters complaining about the Public Service Commission and -- but I know that you're going to be working there for all the people of the state of New York.

God bless you, John.

ACTING PRESIDENT MEIER: Senator Goodman.

SENATOR GOODMAN: Mr. President, John Daly is a very old and dear personal friend with whom I had the pleasure to serve in the Legislature for many seasons, but I think I learned of his extraordinary effectiveness as an administrator when he assumed the responsibilities of his last position.

Let me give you a for instance. There has been a very vexatious problem on the East Side of Manhattan which has caused grave traffic congestion and air pollution known as the 48th Street ramp debacle. The 48th Street ramp is a means of accessing the East Side Drive

in Manhattan from 48th Street to head north on that drive and the ramp was closed long before John assumed his responsibilities in his previous position.

Unfortunately, due to bureaucratic stasis in the prior administration and in general, there has been lengthy delay up to ten years in the completion of the revival of that ramp so that cars could be diverted from the East Side of Manhattan and go directly up the highway provided for their egress from Manhattan.

It was only when John Daly came onto the scene, Mr. President, that it was possible for this ramp to be rapidly constructed and at the moment we're expecting a completion date by the end of year, which is a truncated version of what would otherwise have occurred and it might have taken two or three additional years to get the job done.

This says to me that this is a man of enormous administrative skill and potency in the ability to move the bureaucracy in constructive ways and, therefore, Mr. President, I give you this as further evidence of the fact

that he will be a superb member of the Public Service Commission and he'll do that job equally and may well be better than he's done before.

I admire him. I salute him and I urge his prompt approval by this body.

ACTING PRESIDENT MEIER: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

With due deference to my colleague, I would like to have John Daly return to the Senate. I think John did some of his finest work in this chamber and would certainly love to serve with him again but John has gone on and in each of those assignments has performed exceptionally well for the people of the state of New York and if there's a word that describes John Daly it's tenacious, whether he's negotiating housing legislation, transportation legislation in Washington or representing his constituency on this floor.

As an individual who represents an area with an awful lot invested in the utility and energy business right now, I look forward to John Daly joining the Public Service

Commission. He will bring that tenacity to the watchdog role that he's assuming but he will also bring a high degree of common sense and integrity.

I don't think the Governor could make a better nomination or appointment to the Public Service Commission and I'm more than proud to second that nomination and join his confirmation this morning.

ACTING PRESIDENT MEIER: Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

I'm standing to add my comments to the ongoing tribute to John Daly today. It's a tribute that, as I can recall, began a couple years ago, Senator Maziarz, before you officially joined us when then Senator Maziarz was appointed Commissioner to the Department of Transportation, it's unfortunate we're losing the children because, John, as you know, our history goes back quite some time and quite some distance and Senator Balboni reminded me that my first exposure to the New York State Senate was up in the gallery as a legislative intern in a

three-day session for high school students at that time Senator Daly put together and I don't know if he's all that pleased with the fact that I often attribute my Senatorial career to an extent on John Daly's exposure to me at least with respect to the Senate and its operations, but really as a member now, I want to congratulate you for that program because it took a lot of young people and really gave them a great exposure to this chamber and what we do here as Senators.

Also with respect to Senator Leichter's comments, tough jobs. Not too long ago, Senator/Commissioner/Mr. endless titles, John Daly, you and I had lunch probably about maybe a year or so ago on a very controversial issue in Western New York, the issue of what approach we were going to take as a community to building a new bridge, the Peace Bridge, versus this Super Span concept and, John, your leadership on that issue was tremendous. You took a bipartisan approach. You really brought a very divergent group of folks together here on this issue and as a result he really had elevated the debate when it comes to Super Span,

and I think really adding significantly to what hopefully is going to be a great project for the next millennium in Western New York, and I really believe we owe a debt of gratitude to you for that.

And finally, I want to conclude by saying that John Daly to the west is an import. Senator Waldon had mentioned where your roots are, and I want to say personally and on behalf of Western New York, that we're quite happy that you decided to take that job with Kimberly-Clark all those years ago and come and join us in Western New York because you have done a great job. You have been a great resource for us, and I wish you the best in your new role.

Thank you.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

I came to the Senate in 1986. I met Senator Daly and he told me that at the time as chair of the Housing Committee that he had been of assistance to my predecessor, the very

admired late Senator Bogues, and that he had come down and he had a housing forum in the district and he said, "I'll also do it for you," and I said, "Well, you probably have a lot of Senate districts you have to go to before you get a chance to come back and do our district again," and he said, "Well, if it's an important issue, I'll do it as soon as possible," and it was a very important issue at that particular time. That was a time when 72 percent of the public-owned property in Harlem was abandoned property and just walking through our neighborhood, you could see the burned out and abandoned blight that was more synonymous with the South Bronx and Ocean Hill-Brownsville from 20 years before, and so Senator Daly came to my district in Harlem and held this housing forum. Mr. Holland was his counsel and he did this in my first year of service, which was of extreme assistance to me.

Ever since this time I can't agree more with Senator Wright about this gentleman's tenaciousness and his display of integrity. He always offered me friendship in the time he was here and Senator Leichter put it

very aptly when he said what a nice person he could be and at the same time be an effective public servant, and I have a favorite story about him and I would love to tell it.

I was coming to work one day. The temperature was minus eight degrees or something. I was running as fast as I could. I was running down -- I was running down State Street and running up the steps by the LOB and I didn't realize that there was a new rule that they had -- would only shovel the main path for snow removal and they actually had a chain fence stopping you from using that part. Of course, I didn't see the chain fence and at all full speed I went over the chain and somehow Senator Daly came down and caught me before I fell and probably would have severely injured myself, and I thought that the -- I thought that the most important thing about that, that demonstrated what a nice person he was, that he would run down there and risk injury to himself to catch me, but to show you what an effective public servant and political leader he was, he actually took a look at the Red Book to see whether or not my district was marginal before he came down

there and still came down there to help me once he determined that the Majority couldn't pick up my seat.

Thank you very much, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I too rise in this seemingly enormous ground swell of kind words for our former colleague, Senator John Daly. Certainly somebody who is perhaps one of the finest representatives of a legislative body, this legislative body or any legislative body regardless of where it might be situated and he inspires great loyalty, and I just want John to know that Lisa Reid, former key employees working this crowd mightily, Senator Nozzolio is on the fence. She brought him in, John. He's going to support you. I was working on Senator Cook. So don't worry, John. You still have that kind of loyalty.

I would like John to know and I would like this body to know that there are few,

if any, people with whom I've served who I hold in higher regard than John Daly. He's been a marvelous legislator, a marvelous Senator, somebody whom we can all learn from and certainly seek to emulate and beyond that he's been an extraordinary public servant.

The Governor has called upon him now seemingly time and again to take on the responsibility of very key and critical positions and in each and every one of those occasions he has done great, great service and great justice for the people of the state of New York.

John, you're perhaps among the best that we have to offer. Keep doing those good things that you've done for us always and may you always do them in good health.

God bless.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I think everything has been said to John and John knows I love him and -- but so does everybody else love him and he -- John is just a very -- a very good man and a very good man is hard to

find today.

So, John, thank you for being Mr. Everything here in state government.

ACTING PRESIDENT MEIER: The question is on the confirmation of John B. Daly, of Lewiston, as a member of the Public Service Commission. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

SENATOR GOLD: Slow roll call. Forget it.

ACTING PRESIDENT MEIER: Senator Daly, with the great respect and affection of the Senate, you are confirmed as a member of the Public Service Commission.

(Applause).

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could just go to motions and resolutions and have Resolution Number 3961, by Senator Libous, read in its entirety and move for its immediate

adoption.

ACTING PRESIDENT MEIER:

Secretary will read.

THE SECRETARY: By Senator Libous, Legislative Resolution honoring Daniel C. Kosick for his accomplishments as a member of the United States Disabled Ski Team.

WHEREAS, it is the sense of this legislative body that individuals with disabilities merit our recognition as they recognize goals that serve to lift barriers and expand choices for all persons with disabilities;

It is the intent of this legislative body to acknowledge individuals with disabilities who have risen above those conditions which might otherwise hinder a purposeful life of achievement and fulfillment demonstrating that the barriers to success for the disabled come more commonly from prevailing attitudes and opportunities than the physical limitations of a disability;

Daniel Kosick was born April 16, 1977. He became disabled at the age of 15 when he lost his right leg above the knee to cancer;

As a member of the United States Disabled Ski Team, Daniel Kosick trains all year throughout the country. He trains all year long on a bike or skis. This dedication has made him well known -

ACTING PRESIDENT MEIER: One second. Can we have some quiet in the chamber, please. Staff members take your seats, quiet in the chamber.

Secretary will continue to read the resolution.

THE SECRETARY: WHEREAS, in disabled racing where there are classes, Daniel Kosick's class is the largest and most competitive of 12 classes. His class is LW2, which is primarily athletes who race on one ski. The success in ski racing has brought him to the top of his class and he is recognized as one of the best disabled racers in the world;

Daniel Kosick's successes include major disabled ski races such as the 1998 Winter Paralympics, Nagano, Japan, fourth place in the Downhill; 1998 Canadian Nationals, second place in the Super-G, Giant Slalom and Slalom; 1998 United States Disabled Alpine Championships,

third place in the Super-G; 1998, World Cup Finals, third place in the Super-G, and the 1998 Eastern Championships, first place in the Slalom;

Daniel Kosick's goal as a member of the United States Disabled Ski Team is to successfully represent this country for many years to come;

This legislative body is proud to publicly proclaim and commend Daniel Kosick for his inspiration to others;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to honor Daniel Kosick, recognizing his courageous endeavors, outstanding achievements, and unparalleled contributions on behalf of the disabled and their cause for increased awareness and opportunity; and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to Daniel Kosick.

ACTING PRESIDENT MEIER: Senator Libous.

SENATOR LIBOUS: Thank you, Mr.

President.

It is indeed an honor for me to stand and speak on this resolution. There are certain times in this position when we can really talk about something or someone that we are very, very proud of, and indeed Daniel Kosick is that type of individual.

Mr. President, as was mentioned, Dan, at a very young age, at the age of 15, learned that he had cancer and had such great pain in his leg, after several operations and many trips over the years to the doctors, learned that he would -- he would lose his leg. After six to eight months of chemotherapy and all the other treatment that goes along, Danny didn't give up. He didn't quit. He believed that there were opportunities out there for him, just like anyone else, and he went out to prove that those opportunities are available.

Mr. President, he began working out, and this morning he was on my television program, and we talked a little bit about it and he said that what he started doing is, he just started working with an instructor and started skiing a little bit because Danny was a very

good athlete before his operation. He worked real hard because he believed that he had an opportunity not only to prove himself, but to set an example for others.

I think setting an example for all of us is something that he has accomplished and will continue to accomplish. If you look at his accomplishments, you know, in 1998 he was in the Canadian National. In 1998 he was on the U.S. Disabled Ski Team, the Alpine Championship. In 1998 he competed in the World Cup Finals. In 1998 he was in the Eastern Championship and he received first place honors in the Slalom. He then went on to serve in Japan, where he came in fourth and he served our country and did us very, very proud.

The U.S. Disabled Ski Team, Mr. President, is made up of a select group of individuals from throughout the country, of which Danny serves on and we believe at this point he is one or the only one that serves from New York State. He trains year round. He works extremely hard. He does bicycling. He does a lot of training. He will be leaving us very soon, in July, to a three-week camp where he

will be preparing for the upcoming events.

I think what's extremely important here is that, as we honor people in this chamber on a regular basis, there are a lot of extraordinary people, this young man who faced a very difficult time at the age of 15, went on from that adversity and proved that he, just like anyone else with a disability, can achieve and accomplish great things.

He said to me with a big smile earlier today that he wants to continue to compete, and he wants to continue to represent our country, and he wants people to be proud of his accomplishments.

Danny joins us today in the Senate chamber and, Mr. President, as I am honored to move this resolution, I will ask Danny to stand if he would, wearing his jacket from Nagano, Japan, and Danny, we are all extremely proud of you. You serve as a symbol to each and every one of us, and you give us that fortitude, that self-esteem and self respect that makes us want to accomplish greater things as you continue in your life to accomplish great, great things.

ACTING PRESIDENT MEIER: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I too rise this morning to recognize Daniel's achievements. I've had occasion to be in this chamber when we've recognized the New York Yankees as World champions, and we've recognized the accomplishments of the Buffalo Bills. We've recognized their leader, Jim Kelly. In turn, I'm very pleased to see that we're recognizing a young man of Daniel's caliber this morning, because he's not only a member of the ski team but also he's an individual champion, and if you look at the challenges that he has faced, he has taken those challenges and created opportunities and I think that speaks volumes for this young man, his ability, his fortitude, his willingness to put and go beyond.

I'm very pleased that we have the opportunity to recognize him this morning. Want to wish him every success in his future endeavors and very pleased to see the state Senate recognize him this morning.

Thank you.

ACTING PRESIDENT MEIER: Question is on the resolution. No. I'm sorry. Senator Stachowski.

SENATOR STACHOWSKI: I really don't mean to hold things up, but I would be remiss if I didn't stand also to congratulate Dan and commend Senator Libous on his resolution.

As somebody that happened to bring the Bills and Jim Kelly in and has an appreciation for athletics, I think Dan's story is truly remarkable. How many people do we know that can face a trial like this and instead of feeling sorry for themselves and sitting back and say, Why would this happen to me, he worked all that much harder to accomplish all the things that he's accomplished and people like Dan are what we really consider truly role models and the kind of people that should be held up as examples and should be publicly hailed so that maybe the young kids in different parts of New York State will see all the misfortune that faced Dan and how he took it and rose above it, and so I would be remiss if I too

didn't get up and congratulate him and commend Senator Libous on his resolution.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the resolution?

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.

Danny Kosick is with us today in the chamber. He's accompanied in the gallery by his father, Dan, his grandfather, Dan Kosick, and his friend Tracy and also his girl friend Laurie.

Danny, we extend to you today the greetings of the Senate. We're very proud and pleased to have you here. We congratulate you on your achievement, and I'm sorry, Senator Libous forgot to put your grandmother's name on the list, and she can deal with him later.

But welcome to the Senate and congratulations, Dan.

(Applause)

Senator Skelos.

SENATOR SKELOS: Could we return to reports of standing committees and to the Finance report.

ACTING PRESIDENT MEIER: Reports of standing committees. The Secretary will read.

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

As a member of the Battery Park City Authority, Charles J. Urstadt, of Bronxville.

ACTING PRESIDENT MEIER: Question is on the confirmation of Charles J. Urstadt as a member of the Battery Park City Authority. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed. Secretary will read.

THE SECRETARY: As a trustee of the Power Authority of the state of New York, Gerard D. Dimarco, of Rochester.

ACTING PRESIDENT MEIER: Question is on the confirmation of Gerard D. Dimarco as a trustee of the Power Authority of the state of New York. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed. Secretary will read.

THE SECRETARY: As a member of the New York State Bridge Authority, Gladys Goesch, of Germantown.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Move the confirmation.

ACTING PRESIDENT MEIER: Question is on the confirmation of Gladys Goesch as a member of the New York State Bridge Authority. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed.

Secretary will read.

THE SECRETARY: As members of the Niagara Frontier Transportation Authority, John D. Hoffman, of Clarence, and Stephen G. Juhasz, of Amherst.

SENATOR SKELOS: Move confirmation.

ACTING PRESIDENT MEIER: Question is on the nominations of John D. Hoffman and Stephen G. Juhasz as members of the Niagara Frontier Transportation Authority.

Senator Stachowski.

SENATOR STACHOWSKI: Explain my vote.

Mr. President, I have nothing personal against either Mr. Hoffmann or Mr. Juhasz. I imagine both gentlemen are very capable. However, we have still yet to fill a position on the Niagara Frontier Transportation Authority that was formerly held by a union member, so that there would be a voice of labor on the board, and we continue to put business people on and not that business people aren't capable, but we think to have a well-rounded board and have the interest of the whole

community, basically a blue collar community, we are remiss not to have appointed yet someone to replace the labor seat that was filled by another businessman.

So because of that reason, I vote no on both Mr. Hoffman and Mr. John -- Stephen Juhasz rather.

ACTING PRESIDENT MEIER: So noted.

Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

Consistent with Senator Stachowski's comments, I too rise to vote against these two nominations and believe that, as was stated, we need diversity in a very diverse community as we have in western New York with the very diverse organization, the Niagara Frontier Transportation Authority, an authority that covers two counties, several cities, towns and villages and several populations.

I think it's really poor judgment, quite frankly, on behalf of the Governor not to be recognizing labor with respect to its important role in an authority

such as Niagara Frontier Transportation Authority.

For those reasons, I too stand to vote no on these nominations.

Thank you.

ACTING PRESIDENT MEIER: So noted.

Question is on the confirmation of the nominations. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed. Secretary will read.

THE SECRETARY: Members of the New York Convention Center Operating Corporation Board of Directors, Edward P. Kane, of Rockville Centre and Gary J. Lavine, of Fayetteville.

SENATOR SKELOS: Move the nominations.

ACTING PRESIDENT MEIER: Question is on the confirmation of Edward P. Kane and Gary J. Lavine as members of the New York Convention Center Operating Corporation Board of

Directors.

Senator Skelos -- All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominations are confirmed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if I could just interrupt. There will be an immediate meeting of the Labor Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Labor Committee in the Majority Conference Room.

Secretary will continue to read.

THE SECRETARY: As a member of the State Racing Commission, Robert W. Lee, of Gansevoort.

SENATOR SKELOS: Move the confirmation.

ACTING PRESIDENT MEIER: Question of is on the confirmation of Robert W. Lee as a member of the State Racing Commission. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed.

Secretary will read.

THE SECRETARY: As a director of the Municipal Assistance Corporation for the city of New York, Alfred Kingon, of New York City.

SENATOR SKELOS: Move confirmation.

ACTING PRESIDENT MEIER: Question is on the confirmation of Alfred Kingon as a member of the Municipal Assistance Corporation for the city of New York. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed.

Secretary will read.

THE SECRETARY: As a member of the New York State Hospital Review and Planning Council, Paul F. Macielak, of Saratoga Springs.

SENATOR SKELOS: Move the

confirmation.

ACTING PRESIDENT MEIER: Question is on the confirmation of Paul F. Macielak as a member of the New York State Hospital Review and Planning Council. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed. Secretary will read.

THE SECRETARY: As a member of the State Fire Prevention and Building Code Council, Robert Hankin, of Poughkeepsie.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Move the confirmation.

ACTING PRESIDENT MEIER: Question is on the confirmation of Robert Hankin as a member of the State Fire Prevention and Building Code Council. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed.

Secretary will read.

THE SECRETARY: As a member of the Board of Visitors of the Capital District Developmental Disabilities Services Office, Thomas W. O'Connor, of Delmar.

SENATOR SKELOS: Move the confirmation.

ACTING PRESIDENT MEIER: Question is on the confirmation of Thomas W. O'Connor as a member of the Board of Visitors of the Capital District Developmental Disabilities Services Offices. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed.

Secretary will continue to read.

SENATOR SKELOS: Mr. President, are there any reports of select committees?

ACTING PRESIDENT MEIER: Secretary will go to the order of reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

SENATOR SKELOS: Mr. President, I move to adopt the Resolution -- are there any substitutions to be made? Please make the substitutions.

ACTING PRESIDENT MEIER: Secretary will read the substitutions.

THE SECRETARY: On page 5, Senator Velella moves to discharge from the Committee on Rules Assembly Bill 1829-A, and substitute it for the identical Senate bill 1189-A.

On page 30, Senator Kuhl moves to discharge from the Committee on Rules Assembly Print 4833-B, and substitute it for the identical Senate Print 2846-B.

On page 43, Senator LaValle moves to discharge from the Committee on Rules Assembly bill 8637-B, and substitute it for the identical Senate bill 5780-A.

On page 43, Senator Holland moves to discharge from the Committee on Rules Assembly Print 5661, and substitute it for the

identical Senate bill 6036.

On page 43, Senator Seward moves to discharge from the Committee on Rules Assembly bill 9642, and substitute it for the identical Senate bill 6391.

On page 44, Senator Leibell moves to discharge from the Committee Rules Assembly bill 10297, and substitute it for the identical Senate bill 6830.

On page 44, Senator Leibell moves to discharge from the Committee on Rules Assembly bill 10298, and substitute it for the identical Senate bill 6831.

On page 44, Senator Leibell moves to discharge from the Committee on Rules Assembly bill 9145, and substitute it for the identical Senate bill 7288.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Are there any motions on the floor?

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President,

I have a number of motions I wish to make.

On behalf of Senator Velella, please place a sponsor's star on Calendar Number 1376.

ACTING PRESIDENT MEIER: Sponsor's star will be placed on Calendar 1376.

SENATOR NOZZOLIO: And on behalf of Senator Larkin, please call up Print Number 3840, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: By Senator Larkin, Senate Print 3840, an act to amend Chapter 698 of the Laws of 1991.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator Larkin, I now offer the following amendments.

ACTING PRESIDENT MEIER: Amendments received.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on page 29, I offer the following amendments to Calendar Number 921, Senate Print Number 5508, on behalf of Senator Marchi, and ask the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: Amendments are received, and the bill will retain its place on the Third Reading Calendar.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on page 29, I offer the following amendments to Calendar 920, Senate print 1893-B, and ask that said bill retain its place on the Third Reading Calendar, on behalf of Senator Maltese.

ACTING PRESIDENT MEIER: Amendments received, and the bill will retain its place on the Third Reading Calendar.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President,

on page 11, I offer the following amendments to Calendar Number 356, Senate Print 4597-A, and ask that the said bill retain its place, on the Third Reading Calendar on behalf of Senator Velella.

ACTING PRESIDENT MEIER: Amendments are received, and the bill will retain its place on the Third Reading Calendar.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on page 42, I offer the following amendments to Calendar Number 1303, Senate Print 7491, and ask that said bill retain its place on the Third Reading Calendar, on behalf of Senator Stafford.

ACTING PRESIDENT MEIER: Amendments received, and the bill will retain its place on the Third Reading Calendar.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President.

Yesterday I was out of the chamber when two votes were taken, particularly on Calendar Number 40 and also on 1346. I would like the record to reflect that had I been in

the chamber, that I would have cast my vote in the negative on both bills.

ACTING PRESIDENT MEIER: The record will so reflect.

SENATOR KUHL: Thank you.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, at this time could we adopt the Resolution Calendar with the exception of Resolutions 3891 and 3961.

ACTING PRESIDENT MEIER: All in favor of adopting the Resolution Calendar with the exception of Resolutions 3891 and 3961, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Resolution Calendar is adopted.

SENATOR SKELOS: Mr. President, 3961 was adopted. May we please take up Resolution 3891 by Senator Lachman, which was previously adopted on June 9th and have the title read.

ACTING PRESIDENT MEIER:

Secretary will read the title.

THE SECRETARY: By Senator Lachman, Legislative Resolution honoring the life and accomplishments of Rabbi Moshe Sherer.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: I rise, Mr. President, to say a few words about the life of Rabbi Sherer. I believe that the resolution is at the desk. Could you perhaps summarize the resolution, a few paragraphs?

ACTING PRESIDENT MEIER: Senator, the title was requested.

SENATOR LACHMAN: All right. That will be sufficient.

A month ago I attended a funeral at which 20,000 people were present. It was the first time in my life that I ever attended a funeral where we had over 20,000 people present. Besides the Vice-President, who paid his respects prior to the funeral, the Governor, the Mayor and numerous public officials, there were people -- average people, who took off from work to attend the funeral of Rabbi Moshe

Sherer, a name that is not always familiar with lay people in New York City or around the country.

Why do so many people come to pay their respects to such extraordinary individuals? Rabbi Moshe Sherer was a man of tremendous integrity, charisma, dignity, intelligence, and eloquence. 55 years ago he took a small organization, Agudith Israel, and brought it to a pinnacle of where it is today, the largest Orthodox Jewish organization in the United States of America.

He met with presidents and prime ministers, heads of state, and yet when one of his friends entered his office and one day saw on one wall pictures of John F. Kennedy, Robert F. Kennedy, Lyndon Johnson, George Bush, Gerald Ford, Ronald Reagan, all inscribed to Rabbi Sherer, he said to his guest, to his visitor, You're looking at the wrong wall. Look at the opposite wall for the important people, and the opposite wall, the individual knew no one. These were the great philosophers, the great theologians, the great religious thinkers of the 18th, 19th and 20th Century.

Rabbi Sherer was a man who was not a headline hunter. He worked behind the scenes in the most effective manner possible, becoming a bridge builder, bridging together the Jewish community, bringing Christians and Jews together, bringing blacks and whites and Latinos and Asians togetheer, on behalf of a common agenda, and on behalf of common goals. He was a great communicator of his time and, as I've said, he was a giant in his generation.

In the years of World War II, between 1941 and '45 when he was only in his 20s, he led a drive to rescue Jews from Nazi dominated Germany and from Nazi-dominated Europe and after World War II, led a drive to supply food to people in displaced persons camps. In 1965, he became a national figure when he was one of the few national Jewish leaders who supported President Lyndon Baines Johnson's Elementary/Secondary Education Act, and there was a division in the community whether a provision of that act should be supported which was Title I, later Chapter 1, that federal funds should go to economically and educationally deprived children regardless of what schools

they attended, and that is as part of the child benefit theory of the Constitution. This decision was recently upheld, in Felton -- in the Felton case, and is the law of the land once again.

He also was involved in developing other operations, a national accreditation body, the seminary, the Yeshivas for post-secondary school work. He was involved in the creation of the Southern Brooklyn Community Organization, affordable housing for all people in Southern Brooklyn, and last September, there was an international event that reached the first page of the New York Times when over 75,000 people, almost 100,000 people gathered around the world in Madison Square Garden in the Nassau Coliseum, and in the 50 states of the Union, in Asia, in Europe, in the Middle East, to celebrate and to experience the celebration of completing the Talmud and to start reading the Talmud again.

This was a major spiritual experience that was recognized by all. Rabbi Sherer was a mentor, a teacher, a leader to thousands of people, and those of us who have

survived him can best remember him by attempting to achieve those goals and those objectives that he sought in his lifetime.

Thank you.

ACTING PRESIDENT MEIER: The resolution was previously adopted.

Senator Balboni.

SENATOR BALBONI: Thank you, yes.

Mr. President, at this time could we please take up the non-controversial calendar.

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

THE SECRETARY: Calendar Number 56, by Senator Skelos, Senate Print 308-B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 213, by Senator Kuhl, Senate Print 3157-B, an act to amend the Environmental Conservation Law, in relation to use of pesticides.

ACTING PRESIDENT MEIER: Senator Balboni.

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

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

THE SECRETARY: Calendar Number 256, by Senator Johnson, Senate Print 2550-E, an act to amend the Vehicle and Traffic Law, in relation to motor vehicle accident prevention courses.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 120 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Negative on that bill, Calendar Number 256.

ACTING PRESIDENT MEIER: Without objection, Senator Kuhl will be recorded in the negative on Calendar Number 256.

Secretary will continue to read.

THE SECRETARY: Calendar Number 331, by Senator Velella, Senate Print 934, an act to amend the Public Health Law, in relation to requiring.

SENATOR BALBONI: Please lay aside that bill, please, for the day.

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

THE SECRETARY: Calendar Number 335, by Senator LaValle, Senate Print 2657, an act to amend the Public Health Law, in relation to authorizing.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay it

aside.

THE SECRETARY: 378, by Senator Seward, Senate Print 3095-A, an act to amend the Town Law, in relation to qualifications.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 389, by member of the Assembly Sanders, Assembly Print 4442-D, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays one, Senator DeFrancisco recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 390, by member of the Assembly Miller, Assembly Print 8836-A, an act to authorize the payment of transportation aid.

ACTING PRESIDENT MEIER: There is a local finance impact statement at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 431, by Senator LaValle, Senate Print 4741-A, an act to amend Chapter 554 of the Laws of 1996.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 496, by the Assembly Committee on Rules, Assembly Print 8437, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay aside.

THE SECRETARY: Calendar Number 664, by Senator Holland, Senate Print 5989-B, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(he Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 756, by Senator Libous, Senate Print 1919, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 774, by member of the Assembly Weisenberg, Assembly Print 10046-A, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 797, by Senator Spano, Senate Print 7027, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 810, by Senator Saland, Senate Print 3612, an act to amend the Executive Law and the Family Court Act.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect in 90 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 814, by Senator Saland, Senate Print 7302-A, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 833, by Senator -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 854, by member of the Assembly Connelly, Assembly Print 2633, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 871, by Senator Farley, Senate Print 7352-B.

SENATOR BALBONI: Mr. President, could we lay the bill aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 879, by Senator Velella, Senate Print 4417-D, an

act to amend the Insurance Law, in relation to risk-based capital.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR GOLD: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 916, by Senator Marcellino, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 922, by member of the Assembly Sweeney, Assembly Print 9583-E, an act to amend the Public Health

Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 958, Senator Libous moves to discharge from the Committee on Rules Assembly Bill 9367-B and substitute it for the identical Senate bill, 6145-C.

ACTING PRESIDENT MEIER: Substitution ordered. Secretary will read.

THE SECRETARY: Calendar Number 958, by member of the Assembly Warner, Assembly Print 9367-B, an act to authorize the payment of transportation aid.

ACTING PRESIDENT MEIER: There is a local finance impact note at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1011, by Senator Trunzo, Senate Print 5473-B, an act authorizing the town of Islip, county of Suffolk.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: There is a home rule message at the desk. Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1092, by Senator Balboni, Senate Print 7200-A,

an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

Secretary will read a substitution.

THE SECRETARY: In relation to Calendar Number 1092, Senator Balboni moves to discharge from the Committee on Rules Assembly Print 9324-A and substitute it for the identical Senate bill 7200-A.

ACTING PRESIDENT MEIER: Substitution ordered. Secretary will read.

THE SECRETARY: Calendar Number 1092, by Member of the Assembly DiNapoli, Assembly Print 9324-A, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1130, by member of the Assembly Lopez, Assembly Print 10407-A, an act to amend Chapter 915 of the Laws of 1982.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR LEICHTER: Lay aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1195 by Senator Spano, Senate Print 7507-A, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR LEICHTER: Will you hold on. Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1198, by Senator Fuschillo, Senate Print 7546, an act to amend the Vehicle and Traffic Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Seward, Senate Print 7446, an act to amend the Economic Development Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1264, by Senator Johnson, Senate Print 7450-A, an act to amend the Vehicle and Traffic Law, in

relation to cancellation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1282, by Senator Wright, Senate Print 5358-B, an act to amend the County Law.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1353, by Senator Kuhl, Senate Print 2653, an act to amend the Tax Law, in relation to exempting.

ACTING PRESIDENT MEIER: There's a local fiscal impact note at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1354, by Senator Skelos.

SENATOR LEICHTER: Mr. President. Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Is Calendar 1262 still at the desk?

ACTING PRESIDENT MEIER: No, it has left the desk, Senator.

SENATOR LEICHTER: Well, I think they're checking, Senator.

ACTING PRESIDENT MEIER: They've confirmed that it's left the desk, Senator Leichter.

SENATOR LEICHTER: I'm sorry, Mr. President. I'm a little confused.

ACTING PRESIDENT MEIER: Wait a minute. We're going to look again. I'm sorry, Senator Leichter, it is, in fact, at the desk.

SENATOR LEICHTER: It has left the desk?

ACTING PRESIDENT MEIER: It is at the desk.

SENATOR LEICHTER: Oh, it is at the desk.

ACTING PRESIDENT MEIER: It is at the desk.

SENATOR LEICHTER: Well, may I make a motion, please, to reconsider the vote by which that bill was passed.

ACTING PRESIDENT MEIER: Senator Leichter, can we finish the bill that we're on and then return to your motion.

SENATOR LEICHTER: Good. In the

meantime, you'll keep the bill at the desk.

Thank you.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1354, by Senator Skelos, Senate Print 5098-B, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: The last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR BALBONI: Mr. President, I'd like to call an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

Senator Leichter.

SENATOR LEICHTER: Mr. President, would it be appropriate now for me to make my motion to reconsider the vote by which 1262 passed?

ACTING PRESIDENT MEIER: Yes, it would.

SENATOR LEICHTER: Fine. I make that motion.

THE SECRETARY: Calendar Number 1262, by Senator Seward, Senate Print 7446, an act to amend the Economic Development Law.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

SENATOR LEICHTER: Please lay that bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1355, by Senator Goodman, Senate Print 5477-C, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the

last section.

SENATOR DOLLINGER: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside. Lay the bill aside.

THE SECRETARY: Calendar Number 1356, by Senator Smith, Senate Print 5696-A, an act authorizing the city of New York.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1357, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 8637-B, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1358, substituted earlier today, by member of the Assembly McEneny, Assembly Print 5661, an act authorizing and directing the Commissioner of the office of General Services.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1359, by Senator Volker, Senate Print 6200, an act to amend the Erie County Tax Act.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1360, Senator Meier moves to discharge from the Committee on Rules, Assembly Print 9528-A, and substitute it for the identical Senate bill 6311-A.

ACTING PRESIDENT MEIER: Substitution ordered. Secretary will read.

THE SECRETARY: Calendar Number 1360, by member of the Assembly Destito, Assembly Print 9528-A, an act authorizing the city of Utica.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1361, by Senator Holland, Senate Print 6360-A, an act to amend the Social Services law, in relation to extending.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1362, substituted earlier today, Assembly Print 9642, by member of the Assembly Luster, an act to amend Chapter 463 of the Laws of 1965.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1363, by Senator Trunzo, Senate Print 6528, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1364, by Senator Santiago, Senate Print 6638-A,

an act to authorize the city of New York.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1365, by Senator Breslin, Senate Print 6722-A, an act to authorize the city of Cohoes.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1366, by Senator Johnson, Senate Print 6755, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1367, substituted earlier today, by member of the Assembly Matusow, Assembly Print Number 10297, an act to amend the Town Law and the Public Officers Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1368, substituted earlier today, by member of the Assembly Matusow, Assembly Print 10298, an act to amend the Town Law and the Public Officers Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1369, by Senator Wright, Senate Print 6926, an act to amend the General Municipal Law and the General Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1370, by Senator Goodman, Senate Print 7008-A, an act to amend the General Municipal Law, in relation to temporary investments.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

THE SECRETARY: Section 2. This act shall take effect June 30, 1998.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1371, by Senator Skelos, Senate Print 7193-A, an

act to amend Chapter 269 of the Laws of 1979.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1372, substituted earlier today, by member of the Assembly Luster, Assembly Print 9145, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1373, by Senator Saland, Senate Print 7385, an act to authorize the town of LaGrange, in the county of Dutchess.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1375, by Senator Maziarz, Senate Print 7527-A, an act to legalize, validate ratify and confirm.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1377, by Senator Marcellino, Senate Print 7626, an act authorizing the assessor of the county of Nassau.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: I'm sorry, Mr. President. We're going so fast that I occasion ally miss one of these bills.

1376 we just passed?

ACTING PRESIDENT MEIER: 1376 is starred, Senator.

SENATOR LEICHTER: Oh, O.K.

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: Calendar Number 1377, by Senator Marcellino, Senate Print 7626, an act authorizing the assessor of the county of Nassau to accept an application.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Excuse me. In relation to Calendar Number 1377, ayes 58, nays one, Senator Cook recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1378, by Senator Skelos, Senate Print 7627, an act authorizing the assessor of the county of Nassau.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58, nays one, Senator Cook recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1379, by Senator Stafford, Senate Print 7644, an act to amend Chapter 466 of the Laws of 1995.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1380, by Senator Volker, Senate Print 7659, an act to amend the Mental Hygiene Law, the Correction Law and the Criminal Procedure Law.

SENATOR PATERSON: Lay aside.

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT MEIER: Lay

aside.

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

SENATOR BALBONI: Mr. President, can we please take up the controversial calendar.

ACTING PRESIDENT MEIER: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 335, by Senator LaValle, Senate Print 2657, an act to amend the Public Health Law, in relation to authorizing.

SENATOR LEICHTER: Explanation.

SENATOR BALBONI: Mr. President, will you please lay that bill aside temporarily.

ACTING PRESIDENT MEIER: We'll lay the bill aside temporarily and ask the Secretary to proceed.

THE SECRETARY: Calendar Number 496, by the Assembly Committee on Rules, Assembly Print 8437, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 833, by Senator Balboni, Senate Print 4248-B, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR BALBONI: Will you lay the bill aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily. Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 871, Senator Farley moves to discharge from the Committee on Rules Assembly Print 10419-A and substitute it for the identical Senate bill, 7352-B.

ACTING PRESIDENT MEIER: Substitution ordered. Secretary will read.

THE SECRETARY: Calendar Number

871, by member of the Assembly Lafayette, Assembly Print 10419-A, an act to amend the Banking Law.

SENATOR LEICHTER: Can we have an explanation, please.

SENATOR BALBONI: Mr. President, could we please lay that bill aside for the day.

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

THE SECRETARY: Calendar Number 879, by Senator Velella, Senate Print 4417-D, an act to amend the Insurance Law, in relation to risk-based capital requirements.

ACTING PRESIDENT MEIER: Read the last section. Senator -

THE SECRETARY: Section 6. This act -

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Would you lay the bill aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Senator Leichter.

SENATOR LEICHTER: I think your acting floor leader made a good point that many members are at the Rules Committee meeting. I'm supposed to be at the Rules Committee meeting. Could it -- would it be possible when we have these meetings of the Rules Committee, to suspend the proceedings in the house until the Rules Committee is finished?

SENATOR BALBONI: Mr. President, if we might please continue, let's see how we do with the list. Perhaps there are some members that will be here and let's see if we might proceed, but we're considering your request, Senator Leichter.

SENATOR LEICHTER: If I may just point out, I don't think we're doing very well and there are people like myself who should be at the Rules Committee meeting.

SENATOR BALBONI: Well, Senator, if we carry on, perhaps we'll find a sponsor.

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

THE SECRETARY: Calendar Number 1130, by member of the Assembly Lopez, Assembly

Print 10407-A, an act to amend Chapter 915 of the Laws of 1982.

SENATOR LEICHTER: Could we have an explanation.

ACTING PRESIDENT MEIER: Senator Leibell, an explanation has been requested of 1130, by Senator Leichter.

SENATOR LEIBELL: I'm not on the Rules Committee.

This bill would extend the sun set date of SONYMA's mortgage financing and mortgage insurance program and increase the maximum amount of tax-exempt bonds which SONYMA is authorized to issue. Further, the bill extends the date to the 15th of June 1999 for persons looking forward to mortgages, provides insurance for SONYMA mortgages, establishes an infrastructure trust fund and extends SONYMA's authority to issue new money, taxes and bonds.

The Authority is scheduled to expire on July 15th of this year. The bill would also extend to March 31st, 2000 SONYMA's authority to issue taxable bonds and would further increase SONYMA's taxable bonding authority by $300 million to $3.9 billion. The

extension of SONYMA's authority to issue money, taxes and bonds will allow the Authority to issue bonds after July 15, 1998.

SONYMA has long been recognized as a leader in the housing finance industry and is greatly helping the agency's primary target group, low and moderate income first time home buyers. SONYMA program bill.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: If Senator Leibell would yield.

ACTING PRESIDENT MEIER: Senator Leibell, would you yield for a question?

SENATOR LEIBELL: Yes, my pleasure.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR LEICHTER: Senator, I have one concern which I confess is a parochial concern, and that's the availability of some of this SONYMA money for a project in my district known as Riverside South which is, as you rightly point out, sponsored by that great real estate impresario, Donald Trump.

Do you know whether any of the monies, the additional authority that we're giving to SONYMA, is intended to be available for the Riverside South project?

SENATOR LEIBELL: In fact, the reason I was aware of that because we had discussed this before on the floor. No, I'm not aware of it, but I have in the past after we have had this discussion, expressed your concern, Senator, to SONYMA and I'm not aware of any funds that are there.

SENATOR LEICHTER: O.K. It -- if you'd continue to yield, and let me thank you for -

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

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR LEICHTER: And let me thank my friend for his sensitivity and consideration. I appreciate that. But I just want to be clear, as far as you have been advised by SONYMA, they have not advised you that any of this amount would be available for

Riverside South; is that a fair statement?

SENATOR LEIBELL: They have never spoken to me at all about any funding going into that project. I am not aware of any.

SENATOR LEICHTER: Senator, and if you continue to yield.

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR LEICHTER: And when you expressed the concern about whether any of this money would go to Riverside South, did they make any statement or representation as to whether any of that money might be available for Riverside South?

SENATOR LEIBELL: At the time they told me there was no current intention of doing so, but I did also give them your name and advise them that, if they should have any concerns in this area, they should advise you directly inasmuch as I didn't know when we'd be debating this -

SENATOR LEICHTER: You gave them

my phone number too?

SENATOR LEIBELL: Your home phone number.

SENATOR LEICHTER: O.K., because I've been sitting by the phone, and it hasn't rung. So, O.K. Let me thank you. I'm not going to hold up a SONYMA appropriation which I think serves a purpose for the people of the state of New York, but I just want to say I think it would be a misuse of SONYMA's powers and a misuse of public funds to make this money available for a luxury development where the rents are going to be thousands and thousands of dollars a month, where the price for purchase of a co-op or condominium would be in the range of millions of dollars. I don't think that we want to subsidize that sort of housing and, with the assurance that I have received from Senator Leibell, for which I again thank you, Senator, I'll vote for the bill.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1195, by Senator Spano, Senate Print 7507-A, an act to amend the Tax Law, in relation to creating an exception.

ACTING PRESIDENT MEIER: Senator Spano, an explanation has been requested of Calendar Number 1195.

SENATOR SPANO: Mr. President, this bill has been dubbed "Leslie's Law" and it stems from a woman who lives in Halfmoon, New York who is Leslie Selkirk, is a mother of five. The state Tax Department was going to seize money from her -- threatened -- from her checking account, threatening to take her property and garnish her wages for $2600 that was owed -

SENATOR LEICHTER: Explanation satisfactory. Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Seward, Senate Print 7446, an act to amend the Economic Development Law.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT MEIER: Senator Leichter, as soon as we find the sponsor, we'll give you an explanation.

Senator Seward, an explanation has been requested of Calendar Number 1262, by Senator Leichter.

SENATOR LEICHTER: Certainly, Mr. President.

One of the best things in my estimation that this Legislature accomplished last year in 1997 was after a several-week conference committee, we as a legislature produced a product that's called "Power for

Jobs" program. It was Chapter 316 of the Laws of 1997, and under the Power for Jobs program, we provided 400 megawatts of low cost power over a three-year period to go to businesses which agree to either create or retain jobs in New York State, and I was very pleased that up to 75 megawatts of that power is available to small businesses as well as not-for-profit corporations.

Now, this bill before us today amends the -- the measure that we passed and enacted last year to simply increase the amount of power available under the Power for Jobs program by adding another 400 megawatts of power to be available. Now, this also, of course, doubles the amount of power available to small businesses and not-for-profit corporations as well, and under this legislation the 400 megawatts of power that we are adding would not -- the only change from last year is the additional 400 megawatts that we would be adding under this bill would not be allocated by utility service territory as the original 400 megawatts was and will continue to be. The additional 400 megawatts will be distributed

based on the best application for the power.

Now, why -- why add this additional 400 megawatts? The demand for the Power for Jobs electricity had vastly exceeded the supply. The 276 applications that have been received as of a few weeks ago at the Power Authority requests nearly 550 megawatts. That's 417 megawatts more than that's available this year under this program under existing law.

So this has been a very successful program. All told it has helped to create or retain nearly 100,000 jobs in New York State, and the demand is exceeding the power that's available under the existing law. Thus the bill before us today, Mr. President, to provide an additional 400 megawatts of power and to continue to create and retain even more jobs in New York State. That's somethjing that's very, very important to all of our constituents all over this state.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Mr. President, if Senator Seward would yield, please.

ACTING PRESIDENT MEIER: Senator

Seward, do you yield for a question?

SENATOR SEWARD: Yes.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR LEICHTER: Senator, thank you for the explanation.

One of the things I was interested in was whether the not-for-profits and small businesses would benefit, and you've answered that, and I apprciate knowing that indeed they will benefit from this.

The next question I have, if you would let us know, is this an agreed-upon bill?

SENATOR SEWARD: The bill has a number of Majority Assembly members that are sponsoring it in the other house and I -- it would be agreed upon in terms of Majority members in the other house, and we are hopeful that by week's end the other house will take action on this bill, because it is building on the -- a program, Power for Jobs, which was, as I said earlier, created and authored mutually by the Assembly and the Senate through the conference committee that we held last year.

SENATOR LEICHTER: Right. I

remember that, Senator Seward, but if you would be so good as to continue to yield. Could you tell us why the manner of the allocation of the power was changed, and that really made me question whether there was agreement by the other house to the allocation that you've now set forth in this bill.

SENATOR SEWARD: Well, Mr. President and Senator Leichter, we are not changing the allocation that was agreed upon and enacted last year for the original 400 megawatts. What we are doing under this measure is, the additional 400 megawatts will not be distributed based on the service territory of the various utilities.

SENATOR LEICHTER: And what is the reason for that?

SENATOR SEWARD: The reason for that is that we have seen across the state greater demands for this power in some parts of the state which far exceed the available power based on the allocations that were set up in last year's legislation, so it makes perfect sense if we are to help meet the demand that's there for this cheaper power, it makes perfect

sense then to, rather than get hung up on an allocation formula, why not have this additional power follow the best applications that are submitted for the power, regardless of where they are in the state?

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

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

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: He continues to yield. Senator Leichter.

SENATOR LEICHTER: Senator, I think there's a certain logic and merit to what you say, but I think there's also some concern that the allocation may become more politicized unless there are standards and restrictions that are set forth in legislation. What -- what guarantees, what assurance, do we have that this isn't going to be done in a -- in a biased, politically-driven manner?

SENATOR SEWARD: Well, Senator, I would just say in response to your question that I have not heard one hint of a charge on the part of anyone that under this Power for Jobs

program, that there's been any kind of politi cization of the process of selecting the applications. In fact, quite the contrary, the -- the demand that we have seen for this power comes from districts, legislative districts, throughout this state. Individual legislators, when an application is submitted from their area, are notified under the -- under the law that we passed last year, and so the legislators from across this state, Republican and Democrat, are part of the process. They're fully notified, they go to bat, so there's an open process and I just see no room here at all for politicizing this.

SENATOR LEICHTER: Mr. President, if Senator Seward will continue to yield. But, Senator -

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

SENATOR LEICHTER: That's precisely the reason -

ACTING PRESIDENT MEIER: Senator Leichter, I'm waiting to hear if Senator Seward continues to yield.

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: He continues to yield.

SENATOR LEICHTER: That's precisely the reason I raised that question. You say it's functioning very well now. Then you tell us that you're going to change the allocation system, and my question to you is, is there a risk in the manner in which we now will do the allocation should your bill become law that the system which has worked very well and, as you tell us, in a non-political manner, may become politicized?

SENATOR SEWARD: I certainly don't -- do not anticipate this being politicized. Let me -- let me go on to explain something additionally to Senator Leichter, Mr. President.

Under our existing law that we passed last year, the Power Allocation Board which actually approves and distributes this power, the Power Allocation Board does have the authority to move power from one service territory to another at its discretion in order to meet the demands that -- that may be there in a different service territory and, in fact, they

have done that on a couple of occasions already, so with that in mind, Senator Leichter, it - unless you can point to a situation where this has been politicized, I -- I'm suggesting under our bill that we're simply streamlining that process to allow this power to move towards the best applications that are submitted, those applications that can meet the criteria which will remain in place under -- under the law, so frankly, Senator, I think you're looking for trouble in all the wrong places here because it does not exist and will not exist.

SENATOR LEICHTER: O.K. One final question.

ACTING PRESIDENT MEIER: Senator Seward, do you yield for another question?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: He yields.

SENATOR LEICHTER: Senator, I'm inclined to believe that the program has been effective, but all you've given us really are some very general comments on that. Do you have any statistics on how effective the program has been? What are the claims of jobs created, jobs

retained? How many different businesses, institutions, have benefited from this program?

SENATOR SEWARD: Well, Senator, the -- the information that you're seeking, I can share with you. The -- as of a few weeks ago, which is the last power that was distrib uted under this program, because all of the available power for this year has been allocat ed. There were a total of 152 allocations that were approved for 76 businesses, 32 small businesses and 44 not-for-profits, and combined the allocations helped to retain and create more than 100,000 jobs and these allo... the approved allocations averaged 750 jobs per megawatt. That's a ratio that is seven and a half times the bench mark that has been used for economic development power programs in the past.

So this program has been very successful, has touched many businesses, but more importantly, it's touched many working men and women in New York, and their families, by retaining and creating of jobs.

SENATOR LEICHTER: Excuse me, Mr. President.

ACTING PRESIDENT MEIER: Senator

Leichter.

SENATOR LEICHTER: Senator Seward, thank you. I'm sorry that, frankly, your response to the last question was as general as it was, because I think it would be helpful to have, you know, some statistics and facts and figures. I think you indicated that you might have some available and maybe you'll let me share in that. I think it would be helpful for us to have this.

I just want to say on the bill, I am -- I -

ACTING PRESIDENT MEIER: Senator Leichter, on the bill.

SENATOR LEICHTER: I am concerned -- I am concerned somewhat about changing the allocation because I think we've got a system that's worked well as far as I understand it and it hasn't been subject to political pressure. I'll support the bill because I want to -- I want to see this program increase, but I'd like to -- I'd like to be assured, more so than Senator Seward's good intentions -

ACTING PRESIDENT MEIER: Senator Leichter, could you stop for just a second.

Could we have some quiet in the chamber.

Senator Leichter, go ahead.

SENATOR LEICHTER: I think we could look and have a right to seek assurances that this, in fact, is not going to be done in a political manner and that indeed all areas of the state will continue to benefit from this program.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1355, by Senator Goodman, Senate Print 5477-C, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR ONORATO: Explanation.

ACTING PRESIDENT MEIER: Senator Goodman, an explanation has been requested by Senator Onorato.

SENATOR GOODMAN: Mr. President, the Senate Investigations Committee has recently held a series of -- may we have some order, Mr. President, if you please.

ACTING PRESIDENT MEIER: May we have some order in the chamber so that we can hear the debate and so the stenographer can take it down.

SENATOR GOODMAN: Mr. President, the Senate Investigations Committee has recently examined the question of the possible use of newly invented technology for the purpose of saving the lives of those who suffer from cardiac arrest. Cardiac arrest occurs when the heart muscles function improperly and I'm going to demonstrate this to you if you will give me your attention.

Assume that my fist is the human heart. The regular rhythm of the heart is something of this sort. It's a regular rhythm in which the muscle pumps oxygen to the rest of

the body to keep it alive. In the case of cardiac arrest, the heart muscle ceases to function in its normal contractile method and becomes a sort of Jello-like substance which flickers but does not pump blood.

The question is somehow can we restore a person to normal heart rhythm through the use of defibrillation. Fibrillation is a quivering or fluttering. Defibrillation is a shock when it's administered to the Jello-like muscle and it shocks that muscle to an extent that it then can resume its normal shape and its pumping action to save the individual's life.

Now, Mr. President, in the course of its investigation of this matter, the Investigations Committee learned that the single most important life-saving measure that could be undertaken in New York State and the nation today would be to make more widely available the so-called automatic defibrillator.

What is an automatic defibrillator? It is a technological device which has been developed by a number of companies which permits the administration of a shock to the quivering heart muscle in such

fashion that it enables it to flatten out and resume its normal function. This is not a computer nor is it a portable radio that I am holding in my hand, but rather the very latest life-saving technology of the type that I've just described to you, and I want you to see it, if you will, because a picture is worth a thousand words.

This simple device is the automatic defibrillator, and the way this works in the condition of emergency is, an individual is down with a cardiac arrest. If that individual is not up within five, at the most ten minutes after that event, that individual would die. This has been proven medically and repeatedly and, unfortunately, we've lost many people who have had difficulties of this sort.

By making these more widely available and by permitting people to use them without fear of liability, we're going to save thousands of lives every year.

Mr. President, let me emphasize that this machine is very unique in that after the two paddles that flatten the chest have been applied to that individual, the individual then

who is operating this machine then listens to the machine and the machines determines whether it can -- whether the shock should properly be administered, whether the heart failure is one that is susceptible to defibrillation. If it is susceptible, the shook is administered and the machinery then permits the resumption of normal heart rhythm. If the heart fails again, then the machine continues to indicate that and can administer a second or even a third shock if necessary.

Now, let me emphasize that these are easy to use and that all the while spoken instructions are given by the machine, so there is no way in which it can be misused if anyone is able to understand the language in which the instructions are given, and this can be a bilingual or tri-lingual or multi-lingual instruction packet.

We've just had a demonstration of this using a defibrillator using a dummy and the dummy I would be happy to tell you survived fully in the demonstration that we had and is now going to enjoy a full and productive life. The dummy has expressed its thanks to this

chamber for allowing us to demonstrate it, and expresses the hope that this bill will pass promptly.

Let me give you just a few more pieces of information that may help you to evaluate this proposal.

The American Heart Association estimates that close to a hundred thousand deaths nationwide could be prevented each year if automated external defibrillators, and from now on, we'll call them AEDs, were more widely distributed.

People from rural or suburban areas who are stricken with sudden cardiac arrest have low survival rates because the distance that an ambulance must travel to get to them when they're in distress is so great that the chances are it will not arrive on time.

Sudden cardiac arrest is usually caused by a condition called ventricular fibrillation which I've indicated to you -- the nature of which I've indicated, and defibril lators were first introduced in the early 1960s but they could only be used then by paramedics, nurses and physicians who received extensive

training in interpretation of electrocardiogram readings.

The developers of the portable defibrillators, in the 1970s came up with a major step forward, and these defibrillators still required the operator to interpret the electrocardiogram strips and that was an extensive process.

This bill, by its passage, will permit, as I've said, the widespread use of this. Let me say that, since coming up with our findings, the New York City Police Department has placed one of these machines in each and every one of its radio motor patrol cars and expects that this will help it to save lives. The fire department has long used defibrillators and will now be able to use these portable models, and the State Police have indicated their full cooperation with the nurses at the Capitol, with whom we just appeared, and I'd like incidentally, to thank Liz Anthony, Nancy Fyvie and Mickey Kelley who are the nurses charged with keeping us well and healthy, for their cooperation. They've indicated their enormous support for this, as has the

Commissioner of OGS, Joe Seymour, who was with us a few moments ago at the conference at which we announced this development.

So, my colleagues, I hope that you will be fully in favor of this and will allow us to pass the legislation which will permit the wider use of this in what has again been described as the most important single medical help, life-saving measure that we could possibly have in the United States or the state of New York.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Couple of quick questions for the sponsor, Senator Goodman.

ACTING PRESIDENT MEIER: Senator Goodman, do you yield to a question from Senator Dollinger? Senator yields.

SENATOR DOLLINGER: Senator, is it your understanding that these defibrillators which I think you accurately characterize as the best life-saving device that we can put in the

hands of our emergency personnel, is it your intention that these would be more wildly available in the hands of emergency personnel, police, fire, EMS people, or that we would encourage their use throughout our society in restaurants and athletic clubs and other places.

My question really deals with how do we make sure that those people who are not of the trained professional caliber as our police, fire and EMS people, that they're capable of determining when use of that machine is appropriate and how to use it?

SENATOR GOODMAN: The answer to that is we hope to make these as widely available as a training program will permit. The training program must be administered to any individual who uses these, but at the moment, even if an individual were trained by such a program that individual, unfortunately, would be subject to liability, and the Good Samaritan law would not apply to such an individual.

The purpose of our legislation is to see that the Good Samaritan provisions do so, and make it possible for a well trained

individual to use the devices in places of public assembly of the type you mentioned. In the Capitol, for instance, I think it would be highly advisable for these to be available on the legislative floor, on the second floor where, I'm happy to say, they're anxious to have them.

We've given these even to the City Council in the city of New York. The press stated at that time that it did not seem appropriate to give them to the City Council or to the executive chamber there because they weren't sure those people had hearts, but we ignored that and felt that they most assuredly did and that they were worth saving, so that we feel that this will be widely utilized and, therefore, is a very appropriate matter.

SENATOR DOLLINGER: Through you, Mr. President: How much training does it actually take to use that? Seems as though it's relatively -- as you describe it, a relatively simple process.

SENATOR GOODMAN: Fifteen hours -- fifteen should be sufficient to qualify an individual to use it effectively.

SENATOR DOLLINGER: Just one other question, Mr. President, if the Senator would yield.

ACTING PRESIDENT MEIER: Senator Goodman, do you yield for another question?

SENATOR GOODMAN: Yes; yes, I do.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR DOLLINGER: Could you just tell us, is the Medical Society in support of this, and secondly I've been given some in formation that the National Association of State Emergency Service Directors was against the wide-spread extension of the AEDs and yet -- or at least a year ago. Do you know whether they've changed their position or why the state emergency medical directors would have been against this?

SENATOR GOODMAN: The staunchest supporters of our proposal in New York City, where first of all, one of the most prominent internal medicine specialists, in fact, the chief of the service at Columbia Presbyterian Medical Center, who was the one who characterized this as the most important single

life-saving measure that he knew of that could be enacted anywhere in the country, the emergency people of whom we had approximately a half a dozen working with us in New York, were the staunchest supporters of this because they realized the relative simplicity of administration and the extraordinary life saving potential that these machines have.

It was their view that, if only we could make these available, particularly to emergency trained individuals, that it would save literally thousands of lives, and we know that about a thousand lives a day are snuffed out due to cardiac arrest around the country. So the answer to your question is yes, and may I add further that the American Heart Association is in full support of this. I have their memo in support here if you care to examine it.

SENATOR DOLLINGER: Again through you, Mr. President, just so I understand the bill and, in summary, what this does is this allows for collaborative agreements to buy these in large numbers by -- for people to combine into a collaborative agreement and buy it through the collaborative agreement, and it also

includes anyone who uses it within the scope of the Good Samaritan law. Is that accurate, that's what the bill, in essence, does?

SENATOR GOODMAN: Well, let me just be a little more explicit about this because I think you've described some -

SENATOR DOLLINGER: And it requires training, of course, as part of it.

SENATOR GOODMAN: Yes. That's the point I wanted to make, the training is the critical prerequisite. You're absolutely right.

SENATOR DOLLINGER: So there's a training component; there's a collaborative agreement, that allows these things to be bought and there is a exception to the Good Samaritan law that says, if you're using this machine, you don't have to run the risk of liability if you're using it in an emergency situation.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: I strongly support this measure. I have a friend who is alive today because he has this emergency equipment available. But is there a provision of the bill, Senator Goodman, that prevents

those who are not qualified, those who are not involved in emergency medical service, from using something like this?

SENATOR GOODMAN: There is something to prevent the promiscuous use of this, Senator, and there are penalties, of course, for use of non-prescription drugs and, in effect, this would be a non-prescription.

SENATOR LACHMAN: That would be after the fact.

SENATOR GOODMAN: I beg your pardon?

SENATOR LACHMAN: That would be after the fact. This is a more serious thing than a non-prescription drug.

SENATOR GOODMAN: Well, of course, we do not prescribe penalties for people who illegally use it because the law already has penalties for them who improperly use it and they would be -

SENATOR LACHMAN: This does not apply to anyone who does not fall within the Good Samaritan law and doesn't have the ability or the license to use it.

SENATOR GOODMAN: That's

correct.

SENATOR LACHMAN: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1380, by Senator Volker, Senate Print 7659, the Education Law, the Correction Law and the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Senator Volker, an explanation has been requested of Calendar 1380 by Senator Paterson.

SENATOR VOLKER: Mr. President, this is a bill -- a Governor's program bill which was fairly recently introduced. It is similar but not the same as a bill that passed this house last year by a vote of 55 to 1. My esteemed colleague, Senator Leichter, voted in

the negative, which deals with the issue of civil commitment of sexual predators.

What this bill does is to deal with a Supreme Court case called Kansas vs. Hedrick, which legalized or at least constitutionally supported the proposition that certain people who are considered sexually violent predators could be kept in civil detention after their full term is served, and it sets up a process to do that.

The bill here builds upon legislation which I sponsored, in effect, which I believe is still on the calendar, which is based on that Kansas vs. Hedrick decision, but it improves many of the procedural issues. In fact, some of the language in here resulted from last year's debate. Now, some people may not agree with that, but that's the fact.

For instance, let me just point out one. Senator Dollinger, in the debate last year -- and I have the debate here -- questioned the issue of victim notification. There is an extensive victim notification section in here, in fact a section that says that the agency that has the person is charged with notifying the

victim when a person is considered a sexual predator, and also obviously should the person escape, and so forth.

Last year there was reference in the bill but it wasn't specific. This bill has much more specific reference to sexual predators and to notification.

The second issue, another issue that was discussed in last year's bill, is the issue of district attorneys handling these cases after the expiration of the term. Would there be cost to localities? We assured everybody at the time that the -- any cost to localities would be absorbed by the state. What this bill does is specifically point that out and specifically doing that, but as one way it dealt with is to shift the, if you want to call it prosecution or the litigation of these cases to the Attorney General's which would lift the burden from the local district attorneys to do that.

The bill, in addition to the so-called VFO crimes, violent felony offense crimes, Rape I, Sodomy I, and certain aggravated sexual crimes, the bill permits the civil

commitment of persons convicted of assault, manslaughter, murder, kidnapping, burglary, arsons, robbery, if the indictment charges that the offense was sexually motivated and a defendant either pleads guilty to all those allegations or the offense was -- the jury returns a special verdict that the commission of the felony was sexually motivated.

The bill also sets up a multi-disciplinary team to assess whether the person was actually a sexually violent predator. One of the questions last year was how that would actually be determined. The recommendation of this team would be to the Attorney General.

The team would comprise a 15 member team organized into three five-member groups established by the Commissioner of Corrections in consultation with the Commissioner of OMH.

This bill would also authorize a prosecutor review committee to assist the Attorney General in terms of filing a civil commitment decision, and the members who would be appointed by the AG would be composed of

district attorneys, former district attorneys, ADAs, and various people that are part of the prosecutorial set-up.

The ADA can request a psychiatric examination of the person prior to the determination but, in any case, if the case goes forward, there has to be a determination, a physical, psychiatric examination. The individual himself has the right to a psychiatric examination. If you will notice, in the bill, there is full knowledgeable disclosure, but full coverage of the person's rights, is entitled to an attorney from the OMH developmental health attorneys, he's entitled to an appellate attorney if the -- if there is an appeal needed, and he's entitled to all sorts of back-up.

One other issue, the question, on the prosecution of these cases, whether 45 days was enough prior to the -- the trial or the proceeding and the 45 days was extended to 60 days, so essentially, that is the prime parts of this bill. It is, as I say, essentially the same bill that passed this house last year with these procedural changes in the bill, which in

fact were made because of the discussions that were had on the floor of the Senate last year since this bill did not pass the Assembly last year. This is the only floor where this bill had a chance to be debated.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: If Senator Volker would yield for a question.

ACTING PRESIDENT MEIER: Senator Volker, will you yield for a question from Senator Leichter?

SENATOR VOLKER: Sure.

ACTING PRESIDENT MEIER: Senator yields.

Senator Leichter.

SENATOR LEICHTER: Senator, I see that the bill provides that in order to establish somebody as a sexual predator, that it must be beyond a reasonable doubt.

SENATOR VOLKER: Right.

SENATOR LEICHTER: I didn't know whether that was from last year.

SENATOR VOLKER: It was. In fact,

I don't know whether you remember, if I might just ask, the Kansas vs. Hedrick decision that wasn't necessarily the burden of proof in our bill. We used it as a burden of proof because we felt that that was important to do.

SENATOR LEICHTER: Right. But what troubles me about this bill, and what makes this procedure different than any procedure that I know that we have in our penal system, is that if somebody who has not committed a felony crime, may have initially committed a crime but at this moment may not be charged with a crime, may nevertheless be incarcerated for the rest of his life, for that matter, not on the basis again of any act that he's done, but on the basis that he may do some act in the future, which is really a radical departure from the jurisprudence of this state. My question to you is, what sort of proof do you envisage which can establish beyond mere conjecture or suspicion or fear that somebody is indeed likely to commit another crime so that society is justified in staying in prison, even though you haven't committed a crime, you're going to commit a crime and, therefore, we're going to put you

away.

SENATOR VOLKER: Well, I think that your premise is entirely wrong. Everyone involved in this procedure has committed a crime and is a sexually violent predator in the first place. He's considered a sexually violent predator, therefore, has committed a crime, and a crime is a crime.

The issue of commitment after the person's term is up relates to protection you could say not only for other people but in a sense for himself, because the issue is if, given the state of a great deal of -- I'm sure you're aware, a great deal of study that has been done and discussions that have been made on these kinds of crimes, there are some grave questions whether these people really being sent to jail gets them into a situation where they are prepared to be released to the public.

Now, when you say forever, keep in mind that these -- these commitments can be re-evaluated every year. They have the right to be re-evaluated every year, based on the situation. When you say what evidence, I just reiterate to you there has to be a psychiatric

examination. There has to be evidence put forth and there has to be a jury trial if they actually get to the point of trying to determine whether this person should be civilly committed.

So I think there is ample opportunity for these individuals to be able to show that -- or to be able to demonstrate that there is no reasonable doubt that they are not -- they are not -- should be not subject to this kind of a restriction. It's not, by the way, a penal restriction. Remember, they are going to be civilly committed, not criminally.

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

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

SENATOR VOLKER: Sure.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR LEICHTER: First, Senator, let me correct two things that you stated. First is it's true that this person has committed a crime before but at this moment he is not charged with a crime. He has committed a

crime; it's a serious crime. He was penalized for that crime. Now, he has served a sentence and it is now a new proceeding to determine if he should be incarcerated as a sexual predator and to say, well, it's only a civil commitment, the fact of the matter is the person is shut up behind walls, he doesn't enjoy the liberty that you and I and other people have, so it is an incarceration.

But what I did not hear you say is what sort of proof. Is it sufficient for psychiatrists to state, Well, I think this person may commit a crime. Is it -- is it sufficient if somebody in the neighborhood says, Well, we fear this person. What -- what is the proof? Give me a -- give me an indication of evidence that you have would see sufficient to submit to a jury or a jury to determine that this person should be physically committed.

SENATOR VOLKER: First of all, Senator, it is not an incarceration. You can call it all you want, it is not an incarceration. Incarceration is in jail. This person is not going to be in jail. This person is going to be in a mental health facility,

secure mental health facility separated, by the way, from everybody.

Now, in the bill, we talk about "general abnormality" and "general abnormality" is defined in the bill. The determination would be to determine not on conjecture, not on assumption, but on evidence based on not only the psychiatric evidence, obviously using the previous crime, the testimony, the testimony of what the person has done, what the person is, and so forth, to determine whether there is a mental abnormality that would cause that person to be a danger to other people or in fact him or herself, and I think that there is sufficient procedures in this bill to protect the person from mere conjecture, and you and I know that no court would allow mere conjecture to have a person be civilly committed.

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

ACTING PRESIDENT MEIER: Senator Volker, do you continue to yield? The Senator yields.

SENATOR LEICHTER: Senator, let me just say I'm not going to get into an

argument with you about incarceration or not, but if you're put behind bars, walls, to say, well, this is not incarceration, he's not in a maximum security prison but he's certainly not at liberty.

So I think we ought to be clear certainly that we're depriving somebody of their liberty, and I'm sure you would agree with that definition, but what you've just said really gets to the heart of what one of the things that disturbs me about this bill.

We have a procedure now where people can be found to be mentally disabled -- I don't think that's the exact name but they're found to be -

SENATOR VOLKER: Mentally incompetent.

SENATOR LEICHTER: -- mentally incompetent -- thank you -- and can be put into a secure facility to avoid harm to society and harm to themselves. We have that procedure and, indeed, many people each year are committed under that provision of the Mental Hygiene Law.

Why isn't that sufficient to protect us in the case of a sexual predator?

SENATOR VOLKER: The problem with that process is that if that person is in that condition to start with, then I assume there would not be a prosecution. That person could be held in prison to start with. That's the reason for the difference here in the use of the word "abnormality" and because we are talking about people who have been classified here as sexual predators based on the crimes that they've committed and we would then -- using the evidence that has been obtained, including the psychiatric exam to determine whether they would be a danger to society, we would assume probably most of the people who would be evaluated probably wouldn't be, but what we're trying to do here is develop a process, a process, by the way, which is now beginning to sweep across the country to deal with sexual predators which has been upheld by the Supreme Court of the United States and I note in the frustration of some people who say, well, we shouldn't be doing this sort of thing. It's easy to say that but not so easy to the victims of people who have been attacked and killed or whatever by repetitive sexual predators and we know that that has been

happening.

And I think this bill attempts to deal with that, and I think it deals with it in a rational, guarded way, and I think that's why the Governor has sent this bill to us.

SENATOR LEICHTER: Well, Mr. President, I have my own suspicions why the Governor sent this bill, but I know that you're bringing it forth in good faith and I may disagree with you, but I've never questioned your good faith because I know that you act out of principle and commitment. We've served together for too many years and you have been too clear in how you act for me ever to question that, but what you haven't answered for me, Senator, is why the Mental Hygiene Law doesn't work.

You've said, well, if the mental hygiene provisions applied, this person initially would have been sent to such a facility. That's not true at all. He may have committed a crime. He may have, in fact, pleaded insanity. The jury may not have accepted the plea of insanity. May have found him guilty. He served his sentence. Now he's

coming out of jail and there's a determination made by doctors and others that this person is not competent. He served in jail for many years. There may be a lot of reasons why he may have been found competent to stand trial but he's not competent now and in point of fact, even under your bill, you can't retry or bring out his previous crime. You have to deal with a person as he or she are now getting out of jail and whether they are a danger to society. If they're a danger to society, the Mental Hygiene Law provides that we can commit them.

What more are you trying to do?

SENATOR VOLKER: Senator, I think you're confusing a little bit the issue of mental illness.

Under the law, as I understand it, if a person is actually considered to be mentally ill, then that person technically probably shouldn't be in a prison and should be put in a secure facility. We're talking about mental abnormality, which is a variation of this and which doesn't classify this person as totally mentally ill but does have tendencies because of his -- the fact that he is a sexual

predator, that would cause him or her to be a danger to society or to himself.

SENATOR LEICHTER: Well, let me thank my good friend for his answers. I must say, Senator Volker, I have not heard an explanation that satisfies me that for those individuals who really are a danger to themselves or to others, whether because of their sexual predilection or for other reasons, why the provisions of the Mental Hygiene Laws are not sufficient.

This, it seems to me, is clearly an effort to try to deal with people who have committed some horrible crimes, no question about it, to lengthen their sentence and to do it under the guise that we're going to civilly commit them is no different than saying we're going to continue your sentence.

If they are a danger, there is a method of putting them away, but it seems to me that with all the concern that there is about sexual predators -- and I think sometimes that concern, you know, approaches unfounded fears, that I think it's going to be very difficult even when the burden of proof being stated to be

beyond a reasonable doubt, for juries not to find that this person is a sexual predator.

I just want to emphasize again what we're doing. I mean, this is a radical departure to say that somebody can be committed. It doesn't much matter that he's civilly committed instead of criminally committed. He's denied his liberty on the basis that he or she may commit a crime in the future. This is a totally radical departure and I've stood on this floor before and I've argued against our eroding the basic liberties that really are the foundation of this country and that make us the great society that we are.

There's no doubt in my mind that if you put people away under this provision or some of the other bills, Senator Volker, that you've furthered, I think you will decrease crime. There's no question. There's no question in my mind that for anybody who commits any sort of a crime, you say we're going to put this person in jail for life that eventually you're going to end up avoiding some crimes that occur but you do it at an enormous cost to the liberty, the freedom of this society, and I

think that's what you're doing -

ACTING PRESIDENT MEIER: Senator Leichter, could you stop for just a moment. Could we have some quiet in the chamber, please. It will make matters move along faster if we could have some quiet in the chamber. Staff take your seats, members please stop your conversations.

Senator Leichter, go ahead, please.

SENATOR LEICHTER: And it seems to me that while we do have an understood and workable process for putting people into civil or criminal commitment if they are a danger to themselves or society, that here we really don't have a process, as carefully maybe as Senator Volker has tried to draft this bill, which is going to, I think, avoid people being branded as sexual predators and being put away possibly for the rest of their life without our having firm standards and a clear understanding of the basis that we can say to somebody, you're likely to commit a crime and we're going to put you away.

I see it as a very significant erosion of the basic freedoms and rights that we

have as a society, rights and freedoms that make us different from other societies.

I was born in a society and had to flee from a nation where you were deemed guilty. You were deemed that you were going to commit acts against the state even though you hadn't done it and in some ways we're moving into that direction with these sort of bills.

I just really appeal to you to consider what we're doing. Yes, sexual predators are horrible people but these are people who have committed a crime, have been found guilty. They have been punished. Now to say we're going to keep you in civil commitment for the rest of your life because we think you're going to commit a crime, where is the basis for it? Where is our understanding of human nature that we can say that we're in a position to make that determination? I really don't think we are, and I think that we're going down a very, very slippery path because the next thing you're going to do is to say, well, we can determine that somebody is going to commit another type of a crime, maybe not as a sexual predator but as another crime. Where do we

stop? When are we going to say -

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Thank you, Mr. President.

ACTING PRESIDENT MEIER: That's much better, don't you think, Senator Leichter? Please proceed.

SENATOR LEICHTER: Where -- once you establish this justification for saying that somebody can be committed because of a sexual predator, maybe he could be committed because he could be a financial predator or he may be a violent predator in some other ways. It's a dangerous step that we're taking. It may be very popular. Nobody obviously is particularly fond of sexual predators, but we have laws to deal with them. This is not the way to protect society. This essentially weakens, hampers and jeopardizes the freedoms that we have.

ACTING PRESIDENT MEIER: Senator Waldon.

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

Would Senator Volker yield to a

question or two?

ACTING PRESIDENT MEIER: Senator, do you yield for a question from Senator Waldon?

SENATOR VOLKER: Why, certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR WALDON: Senator Volker, as you know, last year we debated this bill at length.

SENATOR VOLKER: Yes, we did.

SENATOR WALDON: It covered a panoply of concerns regarding the bill and your responses were very detailed and very well thought out and we learned a lot in our exchange, at least I hope that we did. I know I did.

In looking at this version of the bill, which is somewhat different from what we dealt with last year, I notice that the Attorney General is playing a much greater role, but I also notice that in regard to the term "treatment", there is nothing in the bill which says something like this, and this is what I would like you to respond to.

In the treatment of these people who are characterized as violent predators, they are a different ball of wax than our other prison population or criminal population. There's nothing which says we will have so many dollars to treat them. Besides segregating this place of 150-some beds which was in our budget, that we will have on hand so many psychiatrists, so many clinical whatever, whatever, and that there is no proviso to report back to the Legislature in regard to the results of some of these treatment modalities which would be created as a result of this bill.

Did I misread the bill, or is that -- is it true that there's no provision in the bill for treatment per se?

SENATOR VOLKER: Senator, first of all, there is one little difference in this bill that I had that I didn't mention, that if you look at this bill, it amends -- the prime amendment is to the Mental Hygiene Law. This is not -- the bill last year that was different in that way -- let's keep in mind that anyone committed to a mental hygiene facility has to be treated. That's -- in fact, that's already the

law.

So we really don't need to put in this bill, if a person is civilly committed to a secure mental health facility -- in this case it would be a secure separate mental health facility -- that person has to be treated. That's the law already. Now, we could certainly, I suppose, ask the Governor's office to put that in the bill, but frankly I think it was considered to be redundant.

You make an interesting point, which I guess probably I didn't think about, of some report to the Legislature. Not a bad idea because it will -- we know that if this bill eventually, as I personally believe, eventually will become law at some point, maybe not exactly this bill, but I think a similar bill in the future will be, I think it will be the subject of a great deal of study and you may make a point that it would probably -- I would think, in fact, my own personal feeling is I would probably make even maybe a separate bill or - to -- at that point that would evaluate the program because it would obviously become a program, in effect, to deal with civil

commitments.

So you make a very good point. I think that's something that we should seriously consider, but as far as treatment is concerned, that is really the law now. Once you civilly commit a person to a mental health facility, they must be treated and their treatment is certainly something that will be the subject of evaluation.

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

SENATOR VOLKER: Sure.

ACTING PRESIDENT MARCELLINO: The gentleman yields.

SENATOR WALDON: Thank you, Mr. President.

Senator, touche. That was good. I did not realize that. I read it page to page and it didn't jump off the page at me, so I appreciate your clearing it up for me and I'm sure you've cleared it up for quite a few of our colleagues and it's good that we understand more fully what this will allow and what this will mandate in terms of treatment.

I have two other areas of

concern. I don't want to revisit all of the things we discussed last year but the two areas of concern are, again, one that we did visit last year.

There's an anticipatory portion, as I perceive the bill, in regard to those who have done something and it's extremely violent and distasteful and abhorrent and unacceptable to our society what they've done but we are anticipating, the way this is constructed, in my opinion, that someone will do it again and so we're taking preemptive steps to preclude their doing it again. My fear is that, one, we shouldn't have that approach and two, it may find itself influencing other things that we do.

For example, will we take preemptive shots at those who may become drug offenders again, that kind of thing. So I just want you to take a minute and elaborate on that and I'll give you the second question which - well, let's deal with that first and then we'll deal with the hearings.

SENATOR VOLKER: Yeah. Let me just say, Senator, that if you read the Kansas vs. Hendricks decision and if you look at the

Constitution, I think that it would be impossible at this point to extend this process to anything other than sexual predators, because I think you would run smack up into court opposition and potential constitutional opposition.

The decision really -- the Supreme Court decision -- and we have it -- my counsel -- I have read it. Two of my counsel have gone through it very carefully, and I know the counsel to the Governor has gone through it very carefully -- specifically deals with sexual predators and because of the special nature of sexual predators, I can't conceive where this concept would be extended, legally could be extended or even would be extended to any other area and I share your concern, by the way, and I understand what you're saying, by the way, and I'm not taking, by the way, Senator Leichter, what you say lightly. I want you to understand it.

I think we are taking a rather drastic and dramatic step here and I think it's based on the evidence that is -- that has been accumulating as to the real severe problem that

we have in dealing with people of this nature and, by the way, we would hope that as our knowledge of mental illness and of mental problems and of the sexual nature of some of these problems improves, that we'll be able to deal better with some of these problems. They won't need possibly the thought of a sexual - but right now it seems to me and I think to a lot of people in this country that this sort of thing is necessary not just to protect society, by the way, but in a sense to protect the very individuals that have been involved in these sexual predator acts because their responses seem to be such that they need special attention.

SENATOR WALDON: Will the gentleman yield to one more question, Mr. President?

SENATOR VOLKER: Sure.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR WALDON: Thank you, Mr. President. Thank you, Senator Volker.

I notice the date of the print on this bill is June 9th, 1998. This, in my

opinion, has the potential for monumental impact on not only the law of this state but our very attitude as a state regarding the way we will treat people not just in the area of sexual predators but our whole approach to incarceration, to treatment modalities, to the way we handle those who come into confrontation with the criminal justice system.

Is there a reason, one, that we received the bill so late that you could share with us and if not, then secondarily to that, is there a reason that, again there was not a series of public hearings of the moment not as we discussed last year, Senator Padavan's previous hearings, your previous hearings, historical hearings in regard to this area which were all cogent with the exception that they happened some time ago. We did not have hearings, to my knowledge, of recent nature in regard to this issue, and I would like you to share with us, if you can, an explanation as to why we received this so late. If that's not appropriate, then why there were no hearings.

SENATOR VOLKER: No. I think you make a good point. Let me just say that on the

calendar, as I said, is a very similar bill, which is the bill actually we passed last year during that session. As I stated last year - although primarily the changes in this bill are procedural, the concept of civil commitment was clearly in the bill -- the other bill that we passed last year by a vote, I believe of 57 to 1, if I'm not mistaken. The concept is the same but this does have some major changes.

The reason it took so long, frankly, is that the counsel's office to the Governor worked long and diligently on this bill and frankly consulted with us several times on certain aspects that they were very concerned about, including one issue relating to juveniles and very honestly we did not feel as if it was appropriate for juveniles to be included in this bill because we couldn't exactly figure out how you would deal with that and it seemed to us, and I think the Governor's office eventually agreed, after a great deal of soul searching and if you know Jim Maguire, the counsel, he's a very methodical person and he talks to all sorts of people and deals with these issues in a very, very detailed fashion. I think the real reason

this took so long is he was looking at all the statutes across the country and there are changes being made. Apparently there are a number of these bills in Legislatures across the country, and I think he was looking at these various aspects of it.

As far as hearings are concerned, we have not held hearings on this bill specifically, but as we discussed last year, there have been hearings on the issue of mental illness and mental defect and all that sort of thing in this area for years, but you are right, there have not been specific hearings on this bill itself.

SENATOR WALDON: Thank you very much, Senator Volker.

Mr. President, if I may on the bill.

ACTING PRESIDENT MARCELLINO: Senator Waldon, on the bill.

SENATOR WALDON: Thank you, Mr. President.

Last year in my closing remarks, I dealt with areas of concern which I have shared with my colleagues from time to time over

the years that I have been here in terms of what I believe is a disparate impact of what we do in regard to certain laws that we pass. I don't want to repeat that this time. I think you all understand where I'm coming from.

I would like us, though, to be aware that there may be some ominous precedent in anticipating what people will do and just as you deliberate on this proposal, keep that in mind.

I will support this proposal by Senator Volker and by the Governor simply because no one in his or her right mind, in my opinion, wants to see people or to have the experience of knowing that they did something which facilitated the kinds of violent sexual attacks that cause this proposal to be born.

These people are, in my opinion, extremely sick and we need to find in our sophisticated society a way to help them so they will not continue to wreak havoc upon innocent victims who happen to encounter them serendipitously going about their everyday way of life.

So I support this bill with some

reservation. I would hope in the future we will craft a legislative proposal that will address my concerns, that will also have before it's brought before us a series of hearings where psychiatrists and doctors of medicine and other learned experts can lend their expertise to us so that we could have a better awareness of how to deal with these issues, and I would hope that whenever this bill down the road becomes law, that there will be a reduction in the disparate racial treatment or result that has historically sometimes occurred even in our great state.

I thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Waldon.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

Will the sponsor yield to a series of questions? Just -- I've got some minor -

ACTING PRESIDENT MARCELLINO: Senator Volker, do you yield to a series of questions? He yields, I believe.

SENATOR VOLKER: Sure.

SENATOR DOLLINGER: First of all, Senator, I'll try to be very brief with my questioning. I appreciate the incorporation of the notice discussion that we had last year.

Question number one, what happens to an individual who is charged with a sexual violent crime and is found not guilty by reason of impairment? It doesn't appear as though he fits the definition of a sexually violent predator.

SENATOR VOLKER: That's true. If he's found innocent by reason of being mentally ill, which is what would happen, then that person would be committed to a mental health facility until he's found to be able to get back into society, if that's the determination. So that would follow the present law. That would not have any impact, but you're right. It would not be covered by this bill because a person would not then be guilty of a -- being a sexual violent predator.

SENATOR DOLLINGER: Fine. Second question. The current -- Senator Waldon mentioned the Attorney General's involvement.

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

SENATOR DOLLINGER: And I just ask the question that I thought he was going to ask. Why the Attorney General rather than the district attorney who's got all the files, did the prosecution, knows the victim, knows the witnesses, knows the whole landscape?

SENATOR VOLKER: The reason for this is that the -- this is a mental health bill. Remember that what we have -- we have changed the direction a little bit in the way this bill was set up. The attorney for the Commissioner of Mental Health is the Attorney General. That's one thing.

The second one very quickly is the D.A.s became a bit alarmed because they saw this as a possible increase in their work load, and so forth, because they would be and they were worried that even indirectly it would create a situation where the county that they represented or -- would end up footing some of the bills because their staff and themselves would have to take care of a lot of these problems.

SENATOR DOLLINGER: Again through you, Mr. President. The bill says that the

Attorney General will file a complaint that starts this process in the county in which the person is located.

My question is why in the county in the person which they're located rather than in the county which they were convicted because, Senator, you can imagine that there are places like little old Wyoming County, I think, represented by the chairman of the Codes Committee that will suddenly find itself inundated with these petitions.

SENATOR VOLKER: No. They're not going to be inundated with these petitions. You'd be surprised to find there aren't as many as you might think.

SENATOR DOLLINGER: May well be.

SENATOR VOLKER: The reason for that is you don't want to be moving these people all over the state and what you're obviously trying to do is locate the proceeding in the immediate area where these people are so that it will be easier to facilitate it, and I think that's the reason why they decided on that because if you didn't, you could have somebody, for instance, in Attica prison who was convicted

in the Bronx and you literally have to move these people back and forth, and I think the city of New York may take a rather dim view of that also.

SENATOR DOLLINGER: Okay. Okay. You have -- at several points in this bill, the comment is made that notice has to be given in such and such a time frame but -- and to use the general language, I'll paraphrase it. It's used on several occasions -- the failure to give it in a timely fashion doesn't invalidate it.

My question is why -- it would appear to be that that's one of those procedural defects that someone who's going to be confined should be entitled to, which is sort of an absolute statute of limitations on the government's ability to prosecute them just like the 3030 notice, the ready for trial notice, some other things like that. We give the government lots of latitude, and I understand perhaps this may be difficult to administer and you don't want to hang the prosecution and let somebody go free because you haven't done it right but still you seem to give a tremendous latitude on the notice side.

SENATOR VOLKER: I don't think it's a tremendous latitude. You and I know that if that notice involves something which could impair the rights of that person, then that person, presumably a judge could -- despite the fact that we talk about the fact that notice doesn't impair the rights of the people that are moving forward, if it would be considered to be enough of an impairment, a judge could still rule in favor of the -- you want to call him the defendant or the person who is involved here but primarily, I think we're trying to avoid the possibility of procedural mistakes upsetting the entire case because clearly judges have a tendency to rule in those kinds of favor and we understand that.

SENATOR DOLLINGER: I -- I'm not sure I would do it any different, Senator, but it just raised a question.

SENATOR VOLKER: All right.

SENATOR DOLLINGER: Again through you, Mr. President, a couple questions about the disclosure provisions. There's one that the bill says that the CPLR shall govern the disclosure with the exception of -- and then

it's got a series of Criminal Procedure Law sections that deal with the 270 notice and some other provisions. My only question is I don't know what those provisions are, but does this restrict the otherwise available methods of disclosure that would be available in any civil litigation?

SENATOR VOLKER: No. That's because of the trial juries. Those notices - everything relates to the CPLR except what those references are is to the use of trial juries, the 12 jurors, and so forth, which is different obviously from the CPLR. It has nothing to do with disclosure. It would not impair the person's disclosure in any way that I know of. That does not do anything to disclosure.

SENATOR DOLLINGER: Okay. Again, on the issue of disclosure, Senator, in the provision, you also talk about that the examiner appointed on behalf of the respondent will have access to all the information with the exception of one, and that is the victim without court order or good cause showing.

SENATOR VOLKER: Right.

SENATOR DOLLINGER: Obviously in

a sexual predator, if it's a plea or if it's a conviction, the victim is going to be the critical witness and yet the examiner, the person who is going to go in and examine the respondent -- defendant/respondent, who is going to have to evaluate what their state of mind is to determine their proclivity for the future doesn't get access to the victim. I understand the need to protect the victim from the perpetrator but the perpetrator's psychologist or psychiatrist who is trying to do a full evaluation, why should they have to have -- show good cause? Why shouldn't they just be able to as part of the process have access to the victim?

SENATOR VOLKER: What you're trying to avoid here -- and it says right in the statute, you're trying not to relitigate the whole case. So what you're trying to do here is to give as much latitude as possible but not set up a situation where the person involved here is attempting to or to relitigate the entire case and create a problem where the victim then in effect becomes the source of the entire case. If it's absolutely essential -- and that's why

this language is in here -- that the victim be directly part of it, then it could be done, but I think what we're trying to do here is to avoid the situation where the victim becomes the central figure because, remember, there's already been a decision by a jury that this person is a violent sexual predator and, therefore, has committed the crime and what we're trying to determine here is, is this person now in a position where they have a mental abnormality, not the issue specifically of the crime itself.

SENATOR DOLLINGER: Through you, Mr. President. On that issue, the question of the violation of the double jeopardy clause, on page 9 it includes the fact that the jury will be instructed that they may not find that he's a violent sexual predator simply on the basis of the fact that he was convicted before.

Would it make better sense and be fairer if the jury were simply told that there was no conviction or plea before, simply describe the act, simply describe what his behavior has been since then without prejudicing them by saying, Oh, by the way, he's already

been convicted or pled guilty to it. Wouldn't it be fairer to allow that and then they're not tarnished by the fact that someone says, Yeah, he was found guilty and he already admitted it?

SENATOR VOLKER: Well, they're tarnished to start with. The jury obviously knows that the person isn't even going to be there unless they're a violent sexual predator, or at least classified as a violent sexual predator. They had to either plead or be found guilty, otherwise the case would not even be there before that jury.

So I guess the answer to that is that that is an assumption to start with. So the fact that you assert that, I don't think really makes any particular difference and I don't see where it prejudices anybody. That's the decision that has to be made. Does this person have a mental abnormality and you just assert the type of crime that was committed at the time that the person was first incarcerated.

SENATOR DOLLINGER: Okay. On that question, Senator, is that the language from the Kansas statute that was approved by the

United States Supreme Court, that that disclosure would have -- that advice would have to be given by the jury?

SENATOR VOLKER: We understand it is the language directly from the Kansas statute. There are some -- as I told you, there are some changes but most of those changes actually are more favorable to the defendant and I don't have to reiterate them. We've already dealt with them. This is language directly from the statute.

SENATOR DOLLINGER: Just one final question, Mr. President, since we've run into this problem all the time before. What's the effective date of the statute and to whom does it apply?

SENATOR VOLKER: It's January 1, 1999. The reason for that, by the way, doesn't relate as much to -- it relates to the procedures that must be set up, timing. It will take at least six months, I believe, for the committees to set up. You want to give time. Now, it could relate -- and we went into this last year. It could relate to some people who are already in prison because of the fact that

this is not a criminal statute but is a civil statute. Al Waldon -- Senator Waldon and I went into this last year, the ex post facto is not available here and, in fact, that was an issue, I believe in the Supreme Court case itself. The Supreme Court specifically said that you can deal with crimes previously committed as long as people have already been sentenced and, therefore, it could apply to some crimes that were committed prior to January 1st of 1999.

SENATOR DOLLINGER: Okay.

On the bill, Mr. President. I appreciate -

ACTING PRESIDENT MARCELLINO: Senator Dollinger, on the bill.

SENATOR DOLLINGER: -- Senator Volker's comments in response to my questions. Since this is a big long bill and I had seen it for the first time, I tried to read it as quickly as I could, it raises all kinds of questions and I think the reason for that is that this is an area in which we're going to allow a civil confinement on the basis of a jury finding of certain conduct, future conduct beyond a reasonable doubt, it will be the only

instance in which we punish, we restrain someone for anticipated future conduct. We confine them on the basis of a finding beyond a reasonable doubt. No other place in our civil litigation will we have a situation where we're going to require beyond a reasonable doubt in order for the courts to do something.

I close with only one thought and I know that a lot of this is based on the science of sexual predators, that there's a revolving science about proclivities of those who have committed these crimes.

I simply add one observation to that debate and it is this: My understanding is that the only thing the United States Supreme Court said was that restricting someone's liberty, as the civil confinement statute does, with all the safeguards that are built in that Senator Volker had and that the Kansas statute had, the only thing the Supreme Court said was it wasn't a violation of the double jeopardy clause to subject someone who had been found guilty of a criminal offense to this type of civil confinement.

I'm not convinced that the

science of the future predictivity of people's behavior is at such a level that they will be able to sustain the burden of proof beyond a reasonable doubt that you can show that someone who has committed even a violent sexual predator crime before will be beyond a reasonable doubt able to predict that they will do it in the future.

So, unfortunately, the danger in this bill is that the -- what I call bad science or minimalist science that may accompany this whole theory will be under tremendous pressure given the enormous prejudice that society has against violent sexual predators and we may have minimalist science, extremely agitated juries and nervous public unduly restricting people's liberty.

I know, Senator Volker, in my long discussions with you about this bill that you're concerned about that. Senator Leichter is concerned. Senator Waldon is. I am too, but I'm willing to give this a try because let's see how it comes out. Let's see how it works out. Let's keep our eye on whether we've gone too far but from the point of view of trying to protect

our society by civil confinement of those who are sexual predators, I don't think this is an unreasonable step.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 12. This act shall take effect on the first day of January.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Excuse me. Ayes 59, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is still passed.

The Secretary will read Calendar Number 335.

THE SECRETARY: Calendar Number 335, by Senator LaValle, Senate Print 2657, an act to amend the Public Health Law, in relation to authorizing.

ACTING PRESIDENT MARCELLINO:

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT MARCELLINO:

Senator Leichter.

SENATOR LEICHTER: I just want to check. Explanation.

ACTING PRESIDENT MARCELLINO:

Senator LaValle, an explanation has been asked for by Senator Leichter and others. Before you start, if we could get some order. Can we take the conversations out of the chamber, please. Thank you.

Senator LaValle.

SENATOR LAVALLE: Senator Leichter, this bill would authorize the Commissioner of Health to promulgate rules and regulations requiring that a medical facility give notice of the presence of communicable disease or other health risk to emergency respond personnel.

There is, as you know, a list of -- under the code -- Health Code of communicable diseases. We have indicated in

this legislation, as you will see, that we are not limiting -- it's HIV and other communicable diseases that are in the Health Code. We define emergency response personnel as firefighters, law enforcement officers, paramedics, emergency medical technicians, public safety officers and other persons including employees of legally constituted volunteer organizations, whether or not compensated, and that's specifically our volunteer fire and ambulance personnel.

This legislation has been one of the top priorities for the individuals that I mentioned in terms of the emergency respond personnel.

This legislation would, Senator Leichter, complement and supplement what we already have under federal regulation in defining how we deal with such matters for those individuals who respond to emergencies.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR LEICHTER: Senator, as I read this bill, an example I'm going to give you, would that notification be required? Somebody has a heart attack. Emergency personnel responds, takes the person to a hospital. The person is not bleeding. There's no exchange of fluids. There's no possible way to transmit the HIV virus.

Under your bill, would the medical facility be required to notify the emergency workers that that person has HIV and under my example, he's HIV-positive.

SENATOR LAVALLE: I assume by your question, then, that you are indicating that someone who is bleeding -

SENATOR LEICHTER: He's not bleeding.

SENATOR LAVALLE: No. Just let me -

SENATOR LEICHTER: Oh, I'm sorry.

SENATOR LAVALLE: That a person who is bleeding would be a person who could

transmit the HIV virus but someone who had a heart attack could not.

Under federal regulation -- and I would imagine that the state regulations would be -- would have to parallel what is in federal law and in the case of HIV, the federal regulations require the medical facilities to determine whether an emergency worker is at significant risk of becoming infected with HIV.

So in the example that you gave of a heart attack, the answer would be that there would be no risk to the worker.

SENATOR LEICHTER: Senator LaValle, I appreciate the answer and that certainly clarifies for me what is in your mind.

SENATOR LAVALLE: No. It's not what is in my mind. It is what is already in federal regulation, so -

SENATOR LEICHTER: Well, let me finish my question. I understand it's in federal regulation. The fact it's in federal regulation doesn't mean that the state of New York is going to have the same regulations. You're now trying to provide regulations that

are going to be enacted in the state of New York, right? Is that correct?

SENATOR LAVALLE: What we are asking is the health commissioner to promulgate those rules and regulations, that is correct.

SENATOR LEICHTER: And certainly under the bill as written, the health commissioner could promulgate rules so that in the example that I gave, in any instance where emergency workers took somebody to a medical facility where it's determined afterwards or it becomes known that that person is HIV-positive, you advise the medical emergency workers thereof.

SENATOR LAVALLE: Senator, I would -- first of all, we are talking about all communicable diseases. You, for purposes of this question, have narrowly focused on HIV, I presume. It is difficult for me to comprehend our Commissioner of Health promulgating a regulation that would be inconsistent with a federal regulation in this regard.

SENATOR LEICHTER: Senator, if you would continue to yield, please.

ACTING PRESIDENT MARCELLINO:

Senator, do you continue to yield?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR LEICHTER: Do the federal regulations in any way now apply to medical facilities in the state of New York?

SENATOR LAVALLE: The answer is yes.

SENATOR LEICHTER: Well, if we have these federal regulations and they seem to avoid the example that I gave you, why do we need state regulations?

SENATOR LAVALLE: Because in our code we do not have HIV as part of the code of communicable diseases. Also what we are asking here is that the individual or individuals who are at the scene, who are involved with the individual would be directly notified and there is a difference.

SENATOR LEICHTER: If you'll continue to yield.

SENATOR LAVALLE: By statute.

SENATOR LEICHTER: Is there a difference between the federal regulations and

the bill that's before us?

SENATOR LAVALLE: Well, here in the bill you can see we specifically statutorily are requiring that the individual be notified. That's what -- this is a notification -- as you had indicated, this is a notification bill.

SENATOR LEICHTER: Right. Okay. Is that -- is that notification requirement in the federal regulations and do they apply to the persons that are listed in Section 3 of your bill?

SENATOR LAVALLE: The answer - the answer is the federal regulation is different from what is in this bill because in this bill we are asking that the individual involved specifically gets the notification, where I believe in the federal regulation it is a specific person of the department or the officer. So I think there is some difference.

SENATOR LEICHTER: Senator, as I understand it, is it your intention or your belief that the Commissioner of Health will so condition the requirement of notification to those instances when there is a risk that the disease will be transmitted?

SENATOR LAVALLE: Senator, that's a very good and that's a very fair question, and I think it goes really to the heart of what the emergency respond personnel are concerned about and so as I have indicated here in my remarks, that it should be related -- there should be a nexus to the risk of the worker and the patient and what that patient is suffering from.

SENATOR LEICHTER: Mr. President, again, if Senator LaValle will continue to yield.

ACTING PRESIDENT MARCELLINO: Senator LaValle.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. Do you continue to yield? He yields.

SENATOR LEICHTER: I'm grateful to you for explaining the bill as you have. It's certainly clearer to me, but my question to you is why not put in the bill that nexus which you consider so necessary and appropriate?

SENATOR LAVALLE: Well, because I think that the commissioner will be guided by what is in federal regulation, and I know that

what you're trying to do on the floor is to give legislative intent so that the commissioner will be guided in that regard, and I am sure that the commissioner will be consistent with that which is in federal law and the intent given here, Senator, by myself in my remarks in answer to your questions.

SENATOR LEICHTER: Okay. Just one final question. While, you know, we've established some intent and we're hopeful that the commissioner will do what seems sensible and certainly the present health commissioner, I have a great respect for her, I think would do it. I would think that any health commissioner in the future would promulgate regulations that has that nexus which you intend, but wouldn't we be safer? Wouldn't we avoid any risk of having a regulation that doesn't carry out your intent if we actually put into the bill itself that essential nexus?

SENATOR LAVALLE: Well, I suppose that you could always in a piece of legislation put belts and suspenders as we would say to make sure but, Senator, I think you know that in the same manner that we are guided in the

formulation of legislation, our departments, particularly in the area of health, are guided by the interest of the various stakeholders and their input into the process.

So I am not particularly concerned that the commissioner will veer very far -- will veer at all from the intent of this legislation and what is already in federal regulation.

SENATOR LEICHTER: Good. I thank Senator LaValle for his very clear explanations.

Just very briefly, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Leichter, on the bill.

SENATOR LEICHTER: I just want to point out that we really don't have belts and suspenders here because there's absolutely nothing in this bill that sets forth that nexus which Senator LaValle intends and which I think makes the bill a very sensible bill.

I think people who are at risk of developing a communicable disease ought to be informed, whether it's HIV or whether it's syphilis or hepatitis, and so on. I think we owe that particularly to people who work as

emergency medical workers, but if that nexus was in the bill, Senator LaValle, I think that you would have a bill that would pass the Assembly.

My understanding and what I have just been told is without that nexus, the bill is not going to go in the Assembly. I would hope that you add that nexus, and I think it's a safeguard that we should have in the bill.

Based on what Senator LaValle tells me he intends to do in the bill, which I think makes it a sensible bill, I'm going to support it, but I don't think it's as well drafted as it should be to avoid having a notification made where it's not necessary, and I think we all ought to appreciate and understand that people who have communicable diseases -- it's not HIV. It can be other sexually transmitted disease or it could be hepatitis -- don't want that information spread around for obvious reasons.

On the other hand, that interest is certainly overriden by the concern that we have for medical workers who ought to be protected. If the nexus were in the bill, I think there would be no problem with it.

Since you intend it to be such, I'm going to vote for it, but I'm afraid you're not going to get it through the Assembly in this form.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Senator Abate, why do you rise?

SENATOR ABATE: I would like to explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Abate, to explain her vote.

SENATOR ABATE: While I trust in the good faith intentions of Senator LaValle that the Health Department will write in that nexus, I'm not prepared to support the bill until the nexus is fully detailed in the legislation.

We all know that HIV and AIDS cannot be transmitted through casual contact and

while we need to protect workers, emergency workers, I believe this bill as crafted is much too broad. When the bill is amended to include that nexus so that we can in a reasonable manner safeguard the health and safety of these workers, I can support the bill but not until that amendment occurs.

THE SECRETARY: Those recorded in the negative on Calendar Number 335 are Senators Abate, Markowitz, Montgomery, Paterson, Rosado, Sampson, Santiago, Smith. Ayes 52 -- also Senator Connor. Ayes 51, nays 9.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 833, by Senator Balboni, Senate Print 4248-B, an act to amend the Civil Practice Law and Rules, in relation to prohibiting.

SENATOR GOLD: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Balboni, an explanation has been requested.

SENATOR BALBONI: Thank you, Mr. President.

This bill would create a new

Section 1411 (a) of the Civil Practice Law and Rules. That would essentially establish in law a complete bar as a result of a felony conviction of an individual whose culpable conduct contributed to their injury.

Now, take away that legal definition, what you're talking about is a concept that we've discussed before here on the floor, that is, basically denying the right to participate in our justice system for individuals who are injured through the course of criminal conduct, and might I just add that we have -- if we adopt this bill today, we're taking a step that we took -- this Legislature took back in 1975.

In 1972, the Court of Appeals in the case by the name of Dole versus Dow criticized the comparative -- the contributory negligence scheme and in 1975 the Legislature reacted and adopted a comparative negligence scheme. We now in this year after considering Manning versus Brown, the Court of Appeals in December, which has criticized our current law as it relates to allowing people to bring these lawsuits, can now adopt this new section and,

therefore, reverse the mistakes that were made back in 1975 with the prior contributory negligence reform.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gold, are you going to request that I read the last section?

SENATOR GOLD: I don't think so.

ACTING PRESIDENT MARCELLINO: Oh, okay.

SENATOR GOLD: Will the gentleman yield to a question?

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

SENATOR GOLD: First of all, Senator, we all know that bad cases make bad law, and I hope this isn't going to be one of those examples but, Senator, to begin with, this bill had an original print and an "A" print and it's now in its "B" print.

The original print and the "A" print sought to amend Section 1411 and that section deals with the issue of contributory negligence and assumption of risk and it uses the expression "the culpable conduct

attributable to the complainant." Now, understand, the culpable conduct and then it goes on and has some language, "provided any culpable conduct".

This is my question, Senator. In the "B" print, which is what we're being asked to debate today, we create a new section, Section 1411 (a), so all of that preliminary language is not in the section and the way I read your section, which is very short, "In any action to recover damages", et cetera, it says "any culpable conduct of the claimant which results in a conviction." The way I read this, if anyone's convicted of a crime, it sounds like you're barring them from suing anybody for anything even if it is not related to the incident.

SENATOR BALBONI: Senator, if I might, I would direct you to the word "culpable" and its definition within the law, both in the common law and in the statutory law. Culpable specifically refers to the incident in question and that's been -- when you take a look at the Pfaltzgraf case versus the Long Island Rail Road and you go back to those definitions of

culpable, those are the specific definitions they're referring to and, frankly, we decided to make this very simple. Some of the other attempts at this particular change, I believe led to questions of fact. There were inherently raised questions of fact.

The point of this amendment is to permit the defendant to bring a motion for summary judgment, either in lieu of answer, in 3212 of the CPLR, or just as a motion for summary judgment at the threshold of the case so as to short circuit the inquiry. Inherent in that is the ability to avoid a question of fact which would, as you know, defeat a motion for summary judgment.

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

ACTING PRESIDENT MARCELLINO: Senator Balboni, do you yield?

SENATOR BALBONI: Of course, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR GOLD: You didn't discuss Pfaltzgraf in the Fordham Law School article,

did you?

SENATOR BALBONI: No, I didn't, because the issue of culpable conduct was -- has not been raised as to one of the objections to the bill. As the you know, the Trial Lawyers had extensive memorandum in opposition.

SENATOR GOLD: Well, we'll get to that. We'll get to that. If the gentleman will continue to yield. One second.

ACTING PRESIDENT MARCELLINO: Will the gentleman continue to yield?

SENATOR GOLD: One second. If the gentleman will continue to yield.

ACTING PRESIDENT MARCELLINO: I believe he continues to yield, Senator.

SENATOR GOLD: Yeah. See, what I'm concerned about on the language issue -- and you may want to take a look at it -- it says any culpable conduct, and I think if you're going to go to a new section, it would at least make your thought clearer if you said any culpable conduct involved in these circumstances -- in the particular instance, because I do think that that affects it.

I would also say, Senator, you

refer to McCummin and I'm familiar with that situation. I'm familiar with the Sandusky case. I wrote the original "Son of Sam" Law and was very interested in Justice Crane's opinion where he did not allow the Sandusky suit, and I think that is an issue whether or not as between a victim and a perpetrator, there should be some capacity to sue back and forth, but in your situation, Senator -- let's go to the Trial Lawyers' memo. They raise some concerns and I think they ought to be dealt with on this floor.

For example, when I went to law school in the early 1700s, we all heard that you couldn't set up traps for people. If somebody came onto your property even as a trespass... I think Sandusky is calling you -- even as a trespasser, you couldn't set up a trap.

The way I read this bill, if you're setting up a trap for somebody or if somebody is trespassing, you might be creating a situation where you're now giving them some civil immunity from that situation. They raise that issue. You want to deal with it.

SENATOR BALBONI: Mr. President, I would be happy to respond to that. First,

though, I would just like to in regard to your point about the drafting of the bill, for anyone who would take a look at Section 1411-A, that specifically refers to a comparative negligence scheme. We reject that. We do not want any comparative negligence being done. We - therefore, that's why we created the separate section, to take it out but to keep it in the same theme, that is, assumption of risk and contributory negligence. We believe that it would be very -

SENATOR GOLD: Can I debate with you on that issue? I don't mean to interrupt, but the point I'm making is I understand that you don't want it in 1411. I understand that. All I'm saying is that there was language in 1411 which helped to explain the issue of what culpable conduct you were talking about.

SENATOR BALBONI: In the context of a comparative scheme which would necessitate considering the facts. I don't want to consider the facts. I want this to be a motion on the law without a question of fact presented to the court and, therefore, subject to a motion for summary judgment. That was our intent.

SENATOR GOLD: Will the Senator yield to a question and then we'll come back to that?

ACTING PRESIDENT MARCELLINO: Senator Balboni, do you yield to a question?

SENATOR BALBONI: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR GOLD: Is it your intention that anybody who's been convicted of a felony should be barred from any kind of a lawsuit after that?

SENATOR BALBONI: Yeah. Senator -

SENATOR GOLD: In any situation.

SENATOR BALBONI: Senator, that is consistent -- the answer is yes, and it is consistent with the case of Barker versus Kallash which in 1982, the Court of Appeals enunciated the criteria for when you would bar from entering into our judicial system and they spoke of serious crimes, serious offenses and that's why this particular statute speaks to - or this particular bill speaks to felony and for the felony level. There are many who would

argue that we should expand the breadth of the actions and the offenses that would come under this -- the ambit of this bill, but I specifically kept it to felonies so that we would be consistent with the Barker methodology.

SENATOR GOLD: Mr. President, if I may ask another question.

ACTING PRESIDENT MARCELLINO: Senator Balboni, do you yield to another question?

SENATOR BALBONI: Yes, Mr. President. If I might, though, before I respond to the gentleman's question, may I please call a Committee on Banking in the Majority Conference Room immediately.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

There will be an immediate meeting of the Banking Committee in the Majority Conference Room, that is 332, the Banking Committee.

Senator Gold, he yields to your question.

SENATOR GOLD: Yeah. Senator, a

person is convicted of bank robbery, a felony. They go to jail. They're now out of jail and they're driving in a car and they get slammed by somebody who goes through a red light and they get injured. Do you believe that they should be able to sue the person who slams into their car and causes them injury?

SENATOR BALBONI: Yes.

SENATOR GOLD: Well, that's my point, Senator, if I can continue. What I'm saying is you are trying to bar anybody from recovering from injury in the course of the conduct of a crime and that's one issue. I'm telling you that the way you have your language here, it sounds like you would be barring anybody who had any culpable conduct that led to a felony from suing anybody in any other situation for personal injury. So I'm just saying you may want to look at that. It is obviously from your last answer, if I'm reading it right, an unrequested consequence of your language. So you may want to just take a look at that.

SENATOR BALBONI: That's, of course, assuming your premise that it was

culpable conduct -- that it was not culpable conduct. That's what I assume from your fact scenario.

SENATOR GOLD: Well, you can't - if I may, Mr. President. If somebody is convicted of a felony, it's because they had culpable conduct.

SENATOR BALBONI: No, Senator, I disagree. Culpable conduct, that's not what the statute refers to. If you take a look at how the sentence is constructed, the word "culpable" does not take -- does not modify the actions that caused or gave rise to liability in the felony. It modifies the actions that gave rise to the injuries.

SENATOR GOLD: Well, Senator, that's where you and I disagree and I would say to you as a careful draftsman, you may want to look at your language.

SENATOR BALBONI: Very good, Senator.

SENATOR GOLD: But getting back -- let me reiterate the question I asked before, the issue of the trap and I don't have to restate the whole question. Somebody comes

along and how do you handle that?

SENATOR BALBONI: I believe it is the state's -- in the state's best interest to deter that behavior, to provide for punishment of an individual who would take it upon themselves to basically take the law into their hands and to set up a trap, a spring gun as it were, and the question becomes what is the best deterrent? Is it to allow for a civil lawsuit in which the individual who's already committing a felony would be a burden in this instance - let's assume a burglar -- with the intent to cause a felony within the premises at night and comes in and is shot?

Now, if that is the case, is society in this state best represented by a civil lawsuit that would try to deter that course of conduct or would it be through the criminal system that we have in the state. I believe it would provide a much greater deterrent to an individual. I mean, it's -- and this is -- it's axiomatic and common sense that as you look at your own conduct, which would you be more afraid of, spending time in jail or losing money? That -- if you -- if you disagree

with my analysis that I believe it is the jail time, well, then, that -- great minds can differ, but that's what I would respectfully suggest.

SENATOR GOLD: All right. If the Senator will yield to another question.

SENATOR BALBONI: Of course, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Balboni, do you yield? I believe he does, sir.

SENATOR GOLD: Senator, again, and it's the Trial Lawyers' example of somebody who commits a crime, is apprehended, perhaps they're in cuffs and now the police, as unfortunately we're learning in New York these days, are too aggressive and they cause injury to the individual who is now in custody and no longer a threat. Are they barred under your bill from bringing an action?

SENATOR BALBONI: Yes, they would, and you may think that is a harsh result. However, as you well know, there are other civil remedies that can be achieved through the federal law, that is, in 1983, a

civil rights action which has the -- not only can you get attorneys' fees in that, but you can also have personal liability against the officer.

As I pointed out in the article that you alluded to beforehand, there are many statutes right now on the books which provide for a reimbursement, an indemnification of municipal employees, specifically officers, notwithstanding the fact that their conduct may have been found to be punitive and, therefore, there is no personal financial liability exposure for them. Under -- in the 1983 civil rights action, that is done away with and, of course, you know, all the case law that we cite in the Monnell decision that predicates liability upon actions taken in the course and scope of conduct of the job but that again, if you're going to -- what do you say to a police officer, don't beat this person who's in your custody because we're going -- we're going to have to sue you, or don't beat this person who's in your custody because we will send you to prison and you will go away for a long time and lose your personal freedoms, and I think that

that is a much greater deterrent.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gold.

SENATOR GOLD: Yeah. On the bill.

ACTING PRESIDENT MARCELLINO: Senator Gold, on the bill.

SENATOR BALBONI: Thank you.

SENATOR GOLD: I want to thank Senator Balboni for explaining the bill because it really clarifies my opposition, and I appreciate his being forthright in his answers.

Too many times on this floor I see people introduce bills, they sort of run away from what it does on the floor and then the press releases are very different but he's very candid about what it does, and I think that's the problem with this bill.

First of all, our legal system is filled with circumstances where people have civil and criminal remedies. It happens all of the time and sometimes we have to explain to lay people that, well, in the criminal case it was beyond a reasonable doubt but the other one is

different and the O.J. Simpson trial, as an example of someone who was convicted in one courtroom in the criminal side but there were damages given in the civil side. There are two separate things and whether it's -- one or the other is a deterrent, I think it's a system of justice that we're talking about.

Senator Farley and I had a dispute one day and I realized that unfortunately he was right and I was wrong because I made the comment that we are here to make laws and laws have specific words and he said to me, no, no. We debate concepts and as foreign as that concept was to me, he's really right.

Unfortunately, you have put before us something and we're debating ideas but if it becomes a law it is words, and I would urge upon you that the words of your bill need some expansion if they're going to at least say what you want it to do, but I'm against what you want it to do and the reason I'm against it is the very examples we used.

You said to me, for example, the situation of the teenager who was already no

longer a threat to society, the individual is handcuffed and he's in police custody and now he's beaten and he's abused and that may be a crime but it also should lead it him having some rights to damages and when you say that your bill may sound harsh, I say to you it sounds outrageous. It's not harsh. It's outrageous, if that is what the consequence is going to be.

Now, there were some very, very interesting -- and that's a terrible word -- but interesting legal questions raided by the McCummin situation, the Sandusky situation and McCummin got a lot of money and it was in a situation where most people said, What, and that's why I say to you that we say that bad cases make bad law.

My distinguished colleague, Senator Volker, who I respect greatly brings before us every year a bill that would change something in the grand juries because one assistant D.A. made one mistake in one case out of hundreds of thousands and I say to him respectfully, don't change the law for that. Thank God it only happened once in so many situations but I think, Senator, we cannot as a

Legislature, not in 1998 when you read what goes on in the papers, open up a door, particularly as the Trial Lawyers have pointed out, for police officers to bang up people and take away part of their rights say, well, you still have the Criminal Law. I don't think you can do it.

I know everybody in this chamber was horrified last week when a retired police officer killed his wife and his daughter, but I bet everybody in this chamber, including me - I'm no better -- has voted that if you were a retired cop, give him a gun. After all, they're retired cops, give them a gun. Well, I don't know whether that retired cop should have had a gun.

My issues on gun control are going to vary substantially by my colleagues on both sides of the aisle perhaps, but I think, Senator, that we have to have a criminal justice system that takes care of the criminal and distinguishes that some activity is criminal and society has an interest and then you have the civil law where maybe individuals have an interest, and I say to you, Senator, as harsh as it may sound, that certainly if an individual

has an action because something has been done to them which is wrongful, we should not be saying, yeah, but there was a crime some place along the line and even though it may be over, that's just -- that's just tough luck and when you talk about summary judgment versus the costs to municipalities, I will say one other thing to you, Senator. If we're talking about the costs of litigation, there's a lot of things we ought to look at.

I heard the Trial Lawyers beaten up in this chamber year after year when I know and everybody knows that one of the most expens ive portions of tort litigation is what the insurance company lawyers get paid. You want to cut the cost of policies, take a look at that. Well, if you're talking about municipalities, Senator, I can tell you that there is a fortune that is paid by municipalities in defending simple contract actions where people who do work for these municipalities are caused delays because of the municipalities, because of the red tape and what happens? Contractors who do work for the state are delayed, delayed, delayed. That's a cost. Let's do something

about that, but I believe, Senator, that with the best intentions of the world, you are overreacting and you are going too far.

I think that the -- and I've tried to change the law with regard to the Sandusky case because I think he should have had a claim against McCummin, but in your situation if you're telling me -- if you had say to me that the Trial Lawyers go too far, that the crime was over and forget about it, that would have had maybe one reaction but if you're telling me that under this law, a police officer can arrest someone after a crime and while a person is in custody and no longer a threat, they can be injured and they lose their right to sue if they were convicted of a felony, it goes too far and I respect the fact that we now have a colleague who reads law and reads cases. That may be disturbing to some. I think the article is well written, but I think that I have to disagree with your conclusion.

ACTING PRESIDENT MARCELLINO: Senator Balboni.

SENATOR BALBONI: Yeah, Mr. President. On the bill.

ACTING PRESIDENT MARCELLINO: Senator Balboni, on the bill.

SENATOR BALBONI: In response, I think that this debate illustrates what oftentimes occurs in a deliberative body. We take concepts and we expand on them that are frankly irrelevant to the law itself.

Senator Gold makes an argument that an individual who's no longer a threat, is in cuffs and is beat, that is a horrific visual image for all of us to consider and yet that has no relevance to the bill. That is not culpable conduct any way, shape or form. That is simply an assault, police brutality, and whether you want to sue in the state court, you can do that but certainly there is much more deadly conduct in that particular instance than this bill considers.

In addition which this particular statute will be implemented by the courts of this state and what we fail to do oftentimes - and in the seven years I have been in the Assembly we did it again and again and again, we're doing it here today -- we fail to take the next step.

Ladies and gentlemen, there is a society out there that will take this bill and implement it. So work it through for those trial practitioners, people who know the court system. There will be a motion for summary judgment under the scheme of this bill to dismiss a case. The court will then review the affidavits which support the motion and will decide on the law whether or not the pleadings themselves describe culpable conduct. If they do, the case is dismissed. If they don't, the case is -- then goes forward to trial.

Let's say you have an egregious situation where justice is not done and the judge sitting in judgment makes a mistake and you have the appellate division that can come and take a look, a far cry from the instant and absolute denial of justice that we talk about if we were going to insulate police officers from any type of criminal liability.

Senator Gold, your fight is not with me. It is not with this bill. It is with the current system of liability escape clauses that a lot of the police departments in the state have and many of them need those escape

clauses, but that is a criminal justice system issue, not a civil justice issue.

Today in this state we need to do a very simple thing to return to where we were in 1975, pre-1975, when we said to you if your conduct contributes to your juries, you are out of luck. You cannot sue, period. That's what the contributory negligence law said.

All this bill seems to do is a little bit retro', is a little nostalgic. We want to turn to the pre-1975 days for the felonious plaintiff, simple, and here's the real shock, ladies and gentlemen. This bill does nothing more, nothing more than codify what is already the law in the state of New York from the Court of Appeals which is the highest court in this state and it's been that way since 1982.

So now we're understanding all the diatribes by the Trial Lawyers, I would suggest that they are overreacting because this was the way the law was. What we did was we failed to carve it out. That's all. If we carved this out in '75 when we adopted the new comparative system, we wouldn't be having this debate and you know what? Neither would the

people in the drug stores and the diners and the Eagle Scouts who talked to me about this bill and why we need to do this to bring some common sense back to this system.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, if the -

ACTING PRESIDENT MARCELLINO: Why do you rise?

SENATOR PATERSON: If the Acting Majority Leader would please yield for a question.

ACTING PRESIDENT MARCELLINO: Senator Balboni, do you yield?

SENATOR BALBONI: Of course.

ACTING PRESIDENT MARCELLINO: Of course he does, sir.

SENATOR PATERSON: Senator Balboni, am I correct when you are saying that actually at a point that a person being arrested is subdued and is in handcuffs, if there was a further assault by police officers, that would, in effect, be police brutality, that would not

apply because there wouldn't be any contributory action on the part of the -- on the part -- any culpable conduct. So, therefore, there's no culpable conduct on Barker versus Kallash.

SENATOR BALBONI: Correct.

SENATOR PATERSON: Okay. If the Senator would yield for a question.

SENATOR BALBONI: Of course, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator, do you yield for a question?

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MARCELLINO: He does.

SENATOR PATERSON: If we take, for example -- I can think of other examples, but the best example -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. Can we have some order in the house, please?

Thank you.

SENATOR PATERSON: Thank you, Mr. President.

If we took, for example, the Rodney King case because we're all familiar with

it, my memory of the Rodney King case was that this individual was not at that point arrested. He was not in handcuffs and actually we passed a bill earlier this session that was introduced by Senator Volker increasing the penalties for resisting arrest.

So the argument could be made that during the point that Rodney King was subdued and even though he was assaulted, the argument could be made that he was resisting arrest. Isn't that correct, Senator?

SENATOR BALBONI: Well, any argument could be made, Senator, but a question back to you, if I might. Would Rodney King have been precluded from bringing a civil liability lawsuit under my bill?

SENATOR PATERSON: I -- Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: I would suggest that Rodney King would be precluded because his actions would have been taking place prior to the time that he was arrested. So, therefore, it was still in furtherance of his

fleeing from the scene of the crime.

SENATOR BALBONI: Well, actually, that's -- I would disagree with that result. First of all, he could bring a 1983 federal civil rights action and by the way, he did. He did not file a state -- California state Supreme Court action or -- I forget what they call the trial courts there. He chose to go to 1983 civil rights case and that is the case that caused all the media attention.

So he had his civil rights and he would maintain his civil rights under my law because we affect state law. In fact, it is somewhat of a pointed debate among trial attorneys that if an attorney were to bring as a plaintiff's attorney a state cause of action in this type of situation involving the police, that it would be legal malpractice because the remedies under the federal system are so much more superior.

So that is why I find somewhat specious the argument that under a police brutality situation, which I think has factual inappropriateness to it, but nonetheless from a legal standpoint that it is even something that

you should consider because the federal law is so much superior in its application to the situation.

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

ACTING PRESIDENT MARCELLINO: Yes, I believe he does. Could we also have some order in the house? Can we please take the conversations outside so we can try to expedite this debate.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: The issue that I'm raising doesn't necessarily relate to the forum, because I would suggest that if the civil actions in the state are so inferior to that of the federal action, that that action would be a reason not even to make any attempt legally to preclude them.

The point that I'm just trying to make is that the conduct of the individual and whether or not there's culpable conduct is certainly enough at issue as it was in the Rodney King case such that no one was actually

convicted criminally. So what I'm saying is that I think the problem is -- if I were just going to give my personal opinion, I think the problem is that we're looking at the civil recovery as being a windfall and certainly anyone who's engaging in culpable conduct who got a dime out of it as a result of some civil action would really be diminishing the value of our courts and their integrity. So I agree with you on that point, Senator Balboni.

What I'm sort of suggesting to you is that in many of these cases where you have a situation where someone becomes disabled or can't walk again, that there are times -- at times hundreds of thousands of dollars worth of bills that I think would wind up getting paid by the taxpayer where they should actually be paid by the party that caused it if it can be established that the party went beyond the scope that was necessary to detain the individual.

SENATOR BALBONI: I'm sorry. I didn't catch the question on that.

SENATOR PATERSON: Neither did I, Senator. My question is what do you think about that?

SENATOR BALBONI: Right now under the law today it is very unlikely that someone who would participate in a criminal act and would be injured in the course of the commission of that act could recover from injuries before any jury decision.

I have tried these cases. I tried a case in 19... I'm trying to think of the year -- 1991 where an officer shot an individual four times in the stomach as a result of a police engagement. The individual had a knife in their hand and lunged at the police officer. The individual was convicted of menacing. The individual then turned around and then sued the county of Nassau where I was a deputy county attorney for $2.7 million, alleging that he now was paralyzed below the waist.

We went to verdict, a month long trial and the jury came back and said, of course you're not liable, county of Nassau. There's no basis for this. It's the same result after a month of trial, and I know that if we could have taken their culpable conduct in the commission of that act, that we could have precluded that entire trial. Same result.

That's what we're trying to do here. It would still be for judicial decision. It would still be for judicial consideration. This bill would merely go back to the principles enunciated once again in Barker versus Kallash and bring 1975 contributory negligence. Simply put, if it wasn't unconstitutional back then and if it wasn't a burden to the taxpayers back then, then why would it be a burden on the taxpayers now?

SENATOR PATERSON: One final quick question.

ACTING PRESIDENT MARCELLINO: Senator Balboni, do you continue to yield? He yields, Senator.

SENATOR PATERSON: Senator Balboni, if we went back to the standard that we had before 1975, I believe the controlling case in that area was actually held prior to the 20th Century. I think it was a 1895 case. What was the name of that case?

SENATOR BALBONI: You mean Riggs versus Palmer?

SENATOR PATERSON: There it is. Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO:
Read the last section.
THE SECRETARY: Section 4. This act shall take effect immediately.
ACTING PRESIDENT MARCELLINO:
Call the roll.
(The Secretary called the roll.)
ACTING PRESIDENT MARCELLINO:
Please announce the results.
THE SECRETARY: Those recorded in the negative on Calendar Number 833 are Senators Connor, Dollinger, Gold, Lachman, Leichter, Markowitz, Montgomery, Paterson, Sampson, Santiago, Stavisky and Waldon. Ayes 48, nays 12.
ACTING PRESIDENT MARCELLINO: The bill is passed.
SENATOR WALDON: Mr. President.
ACTING PRESIDENT MARCELLINO:
Senator Waldon, why do you rise in that strange place?
SENATOR WALDON: I'm a strange person, Mr. President.
I was out of the chamber on other Senate business when the house dealt with

Calendar, I believe it's 335, and I would respectfully request that without objection, I be recorded in the negative on Calendar 335.

ACTING PRESIDENT MARCELLINO: Without objection, Senator Waldon will be recorded in the negative on Calendar Number 335.

Senator Breslin, why do you rise?

SENATOR BRESLIN: I request to be recorded in the negative on 335 as well, with unanimous consent.

ACTING PRESIDENT MARCELLINO: With unanimous consent, we'll do that, sir.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Numbers 1377 and 1378.

ACTING PRESIDENT MARCELLINO: Without objection, Senator Dollinger will be recorded in the negative on 177 and Calendar Number 178, only if he promises never to hit the microphone again. 137?

SENATOR DOLLINGER: 1377 and 1378, Mr. President.

ACTING PRESIDENT MARCELLINO: 1377 and 1378.

SENATOR MONTGOMERY: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes. Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 756.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, without objection, will be recorded in the negative on Calendar Number 756.

The Secretary will read.

THE SECRETARY: Calendar Number 879, by Senator Velella, Senate Print 4417-D, an act to amend the Insurance Law, in relation to risk-based capital requirements.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Dollinger.

SENATOR DOLLINGER: May I have unanimous consent to be recorded in the negative on Calendar Number 335.

ACTING PRESIDENT MARCELLINO: If we can finish the roll call, Senator, we'll do that. The bill is passed.

Without objection, Senator Dollinger you will be recorded in the negative on Calendar Number 335. Thank you.

Senator Velella.

SENATOR VELELLA: May we return to reports of standing committees. I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT MARCELLINO: Yes. We have a report of the Rules Committee at the desk.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MARCELLINO: Before we do that, Senator Leichter.

SENATOR LEICHTER: Could you also

please record me in the negative on Calendar 335.

ACTING PRESIDENT MARCELLINO: Without objection, Senator, you will be recorded in the negative on 335.

The Secretary will read the report of the Rules Committee.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills directly for third reading:

Senate Bill 317-C, by Senator Skelos, an act to amend the Insurance Law;

2007-A, by Senator Skelos, an act to amend the General Municipal Law;

3688-B, by Senator Maltese, an act to amend at Administrative Code of the city of New York;

4232, by Senator Farley, an act to amend Section 23 of Chapter 171;

4321-A, by Senator Trunzo, an act to amend the Education Law;

4640-A, by Senator Saland, an act to amend the Family Court Act;

5386, by Senator Rath, an act to amend the Penal Law;

5435-B, by Senator Maziarz, an act to amend the Family Court Act;

5462-A, by Senator Stafford, an act to amend the Civil Service Law;

5573-A, by Senator Spano, an act to amend the General Municipal Law.

5949-A, by Senator Skelos, an act to amend the Correction Law and the Executive Law;

6201, by Senator Skelos, an act to amend the Domestic Relations Law;

6284-B, by Senator Rath and others, an act to amend the Real Property Tax Law;

6549-B, by Senator DeFrancisco, an act to amend the Parks, Recreation and Historic Preservation Law;

6611, by Senator Nozzolio, an act to amend the Executive Law;

6617-A, by Senator Skelos, an act to amend the Public Service Law;

6680-A, by Senator Lack, an act to amend the Insurance Law;

6699, by Senator Hoffmann, an act to authorize James J. Parmley;

6737, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

6904, by Senator Skelos, an act to amend Chapter 676 of the Laws of 1978;

6955-A, by Senator Velella, an act to amend the Insurance Law;

6967-A, by Senator Holland, an act to amend the Social Services Law;

7047, by Senator Velella, an act to amend the General Business Law;

7065, by Senator Seward, an act to amend the Real Property Tax Law;

7189, by Senator Leibell, an act to amend the New York City Charter;

7270, by Senator Seward, an act to amend the Tax Law;

7410, by Senator Padavan, an act to amend the Retirement and Social Security Law;

7465, by Senator Skelos, an act to amend the Business Corporation Law;

7474, by Senator Trunzo, an act to amend the Local Finance Law;

7534, by Senator Smith and others, an act to amend the Executive Law;

7548-A, by the Committee on

Rules, an act to amend the Administrative Code of the city of New York;

7571, by Senator Holland, an act to amend the Education Law;

7603, by Senator Nanula, an act to amend the Local Finance Law;

7614, by Senator Balboni, an act to permit the sale or lease;

7633, by Senator Alesi, an act to amend the Local Finance Law;

7636, by Senator Farley, an act to amend the Banking Law;

7637, by Senator Farley, an act to amend the Banking Law;

7642, by Senator LaValle, an act to amend Chapter 845;

7651, by Senator DeFrancisco, an act to authorize the state;

7652, by the Committee on Rules, an act to amend the Public Authorities Law;

7653, by Senator Velella, an act to amend the Insurance Law;

7661, by the Committee on Rules, an act to amend the Insurance Law;

7665, by Senators Fuschillo and

Libous, an act to amend the Highway Law;

7666, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

7672, by Senator Alesi, an act to amend the Personal Property Law;

7678, by Senator Skelos, an act to authorize the South Hempstead;

7687, by Senator Goodman, an act to amend the Tax Law;

7690, by Senator Stafford, an act to amend the Real Property Tax Law;

7694, by Senator Rath, an act to amend the County Law;

7696, by Senator Rath, an act to amend the County Law;

7700-A, by Senator Trunzo, an act to amend the Criminal Procedure Law;

7714, by Senator Libous, an act to amend the Public Authorities Law;

7719, by Senator Farley, an act to amend the Banking Law;

7728, by the Committee on Rules, an act to amend the Insurance Law.

All bills directly for third reading.

SENATOR SKELOS: Mr. President, move to accept the Rules report.

ACTING PRESIDENT MARCELLINO: The motion on the floor is to accept the Rules Report. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The report of the Rules Committee is accepted.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: Yes, Senator. We have some housekeeping. Can we go back to motions and substitutions.

SENATOR SKELOS: Please make the substitutions.

ACTING PRESIDENT MARCELLINO: The Secretary will read the substitutions.

SENATOR SKELOS: Mr. President, if I could, I know sometimes when we bring up the issue of housekeeping members think that the session is over. That is not necessarily true today.

ACTING PRESIDENT MARCELLINO: Let all be warned that the session is not necessarily over.

The Secretary will read the substitutions.

THE SECRETARY: On page 22, Senator Trunzo moves to discharge from the Committee on Rules Assembly Bill 10683 and substitute it for the identical Senate Bill 6952.

On page 26, Senator Trunzo moves to discharge from the Committee on Rules Assembly Bill 9977 and substitute it for the identical Senate Bill 6598.

On page 26, Senator Skelos moves to discharge from the Committee on Rules Assembly Bill 10690 and substitute it for the identical calendar Senate Bill 6615.

On page 27, Senator Trunzo moves to discharge from the Committee on Rules Assembly Bill 10710 and substitute it for the identical Senate Bill 7236.

On page 30, Senator Trunzo moves to discharge from the Committee on Rules Assembly Bill 9637 and substitute it for the

identical Senate Bill 7099.

On page 33, Senator Marcellino moves to discharge from the Committee on Rules Assembly Bill 11124-A and substitute it for identical Senate Bill 7402-A.

On page 39, Senator Volker moves to discharge from the Committee on Rules Assembly Bill 10766-B and substitute it for the identical Senate Bill 6602-B.

ACTING PRESIDENT MARCELLINO: The substitutions are ordered.

The Chair recognizes Senator Meier for some motions.

SENATOR MEIER: Mr. President, on behalf of Senator Seward, I wish to call up his bill, Senate Print Number 3095-A, which is now at the desk.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: By Senator Seward, Senate Print 3095-A, an act to amend the Town Law, in relation to qualifications.

ACTING PRESIDENT MARCELLINO: Senator Meier.

SENATOR MEIER: Mr. President, I

now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT MARCELLINO: The Secretary will read the order on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT MARCELLINO: The bill is restored to third reading.

Senator Meier.

SENATOR MEIER: Mr. President, I now move to discharge from the Committee on Rules Assembly Print Number 10997-A and substitute it for Senator Seward's identical bill. The Senate Bill on first passage was voted unanimously.

ACTING PRESIDENT MARCELLINO: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 378, by the Assembly Committee on Rules, Assembly Print 10997-A, an act to amend the Town Law.

ACTING PRESIDENT MARCELLINO: Senator Meier.

SENATOR MEIER: I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT MARCELLINO: So ordered. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Seward, why do you rise?

SENATOR SEWARD: Mr. President, I would like to place a sponsor's star on Calendar Number 1404, Senate Print Number 7065, which is on the supplemental calendar.

ACTING PRESIDENT MARCELLINO: Calendar Number 1404 will be starred at the request of the sponsor.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: Is there any other housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: No, Senator. I believe we're clear.

SENATOR SKELOS: There being no further business, I move we adjourn until Wednesday, June 17th, at 10:00 a.m. and there will be a Majority Conference in the Majority Conference Room at 4:00 p.m.

ACTING PRESIDENT MARCELLINO: The Senate will stand the adjourned until tomorrow, at 10:00 a.m. and there will be an immediate - or a 4:00 p.m. meeting of the Majority Conference in the Majority Conference Room. Meeting of the Majority Conference in the Majority Conference Room at 4:00 p.m. The Senate is adjourned.

(Whereupon, at 3:55 p.m., the Senate adjourned.)