NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 13, 2006

12:10 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

THE PRESIDENT: With us once again is the Reverend Peter G. Young, pastor of Blessed Sacrament Church in Bolton Landing, New York.

REVEREND YOUNG: Let us pray.

As we enjoy today's sunshine, we hear of Alberto's storm warnings hitting the Florida Gulf shores.

New York State has been blessed by You, O God, with outstanding and natural resources that our legislators enjoy and protect. We are reminded as we see the beauty in our state chamber, in this Senate, pictured above the Senate podium between Lady Liberty and Lady Justice.

O God, You are our Creator, and we ask You to accept this Senate prayer as a

reminder of our commitment to serve You, O Lord.

Amen.

THE PRESIDENT: Thank you, Father Young.

Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 12, the Senate met pursuant to adjournment. The Journal of Sunday, June 11, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Johnson,

please place a sponsor's star on Calendar Number 1662.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: On behalf of Senator Larkin, I wish to call up Senate Print Number 7156, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1528, by Senator Larkin, Senate Print 7156, an act to authorize the City of Kingston.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: I now move reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FUSCHILLO: On behalf of Senator Morahan, on page number 13 I offer the following amendments to Calendar Number 349, Senate Print Number 5340, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: On behalf of Senator Golden, on page number 36 I offer the following amendments to Calendar Number 888, Senate Print Number 1823 and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received. The bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: On behalf of Senator Volker, on page number 66 I offer the following amendments to Calendar Number 1409, Senate Print Number 6748, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments

are received, and that bill will retain its place on the Third Reading Calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: Are there any substitutions at the desk?

THE PRESIDENT: Yes, there are.

The Secretary will read.

THE SECRETARY: On page 7, Senator Alesi moves to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 727 and substitute it for the identical Senate Bill Number 1318, Third Reading Calendar 198.

On page 14, Senator Maziarz moves to discharge, from the Committee on Transportation, Assembly Bill Number 8544B and substitute it for the identical Senate Bill Number 5658B, Third Reading Calendar 388.

On page 48, Senator LaValle moves to discharge, from the Committee on Higher Education, Assembly Bill Number 8721A and substitute it for the identical Senate Bill Number 843B, Third Reading Calendar 1122.

On page 52, Senator Marcellino moves to discharge, from the Committee on

Consumer Protection, Assembly Bill Number 3255A and substitute it for the identical Senate Bill Number 2472A, Third Reading Calendar 1187.

On page 53, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 2472A and substitute it for the identical Senate Bill Number 511A, Third Reading Calendar 1203.

On page 59, Senator Fuschillo moves to discharge, from the Committee on Insurance, Assembly Bill Number 632 and substitute it for the identical Senate Bill Number 1774, Third Reading Calendar 1316.

On page 76, Senator Little moves to discharge, from the Committee on Local Government, Assembly Bill Number 10473 and substitute it for the identical Senate Bill Number 7700, Third Reading Calendar 1543.

On page 76, Senator Little moves to discharge, from the Committee on Local Government, Assembly Bill Number 10482 and substitute it for the identical Senate Bill Number 7736, Third Reading Calendar 1544.

On page 76, Senator Little moves to

discharge, from the Committee on Local Government, Assembly Bill Number 10474 and substitute it for the identical Senate Bill Number 7739, Third Reading Calendar 1545.

On page 79, Senator Bruno moves to discharge, from the Committee on Local Government, Assembly Bill Number 8760 and substitute it for the identical Senate Bill Number 5180, Third Reading Calendar 1601.

On page 80, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 9620 and substitute it for the identical Senate Bill Number 6430, Third Reading Calendar 1606.

On page 80, Senator Leibell moves to discharge, from the Committee on Local Government, Assembly Bill Number 9619 and substitute it for the identical Senate Bill Number 6515, Third Reading Calendar 1607.

And on page 80, Senator Bonacic moves to discharge, from the Committee on Local Government, Assembly Bill Number 10740B and substitute it for the identical Senate Bill Number 6953A, Third Reading Calendar 1616.

THE PRESIDENT: Substitutions ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, may we please adopt the Resolution Calendar.

THE PRESIDENT: All in favor of adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

May we please have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 109, by Senator Robach, Senate Print 3331, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 170, by Senator Marcellino, Senate Print --

SENATOR MARCELLINO: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 198, substituted earlier by Member of the Assembly Sweeney, Assembly Print Number 727, an act to amend the Urban Development Corporation Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 281, by Senator Farley, Senate Print 5806A, an act to amend the Banking Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 335, by Senator Spano, Senate Print 2271B, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 342, by Senator Winner, Senate Print 6448B, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 358, by Senator Alesi, Senate Print 6612, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect April 1, 2006.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 388 --

SENATOR FUSCHILLO: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 455, by Senator Volker, Senate Print 2727, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 460, by Senator Golden --

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

468, by Senator Balboni, Senate Print 6913A, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

SENATOR FUSCHILLO: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 504, by Senator Skelos, Senate Print 6872B --

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 667, by Senator Marchi, Senate Print 5418A, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 710, by Senator Larkin, Senate Print 2349, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 777, by Senator Marcellino, Senate Print 2851A, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 820, by Senator Padavan, Senate Print 319, an act to amend the Real Property Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 829, by Senator DeFrancisco, Senate Print 6844, an act to amend the Family Court Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 855, by Senator --

SENATOR FUSCHILLO: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 858, by Senator Nozzolio, Senate Print 7234A, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 859, by Senator Saland, Senate Print 458, an act to amend the Judiciary Law and the Uniform City Court Act.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 864, by Senator Farley, Senate Print 7585A, an act to amend the Uniform City Court Act and the Judiciary Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 954, by Senator Trunzo, Senate Print 133A, an act in relation to directing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 963, by Senator Wright, Senate Print 4268, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1003, by Senator Balboni, Senate Print 6822A, an act to amend the Waterfront Commission Act.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect upon enactment into law

by the State of New Jersey.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1007, by Senator Leibell, Senate Print 7711, an act to amend Chapter 882 of the Laws of 1953.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect upon enactment into law by the State of New Jersey.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1014, by Senator Balboni, Senate Print 7229, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1024, by Senator Young, Senate Print 7828, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1041, by Senator Wright, Senate Print 2473, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1045, by Senator Young, Senate Print 6276 --

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1065, by Senator Trunzo, Senate Print 6745, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1073, by Senator Marchi, Senate Print 2566A, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first of April next succeeding.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1082, by Senator Padavan, Senate Print 7831, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1102, by Senator Trunzo, Senate Print 129, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1104, by Senator LaValle, Senate Print 1392, an act to amend Chapter 311 of the Laws of 1920.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1122, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8721A, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1141, by Senator Leibell, Senate Print 4581A, an act to amend the Surrogate's Court Procedure Act.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1147, by Senator Hannon, Senate Print 6884, an act to amend the Lien Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 1. Senator Winner recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1159, by Senator Johnson, Senate Print 244, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1166, by Senator LaValle, Senate Print 1557A, an act to amend the Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1187, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 3255A, an act to amend the General Business Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1203, substituted earlier today by Member of the Assembly Oaks, Assembly Print Number 2472A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1221, by Senator Farley, Senate Print 7427, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1223, by Senator LaValle, Senate Print 1365D, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 28. This act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1230, by Senator Volker, Senate Print 6757B, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Serrano, to explain his vote.

SENATOR SERRANO: Thank you, Mr. President.

I will continue to vote no on hunting bills such as this. I think it sends the wrong message to the youth of this state to engage in violence of this nature towards animals. I think it's a very unsafe practice, and there's been numerous high-profile hunting accidents that we've been reading about.

I think that this is an area where we should be educating our citizens and the youth of our state to be kind towards animals and to coexist peacefully with them, and I think that this bill sends the wrong message. So I will continue to vote no. I vote no on this bill.

Thank you.

ACTING PRESIDENT ROBACH: Senator Serrano in the negative.

Announce the results.

THE SECRETARY: Ayes, 46. Nays, 2. Senators Duane and Serrano recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1261, by Senator Bonacic, Senate Print 269, an act to amend the Social Services Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1278, by Senator Marcellino, Senate Print 6736, an act in relation to authorizing.

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

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1284, by Senator Saland, Senate Print 7328, an act to amend the Town Law.

ACTING PRESIDENT ROBACH: A home-rule message is at the desk.

Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I commend Senator Saland on his passage of this bill for Red Hook. But I would like to hope that he would or someone would include a land preservation act like this for the entire state.

I will support the bill.

ACTING PRESIDENT ROBACH: Announce the results.

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1287, by Senator Farley, Senate Print 4047A, an act to amend the Banking Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1316, substituted earlier today by Member of the Assembly Pheffer, Assembly Print Number 632, an act to amend the Insurance Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1369, by Senator --

SENATOR HASSELL-THOMPSON: Lay it aside.

SENATOR FUSCHILLO: Lay it aside for the day.

ACTING PRESIDENT ROBACH: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1380, by Senator Maziarz --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT ROBACH: The bill is laid aside.

THE SECRETARY: Calendar Number 1383, by Senator Stachowski, Senate Print 2485, an act to amend the Penal Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT ROBACH: The bill is passed.

SENATOR FUSCHILLO: Mr.

President.

ACTING PRESIDENT ROBACH: Senator Fuschillo.

SENATOR FUSCHILLO: Calendar Number 468 was laid aside temporarily. Will you please take it up.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 468, by Senator Balboni, Senate Print 6913A, an act to amend the Executive Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of January.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Balboni, to explain his vote.

SENATOR BALBONI: Yes, Mr. President. Thank you very much for giving me the opportunity to explain my vote.

I notice that in the chamber today we have several young people, who probably

understand this bill better than anybody. All of us who have pets, this bill is about creating a system for emergency shelters for pets.

One of the most enduring images from the Katrina catastrophe was somebody standing on their stoop with their dog and people in a boat driving by and saying, "Get in the boat." And him saying, "I'm not going to go without my dog."

And if you take a look at the emergency plans for the State of New York, you realize there's absolutely no provision for pet-friendly shelters.

This bill, which I'm pleased to say is going to be a law because it's passed in the Assembly, is going to create a system for pet-friendly shelters. So hopefully we'll never see in New York State, if we have a catastrophe, what we saw in New Orleans.

I vote aye, Mr. President. Thank you.

ACTING PRESIDENT ROBACH: Thank you, Senator Balboni. You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1388, by Senator Morahan, Senate Print 4163, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1399, by Senator Fuschillo, Senate Print 2275, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1440, by Senator Skelos, Senate Print 4670A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1475, by Senator Spano, Senate Print 4494, an act to amend Chapter 481 of the Laws of 1967.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1496, by Senator Winner, Senate Print 6447B, an act to amend the Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1543, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number 10473, an act to amend the General Municipal

Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1544, substituted earlier today by Member of the Assembly Ramos, Assembly Print Number 10482, an act to amend the Town Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2007.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1545, substituted earlier by Member of the Assembly Sweeney, Assembly Print Number 10474, an act to amend the General Municipal Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2007.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1578, by Senator LaValle, Senate Print 1721B, an act to amend the Education Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of July.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1584, by Senator Trunzo, Senate Print 198, an act to amend the Public Authorities Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1586, by Senator Padavan, Senate Print 1263, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT ROBACH: The

bill is laid aside.

THE SECRETARY: Calendar Number 1594, by Senator Alesi, Senate Print --

SENATOR FUSCHILLO: Lay it aside for the day.

ACTING PRESIDENT ROBACH: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1595, by Senator Rath, Senate Print 3927A, an act to amend the Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1598, by Senator Leibell, Senate Print 4722, an act to amend the Public Authorities Law.

ACTING PRESIDENT ROBACH: Read

the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 2. Senators Duane and Parker recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1599, by Senator Little, Senate Print 4912B, an act to grant Christopher Paiser performance of duty disability retirement benefits.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1600, by Senator Rath, Senate Print 4936A, an act to amend the Correction Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1601, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8760, an act authorizing the assessor of the Town of Delaware.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1602, by Senator Flanagan, Senate Print 5231A, an act to amend the Correction Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1603, by Senator Volker, Senate Print 5681A, an act to amend the Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1604, by Senator Duane, Senate Print 5772, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1605, by Senator Larkin, Senate Print 6008, an act to amend the Social Services Law and the Real Property Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1606, substituted earlier by Member of the Assembly Burling, Assembly Print Number 9620, an act in relation to granting.

ACTING PRESIDENT ROBACH: A home-rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1607, substituted earlier by Member of the

Assembly Bradley, Assembly Print Number 9619, an act to amend the Real Property Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1613, by Senator Winner, Senate Print 6816, an act to amend the New York State Urban Development Corporation Act.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The

bill is passed.

THE SECRETARY: Calendar Number 1614, by Senator Young, Senate Print 6819, an act to amend the Tax Law.

ACTING PRESIDENT ROBACH: There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1616, substituted earlier today by Member of the Assembly Cahill, Assembly Print Number 10740B, an act to amend the Real Property Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Breslin, to explain his vote.

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

I concur with this bill by Senator Bonacic. I have a similar bill that hopefully will be taken up.

As you know, firefighters throughout this state are diminishing in numbers, and we have to create incentives to allow participation by volunteer firefighters.

And accordingly, I vote yea.

ACTING PRESIDENT ROBACH: Thank you, Senator Breslin. You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1617, by Senator Morahan, Senate Print 7003, an act to authorize.

ACTING PRESIDENT ROBACH: A

home-rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1618, by Senator Young, Senate Print 7016, an act to exempt.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1619, by Senator Wright, Senate Print 7022, an

act authorizing the Village of Alexandria Bay.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1620, by Senator Flanagan, Senate Print 7309, an act to authorize the Town of Smithtown.

ACTING PRESIDENT ROBACH: A home-rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1621, by Senator Marcellino, Senate Print 7333A, an act to authorize.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1622, by Senator Morahan, Senate Print 7843, an act to amend the Penal Law and others.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 60. This act shall take effect on the 90th day.

ACTING PRESIDENT ROBACH: Call the roll.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT ROBACH: The bill is passed.

That completes the noncontroversial calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please ring the bells as we proceed to read the controversial calendar.

ACTING PRESIDENT ROBACH: The Secretary will ring the bell to get the members in the chamber.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, if we could start the reading of the controversial calendar with Calendar Number 460, Senator Golden's bill.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 460, by Senator Golden, Senate Print 6771, an act to amend the Penal Law and the Criminal Procedure Law.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT ROBACH: Senator Golden, an explanation has been requested.

SENATOR GOLDEN: Thank you, Mr. President.

Today we are passing a bill, Number 6771, that would reinstate the death penalty -- or I shouldn't say reinstate, but would put the death penalty into effect for those that would kill a police officer or a state trooper, a peace officer, or a person that is employed by the correctional institutions.

It also would go after terrorism offenders, criminal possession of chemical weapons and biological weapons offenders, and criminal use of those weapons, both biological and chemical weapons.

Today we have in the audience, on the balcony, Mr. and Mrs. Corr. Joseph Corr was their son, who was gunned down here in the state of New York at the age of 30.

This bill would allow for us to put into place a death penalty for those that would intentionally kill a peace officer, correctional officer, or police officer,

pursuant to the provisions of the current law.

Section 4 of this bill also amends the provision of the current law to permit the imposition by the jury of the death penalty upon a person convicted in murder in the first degree of a police officer, peace officer, or an employee of the Department of Correctional Services.

We need this law, and I would hope that my colleagues would join me on both sides of the room in voting for this law, so that we can send a message across this state that we are not going to put up with people killing and murdering our officers here in the city and state of New York.

ACTING PRESIDENT ROBACH: Thank you, Senator Golden.

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Through you, Mr. President, would the sponsor yield for a question or two.

ACTING PRESIDENT ROBACH: Senator Golden, will you yield?

SENATOR GOLDEN: Yes, I do.

ACTING PRESIDENT ROBACH:

Continue.

SENATOR DIAZ: Senator Golden, this bill only includes people that kill police officers, correctional officers, and peace officers. Why do you not include people that kill senior citizens, bodegueros, taxi drivers or men and women that kills their respective spouses or their children? How come they were not included there?

SENATOR GOLDEN: Senator, unfortunately we do need an expanded death penalty. And I believe Dale Volker's bill will be coming up, and hopefully you will vote for that bill if you will not vote for this bill.

But we believe, we're looking at a bill passed here in the State Senate, and in the State Assembly that the Assembly itself will see the value in passing a bill that would protect and give the tools to our police officers and our state troopers, our peace officers and others here in the state of New York.

If they would not, these criminals

today, if they have no respect for that thin blue line, that thin line that protects us and keeps us between civility and anarchy, and they would gun down a police officer intentionally and kill that police officer, what does your life or the life of a senior citizen or the life of a child mean to them? It means nothing. Once you take that life of that officer, you've crossed the line.

And it's a message to send to the people here in the State of New York that we're not going to put up with it.

SENATOR DIAZ: Through you, Mr. President, will the sponsor yield for another question.

ACTING PRESIDENT ROBACH: Senator Golden, will you continue to yield?

SENATOR GOLDEN: I do.

ACTING PRESIDENT ROBACH: Continue.

SENATOR DIAZ: Senator Golden, do you think that the life of a senior citizen, a battered woman, or a child killed by a child abuser has less value than a police officer or a correctional officer or a peace officer?

SENATOR GOLDEN: Senator Diaz, walk away from your talking points and speak to the actions of what's going on here in the city and state of New York.

Between June and December of last year, we had nine police officers gunned down. We had four killed last year. We have another two killed this year. We had scores wounded. We have an Elmira police officer, Sean Brown, who was gunned down over the weekend, was shot in the stomach. Thank God he's still alive.

I'm saying that we can't get a bill passed that you want, that your colleagues in the Assembly and you and your side will not pass that law, the one that would enhance all of those -- senior citizens, children, and people that we should have a death penalty for.

But I'm saying here's a bill that you can support, here's a bill that the Senate and the Assembly can support for that parent up there that lost their son that was gunned down here in the state of New York and for the police officers across this city and state of New York, that that is the thin blue line that

we are going to protect.

That thin blue line is the difference between civility and anarchy. And if you're going to cross the line there, there's not much that a child or a senior citizen's life cares about. They don't care.

So do the right thing, Senator, and support us on this bill.

SENATOR DIAZ: Mr. President, through you, will the sponsor yield for another question.

ACTING PRESIDENT ROBACH: Senator Golden, will you yield for another question?

SENATOR GOLDEN: I certainly will.

SENATOR DIAZ: I admire your emotion and I admire your passion. And I see all the people, wherever, you're saying that -- yes, my daughter, my daughter is a police officer, a sergeant in the City of New York. But, Senator, you know, I know that police officers have been killed. And I sympathize with the family of the police officer here.

But I assure you, with all the

passion and all the emotion that you are talking about, that there are more -- senior citizens, bodegueros, taxi drivers are being killed in masses. And they deserve to be respected too, they deserve to be considered too, because they are senior citizens with no one to protect them. So I wish you'd use the same passion and the same emotion that you're using to protect senior citizens too.

But my question is this, Senator. If a person sits down to plan a robbery in a bodega, or a taxi driver, and that person, he or she buys a gun, a firearm, loads that firearm and goes into a bodega or to a senior citizen's home or to a taxi driver to rob those people, and in that process that person takes the life away of a senior citizen, of a bodeguero, is that a premeditated murder to you, yes or no? Yes or no.

SENATOR GOLDEN: Senator Diaz, the answer is yes.

I believe, and I'm hoping that you're telling me, that not only will you support my bill for those that the death of a police officer -- that would kill a police

officer here in the city and state of New York, but that you will support Senator Volker's bill that deals exactly with that issue.

Will you vote for Senator Volker's bill that deals with killing that senior citizen, that deals with killing that child, will you vote for that, Senator Diaz?

SENATOR DIAZ: Will you -- through you, Mr. President.

SENATOR GOLDEN: Answer my question, Senator Diaz.

SENATOR DIAZ: I'm the one asking the questions here, sir.

SENATOR GOLDEN: Senator Diaz, answer my question.

SENATOR DIAZ: I'm the one asking the questions here.

ACTING PRESIDENT ROBACH: Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: Point of order.

Ladies and gentlemen, this is an emotional issue. We're going to have a long debate today. May I just request that, as per

the rules of this chamber, we speak through the chair when addressing each other, as Senator Diaz is now attempting to do.

ACTING PRESIDENT ROBACH: Thank you, Senator Schneiderman.

Senator Diaz, will you answer the question or not?

SENATOR DIAZ: Through you, Mr. President --

SENATOR GOLDEN: Mr. President, I've asked the question, Mr. President, and I'd like to get an answer. So could I get that question answered --

ACTING PRESIDENT ROBACH: Senator Golden is actually --

SENATOR DIAZ: Sir, I'm responding to your question, through the President.

SENATOR GOLDEN: Thank you, sir.

SENATOR DIAZ: I'm Puerto Rican and black, but I know about this business.

(Laughter.)

SENATOR GOLDEN: And you're a good man.

SENATOR DIAZ: We are talking

today not to Senator Volker's bill, we are talking about your bill, the one that you ignore -- the bill that you have ignored to protect senior citizens and charge on children and bodegueros. We're talking about that bill.

And now, today, I'm asking you today to that bill. So forget about Senator Volker's bill. Let's concentrate on your bill, because you are the one that have neglected to protect senior citizens. And you are the chairman of the senior citizen committee. I'm talking about that bill.

ACTING PRESIDENT ROBACH: Senator Diaz, do you have a question?

SENATOR DIAZ: He asked me a question. I'm responding to it --

SENATOR GOLDEN: Mr. President, I'm waiting for the response to my question. And instead of a response I'm getting a --

ACTING PRESIDENT ROBACH: Let's have a little order in here.

SENATOR DIAZ: Let's have order in here.

ACTING PRESIDENT ROBACH: Senator

Diaz has the floor. He's asked Senator Golden -- could you rephrase the question, Senator Diaz?

SENATOR GOLDEN: Mr. President, I have yet to get an answer to the question that I've asked.

ACTING PRESIDENT ROBACH: Currently he's asked you to yield, Senator Golden. After he asks his question, you can ask your question.

SENATOR GOLDEN: I refuse to yield until I get an answer to my question.

ACTING PRESIDENT ROBACH: Okay. He refuses to yield.

SENATOR DIAZ: Oh, Senator Golden. The answer to your question is that I am addressing today your bill.

ACTING PRESIDENT ROBACH: Senator Diaz, do you yield or do you want to speak on the bill?

SENATOR DIAZ: I yield.

ACTING PRESIDENT ROBACH: He yields.

SENATOR GOLDEN: I'm asking the Senator for an answer to my question. And his

question to me was would I vote for an individual, a senior citizen or a child that was gunned down or killed by a bad guy, a guy that would take a life. And I'd say yes, I would vote for a bill.

And I'd asked Senator Diaz, since that is what he's been asking of me and why I'm not putting that bill forward -- and I'm asking of him that Senator Dale Volker is putting that bill forward today, and that we discuss that bill today, that he would vote for that bill.

And I'm asking him, since he's asked me about senior citizens and children and I've asked him would he vote for the death penalty, Dale Volker's bill that has senior citizens and children in it, since that is his passion, that he would give me an honest answer that's in his heart and not on his talking papers.

SENATOR DIAZ: My turn now?

ACTING PRESIDENT ROBACH: Senator Diaz, to answer the question.

SENATOR DIAZ: Thank you.

Senator Golden, when the time comes

for that bill, I will have an answer for that bill. Today, now, right now, we are talking about Bill 460, sponsored by you, Senator Golden, the chairman of the Aging Committee.

So when that time comes, I will have an answer to you. But now my answer to you is that is the life of a senior citizen worth less than the life of --

ACTING PRESIDENT ROBACH: Senator Diaz, are you asking Senator Golden to yield for a question?

SENATOR DIAZ: No, Mr. Chairman -- Mr. President, I want to speak on the bill.

ACTING PRESIDENT ROBACH: Okay. Senator Diaz, on the bill.

SENATOR DIAZ: Thank you, sir.

SENATOR GOLDEN: I'd like to answer the question. And the answer to my question is --

ACTING PRESIDENT ROBACH: I believe you've already answered it, Senator Golden.

SENATOR GOLDEN: No, I want to answer it one more time.

So that, Mr. President, I'd like Senator Diaz to understand that I am going to vote for that child or that senior citizen today. I am going to vote for Dale Volker's bill. And I would hope that you would vote for Dale Volker's bill that addresses the death of a senior and the death of a child.

But right now I am addressing --

SENATOR CONNOR: Point of order, Mr. President.

SENATOR GOLDEN: -- my bill, which is that of a police officer that's killed here in the city and state of New York.

ACTING PRESIDENT ROBACH: Senator Connor.

SENATOR GOLDEN: -- and for the police officers across the state and the city of New York.

SENATOR CONNOR: Point of order.

ACTING PRESIDENT ROBACH: All right, let's get some order in here.

SENATOR DIAZ: Mr. President, on the bill.

ACTING PRESIDENT ROBACH: Senator Diaz has the floor. He is speaking on the

bill. Let's continue there.

Thank you, Senator Golden. Senator Diaz, continue.

SENATOR GOLDEN: Thank you, Mr. President. Thank you, Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

As the father of a New York City police sergeant, I can sympathize with the pain of the family of any other officer -- correction officer, police officer, or peace officer -- who has been killed in the line of duty, knowing that at any time my family could be next. I want to make it clear that I fully support those brave men and women who risk their lives in their daily work.

However, saying that, I would like to share with you some of my concern about Senator Golden's legislation. First, according to the statistics reported in the New York Post on Monday, December 19, 2005, in New York City during that year, 2005, there were 509 killings, homicides: 62 percent of those killings were committed with guns, 59 percent of the victims, 59 percent of the

victims were blacks; 29 percent were Hispanics; 8 percent of the victims were white.

These statistics show that out of 509 homicides or killings in New York City in 2005, 88 percent of those victims were blacks and Hispanics. These statistics I suppose include grocery store owners and workers of stores called bodegueros. These I suppose include taxi drivers, especially livery car drivers called gypsies. These statistics I suppose include senior citizens, children, and women killed by rapists and every other citizen in the black and the Hispanic community.

After reading these statistics, I have to ask myself, Senator Golden and colleagues, I have to ask myself the following question. If black and Hispanics, bodegueros, taxi drivers, children, battered women and senior citizens are the ones getting killed, why support legislation that only applies to that who kill a police officer, a correctional officer, or a peace officer and fails to include the rest of the population?

My daughter, as I said before, is a -- my only daughter is a member of the New York City Police Department. She's a sergeant. And as I said before, at any time, I repeat, my family could be subject to the same suffering of many other families of police officers in the city of New York or anywhere in the state.

Nonetheless, I have to ask myself the following question. I have to ask myself if the life of a police officer, a correctional officer or a peace officer is worth more than the life of a bodeguero, than a taxi driver, than a senior citizen, than children or the battered woman or than any other resident of New York State.

Are we sending, Senator Golden and fellow colleagues, are we sending a message to criminals out there telling them that if they want to kill someone that they will be better off choosing a bodeguero, a taxi driver, a senior citizen, a child, a battered woman or anybody else because they will be getting less sentence that way?

I am in support of legislation that

increases the penalty on anyone that kills or takes the life of a police officer, a correctional officer or a peace officer or anyone else. I believe that if we are going to send a message to criminals out there and we want to stop crime in New York State once and for all, we have to toughen penalties for the killing of anyone.

By the way, why should the penalty be for a police officer or a correctional officer or a peace officer that with malice, with abuse, and with neglect takes the life away of a civilian? Would this have been included there?

Back on October 12th, Police Officer Brian Conroy shot and killed Mr. Ousmane Zongo. Police Officer Conroy was found guilty of criminally negligent homicide. The penalty given to that police officer for killing a black guy in New York City was five years in prison and 500 hours of community service.

Finally, I ask myself, what is our message to New Yorkers? Is it that a police officer and a correctional officer and a peace

officer's life is better than any other life?

Ladies and gentlemen, my daughter, as I said before, is a police officer. And I love my daughter. She's my only daughter. I love police officers. And I love correctional officers. And I love peace officers. But I also love unborn babies that are being killed by thousands every day. Those babies are being killed in a premeditated and unconscionable way by the same people that oppose the death penalty for criminals.

And here's my answer, my response to Senator Golden's question. And I'm going to close with this. Because I deeply respect life in all shapes or forms, because I do not believe in killing anyone, and because I believe that life is sacred and beautiful and because I don't believe in abortion, for those reasons and for other reasons, I will oppose this legislation and any other legislation to deal with taking life away.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Meier.

SENATOR MEIER: Thank you,

Mr. President.

You know, since I've been here there have been some days that I walk out of the chamber and I shake my head, not believing what I've heard. And this is going to be one of those days.

I mean, let's talk about the reality of the bills that are on the floor and why this particular bill is on the floor first. This bill is on the floor dealing particularly with the subject of police officers because the other body so far has shown absolutely no interest in doing anything with the death penalty. Nothing.

And so we look around us at what has occurred in this state since just January of this year, nine police shootings, and you have to think in terms of our responsibility to protect the public that maybe we can get something, anything done that the other body will vote on. And so maybe, just maybe we can get something done that addresses the immediate problem of this attack on our police officers. That's why this bill is before us.

And maybe -- let's talk about this

business, if you will, that this somehow demeans the lives of other people, that this somehow establishes that police officers' lives are worth more. The first people that I know who would reject that notion that this stands for the proposition that a police officer's life is worth more would be police officers themselves.

You know, police officers leave their homes every day, they go out to do a dangerous and uncertain job. And they understand that and they accept it, and they tend to be people who for the most part are pretty humble about it. They don't make a big deal about it. They don't talk about it. They calmly accept it as something that they're sworn to do.

And police officers will tell you also that they believe that 99 percent of people in society obey the law, not because they're afraid of police officers but because people understand in our society that you maintain a civil society by respecting each other as people, by respecting each other's property, and by respecting life and by

respecting everyone else's humanity.

There's a 1 percent out there, or maybe even less, who have none of that in their hearts, in their minds, or in their souls. There are people out there who believe only in taking care of themselves. There are people out there for whom every decision in life is a calculation about will I get caught and what's going to happen to me.

And you know what? When I look at what happened in the town of New Hartford to Joe Corr, let me tell you something. There's a name for people like that, and it's evil. If that's not evil, evil has no name. And that's what this is about.

And I see an empty chair on the other side of the aisle. Some things are tough to hear.

When someone attacks a police officer, they are not just attacking one person, they are not just attacking one life. They are saying to the rest of people in civil society who obey the law and lead their lives and want everyone else to do the same: You think you're safe? You think we can't get

you? You think we can't hurt your family or your child if we can kill a police officer? That's the message they're sending.

And so the response from those of us who have taken an oath of office is to do something about that.

You know what? We've heard a lot of talk this year about things that are the responsibility of the state. We hear a lot of talk and a lot of hot air in this town about our responsibility to take care of education, about our responsibility to build roads and bridges, about our responsibility to take care of healthcare, about our responsibility to children and our communities. You want to know something? It's all meaningless, it all means nothing unless people feel safe in their homes and in their communities and in their neighborhoods.

And when you permit people to murder a police officer, they cross one of the most fundamental lines that the law draws. They attack not just that police officer, they attack all of us, they attack the very underpinnings of civil society itself, and

they say to you and to us, Your laws mean nothing.

The response in Senator Golden's bill is one that is dictated by the circumstances we find ourselves in this town and the attitude of the other body. It is a bill dictated by recent tragic events around this state. It is a bill whose time has come. And I'm going to vote for it with a great deal of determination and pride, and it is my firm conviction that so will the vast majority of my colleagues.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Meier.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I respect my colleague Senator Diaz for his comments. He must have done a good job in raising his daughter, because she took on a profession that is inherently dangerous, and I respect that. She's got good values. She demonstrates it by putting her life on the line on a daily basis to protect people in her

community.

That is what police officers do. They put their lives on the line. They stand between us and the bad people. They stand between civil society and chaos. That's what they do. For that, they deserve our protection.

It is not a matter of whether we are considering their life worth more than others. That's not the question. That truly isn't the question. The question is, do we want a civil society or not? Do we want people to go out there and step in between us and violence?

That cab driver that was talked about, we don't expect that cab driver to get out of his cab and stop crime. That's not his job. That's not his job. That grandmother that you talked about, we don't expect her to step out of her life and go out of her house and into the street and stop violent crime. But we do expect it of our police officers, the men and women who wear the uniform.

By the way, they wear a uniform. It's a target. They stand out. We do it

deliberately. We want them to be seen. We want them to be noticed. We want the bad people to say, Aha, there are police out there, I better not do this.

For that risk, for that risk, putting their lives on the line to protect society -- who is society? It's our wives, our husbands, our children, our relatives, our friends, our neighbors. They're protecting you and me. For that risk, they deserve a little extra help. They deserve to be told that, yes, the State of New York is behind you.

And if someone decides to thumb their nose, as Senator Meier has so correctly pointed out, at authority, at our laws, and say, We're going to take down the law protectors, we're going to take down the law-keepers, the peacekeepers, to show you that we're in charge, that we rule -- when you can do that, then you really have no society at all.

The neighborhood you live in would not be safe without those police officers out there. Without them willing to put it on the

line, we have no protections. We have no safety.

So to give them a little extra help, to say to them, yes, society considers your life worth something -- yes, we want you to do that, we respect you for doing that, and if you're doing that, if someone goes after you and someone takes you down, we're going to take them down severely -- that's the least we can do for these people.

Mr. President, I urge all of our colleagues: Support this bill. It is reasonable. It is reasonable. We have another bill out there, and we'll debate that bill next, probably. This bill right now is a reasonable bill. Thanks, Senator Golden, for bringing it up. It's time, it's time to pass this measure and put it on the books.

I intend to vote aye, and I urge everyone else to do so.

ACTING PRESIDENT ROBACH: Senator Winner.

SENATOR WINNER: Thank you, Mr. President and my colleagues.

On March 1 of this year in 2006,

Trooper Andy Sperr was out doing his job in the town of Big Flats in Chemung County when he encountered a car that was parked in a strange location.

Unbeknownst to Trooper Sperr, the individuals in that car had just been involved in a bank robbery only minutes before and were in the process of switching cars when Trooper Sperr, in an effort to deter what he thought might be a suspicious vehicle, approached that vehicle -- doing his job, protecting us on a daily basis -- when one individual named Andy Horton opened fire with a .357 magnum and shot him repeatedly as he approached that vehicle and left him for dead while he bled to death at the side of the road.

Now, I don't know who among us thinks that that individual ought to be treated with any type of compassion or sympathy. But this legislator doesn't think so and thinks that while we can debate issues of deterrence, we can debate issues of whether or not a death penalty statute is going to prevent a future occurrence such as Andy Horton or someone of his ilk firing on a

police officer, one thing we can know for sure is that the death penalty is an appropriate punishment for the type of act that was committed by Mr. Horton on that afternoon in March of this year.

Now, just last weekend Trooper Sean Brown in the town of Veteran in Chemung County approached a vehicle that had stopped at 1 o'clock in the morning, approached that vehicle, and he was fired upon by an individual in that vehicle and struck and wounded and was taken to the hospital. And fortunately, he is recovering and has been released today from the St. Joseph's Hospital in Elmira.

What is going on here? We cannot tolerate this society attacking police officers and troopers in this state or in this nation. We cannot withstand the type of penetration of that thin blue line that stands between us and anarchy and allow these types of attacks on authority to occur.

We have got to have, as a fundamental right, the ability to be safe and secure in our homes. And those that would

attack police officers have the type of depravity that is necessary for us to impose the most significant punishment that is available, and that is capital punishment. And I would urge all of you to support that, recognizing that without that type of protection, we are not safe.

Now, the New York State Assembly, where I served when we passed the death penalty, they with great fanfare, and practically about 94 members, voted in favor of imposing capital punishment. I voted in favor of it back then, as did many, many members of both sides of the aisle, and including with the support of the Speaker of Assembly.

Now, all of a sudden, we have a glitch in the technical side of the imposition of capital punishment in this state that can be easily fixed without going into the merits as to whether we have capital punishment or not. We have capital punishment on the books in this state, and the Speaker of Assembly and the members of that side of the aisle over in the New York State Assembly who are hiding

between the skirts of Judge Kaye refuse to allow the will of the people to be in place with regard to death penalty going forward.

They don't have the political guts to repeal the death penalty; they just want to hide behind the Court of Appeals' technicalities and refuse to have the will of the people in place as far as having capital punishment on the books.

We have capital punishment. Let the people's will, as was expressed by the vast majority of the New York State Assembly in 1995, get in place and have that particular statute go forward.

We need this bill on the books. We need to protect the Andy Sperrs of this world. We need to make sure our correction officers are safe when they're guarding individuals who are sentenced for multiple murders with life without parole who have nothing to lose in our correctional facilities. We need that protection for those people who put their lives on the line for us every single day.

Let's pass this measure, let's pass the Volker bill and stop this nonsense of

hiding between the Court of Appeals on a technicality and denying the will of the people of the State of New York to have capital punishment on the books.

ACTING PRESIDENT ROBACH: Thank you, Senator Winner.

Senator Diaz, for a second time.

SENATOR DIAZ: Thank you, Mr. President.

I just want to ask a simple question and ask my colleagues to stop the political spinning. Do not try to insult our intelligence. No one here, no one here supports or is in favor of killing police officers. No one. So you are making believe that, oh, the Democrats and that side, they want police officers to be killed. Please.

You have a police officer's family there. Respect them, respect their intelligence. Don't play with our intelligence. People know better.

The simple question is, you see those children over there? You see those children? How will you tell the mother of one of those children that has been raped and

killed, why -- how will you tell them how come they were not included in that bill? How come you only include in the death penalty people that kill police officers? What about those that kill children? Why didn't you include them? Why didn't you include the one that kills bodegueros and taxi drivers? Why didn't you include those that kill women?

That's a simple question. But you -- no, over there, you now try to make political statements, and it's political spinning: Oh, oh, let's stop crime. Let's stop crime? Who is asking you not to stop crime? Stop the political spinning. Stop playing with people's intelligence. People know more than that.

The simple question is, if you want the death penalty, if you want the death penalty, why do you only want it for those that kill police officers? Why don't you include the rest of the people that kill other people? That's the simple question.

ACTING PRESIDENT ROBACH: Senator Golden, why do you rise?

SENATOR GOLDEN: Will Senator

Diaz yield for a question?

ACTING PRESIDENT ROBACH: Senator Diaz, will you yield for a question?

SENATOR DIAZ: Of course I yield for a question.

ACTING PRESIDENT ROBACH: Yes, he will.

SENATOR DIAZ: I'm in that mood today.

SENATOR GOLDEN: You seem to think that we're insulting your intelligence. You seem to think that we're grandstanding. And you seem to think that we don't love children and senior citizens because they're not in our bill.

And I've expressed to you that there is a bill, Dale Volker's bill, that does do that. But we know that you won't vote for that. So we put on a bill here for police officers that are being gunned down across the city and state of New York. And we ask you to turn around and vote not only for my bill but for Dale Volker's bill.

So that that is really grandstanding. And the guy that's really

insulting people's intelligence in this room, sir, is you. And unfortunately --

ACTING PRESIDENT ROBACH: Senator Golden --

SENATOR SCHNEIDERMAN: What is the question, Mr. President?

SENATOR GOLDEN: The question is -- I'm going to the question, Senator.

SENATOR DIAZ: This is getting good.

SENATOR GOLDEN: And the question is, sir, will you support the death penalty for children and for seniors?

SENATOR DIAZ: Mr. President.

ACTING PRESIDENT ROBACH: Senator Diaz.

SENATOR DIAZ: Do I have the floor?

ACTING PRESIDENT ROBACH: You yielded for the question.

SENATOR DIAZ: Again -- again, I'm saying here -- again, I'm saying here that I respect life. I'm opposed to abortion. I respect life in all shapes and forms. I don't believe in death for anyone. I don't believe

in death penalty for children, for unborn babies. I don't believe in death, period.

I'm saying, I'm saying here if you are so eager to bring the death penalty, why don't you include those that kill, with premeditation, their spouses? Why don't you include those that kill, in your bill -- I'm talking about, Mr. President --

ACTING PRESIDENT ROBACH: Senator Diaz, at this point you can answer the question or refuse to yield.

SENATOR DIAZ: No, I have the floor, Mr. President. I want to speak on the bill, and I have the floor.

ACTING PRESIDENT ROBACH: But you yielded to Senator Golden. So you can either answer the question --

SENATOR DIAZ: No, no, I have the floor.

ACTING PRESIDENT ROBACH: So you're going to refuse to yield on the question.

SENATOR DIAZ: I want to continue with my statement, Mr. President.

ACTING PRESIDENT ROBACH: Okay.

Continue on the bill.

SENATOR DIAZ: Yes. I'm saying if you are so deeply concerned to bring the death penalty, go ahead. Nobody's stopping you from doing it. But stop the spinning.

And we're talking about this bill, this specific bill, brought out to the floor by a person that is the chairman of the Aging Committee. If I were the chairman of the Aging Committee, I would protect the aging in any shape or form. If I were the chairman of the Aging Committee, I would protect my aging no matter what.

So I'm talking about this bill, because I am a member of the Aging Committee too and I was the chairman of the aging committee in the City Council. And I'm tired of people ignoring senior citizens and not including them in bills. Oh, in another bill we'll deal with that. No, no, no. Another bill tomorrow. (Singing.) Tomorrow, tomorrow. It's not tomorrow, it's today.

And stop, stop trying to say that we don't care about police officers' lives. My daughter is a police officer, my only

daughter. So don't insult our intelligence and don't spin no more. The question is why, why, why children and women and senior citizens were not included in this bill. That's my question.

So stop saying: Oh, what will you tell the family of the police officer there, what will you tell the people out there? Oh, that we want police officers to be killed.

The Democrat party, this side of the aisle, don't want police officers to be killed. We protect police officers and we protect everybody. We want crime to stop, period.

Thank you.

ACTING PRESIDENT ROBACH: Senator Parker. Why aren't you in your seat?

SENATOR PARKER: Mr. President, on the bill.

ACTING PRESIDENT ROBACH: On the bill.

SENATOR PARKER: This has been, I think, an important debate and a great debate that really kind of reflects kind of where we are as a state and really how important we

think this issue is.

And I want to thank Senator Golden, because I know that he has a particular interest in this, being a former officer himself. I know he has the best intentions. We come from the same county. I know that he deals with same kind of issues that I deal with as it relates to crime in our communities and making sure that the people are safe.

I really wanted to relate myself to some of the comments made by Senator Meier. And I thought they were important because we have, this year, been talking about education funding and healthcare and we're talking about housing and transportation. And he's absolutely right that none of those things mean anything if we don't have a civil society where people feel they're protected. And I think that we ought to be looking at how we in fact better protect our communities.

And while I think that this bill is well-meaning, I'm not sure that it again goes to the place that we ought to be going to.

Unfortunately, unfortunately what we know is that bills that dole out extreme

punishments like the death penalty are ineffective at preventing crime. They're ineffective at preventing crime. So we're looking at how do we in fact decrease the number of deaths that are happening in our community. And I'm less concerned with this bill and more concerned with both this bill and the Volker bill as relates to the death penalty, period.

That death penalty bills do not prevent crimes. They don't prevent crimes against police officers or other kind of law enforcement. They don't prevent crimes against, you know, victims of domestic violence. They don't prevent crimes against, you know, women or seniors or anyone else. They don't prevent crimes.

When we look at the statistics across the country, when we look at other states that have very active death penalties, their crime rates have not dropped in relationship to having the death penalty. When you look at reports done by places like the Institute for Justice right here in New York City, the experts there will tell you

that the death penalty does not prevent crime.

So the question then is what does prevent crime. And when we look at it, the things that prevent crime, and particularly violent crime, is doing things like increasing the economy, providing full-time jobs at a living wage with benefits. It is making sure that people have proper housing.

It's kind of interesting that, again, Senator Meier is right that you can't have these things unless you have safety. But it's interesting also to note that having proper healthcare, funding schools fully, having proper housing actually helps you prevent crime. Because when people have well --

SENATOR MEIER: Mr. President.

ACTING PRESIDENT ROBACH: Senator Meier, why do you rise?

SENATOR MEIER: Will the Senator yield.

ACTING PRESIDENT ROBACH: Senator Parker.

SENATOR PARKER: When I finish, I'll be happy to yield. When I finish

speaking on the bill, I'll be happy to yield.

SENATOR MEIER: I thought so.

ACTING PRESIDENT ROBACH: Okay. Senator?

SENATOR PARKER: That having -- when we properly fund education and our young people are going to schools that are not just teaching to the tests, that have full-time -- when they have music and art and dance and athletics as regular parts of the curriculum, when we're doing things to have after-school programs to engage our young people, when we're making sure that people have decent-quality, affordable housing, when healthcare, both physical healthcare and mental healthcare -- and hopefully we're on -- not to jump on Tom Duane's bandwagon, but when we start dealing with things like Timothy's Law and we make sure that we're providing the kind of healthcare we need both for people physically and mentally, that then we will have an opportunity to have real safety in our communities because we'll be dealing with the issues that push people to engage in crime, to engage in violence.

But there's also some things that we can do from a criminal justice perspective right now. There are bills out there that would in fact close the loophole around gun ownership. You know, right now we are not as good as we ought to be on who can own a gun. We have not done what we need to in terms of ballistic ID'ing and making sure that we extend the law to make sure we're getting ballistic IDs on things like long rifles, assault weapons, and shotguns, which have become the weapon of choice for terrorists and for many of our criminals.

We need to be making sure that gun dealers in the state are not, you know, slipping through the cracks in terms of how they're dealing with guns. And we need to deal with some of those criminal justice things. Those have a much better effect on reducing crime, making sure that we don't have the kind of society where violence pervades every aspect of our lives.

And we really can then be proud of our society, because then we're preventing crime and not just, you know, feeding our need

to have revenge when our communities are wronged.

And I understand how strong it is. In fact, no one understands more than I do. But it's really important that we really don't feed that need just to have revenge and we really say if we're going to protect our communities and we're going to make sure that we are preventing crimes, that we do the things that actually keep us from the point of getting to a place where crime is prevalent in our communities.

And I will yield for a question if the Senator still has one.

ACTING PRESIDENT ROBACH: Senator Meier.

SENATOR MEIER: Senator Parker, you don't mean to suggest, do you -- because I want to make sure that I'm clear on what I thought I heard -- that people become murderers because they didn't have the appropriate programs in their schools?

SENATOR PARKER: I am suggesting that when in fact that you provide the kind of education that we ought to provide -- like

when we look at what they call third-party externalities -- that is, what does education provide? It doesn't just provide people education, but it helps them get access to jobs, jobs help people -- you know, who have full-time jobs at a living wage with benefits, give them the ability to make a living so thus people are not going into things like, for instance, drug dealing. Where they're not doing drug dealing because they just want to be a drug dealer; most people are drug dealing because they find it a lucrative way to make money.

If we're giving people other avenues to go, so education helps to create those other avenues, those other opportunities. Having quality housing creates those other avenues, those other opportunities. Having good healthcare, you know, again, allows people to have those kind of opportunities in lives where crime doesn't become an alternative.

Because typically the crimes that we're talking about, particularly -- and I know in Kings County are not so much, you

know, some of the evil people that you're talking -- I know some of those folks are out there. But the reality is that if we're going to prevent the kind of crimes that we're dealing with on a day-to-day, it is, you know, people with handguns who kill a police officer in the commission of another felony. Or are trying to escape being captured from the commission of another felony.

And so those are the kinds of things that we can prevent if we keep people from perpetrating or feeling like they're trapped into perpetrating those primary felonies that they're engaged in.

SENATOR MEIER: Will the Senator continue to yield.

ACTING PRESIDENT ROBACH: Will you continue to yield, Senator Parker?

SENATOR PARKER: Yes, Mr. President.

ACTING PRESIDENT ROBACH: Go ahead, Senator Meier.

SENATOR MEIER: Senator, I don't know what third-party externality is.

I do know what evil is. I've seen

it. Do you agree with me, Senator, that some people commit murder for no other reason other than they are evil, that is what is within their heart, they are evil?

SENATOR PARKER: I wouldn't necessarily agree with you. And let me give you a quick public policy lesson. That when you look at public policy, there are consequences from public policy. You have primary consequences from public policy, you have secondary consequences, third -- and then third, tertiary ones. Right?

So the first one, when we do education, the first thing that happens is kids, they get educated. The second thing that happens to them from a secondary perspective is that they actually get jobs and they become more productive. Which is why we have internship programs, because we're trying to create a link between people's education and the workforce. The third thing that happens to them, as a result of having full-time jobs at a living wage with benefits, they actually become better citizens. And that would be a tertiary consequence of the

public policy of fully funding, I don't know, something random like CFE, where it would be helpful in terms of that.

And so the more people who are educated and get full-time jobs at a living wage with benefits who then become good citizens, the less criminals we have in our society. The less criminals we have in our society, the less crime, and the less need for us to feed this need for revenge, which is simply, I believe, what the death penalty is.

SENATOR MEIER: Mr. President, I'm not entirely satisfied, and I am astounded, but I guess I'll just sit down.

ACTING PRESIDENT ROBACH: Thank you.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

If I may bring us back from more metaphysical pursuits of the nature of evil or the existence of evil, if the sponsor would yield for a few questions, I would appreciate it.

ACTING PRESIDENT ROBACH:

Senator, do you yield?

SENATOR GOLDEN: I do.

ACTING PRESIDENT ROBACH: Continue.

SENATOR SCHNEIDERMAN: Through you, Mr. President, does this legislation change the law of the State of New York regarding convictions obtained through the testimony of in-custody informants?

SENATOR GOLDEN: I don't believe so, no.

SENATOR SCHNEIDERMAN: Oh, and I've got the Greek chorus behind me, but I believe the answers would be the same for Senator Volker's bill as well, so I welcome him giving you the high sign if you misspeak.

But this bill and Senator Volker's bill, do either one of these change the rules of the State of New York regarding the need for corroboration of single-eyewitness testimony resulting in a conviction?

SENATOR GOLDEN: No.

SENATOR SCHNEIDERMAN: Through you, Mr. President, does this bill or the next bill we'll be addressing change the laws of

the State of New York regarding the need to videotape interrogations of suspects?

SENATOR GOLDEN: No.

SENATOR SCHNEIDERMAN: And finally, does this bill or Senator Volker's bill change the law of the State of New York with regard to requiring blind lineup procedures or otherwise changing the laws covering lineup procedures in the State of New York?

SENATOR GOLDEN: No, Senator, it does not.

SENATOR SCHNEIDERMAN: I thank the sponsor for his answers.

Mr. President, on the bill.

ACTING PRESIDENT ROBACH: On the bill.

SENATOR SCHNEIDERMAN: I think we're dealing with two issues here, one that Senator Parker just was attempting to address and the other which I'm going to raise now.

The first issue, which Senator Parker and Senator Diaz also in part was addressing, is the question of, you know, what does the death penalty really do to protect

police officers. Does it really stop people who, if you want to go with the metaphysical arguments that Senator Meier has raised, are truly evil? Are those people deterred? Does the death penalty actually bring anyone back? And I think the answer to that is no. And we will speak more about that later.

But the second issue that I want to raise now is the question of whether the death penalty as it would be applied in the State of New York under the current laws of the State of New York will be fairly and effectively applied to ensure that no innocent person is subject to this ultimate sanction.

And I think there are people here -- there are some people here who for spiritual reasons, and this -- you know, I don't mean to -- if I sounded at all disrespectful of Senator Meier's raising the question of evil, I really don't mean to be, because this is really in some respects a spiritual issue. A lot of people -- some people, as Senator Diaz does, have a spiritual and a moral objection to the death penalty, as he does to abortion, and I respect the

consistency with that. Senator Marchi is another proponent of that, against the death penalty, against abortion. They can truly call themselves pro-life.

People who are for the death penalty and against abortion, I think that out of respect for church doctrine you should not call yourself pro-life. But this is a spiritual issue for some people.

For other people, and I put myself more in that category, we're concerned because the death penalty as applied in the United States -- and as I believe it would be applied in the New York under the current state of the laws of the State of New York -- would not guarantee that innocent people are not executed.

And in fact, the death penalty as applied in the United States has demonstrated that there are three factors that determine whether or not you get the death penalty: the race of the suspect and of the victim, the intelligence of the suspect, and the wealth of the suspect. Those are the three things that in study after study, in state after state,

determine who gets on death row and who does not.

Now, in New York we have people who are wrongfully convicted. And I would like to open the door to a question that I think will come up as we enter the debate on Senator Volker's bill -- we haven't held the hearings that we were promised we were going to have the last time we debated the death penalty.

Since 1995, when this Legislature enacted the death penalty bill, there's a lot of new evidence about innocent people being convicted, about the effectiveness of the death penalty, about the cost of the death penalty. I believe the last time we debated this we were assured we were going to have hearings on it. I hope we will. The fact of the matter is that innocent people are convicted in New York State.

Newsday reported, in December 2002, 11 cases of 13 people being wrongfully convicted of murder in the previous five years.

Interestingly enough, the same year, the Republican governor of Illinois

determined through a study that there were 13 people wrongfully convicted on death row in Illinois. Now, in response to that, he did what I think is the only responsible thing to do and reasonable thing to do, he appointed a commission to study the possibility of error in capital prosecutions.

And the commission, among other things, examined a whole series of reports, including a report which I commend to the sponsors of these bills by a group of academics headed by James Liebman of Columbia University that found, among other things, in a group of states that they studied over a period of years, there was a 68 percent appellate reversal in capital prosecutions.

So the evidence started to emerge early in this decade that there were serious problems elsewhere. Part of that was due to improvements in DNA technology, the expansions of the DNA database, and things like that.

So the Republican governor of Illinois responded by commuting the sentences of everyone on death row in Illinois.

At the same time, also in 2003, the

governor of Massachusetts, who was looking to reintroduce the death penalty, created a council on capital punishment. That council met, held hearings, did studies and determined that there were 10 safeguards that it deemed necessary to ensuring that they would not execute innocent people. Nine of those 10 safeguards are not present in the law of New York. And the issues that I just asked the sponsor about are among those safeguards.

We can convict people in the State of New York with the testimony of an in-custody defendant. That's someone who's in jail looking for way to make a deal. People should not be subject to the ultimate sanction without corroboration of that. We do have rules regarding accomplice testimony in the State of New York. I would urge that those need to be expanded before we move forward towards enacting a death penalty.

Eyewitness testimony, testimony of a single eyewitness -- any of you who have tried a case with eyewitness testimony know how difficult those can be. There are people who have ended up own death row in other

states due to eyewitness identification by single witnesses. Let's require corroboration.

Videotaping of interrogations to make sure that we know what's going on there, that there aren't people being manipulated or abused in any way or simply -- and again, this comes to the intelligence issue of suspects -- overwhelmed by the circumstances.

Lineup procedures. Again, this is all -- this all comes out of the Massachusetts study. A blind lineup procedure should be required in the State of New York. The person who's conducting it, the administrator, should not know who the perpetrator is, lest, intentionally or unintentionally, they lead the witness towards identifying that person.

These are the kinds of things we should be talking about in the State of New York, these are the kinds of things we should be looking at in the State of New York before we enact the ultimate sanction.

The effort that is being made with this piece of legislation -- and I don't doubt the sincerity of my colleagues, who are

frustrated. They believe in the death penalty, they are frustrated by the inability of it to move forward in the Assembly. But the truth of the matter is, let's look at the overall issue. Someone who is wrongfully convicted and executed who shot a police officer, that's just as disgraceful if we as a society do that than if we execute someone who is wrongfully convicted of killing someone else.

The issue here is ensuring that the innocent are protected. This is not something we made up. This is something that was nothing short of an obsession of the founders of the Republic, and you can see it in the writings around the drafting of the Constitution. Because of the abuses by the British crown, the concern for trial by jury and protections in our criminal justice system was something that was truly at the root of the founding of this country.

So I think that we have to address the issues that will come up now, and I'm glad Senator Volker is here so I don't have to repeat myself, in the context of the death

penalty bill that he is going to propound that deals with the death penalty for every crime -- or not every crime, but for the killing of people other than police officers as well as police officers.

The question is, have we done everything we can do to get the most up-to-date information about the efficacy of the death penalty, ways to ensure that the innocent are not subject to this ultimate sanction? And the answer clearly is no. We haven't held hearings, we haven't done anything. We're just moving the same bill that we moved in previous years.

And finally, I would like to follow up on Senator Parker's point that we have to do everything we can do to protect our police officers. But there is no peer-reviewed scientific study that has ever demonstrated that the death penalty stops the evil people, if Senator Meier's contention is valid, or just people who are caught up in things and end up pulling that trigger -- there is no peer-reviewed scientific study that demonstrates that those people are deterred.

Indeed, from my own experience spending a couple of years working at a prison, I think the most out-of-control criminals are the hardest to deter.

If you want to have the death penalty for securities fraud, you'll have the cleanest markets in the history of the world, but I don't think anyone is proposing that. That's a group of people, white-collar criminals, that can be -- uh-oh, now I'm giving Dale ideas. The white-collar criminals can be deterred.

I don't think people who are so out of whack that they would kill a police officer are deterred. That's my personal opinion.

But let me read now a statement from police officers who wrote this in response to the death penalty bill, when this was first advanced, relating to police officers. And I just want to put this into the record.

It states: "We are current and former police officers. Every time one of our fellow officers is injured or killed, we feel the pain as though we were shot ourselves.

New Yorkers owe our police genuine protection from such threats. We need the best protective equipment. We need programs and laws that take guns off our streets. We need funding for innovative crime-prevention programs and more police. And if something happens to us in the line of duty, our families need the very best in support, including grief counseling, financial assistance, and scholarship programs for our children.

"Yet" -- and it refers to this new death penalty bill that we're debating right now -- "[it] diverts attention from those very real needs and provides grieving families with nothing of substance. We urge our lawmakers not to use the blood of our brothers to jam through irresponsible and ill-conceived policies that have nothing to do with the law enforcement community's needs. The death penalty is a broken and wasteful system that risks executing the innocent, unfairly targets people of color, and drains precious resources from meaningful programs that support law enforcement and victims' families."

And it's signed by a whole series of police organizations.

Let's not pretend that the death penalty does things it doesn't do. Let's take the actions that really protect police officers. Let's not pretend that we've done everything we can do to gather the evidence.

The Assembly has held public hearings. And what was the result in the Assembly? There's actually less support as a result of those hearings in the Assembly for the death penalty than there was before it. The Assembly Codes Committee voted today 13-5, including Republican votes, against reporting out the death penalty bill.

So I would respectfully submit that because of our lack of inquiry, our lack of the willingness to hold hearings and examine the reports, examine what happened in Massachusetts and Illinois, we are rendering ourselves less and less capable of addressing this issue while the Assembly has been gathering information.

And you may agree or disagree with their positions, but you can't argue with the

point that they have held hearings on the issue. We've been promised hearings on the issue, but it has yet to be delivered on.

I'm going to vote no on this bill. I think that Senator Diaz's point is very important. There's no one I don't think in this chamber on either side of the aisle who -- I'll be glad to yield as soon as I'm done, which will be very shortly.

There's no one in this chamber on either side of the aisle who does not want to do what we can do to protect police officers. These are our heroes. I actually agree with some of the points made by my colleagues that an attack on police officer is not just like another crime, because it is an attack on society.

Which, incidentally, is the same argument that is made in support of hate-crimes bills, because it's an attack on a particular ethnic or religious group or based on sexual orientation.

But I do believe that. But we all support those efforts. Let's work on issues that are truly important to police officers,

like getting guns off the street.

I'm going to vote no on this. We're now going to move on to the debate, I guess, for the other bill, but a lot of the points I've made I hope will resonate with you when that debate comes up as well.

Thank you, Mr. President. I'll be glad to yield.

ACTING PRESIDENT ROBACH: Senator Golden, why do you rise?

SENATOR GOLDEN: If the Senator would yield for a question.

ACTING PRESIDENT ROBACH: He will.

SENATOR GOLDEN: Senator Schneiderman, in your description and your questioning of me of the four different approaches that you would like to see changed in the legislation that would allow for what you believe to be a better bill, if those four changes were made to your satisfaction, would you vote in favor of the death penalty?

SENATOR SCHNEIDERMAN: Through you, Mr. President, fair question.

There actually were -- and I would

refer the sponsor to the January 2005 report of the Committee on Capital Punishment of the Association of the Bar of the City of New York, which enumerated that -- I gave several examples. In fact, there are more recommendations there.

If a death penalty bill was crafted with all of those recommendations, that would be a much harder decision for me. I have little hope that these changes will be made -- maybe when we get a new governor. I don't know. In all honesty, I don't know.

I would have to say that I -- I -- again, this really comes to a philosophical and moral issue. I'm not someone who doesn't believe that, you know, the state never has the right to take life. We have the right to send our children to die in wars. So I would be conflicted.

My concern is this. No one has ever gotten it right so far. There has never been, in the history of the United States, a state that has not had a death penalty that discriminates against poor people, against people of color, against people of lower

intelligence and mental disability. And I would have to be very, very confident that we'd addressed all those problems before I vote yes.

But that's a fair question, and I don't know the answer, Mr. President. Thank you.

SENATOR GOLDEN: I have one further question, if the Senator would yield.

ACTING PRESIDENT ROBACH: Senator Schneiderman, will you yield for another question?

SENATOR SCHNEIDERMAN: Yes.

SENATOR GOLDEN: We constantly do hearings, and I believe in having hearings on bills that are appropriate.

Now, I'm going to point out Nixzmary Brown. We've had hearings, the Assembly has had hearings, and yet we don't have a bill on Nixzmary Brown from the Assembly.

So if we're going to have hearings, are the hearings for TV or are the hearings to establish real legislation? It doesn't seem to happen. And that is my question of

concern.

SENATOR SCHNEIDERMAN: I think that, again, the Senator raises a legitimate concern.

I think that our intent certainly in this area -- and I think whatever you can say, you agree or disagree with this. There are studies, there are people who have information of tremendous substance.

I think it should be the concern of everyone in this house, for example, that as reported this week in the Amsterdam News, the May 2006 issue of Psychological Science, the journal of the Association for Psychological Science, reported that -- and I'm quoting now from the author of the study, a Stanford psychologist -- if you look more black, it more than doubles your changes of receiving the death penalty when the victim is white. Now, this is even saying that more light-skinned African-Americans are less likely to receive the death penalty.

These are matters of substance. We should look at all of these things. We should look at all of these things.

So in this case, sure, are there sometimes hearings held that people do more for television than anything else? Yeah. But that's not our intention here. And I think that our intention is to try and advance the process.

We certainly do want to follow up, and I understood that there were statements made, certainly last time we debated the death penalty, that we would hold hearings. I would welcome the opportunity for us to do so.

And I don't -- I think some of these issues are going to come up in the context of Senator Skelos' bill, so I don't want to unduly impede things. But I appreciate the sponsor's sincerity in his effort to advance this particular piece of legislation. I hope you're not getting false hope up about whether or not this will move in the other house, because I think, if anything, let's not give anyone false hope that this is going to move forward in the Assembly.

Thank you, Mr. President.

SENATOR GOLDEN: I applaud the Senator for his honesty.

I would hope that we would be able to come together, because we have come together on other legislation.

And I understand that he addressed the concern, Senator Schneiderman, on taking the guns off of the streets and getting them out of the hands of people who shouldn't have them. And we have a bill coming up, a C felony on possession of an illegal gun. And hopefully I can see Senator Schneiderman on that bill, and many of my other colleagues on both sides of the house, so that we can take the illegal guns out of the hands of perpetrators and put them behind bars where they belong.

Thank you, Senator. Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Nozzolio.

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

ACTING PRESIDENT ROBACH: On the bill.

SENATOR NOZZOLIO: Mr. President and my colleagues, I humbly rise to add

support to this bill and to thank our sponsors, particularly Senator Golden, who has brought great strength and passion to the promotion of this measure.

I'd like to bring a different perspective, one focused on law enforcement but looking at it from the perspective of those 30,000 brave men and women who work in our correctional facilities.

Before I do that, though, I'd like to add perspective on what this house has done in supporting measures throughout the last decade that have established a zero tolerance for violence in our state. By all accounts, the measures we have enacted which have put the most violent of criminals behind bars for longer periods of time have resulted in remarkable changes in the crime statistics of this state.

We've seen rapid declines in the incidence of rape, of robbery, of otherwise strong violence against each other, and a big reason for that is the statutes that we created keep violent individuals behind bars for longer periods of time. Our population of

prison inmates in this state has been reduced over the past number of years, but those who are behind bars are behind bars because they have committed very violent acts. And we as a law-making body have stated that they should remain behind bars for a longer period of time.

A thousand years from now, our society will be judged by its commitment to justice, how we as a people have established policies and practices which create justice for all and safety for our citizens. This is one area of the law where we are inadequate in our state. We have yet to establish justice. We have yet to -- particularly for those on the frontlines of the criminal justice system, our law enforcement officers, we have not established the proper laws to create safety.

To the comments that immediately preceded me by Senator Schneiderman, I say his concern of putting an innocent behind bars and sentencing that innocent to the death penalty, his commitment, I think as far as rhetoric is concerned, is a step in the right direction.

But I would rather see this house

and the Assembly establish a statewide DNA database where each individual who's arrested for a crime, whether that be an arrest for a misdemeanor or a felony, participates in the DNA database.

One of the things that you cannot hide behind is the fact that our laws have yet to keep pace with technology. And if we were extracting a fingerprint from an individual for an arrest, why should we not extract DNA so that we would know, in effect, a greater base of information as to who perpetrated a crime.

But I want to get back to our prisons and back to those places where we have placed violent members of society behind the prison walls for a longer period of time.

What do you say, who are going to vote against this bill, that we are turning our backs on correction officers of this state and the correctional personnel of this state because an individual sentenced to life without parole is an individual who's sentenced to prison without anything to lose. There is absolutely no deterrent whatsoever to

an individual who has already committed murder, who may have already committed the most heinous crime of an attack in a violent murder of a police officer -- what is to deter that individual from being sentenced to prison and not committing murder again?

How can you in the Democrat -- the Minority conference of this house say to the brave men and women, our correction officers, our correctional personnel, who already walk the toughest beat in America, that those who are sentenced to life without parole are sentenced with nothing left to lose? They've already committed murder once. You can't sentence someone to two lives without parole, or three or four.

You need to guarantee to those correction officers how you can guarantee their safety, and how can you guarantee the safety to the teachers, the custodians, everyone else who works in our jails across New York State.

What is your answer to that? That we have established life without parole, we have done our jobs? Frankly, you're

sentencing many of our COs to death by turning your backs on them and supporting only a half-baked punishment, a half-baked justice for the citizens of our state.

I don't wish to get preachy, but I do believe that a thousand years from now we are going be judged by our commitment to justice and the safety and security of our citizens. Standing, adorning, behind the president of this Senate's chair is, in beautiful stained glass, the great seal of the great State of New York. And on that seal there are two ladies. One is Lady Liberty, a concept that all of us take with great, great pride. And the Statue of Liberty adorning our waters, the pride that we all have in knowing we are the state of liberty.

Lady Justice also adorns our state seal. She also looks over this chamber. How are we establishing justice in this state by denying justice to those who perpetrate the most heinous of crimes, as Senator Meier and Senator Winner have both described as the most evil of evils, those who would kill a police officer in the cause of duty, trying to keep

our peace?

We are not establishing justice in New York unless we establish the penalty for those who commit the ultimate crime. And a brush-off on the shoulder and saying life without parole is what you get says to our correction officers that we don't care about justice.

Well, I know I care about justice. I know Senator Golden, who sponsors this legislation, cares about justice. And it should be justice for all. That's why I support this bill, Mr. President, and urge my colleagues to do the same.

ACTING PRESIDENT ROBACH: Senator Alesi.

SENATOR ALESI: Thank you.

Mr. President, would Senator Diaz yield for one very brief question, please?

ACTING PRESIDENT ROBACH: Senator Diaz, will you yield?

SENATOR DIAZ: Yes, Mr. President.

SENATOR ALESI: Thank you, Mr. President. Senator, thank you.

Senator, I would simply ask you this. Did you support the bias-crime legislation that this house and the Assembly passed and was signed into law by the Governor?

SENATOR DIAZ: Bias crime?

SENATOR ALESI: Do you support the bias-crime legislation that exists in New York State?

SENATOR DIAZ: Yes, I do.

SENATOR SCHNEIDERMAN: Excuse me, Mr. President. Point of order.

ACTING PRESIDENT ROBACH: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Point of order.

I don't want to disrupt the debate on these important issues, but Senator Diaz did not have the floor, so he cannot be asked to yield for a question.

I suppose, Senator Alesi, if we're just going to -- if you have a question and the Senator wants to yield, I'm not going to try and shut it down. But let's try and follow the rules. This is going to be a --

SENATOR ALESI: Mr. President, I would concur with that. And it's not necessary for me to pursue it any further.

Let me make my point, though --

ACTING PRESIDENT ROBACH: Point of order.

I think you can ask someone to yield, I believe, at any time who's been involved in a debate after when it's your time to speak. But since Senator Alesi has so graciously agreed to speak on the bill, we'll continue.

SENATOR ALESI: Thank you.

And I think the point should be made very clearly, that for anyone in this Legislature, and that included those people who voted for the bias-crime legislation, and the Governor himself, who signed that, would recognize that we do have special treatment for people who are considered to be in a special class. That's the law. And we do have more severe penalties for crimes that are perpetrated against those people who are in a special class.

And what Senator Golden's

legislation does here, without respect to the main body of the debate about the death penalty, is simply to say that police officers, according to this legislation, should be -- and I agree completely -- considered to be in a special class when it comes to punishment for crimes against police officers.

Philosophically, no different than the bias-crime legislation that we have in this state now as law, recognizing that it is something that we do in New York State. We create more severe penalties for the same crimes against a certain class of people. It's the law.

And so when we're looking at Senator Golden's legislation, without regard to anything else in the debate about the penalties, the death penalty, we've already established a precedent.

And so when Senator Diaz earlier said why are police any more special than anyone else, the answer, to me, is very simple. They are not, on a day-to-day basis, any more special than any of us are any more

special because of what we are or who we are. We're all created equal. That's recognized.

But when they're doing something on behalf of society, when they're going out and doing their job and putting on their uniform and they're clearly identified as someone who is part of the bedrock of our social structure, they're protecting us from lawlessness, then they are special.

They're not special as human beings, they're special in a special category because of what they do to protect us. And the law is clear on this, the proposed law is clear on this. It says when they're doing their job.

And so I would have to say that it's a foregone conclusion that I would be supporting this bill. But in response to Senator Diaz's question about are police more special than others and why are we making a separate bill for them, my answer is simple. Yes, when they're wearing their badge and their uniform, they are a lot more special, because they're protecting each and every one of us.

And the interesting thing about that effort that they do, day in and day out when they're putting their lives on the line, is they're making us more special than they are. They're making us more special than they are themselves. They're making a statement: I'm willing, when I go to work, to die for you. Whatever other job you're doing in this society, I as a police officer, when I'm acting in that capacity, am making you more special than I am. I'm willing to die for you.

So when the Senator says are police any more special than anybody else, I would say yes, when they're protecting us. And the police would say no, I am no more special than you; in fact, you are far more special than I am, because I will lay down my life to protect you.

ACTING PRESIDENT ROBACH: Is there any other Senator wishing to be heard?

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

You know, I wasn't even going to

speak on this bill because, as with so many people on this issue, my view of the death penalty relates to the total universe and to Senator Volker's bill. And I don't want to get into the debate as it's been constructed so far.

But just let me say the only rationale I can think of for this bill before us now is to try and present, to a public whose attitudes I suspect have been changing over the past decade or two, perhaps the most -- I don't want to use the word "sympathy," but sympathetic case in favor of the death penalty.

Because certainly all of us share the enormous abhorrence when a law enforcement officer, someone who is protecting all of us, is cut down in the line of duty. And we are all outraged by that. And yes, it does offend all of us in a very special way. And it does cry out for the maximum public concern.

But in reality, Mr. President -- and I will address it in the next debate in some detail -- I don't think there's a member here whose position as to whether they are in

favor of the death penalty or opposed relates to how abhorrent the crime is, how esteemed, and rightfully so, by the public because of their role as the guardians of our -- yes, our liberty and our freedom from violence -- it doesn't relate to those issues, it relates to more fundamental issues.

So in some respects, I just wanted to explain my vote on this, but it's because of everything I'm going to say about Senator Volker's bill, and it doesn't really relate to the fact that this bill specifies law enforcement officers.

So thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Golden, to close.

SENATOR GOLDEN: Thank you, Mr. President.

I want to thank the colleagues on both sides of the aisle for this debate. I do believe, though, we do need a death penalty here in the state of New York. And I will not give up until we do get a death penalty here in the state of New York. And I'm hoping that some of my colleagues on the other side will

peel off and start to vote for this death penalty.

I listened to Senator Diaz's dance between child and senior and police officer when he had no intention of voting for either of those bills anyway. And I listened to Senator Parker's explanation of social services and education, with no intention of voting for the bill, and then listened to it that there's no correlation.

Well, I think there is a correlation. I think we look at the state of New York for that correlation. And we look at the early 1990s, where we've seen 2245 people killed in one year in this state. And we see 800,000 crimes plus being committed here in the state of New York. And then I see a death penalty come into effect, and I see us down on homicides, to this year to 550, and down on crimes from 800,000 to less than 300,000.

And I see the courts throw out the death penalty here in the state of New York, and I start to see portions of the state where crime is going up, and in certain portions of this state where murder is going up. We've

been blessed in that we've been able to hold homicides down to 550 in the city of New York and a little bit more statewide. But I will tell you that it will be short-lived if we do not give those police officers the tools they need to be able to do the job they have to do.

You know, we did come together here in this conference, we came together here on both sides and in the Assembly. We did in December. And we passed the Crimes Against Police Act and we passed illegal gun trafficking. So there is a record for us of coming together and working for the betterment of the people of this city and this great state. We can continue to do that, or we can continue to argue.

But I will tell you, as I said in my first statement, in the 40 large cities around the nation, 20 of them have seen homicides and murder go up. So I'm going to tell you right now, it's only a matter of time. And when we come here year after year, next year I don't know what you're going to say if crime goes up in the city or state of New York. And I don't know what you're going

to say if we see 10 or 12 police officers killed here in the city or state of New York.

But I'm hoping and praying that you will see the value of this bill and that we will do what's right for the families across this city and state.

I would ask you all -- and I'm sure this is not part of parliamentary procedure, but I will ask each and every one of you to join with me, whether you're going to vote for this bill or against this bill, to stand and to applaud the service of Joseph Corr, his mother and father in the audience that have listened to this debate. And what I would ask you to do is to applaud his service to this state and to his nation.

(Applause.)

SENATOR GOLDEN: Thank you, Mr. and Mrs. Corr. And God bless your son, Joseph, and his family.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Then the debate is closed.

The Secretary will ring the bell.

The Secretary will read.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Volker, to explain his vote.

SENATOR VOLKER: May I explain my vote.

For those that don't understand what's going on here, by the way, for -- we just -- Senator Padavan and I did some reforms here because of some criticism in the Legislature. So what just happened here was we have to stop and wait for people to come in and all sorts of stuff that delays the process. But it's the way the system is these days.

Let me just say on this bill, first of all -- and I listened, Senator Diaz, to your debate, and I listened -- let me tell you that I used to have the numbers on how more likely it was for a police officer to be killed than the average citizen. Something like 4,000 times as likely.

Police officers, correction officers also, and many peace officers are people that represent society. They are out there in the streets protecting us. The reason for this separate bill has to do with the fact that a lot of people felt that we should stress the fact that these people were particularly vulnerable to assaults.

And I'm going to speak on the next bill, and I would like to try to explain some of the things that were said during this bill. But let me just say to you, if I were talking about deterrence, and I am, to dismiss deterrence is foolish, in my opinion. We look at deterrence in every other statute. But we think it doesn't happen because it's killing? Come on.

But the issue is I don't know a police officer -- and I know a lot of them. I was one myself. Senator Golden was. I don't know one that doesn't believe that in some cases the death penalty could deter particularly the killing of a police officer.

In fact, I know criminals who've told me it did deter them. They've told me

right out that one of the reasons they didn't kill somebody is because of the death penalty.

Anyways, let me just say this. This bill -- what would happen is if this bill came in now, with the Court of Appeals decision the way it is, the rest of the death penalty would still remain in abeyance, but police officers, correction officers, and peace officers would be included and this would remedy the so-called deficiency which the Court of Appeals put in place.

So let's understand that. It does have a major impact. Nothing would change in the death penalty but that, but it would happen. So I vote aye.

ACTING PRESIDENT ROBACH: Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

You know, there are jobs that bring certain privileges and certain dangers. Elected officials, there is privilege and there is danger. You know that by becoming an elected official you're going to have people that are against you and people that are in

favor.

Police officers. My daughter became a police officer. I didn't want her to become a police officer; I know the danger. She wanted to become a police officer. A police officer is being given a gun, a bulletproof vest, and they know and she knows the dangers out there.

My granddaughter just became 18 years old. She just joined the Army, volunteered. She wants to defend and protect the nation. This is my granddaughter, just 18 years old. She wants to go to protect and serve. I know the dangers. So the dangers are there.

The bodeguero, when he opens the door of the bodega at 5 o'clock in the morning, to be there till 12 o'clock at night, they know the danger. A police officer has a gun and the authority to stop you and to sometimes slap you. The bodegueros don't have those privileges. And the senior citizens don't have that privilege.

I support police officers. And I support -- as a pastor, I teach my youth in

the church that they should respect and obey the law at all times. Even the Bible says that you don't want to fear -- that if you obey the law and respect the law, you have nothing to be afraid of. That's what the Bible says.

But also, I don't believe in abortion. I don't believe in killing babies, unborn babies. I don't believe in killing anybody, because I deeply respect life in all shapes and forms.

Because I do not believe in killing anyone, and because I believe that life is sacred and beautiful, for this reason and for many others, I cannot support and I will not support this bill or any other bill that takes away life.

It has nothing to do with the respect of police officers, has nothing to do with the love and attention that they deserve. It has nothing to do -- my daughter could die tomorrow, but I don't believe in the death penalty. I don't believe in killing babies. I don't believe in abortion. I don't believe in those things. Life is beautiful and

sacred, and that's why I'm opposing this bill.

ACTING PRESIDENT ROBACH: Senator Seward, to explain his vote.

SENATOR SEWARD: Briefly, Mr. President.

I rise in support of this legislation and also the next bill, Senator Volker's bill, which will correct our death penalty law in the state of New York and reinstate the death penalty for all New Yorkers, and this bill before us for those that kill police officers in our state.

I've listened to the debate here today. There have been pros and cons. My decision to support this bill boils down to three simple numbers. In the early 1990s, before we had a death penalty law in New York State, we had 2245 murders in New York State every year. The number had grown to that number.

After we passed our death penalty law in the mid-'90s, that number is now down to about 550 murders in New York State every year. Now, that's 550 too many, obviously. But the dramatic decrease in the murder rate

here in the state of New York tells me that the death penalty is not only a deterrent, it's also simple justice.

And the other number that sticks out in my mind is last year alone we had four honorable police officers murdered in the -- as they carried out their duties on behalf of all of us in the state of New York. And this year, 2006, we're tragically on course to increase that number.

And we have in the gallery today, of course, Mr. and Mrs. Corr and members of the New Hartford Police Department, who obviously have suffered a great loss. It's more than a statistic; these are real, honorable people who served us and are now no longer with us.

So those numbers alone, the fact we've seen a huge decrease in the murder rate in New York State and, tragically, an increase in the number of police officers being killed in this state, leads me to support this bill and also Senator Volker's bill which will follow. I vote aye.

ACTING PRESIDENT ROBACH: Senator

Parker, to explain his vote.

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

Again, I really admire Senator Golden's intention in putting forth this bill. I think it's an important issue. We certainly need to be providing safety, clearly, in Kings County, in New York City and in the state of New York. But this bill is simply not the way I think we ought to do it.

I think things like closing the loophole around gun dealers is one of the steps we ought to be taking. We certainly ought to be expanding and bringing forth a bill to the floor to expand ballistic IDs.

But then, if we're going to be looking at what the best thing is to protect law enforcement, particularly in New York City it's to increase the number of first responders we have. We still are, after 9/11, several thousand police officers less than where we were the morning of 9/11. And so certainly putting forward more police officers will certainly, I think, do more to help than the death penalty.

I note that Senator Golden wants to credit the death penalty with reducing crime in the '90s. I think that his Republican colleague Mayor Giuliani, America's Mayor, might disagree with that. I think David Dinkins, with his "Cops and Kids" plan, might disagree with that. I think Ray Kelly, with community policing and COMPSTAT, might disagree with the fact that the death penalty was the number-one reason why crime went down in the city of New York. I think there are a lot of other things we might look at.

And I think that as you start calculating the death penalty amongst all those other things that were done around law enforcement during that time, you might find that this was the least effective thing that we could do.

So I'm going to vote no and hope that we bring some other bills to the floor that really address this issue.

Thank you.

ACTING PRESIDENT ROBACH: Senator Parker will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 460 are Senators Andrews, Breslin, Connor, Coppola, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Oppenheimer, Parker, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stavisky and Valesky.

Absent from voting: Senator C. Kruger.

Ayes, 37. Nays, 23.

ACTING PRESIDENT ROBACH: The bill is passed.

(Scattered applause.)

ACTING PRESIDENT ROBACH: Senator Little.

SENATOR LITTLE: Thank you, Mr. President. Could we return to Calendar 455, please.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 455, by Senator Volker, Senate Print 2727, an act to amend the Criminal Procedure Law.

SENATOR HASSELL-THOMPSON:

Explanation.

ACTING PRESIDENT ROBACH: Senator Volker, an explanation has been requested.

SENATOR VOLKER: Yeah, Mr. President, you know, this is always -- the people that know my history, I guess, realize that I have a very, very strong feeling on the death penalty.

It's not that I feel that we should execute tons of people or anything. But I can't help but remember, and I guess because of the history of my family -- and by the way, I was one who recommended that we do Senator Golden's bill first, because of the family being here, and I thought it would be better that they didn't have to sit through the entire proceeding or whatever. I mean, you know, not that it wouldn't be educating.

But what's fascinating about this issue is -- and I realize we all have our own feeling about it. See, it wouldn't matter to me -- and some fellow talked to me and said, "You know, the support for the death penalty is down." I said: "Oh, that's nice. Okay." And he said, "Does have that any impact on

your feeling?" I said, "Look. I support the death penalty because I believe it is a deterrent." I know it's a deterrent. It's not a belief. It's not even an issue.

I'll never forget my father coming home in 1965 after he had fought the battle against the majority of the Bartlett Commission, which Nelson Rockefeller set up to abolish the death penalty. Which is what he did. And my father opposed it.

What he said was, number one, the murder rate will soar now. Which of course he was totally right. Number two, he made an interesting observation and he said now abortion will come out, because they're indelibly linked. Because when you abolish the death penalty, if people are willing to allow innocent people, in effect, to die from the hands of killers, the guilty, why would they not be willing to allow the innocent to die?

What a terrible condemnation, in a way. I listened to Reverend Diaz, and it was fascinating.

In 1965, the murder rate was 837.

Now, in 1966 -- and this was after the death penalty was abolished -- it was 876. You know what it was last year? 874. So one year after the death penalty was abolished, two more people were murdered than last year. Of course, then in 1967, 1,009; 1968, 1231; 1969, 1400. It went all the way to 2600.

I think what we have to understand is not every murder is deterrable. Of course it's not. Nobody ever said that. Particularly, I think, the murders of police officers, and there's lots of reasons for it, are potentially deterrable.

But to say that there's no evidence of deterrence -- the reason there's no evidence of deterrence for those that oppose the death penalty is because they beat every study they could find to show it wasn't.

It's like Massachusetts. My good friend Eric talked about Massachusetts and these nine principles. One thing he didn't mention -- I don't know how many people have read the Massachusetts death penalty statute. I can tell you it doesn't have anywhere near as many protections in it as we do in ours.

I have talked to death penalty advocates from around the country, and they privately admit to me that if they had to have a death penalty legislation, they would like ours. There's no bill in the country -- for instance, we provide more training and more money for defense than any legislation in any state in the country. And I won't read you all the different provisions in it. It's kind of impressive, I think, and I'm proud of it.

I must tell you a story about what we're fixing here so that everybody understands. This bill basically does the same fix, so to speak -- it takes out the provision that the Court of Appeals says was wrong and replaces it with what they say is right.

Now, personally, I don't buy the Court of Appeals language at all. This was a bunch of people, four people, that didn't have the courage to allow the death penalty. These were the same people that said the Legislature shouldn't have as much as power as the Governor. We -- the Court of Appeals, probably the most pro-criminal Court of

Appeals in the country, if you look at what they've done -- because this Legislature and this house -- you can be proud of the fact that this house, Democrat and Republican -- and by the way, one of your members said "the Democrats." A lot of you have voted for the death penalty. A lot of you have voted for tough criminal statutes.

This house, in my humble opinion, is the anchor of criminal justice in this state. When George took over -- I'm talking about the Governor -- we said, Give us the tools and we'll deal with it.

No state in the union has ever seen a decline in crime as this state has. Never in homicide the way it has. It's now, however, starting to angle up. We all know that. We've been seeing it, and we knew it was coming.

Yeah, we had the death penalty, and we had tough criminal statutes. Because when the death penalty passes, tough criminal statutes virtually automatically go with it.

There was a gentleman sitting right here who was a good friend of mine -- I won't

say who he was. But back in the '70s, when we were going to have the big argument with my good friend -- and he was my good friend -- Mario Cuomo, he had a bill in that would reduce the life term to 8 years. Well, in other words, you could get out after 8 years. It was 18, it would be 8 years.

They got so petrified over the death penalty, he put in another bill that made life without parole. And I pointed out to him, I said, you know, "It's a little contradictory, don't you think?" But they were so frightened of the death penalty.

If people are so frightened of the death penalty in -- out there, the liberal people, the people that spend millions and millions of dollars against the death penalty, these groups that are so afraid -- by the way, I got calls today from people around the country. Whenever we do this bill, whenever we deal with the death penalty, don't kid yourselves, this is a national issue. Our criminal justice system may be one of the best in the country. I think it's the best.

We've participated in debates, and

this debate, this is the first of a number. Let me tell you, we're going to get another Court of Appeals judge, if things work out the way they should, we will do the fix, and the Assembly eventually will do it. Maybe not now, although if they don't do a couple of other things, they're going to have a big problem.

And by the way, Eric asked about hearings. And I confess, I said on this floor I was going to do hearings. You know why I didn't do it? Because we got involved in so many other issues here -- sexual predator legislation, all these things -- that have turned out to be in some ways to be more important.

The reason we ended up in December on the issue of police killings had to do with the death of two New York City police officers. And it was great that we were able to do that, except for one thing. When two cops in upstate New York got killed, nobody paid too much attention. In fact, one newspaper, one group, Gannett News, did pay attention. I give them credit.

It aggravates me to think, though, that cops in my area, in upstate New York, weren't as important as other police officers. And I think, you know -- I mean, I know that. We realize that the media doesn't like this. Oh, it doesn't sound good.

But ladies and gentlemen of the Senate, justice -- let's remember what justice is. Justice says that people get their due. It doesn't necessarily mean that we go after people, but it means that there ought to be a penalty available for those people that commit heinous crimes that fit the crimes.

You know, I'm going to finish by telling you something that I haven't said to too many people, and you can believe this or not. I'm a practicing Roman Catholic. I firmly believe that the Catholic Church of this country really made a big mistake and in fact probably unwittingly promoted abortion.

When I was over in Europe with my daughter in Krakow, Poland, I went to Auschwitz and to Bergdorf [sic] and saw the -- what was there, the murders and the brutality, the hair of people, the shoes. It was hard

for me to even think about what happened there. I mean, man's inhumanity to man, that this happened in our century.

But then it dawned on me why the Pope opposed the death penalty in Europe. He was absolutely right. I wouldn't want a death penalty in Europe either. Just as I wouldn't have wanted a death penalty in the South in the '30s, '40s, '50s, '60s, and maybe for a while in Illinois. Because they went over the edge.

And because remember, in Europe, people -- juries don't execute people, the government does. In this country, the freest country in the world, juries make the decisions.

Our Court of Appeals doesn't like our juries. They said, Well, you know, they could be influenced by the way that this death penalty is drawn up.

In all honesty, the fix we're doing is probably as much my fault as anybody's. I thought it was -- tended to be more, the way it was, more pro-inmate. Give them the chance. Because I always took the attitude,

you give them the opportunity. The better make sure that person is guilty. You want to make sure that that jury decides that person should get the death penalty before you -- before there's any chance.

Not one person in the history of this state has ever been found not guilty with any kind of definition after they were executed. In fact, let me tell you something. The attitude that there's bias and race -- we've studied the whole thing -- absolutely false in this state. I don't care about the rest of the country, you can say what you want.

Although I will tell you a couple of things that are fascinating. And that is that there was a study done of people who were found exonerated at a national level. Prosecutors from around the United States -- California attorney general, state attorneys general -- all these people went and they looked at a hundred cases that were innocent, people were found innocent.

What they found is that the majority were reconvicted of the same charges.

They also found that some of the people exonerated were guilty, but the problem was that the evidence was thrown out for one reason or another.

I'm told that the DNA cases in Illinois, at least half of them committed the crimes. And the reason is, you got to remember, DNA eliminates the evidence. It doesn't necessarily mean that people are totally innocent. They may have still committed the crimes.

One guy who was let out was immediately grabbed by the people in the next state because the evidence showed that he killed the person who he was found innocent of just after he killed another person related to him in another state.

So you have to be really be careful. The media tells you part of the story, not the whole story.

We in this state abhor the possibility that a person could be executed that's innocent. And we do everything we can to make sure. That's not what the Court of Appeals judges did. What they said is -- the

same judges who made a decision that said our Legislature is not capable of being equal to the Governor. That's basically what they said. That's why we're still here fighting over the budget -- they said juries are not capable of understanding, so we're going to make a change.

Well, fine, this bill changes back to what they claim they will do. Hopefully, by the time the new charges are laid against people and so forth, we'll have a different Court of Appeals which will have the courage to withstand the statute that we will send to them and that the new governor, probably -- because I want to warn everybody here, I assume everybody here realizes that both gubernatorial candidates are pro-death penalty. In case you don't know it, they are. So if you think that this issue is not going to come back, it is.

And today we're going to pass this bill that does the overall fix to the death penalty. But don't let anybody kid you that those law professors who are anti-death penalty who testified at the Assembly

hearings -- which they wouldn't even let everybody who was pro-death penalty testify. They did the hearings to show you shouldn't be for the death penalty. That's why they did them. We all knew that.

And Marty Connor and I were talking; if you're opposed, you're opposed. If you're in favor, you're in favor. I mean, you can make all the -- so that's the way it is.

So anyways, let me just say, my colleagues, whether there's less support for the death penalty today than there was some time ago -- why is that? Well, because the murder rate is way down. And the media has been pounding away, and the anti-death penalty people have been making movies and they're on television. But there is a steady undercurrent of two-thirds of New York people -- no one who voted for the death penalty in this chamber who was there in '94 is going to have a problem if he votes for -- or she votes for it again.

Because those people that now say they might prefer life without parole, they're

not going to vote against you because you vote for it. What they're saying is well, you know, we might just do -- yeah, sure. The truth is that's what people want you to believe.

The people of this state have spoken time after time after time. They want justice. And if we're going to get justice, we need a death penalty to make sure that the most heinous of criminals have the threat over their heads.

So all I can say is whether it's a police officer, who I think needs defense more than anybody -- whoever it is, we do need the death penalty in place in this state.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Mr. President, I have listened to the debate on the prior statute, and I'm listening to this. And this debate and the one that came before it is frustrating.

And it's frustrating from two perspectives. The first is that we are debating the wrong thing. If you're speaking

specifically on the bill that is before us for consideration, Senator Volker's bill and Senator Golden's bill, then the debate on whether or not the death penalty should be the law in New York State is irrelevant.

In fact, if we were in a court of law, I would bet you anything that a judge would rule us out of order. Because the law of the State of New York today is that there is a death penalty.

In 2004, the Court of Appeals in the case of People v. LaValle spoke to one very small and specific section of a law that had been debated and argued about for nearly a decade. And I participated in those debates, as did Winner and Robach and Nozzolio, in the Assembly, and Bonacic and Flanagan. We were all there. And we remember the chambers humming with tension and emotion over the issue. And when George Pataki becomes Governor in 1995, this state decides to enact a death penalty.

What is so frustrating about today's debate is that because of a technicality -- and if you read the

commentaries of the Court of Appeals, you know it is a technicality. They don't talk about the requirement of proof as being insufficient. They don't talk about the jury deliberations as being insufficient under law. They don't talk about the threshold crimes you must commit in order to be subject to the death penalty as being constitutionally insufficient. None of that. Especially that one-line little paragraph that when you said to a jury if it didn't do this, then this might happen. And that was the infirmity.

Now, why am I frustrated? Everybody has the right -- it's the Legislature; we can talk about anything, whether it's relevant or not. But when you hear Senator Diaz and Senator Parker and Senator Schneiderman talking about the merits of their feelings, we're kind of missing the point.

And I would actually challenge the opponents to this bill who want to vote no. Hey, folks, it's the day of transparency. So if you really want to express your objections to this legislation, you must offer an

amendment to repeal the death penalty in the State of New York. Short of that, you're not affecting the debate positively. Because, my colleagues, that's the debate. Because the law still exists today.

What a court, an unelected court has done is they've superseded our judgment. They've said, No, no, we don't care about what the people, duly elected, think. We're going to usurp your ability to affect criminal justice. We're going to ignore the fact -- whether you believe the death penalty actually is a deterrent or not, the one thing you cannot argue in the face of the statistics is that it actually increases crime. It does not. That's the one thing you can't say.

Now, you say, Well, Balboni, why are you bringing that up? That's so absurd. Believe it or not, when I was in the Assembly, '90, '91, '92, '93, that's what they all said, that if we enact the death penalty, we're going to increase the rate of crime. They actually said that. But it didn't happen.

Mr. President, I'm voting for this because it was the people's intent and the

will of this Legislature in 1995 to enact the death penalty, to provide some safety not only for police officers and court officers and people who run the jails but the private citizen on the street. We should effectuate that.

My colleagues, I challenge you. Bring an amendment. Let's have the debate on the death penalty in the proper forum. But let's not take this technical amendment and further the sham the way the Assembly has done.

Folks, this is a very serious issue. If it's time to revisit the efficacy of this proposal, then let's do that. But not in the context of some hypertechnicality that the lords of the court have decided to visit upon us.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Balboni.

Senator Duane.

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

ACTING PRESIDENT ROBACH: On the

bill.

SENATOR DUANE: I want to state for the record that I am a hundred percent morally and ethically opposed to the death penalty. I believe that it is wrong, and I would vote against any bill that would bring the death penalty to New York State.

But let's be honest about what's happening here. And this is before my time here, though I followed it as a person who opposed the death penalty. The Governor, the Senate had a chance to draft a good bill, if you want to call it that. If there's any such thing as a good death penalty bill. And unfortunately, it wasn't good enough to pass -- or I should say from my point of view, fortunately, it wasn't good enough to pass the Court of Appeals' scrutiny. So basically the Senate blew it.

I mean, what the Court of Appeals was saying was that the bill was flawed, that it was badly drafted. And it was overturned. And actually, that's probably a lesson to the Senate that maybe the best way to draft legislation, particularly legislation of this

importance, is to do it after plenty of hearings.

I also think it would be kind of inappropriate to have the Court of Appeals come and debate the bill with us. It would be like having the Governor come and debate the bill. There's a separation of powers. But there is a reason that we have a Court of Appeals, and that's so that they can see whether or not our laws are fair and well-written and can be properly used in our courts of law.

So apparently and obviously what happened was the bill didn't pass muster. And you know what? There really is no going back. We're not going to pass a death penalty in this Legislature. It's not just going to happen. So -- I mean, I understand why people want to go on the record or they want to put people on the record on this. But basically, that's all it is, and anything else about it is pretty much a waste of time.

So it's a puzzlement to me why we would be wasting our time debating this bill today when it has no chance of going through

the Legislature, no chance of actually arriving on the Governor's desk, when frankly we could be passing legislation that really could go to the Governor's desk. And that, for instance, Timothy's Law.

You know, the death penalty experiment is over in New York State. But I can guarantee you that when we pass Timothy's Law, that won't be an experiment. That will be something that will really change people's lives, and it will be something that people will be able to use forever in this state.

You know, I just have to say -- now maybe I'm a little bit guilty of it as well -- the only thing that it really could be said that we're doing here is killing time, not making for a bill that's going to make it possible for the state to kill a person.

You know, the death penalty brings up a host of emotions and issues which, now that the gate is open, people have been talking about here. And let's face it, one of the issues that the death penalty will bring up, for both the person who would be put to death under the bill and for the families of

the victim, are mental health issues.

Let me just mention something about this. Does the death penalty help victims heal? Well, there was a gentleman, Mr. Welch, from Oklahoma City, whose daughter, whose only daughter, Julie Marie Welch, was murdered in the Oklahoma City bombing. Which, by the way, was a terrorist attack by an American Caucasian and, tragically, a New Yorker originally as well, in case anybody forgot who that terrorist was. I believe raised either Protestant or Catholic, also, not Islamic.

Anyway, Mr. Welch, who lost his only daughter in the Oklahoma City bombing, you know what happened to him? He spent all of his grieving time and time in the future after the bombing medicating his pain with alcohol. And not only did the death penalty not bring his daughter back, but the death penalty didn't provide treatment for his alcohol addiction.

You know what would provide treatment for his alcohol addiction? Treatment for alcohol addiction. Which is in Timothy's Law. Which we could do in this

session in this Legislature and put it on the Governor's desk for a signature.

So alcohol didn't take care of Mr. Welch's pain, the death penalty he said would not take care of his pain. But you know what? A little bit of counseling probably would have taken care of his pain. Maybe not forever, and maybe not completely alleviate it, but certainly help him through the pain.

Now, you know, while we're on the topic of the pain of family members of murdered people, there's Pat Webdale, the mother of Kendra Webdale, who was pushed to her death in front of a New York City subway train by a mentally ill man in 1997. You know, the Webdale family campaigned for Kendra's Law, which facilitates mandated treatment for those with serious mental illness.

But if that family of Kendra's murderer had had access under Timothy's Law to mental health treatment, perhaps that tragedy could have been avoided. And part of Kendra's Law mandates treatment for those with serious mental illnesses. Well, maybe we should

provide optional mental health services for people with mental illness before they murder someone or before they're mandated into treatment because of our law.

Now, Senator Padavan had a bill earlier on today which says that a person could be guilty but mentally ill. Well, I don't know what we could do about the guilty part of it, but certainly we could help with the mentally ill part of it if we had a Timothy's Law in New York State, which is something we could do today, actually get accomplished, get it to the Governor's desk.

Unlike a death penalty bill, which is going nowhere. Nowhere, nowhere, nowhere. Not going anywhere. Death penalty not going anywhere; Timothy's Law could be on a path to the Governor's desk.

You know, one of the things that we know is that -- and studies have shown this, and it's something that actually was raised today by Senator Spano's bill on stalking and domestic violence, "prohibits employers from discriminating against victims of the domestic violence or stalking."

I'm sure many of you know that stalking and domestic violence often escalates into murder. Right? Murder of a spouse, murder of a domestic partner, murder of a stalking victim.

And yet we know that stalking is yet another sign of mental illness and something that potentially could be treated, and people that have that problem could actually get treatment and not have it escalate to the point of murdering a victim if in New York State we had a Timothy's Law.

Isn't it better to treat someone with this kind of an illness before they commit a murder, rather than just prosecuting them after the murder? Makes sense to me.

And yet we're spending time here on a bill that's going to go nowhere when we have a bill, Timothy's Law, which actually could go somewhere.

You know, there's lots and lots of science on the issue of depression and what happens with it. There are studies on the impact of depression and people on welfare not being able to get to work because of that.

More treatment would mean more research, more money going into research of mental illness, more people could be helped.

You know, in New York State, even if you are a person who under the pieces of legislation we see put before us today -- in the period of time when someone is incarcerated under the bills that are being proposed today, Senator Volker's bill and Senator Golden's bill, when a person is incarcerated they could potentially end up in a special housing unit.

And you know what we do in New York State with mentally ill people? We warehouse them in prisons and most of them end up in special housing units, a place where persons who potentially could get the death penalty might end up as well. That's what we do with people in prison, we put them in special housing units instead of getting them treatment for mental illness.

And some people actually get released from special housing units right into the world, oftentimes without Medicaid benefits and no access to mental health

services, which I say perhaps they should have been getting before they were incarcerated, while they were incarcerated, and after they get out. And if we had Timothy's Law, we could have that.

But instead of talking about Timothy's Law, we're talking about the death penalty, which has no chance of passing when Timothy's Law actually has a chance of passing.

Now, Massachusetts does not have a death penalty. But I want to talk about another case of where potentially the death penalty could apply. And that's the case of Father Geoghan, who was accused of molesting many children over decades. Who I would also say, though he probably had access to mental health care -- because the Catholic Church I think provides healthcare for -- I know for priests, I'm not sure about nuns, but definitely for priests, parish priests, diocesan priests. Anyway, he didn't get the treatment he needed and he went on and he continued to molest children.

And he was incarcerated for

10 years on the one charge that they got him on, although they stopped after they got this because he got a 10-year sentence for inappropriately touching a boy in swimming hole. And off he went to prison, to protective custody. Probably in New York State he would have been put in a special housing unit, because it was the kind of place where he was only allowed a little bit of the time.

And then he was murdered by a young man who was a white supremacist, I would say probably of the terrorist category as well. And Father Geoghan was murdered by this, you know, Aryan Nation guy, Joseph Druce, and he was murdered in prison.

And, you know, because of where this happened, the circumstances, this Joseph Druce probably would be eligible for the death penalty. Right? And to what good? Would that have stopped these kids from being molested earlier on by Father Geoghan? No.

Probably what would have stopped him was if the Catholic Church had recognized that they had members of the clergy who were

doing terrible things and should be moved around and should be stopped from doing terrible things. But of course we haven't even passed comprehensive clergy abuse stuff in this Legislature yet, which we could actually pass and get onto the Governor's desk. But instead, the death penalty.

Which, you know, this is the end of the line here in the Senate. It's not moving past here. This is it. It's not going anywhere after this. So all the things that we're not doing that we could be doing, but instead we're debating a bill which is going nowhere fast.

So, you know, the death penalty, who is that going to help? It's not going to stop the crime from being committed. It's not going to really give most families the kind of closure that they need. You know, it's not going to do any of those things.

But what we could be doing to help people is passing a Timothy's Law. What we could be doing is passing a comprehensive package of clergy abuse bills which not only would give some closure to victims, give them

a chance to have a day in court, but would also, I hope, make it so that cycle wouldn't continue. Because, you know, when we heard from victims, it wasn't about the money, it was about two things: One, acknowledgment that what happened to them had actually happened to them; and the other thing to stop it from happening to people in the future.

So in a weird kind of way, the death penalty doesn't even give people the acknowledgement that the person is actually guilty. I mean, we don't know any more than what might happen in court. And we know of people who are, because of the advances in DNA technology and other things -- that actually were at risk of being given the death penalty but turned out to be innocent. But if they're dead, they're not going to be able to come back.

So again, who is getting helped here? Not the families, who again it doesn't give them closure too. And yet we could help them if we provided mental health services through Timothy's Law, so that everybody in New York State could get access to mental

health services. You know, those are things that we really could be doing here.

You know, for the last, I think it's like five years now -- or I don't know how many years, but for a while. You know, the years just kind of flow into each other here -- we've been wasting our time on one-house death penalty bills. And we could actually be working on bills that have a chance of getting passed by both houses and onto the Governor's desk, like a Timothy's Law.

You know, we have one and a half weeks left. We could have had -- you know, if we were going to do this debate, we could have done it in January, we could have done it in February, when we weren't actually doing a whole lot around here. Right? And then now we could really be at the table getting laws passed that would really help people, like Timothy's Law.

One and a half weeks left. One and a half weeks left to help all New Yorkers, to help every New York family to have access to things that they need. I don't really see

that they're clamoring for the death penalty. I think what they want is parity for mental health care. I hear from lots and lots of families that say we really need this for our family, we need this for our children.

I mean, we've heard from Timothy's dad. He really could have used this bill, and this bill would have saved the life of his son Timothy. The death penalty wouldn't have saved his son. What potentially could have saved his son? Timothy's Law. Access to mental health care. That could have saved his son. Not the death penalty. Nope, not the death penalty. Mental health parity, Timothy's Law, that would have saved the life of his son. Right?

And in a week and a half, we could actually make that right. We can't and I don't think we should fix the death penalty, because no matter how much we try to fix it, it ain't going anywhere. Not going anywhere this year.

Timothy's Law, Timothy's Law could go to this year. Timothy's Law could pass. We could help people get the mental health

treatment that they really, really need. It might help it so that we wouldn't have to keep warehousing seriously mentally ill people in prisons and in special housing units.

We could make it so that victims of clergy abuse could get redress, could stop that horrible cycle. We could provide mental health for families and victims of clergy abuse. We could help people before they're incarcerated. But no. Nope, we're not doing that. We're not doing Timothy's Law, just the death penalty.

So a week and a half. Let's stop wasting our time on one-house bills that are just trying to fix bills that got rejected because they're poorly drafted and, frankly, people were pretty darn ambivalent about it to begin with. Let's do something that we know that people feel strongly about on both sides of the aisle, on both sides of the aisle.

Timothy's Law has overwhelming support on both sides of the aisle in both houses, and the overwhelming support of New Yorkers. Why don't we do something for New Yorkers? Why don't we do something for

New York families? Why don't we make sure that every New Yorker gets access to mental health treatment?

I'm going to vote no on this bill, and I encourage my colleagues to do that. But I encourage my colleagues to make it possible for us all to vote yes on Timothy's Law.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

First I want to thank our colleagues. I guess you're all battle-weary. We've been hearing about the death penalty now for almost two hours and 20 minutes. Just -- I want to be very brief and I want to try and say a couple of things that haven't been said in the last two hours and 15 minutes.

I first came to the Assembly in 1990 in a special election. And when I ran, people said that I was going to be the 100th vote to override Governor Cuomo's veto of the death penalty in the Assembly. And Speaker Miller at the time was there.

To make a long story short, today, 16 years later, there is more opposition to the death penalty. And that's okay, because people's views on a particular issue change. And it's reflected by their elected officials.

There's been criticism, why are we standing up here on a one-house bill when we could be doing bills that are closer to getting done by two houses. And I respect that statement.

However, the issue of justice and to change the momentum back to where it was could start today, knowing that two people running for Governor on both sides of the aisle want the death penalty reinstated.

But having said all of that, I try to understand why people would vote no, not only on the death penalty but on many criminal issues. For example, eliminating the statute of limitations on the rape of women. Expanding DNA testing for criminals that have been arrested. GPS monitoring of third-level predators. Civil confinement of third-level predators. There's resistance on all that litigation.

So you wonder why, why is there resistance. And this is the two things that I could figure out. When I heard Senator Parker speak, he said, in so many words, it's not individual responsibility that causes someone to kill, it's the failure of society.

The failure of society, whether it be housing, whether it be in a good education, whether it be in a home nurturing, whether it be in opportunity for jobs. It's not the individual's fault, it's society's fault. And therefore, when that individual kills, whether he kills a police officer, a child, a senior citizen, he should not be put to death.

And I disagree with that value system, that judgment. So that's why I support the two death penalty bills of Senator Golden and Senator Volker.

The second reason why people oppose this legislation, it was suggested spiritual grounds. Some people believe in redemption, that no human being is totally evil and they're capable of being rehabilitated. That's a value judgment. I disagree with that.

I think, like Senator Meier, some people may not at birth be evil but they became evil. And I'll just take three or four categories. The terrorists that took out the two Twin Towers. The drug dealers, the big drug dealers that order indiscriminate killing. Gang leaders that order indiscriminate killing. The serial killers, admitted killers through confessions, they are evil. And for the protection of society in the prison -- Senator Nozzolio talked about that -- then that's another reason for the death penalty.

But you never know why someone votes no unless you walk in that person's shoes. Okay?

Now, we talk of class differences, we talk of minority differences and how people are treated. Well, let me tell you, there are a lot of poor Caucasians that don't have housing, don't have educational opportunities, don't have job opportunities, as well as Hispanic, Asian and Afro-American.

Never, never, never does it give an individual the right to kill. In my humble

opinion, in my value judgments. But what is disturbing to me from what I heard not so much on the death penalty is the great divide, how different groups look at police officers, how they look at authority. And that is a bigger problem than the bill we're debating today.

On movies and television they talk of Afro-Americans, Hispanics, other minorities not trusting the police officer. He's the bad guy. Now, that goes to the morals of our society and what keeps America strong. I just call it the great divide. And we, we, both of us, on both sides of the aisle -- because I know every elected official here is well-intentioned, is a humanitarian, wants to help humanity and human beings, or you wouldn't be in this job. You want to do the right thing.

And we have different views on how to get there. But we collectively have to work on the great divide and how we can make it smaller and smaller and eventually make it disappear, so we can make America stronger. Because we need every American pulling for America and not fighting each other.

I vote yes. I did on the police bill, I'm voting yes on this bill.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you.

Senator Onorato.

SENATOR ONORATO: Mr. President, will Senator Volker yield for a question, please.

ACTING PRESIDENT ROBACH: Senator Volker, will you yield?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT ROBACH: Continue.

SENATOR ONORATO: You mentioned the fact that we revisited the death penalty on numerous occasions and the courts have interceded on most of these occasions, making it necessary for us to come and revisit it.

Now, the very latest stumbling block was just very, very recently, with the United States Supreme Court now making it okay for a person awaiting the death penalty to now challenge it on grounds that it's cruel and inhumane treatment by injection.

Now, what method of the death penalty is in this bill that would satisfy the court that it's not cruel and inhumane? I mean, I can't possibly envision any particular way that it's not cruel or inhumane, depending on how you look at it. Is it fast and simple, or is it a slow death?

SENATOR VOLKER: Senator, first of all, that's a challenge which I'm sure is going to go down. The Supreme Court hasn't ruled that any of the execution methods that I'm aware of are cruel and unusual punishment. We have gone from the electric chair because of squeamish people -- mostly in New York City, I'll be honest with you -- to lethal injection.

Lethal injection is still allowed everywhere in this country that I'm aware of. Some states, by the way, use hanging. I think the biggest problem with methods has not to do with the person but more to do with people that are watching. I really do believe that. We did a hearing on this, a couple of hearings.

But the answer is it's almost

inconceivable that our Supreme Court would rule in favor of that objection. Remember, there have been tons of objections to the death penalty for -- I mean, everybody objects to the death penalty, especially the anti-death penalty people. Many of them feel it's wrong and therefore whatever they do is okay. Some of them.

And by the way, the people in this chamber that are opposed to the death penalty, I hope you understand I am not talking about us. And there are many people who legitimately oppose the death penalty. And this chamber has had lusty debates -- "lusty" is probably not a good word, but you understand what I mean -- on this issue for many years. And we've had very good debates.

I think my discouragement is in people who give numbers, some law professors who give phoney, phoney numbers. And that really does bother me. I think that -- I believe in truth. And truth -- the old saying is the truth will make you free. And you make a point. There are challenges, and it could be a problem.

No court has ever ruled this statute unconstitutional. The statute that we have here is formulated out of a bunch of statutes across the country that have all been declared constitutional. The method? For the most part, the Supreme Court has stayed away from method issues. But the chances of the Supreme Court of the United States finding in favor of lethal injection I think is virtually zero. But if they do, it could give us a problem, that's true.

ACTING PRESIDENT ROBACH: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

Many of the speakers today have talked about participating in the debate in '95. And of course we took this up some 15 months ago, in March of '05.

I didn't have that opportunity in 1995. I looked upon it, as Senator Duane had said, from afar with a certain point of view. I was a recent high school graduate, I believe. And looking at it, I felt uncomfortable that I wasn't able to

participate in it. Because if I had, I would have been against the death penalty.

So I must say, before I make any comments on this, on the death penalty itself, I'm opposed to it.

Now, we've heard discussions on both sides, episodic and otherwise, on is it a deterrent. And you look in New York State, you look in New York City, how the murder rate has gone down dramatically at a time when there's been a long-time district attorney there who will not prosecute murder cases, first-degree murder cases.

And you look at where you're from, Mr. President, in the Monroe County area, where the murder rate is four times that of the New York City area.

And then we look at the racial component of it. And Senator Nozzolio so eloquently looked at the seal behind you, Mr. President. He talked about the two women there. And one of the women happens to have blinders on, which says, in effect, that we will give out penalties in a fair and equitable way.

But unfortunately, in this country, we don't do that. That you're much more likely to face the death penalty if you're a person of color who has killed a white and much more likely to face the death penalty if you're a person of color to begin with. So the fact that our Lady of Justice has blinders on sometimes doesn't work out as well as we would expect.

And, you know, there was a study done -- in terms of error in murder cases, there was a study done that 15 months ago Senator Liz Krueger quoted, that 67 percent of the first-degree murder cases have reversible error. Talking about first-degree murder cases. Now in this country there's been over 120 people who were sentenced to death who they've found that they were unfairly accused -- because of DNA, because of other evidence, because of the lack of proper representation.

And then we set ourselves aside as a country at a time when most civilized countries, if they did have the death penalty, are doing away with it. The European Union

says you can't even be a part of our union if you have the death penalty on your record.

So we continue to be like the civilized countries who retain the death penalty -- Iran, for example. So I'd like to set us aside from those kinds of countries, to be a more civilized country, to make sure that -- and as a matter of fact, many of us would think that putting someone in prison for the rest of their lives is much harsher than executing someone. And when we execute someone, in a sense we are acting like the person that we execute.

So for all of those reasons, I vote no. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Breslin.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

I rise in support of Senator Volker's bill, as I did last year and probably will again next year. And I just want to make a couple of points.

First, to harken back to our last

debate on the last bill -- not that we can get back into that, but a point was made by my very good and well-respected colleague Senator Schneiderman that we all know that this is a one-house bill. In fact, it's been referred to in the past as a one-house bill.

Actually, I think that eventually -- maybe not this year, maybe not next year, but eventually this bill will pass in the other house. And it's going to pass for probably the wrong reasons.

And this is what I consider to be one of our dirty little secrets of Albany. This is something that, quite frankly, I don't know that I ever have say publicly, that I'm embarrassed to be a member of the New York State Legislature. But the one thing that does embarrass me is that you know what will get this bill passed in the other house is the politics of a particular incident. And I'll give you an example.

Several years ago, a woman was out -- on Mother's Day, ironically -- her name was Penny Brown, in Senator Young's district. And a young 15-year-old murdered Penny Brown

on Mother's Day, raped and murdered her.

And Senator Young, then in the New York State Assembly, produced a bill to punish juveniles who committed crimes like homicide murder in an adult fashion. Much, much more strict and much more severe than the phoney bill that was passed many years ago which just moved those types of crimes from Family Court over to County Court.

And, you know, that bill languished in the New York State Assembly, went nowhere. Senator Young, then Assemblyperson Young, held press conferences and tried to get, you know, some activity from the majority over there, and nothing happened.

And then there was a very heinous murder in upstate New York in the district of a majority member of the New York State Assembly. Two brothers, 15 and 16 years old, murdered a 16-year-old girl. And out of my respect for all of my colleagues in this room and the staff that works in this room, I won't tell you what they did to that young girl because you would not be able to comprehend it or be able to hold down your lunch if I told

you what these 15- and-16-year-old brothers did to this 16-year-old girl.

But, you know, the geography was important because it happened to happen in the district of a majority member on the Assembly side. And that majority member went out and put pressure on the Speaker and joined with Assemblyperson Young at the time, and public pressure.

And the mother of that young girl, you know, at a lot of public events said: Why won't the Assembly majority pass this bill? Why is the Assembly majority so prone not to do criminal justice legislation which punishes perpetrators of crime?

And guess what? Eventually, you know, Penny's Law was passed by the majority in the other side.

So I think, you know, again, it's embarrassing, it's a shame on both of our houses that that's what it's going to take to get this legislation passed into law in New York. But it's going to happen. You know, there's another David Berkowitz out there somewhere. And when it happens,

probably in the downstate area of New York, the other side will then listen because of public pressure and, you know, the news media will change and we'll get it passed.

I could not have this debate today -- the opponents of this legislation often quote experts and statisticians and legal scholars about the death penalty and whether it's preventive or not. And, you know, very, very rarely do we hear from the opponents of victims. Very rarely. Now, of course, Senator Schneiderman is going to call his staff and they're going to start getting examples of victims. But very rarely do we hear about victims.

And last year when we had this debate I mentioned three victims, and I'm going to mention them again.

First and foremost, as always, from the Syracuse area, Senator Valesky's area, is a young woman by the name of Jill Cahill. Not my constituent, not known by me. This is actually the legislation which the Court of Appeals, Judge Kaye, shamefully, shamefully overturned the death penalty litigation in the

state of New York on.

Jill Cahill was just a young woman in a lousy marriage. She wasn't, you know, very well educated; had a couple of young kids. Her husband beat her up on a regular basis. The second to the last time that he beat her, he used a baseball bat. And the doctors at Syracuse Hospital estimated that he must have hit her in the head at least four times with a baseball bat, putting her in the hospital. You know, and he was arrested again, for about the eighth or ninth time or something like that.

But he didn't kill her. She was actually getting better in the hospital. After spending many weeks in the honest, she was getting better. And he knew that she was getting better. And despite the fact that there was the order of protection, despite the fact that he was out on bail and all those things, he surreptitiously gained entry into the hospital with a wig and a gown, and he went into her hospital room.

And the prosecutor proved at trial that what he probably -- what he did attempt

to do was inject her intravenous tube with cyanide poisoning, but that didn't work. She kept breathing. So what he did, out of exasperation and the fact that he was afraid somebody would come in the room, he just poured it down her throat and made her swallow cyanide. Her autopsy photo showed scars outside on her cheeks, down her neck, where the poison, as she was obviously gargling and spitting it up, burned the side of her cheek.

And of course they went to trial, and he was found guilty. And then they had the penalty phase of the trial. I think maybe the only time that that's happened in the state of New York. And those jurors painfully went through all of the evidence, decided, despite the fact that several of the jurors were opposed to the death penalty, decided that James Cahill, her husband should receive the death penalty. And of course the court overturned that, and James Cahill is still sitting in prison today.

And, you know, the other point I want to make, Madam President, is we talk about life in prison without parole. And that

clearly is, in the eyes of some, a just punishment. You know, let them rot in jail for the rest of their life. The only problem with that is it gives them the opportunity to further victimize their victims.

James Cahill, on the anniversary of the day that he murdered his wife, on the anniversary of the day that he murdered his wife, Madam President, he filed an action in Family Court to force his wife's family to bring his two young children to visit him in court.

David Berkowitz, the Son of Sam, I understand on Mother's Day sends Mother's Day greetings to the mother of one of his victims, Stacy Moskowitz. On Mother's Day, he sends a Mother's Day card to the mother of the girl that he murdered and said some very vile things about during the course of his trial.

That's the problem with life in prison without the possibility of parole. It gives them the opportunity to further victimize their victims.

I could go on and on, about the Wendy's murders -- you know, just people going

to work at probably, back then, a $7-or-8-an-hour job, marched down in the basement of Wendy's, told to kneel down, and shot in the back of the head execution-style. Their murderer is alive today.

And I know that these cases become causes for celebrity. Roger Keith Coleman was an individual, not in New York State, who made the cover of Time Magazine. Time Magazine said: This man might be innocent, but he is going to die. This is a couple of weeks before his scheduled execution.

And his execution was carried out, and there was again people -- Jim McCloskey, a former business executive, who gave up everything he had in his life to become part of Centurion Ministries, to prove how wrong they were about the execution of Roger Keith Coleman.

And after he was executed, the governor, in order to try to bring closure to the case, because it was very controversial in that state, ordered additional DNA testing using some new DNA methods. And guess what they found out? That Roger Keith Coleman,

despite all of his protestations about not having been anywhere near the scene of this murder, was in fact, without any doubt whatsoever, the murderer and rapist of this young girl.

How shocking it is, isn't it, that a serial rapist and murderer, a rapist and a murderer, could also be a liar. Shocking, isn't it?

Senator Volker has brought this up before. And, you know, it will probably be coming up years into the future. But eventually this will become law, because eventually there will be changes. I am heartened to hear, I didn't realize that both candidates for governor are supporters of the death penalty in the State of New York. That's a good thing, because that means that this debate will be carried to the streets during the course of this campaign.

Madam President, I am very much in support of this bill. And I would ask, in memory of Jill Cahill, that we pass this bill today in the Senate.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Maziarz.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR LIZ KRUEGER: Well, we've heard a lot of people talking on both death penalty bills today.

Murder is heinous. There are evil people. There are sociopaths. There are serial killers. There are, in my opinion, people too damaged to ever be healed. And I'll leave the question of redemption to the theologians.

But I heard a lot of my colleagues using the term "civil society" today in their text while appearing fairly bloodthirsty in their desire to punish those who have murdered. And I would argue that the definition of assuring a civil society is to make sure that we don't bring ourselves down to the same level as the people we are speaking of today, the murderers.

One Senator mentioned that he came here 16 years earlier, as an Assembly member, to deal with this bill. And he said, what's changed in 16 years? And I would argue one thing that has changed is we have enormous data, 16 years later, as to why we should not have a death penalty in the United States.

And I would argue that in addition to the points that were made earlier by many of my colleagues -- that we don't have a perfect judicial system, that we have racial bias in our judicial system, that we have proof that the death penalty is not a deterrent to evil people who in fact sometimes do evil things -- what we know 16 years later is that we have an imperfect system and we sometimes put people in prison under death penalty laws throughout this country who are later found not to be guilty of their crimes.

And that if we are a society who is prepared to put people to death, and in some cases innocent people to death, then we are a society that would flunk the test of civility.

And because not so much data has been offered up in the arguments today, I

would like to just, for the record, list some information.

Since 1973, at least 119 people have been released from death row across this country after evidence of their innocence was uncovered. This represents approximately one wrongful conviction for every eight executions. I repeat, one wrongful conviction for every eight executions. And these people have spent an average of eight years on death row before the truth finally came out, and many of them spent far longer awaiting execution for the crime they did not commit.

And in virtually all of these cases, justice was not finally served because the system worked but because of extraordinary efforts by people outside the criminal justice system who looked into these cases and fought to get to the truth.

New York's own history is strewn with stories of innocent people convicted of murders they did not commit. Many of them testified at hearings that the Assembly held a year ago on this topic.

Some of these stories include the

one of Bobby McLaughlin, who was wrongfully sentenced to life in prison for a 1979 Brooklyn murder. The state's primary witness only picked McLaughlin out of a police lineup after the police had shown him a picture of McLaughlin, who had been previously arrested. Leading comments by the police like these are common and often contribute to mistaken eyewitness ID. Even worse, though the fact was the police provided the picture to witnesses, it was of the wrong Bobby McLaughlin -- a man with the same name, but no relationship.

Despite this major and clear error, it took six years and the extraordinary effort of many to prove his innocence. Had we had a death penalty available in 1980, he might have been executed.

According to a 2002 Newsday investigation, there were 13 New Yorkers released after serving time for murders they did not commit just in the four-year period 1998 to 2002 alone.

I don't know what anyone else's definition of a civil society is, but for me a

society that says if you put someone else to death, we will choose to put you to death, despite the fact that we cannot possibly have a perfect judicial system and process that will guarantee that we are always right, is not a society that is civil. Senator Breslin mentioned many European countries don't even allow consideration of the death penalty.

It doesn't bring people back. It doesn't deter future crimes. We do have an alternative option. It is a good one. It is life in prison without parole. We can protect our citizens from the evil people amongst us by ensuring that evil people go to jail for the rest of their lives. We should not --

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio, why do you rise?

SENATOR NOZZOLIO: Madam President, I ask the speaker to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, do you yield?

SENATOR LIZ KRUEGER: I have one more sentence. If you don't mind, Senator,

let me finish my last sentence and then I'll be happy to yield.

SENATOR NOZZOLIO: Madam President, the speaker asks, continually, others to yield.

SENATOR LIZ KRUEGER: I'm just going to finish my sentence, Madam President --

SENATOR NOZZOLIO: I'm asking the speaker to yield.

SENATOR LIZ KRUEGER: I'm going to continue my final statement, and then I'll be happy to yield. Thank you.

ACTING PRESIDENT LITTLE: Senator Nozzolio, Senator Krueger does not yield.

SENATOR LIZ KRUEGER: Thank you, Madam President.

Even with DNA research, we know that we have made mistakes in death penalty cases. Other states have proposed evaluations of their death penalty laws before they move forward with the death penalty. This bill does not meet any of the standards being proposed in other states. And so for these reasons, I argue we should not reinstate a

death penalty in New York. Thank you very much.

And now I would be happy to yield to Senator Nozzolio.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio, do you wish to --

SENATOR NOZZOLIO: Madam President, it's extremely discourteous when a member asks a member to yield and that member refuses. I've stood in this chamber countless times and have yielded to Senator Krueger immediately upon the request.

I think that that certainly is something that is discourteous, and I state that in my question to Senator Krueger, just reminding the countless times that I've complied with your request to yield. The one time I've ever requested you to yield, you've asked to finish a sentence. Frankly, I think that's discourteous and would hope that in the future you treat your colleague with more courtesies.

SENATOR SCHNEIDERMAN: Point of order.

The Senator requested to be able to ask a question. Senator Krueger yielded, as often takes place in this house on both sides of the aisle, people ask to be able to finish their statements and then they'll be glad to yield. That's all she did. It is extremely common.

If the Senator has a question, I'd appreciate it if he'd ask it rather than accusing people of discourtesy who are trying to be courteous.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR NOZZOLIO: Thank you. Madam President, will Senator Krueger yield?

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, do you yield?

SENATOR LIZ KRUEGER: Yes, Madam President, I already agreed to yield.

ACTING PRESIDENT LITTLE: Thank you. The Senator yields.

SENATOR NOZZOLIO: Madam President, my question to Senator Krueger is, how does she intend to protect the correction

officers in our state, those correctional personnel in our state, well over 30,000 individuals who labor, laying their lives on the line each and every day, walking in most cases the toughest beat in America? How does she intend to protect them from those who have been convicted of murder, have nothing left to lose, and have already exhibited tremendously violent behavior?

ACTING PRESIDENT LITTLE: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

You know, it's interesting, I did not read for the record the pages and pages of organizations who actually argue against the death penalty, and it includes quite a few in law enforcement.

I actually have a document here signed off by law enforcement organizations arguing that the death penalty will not make them safer in their jobs but, rather, that they need better staffing ratios to do the jobs they do, they need better protective equipment, they need to ensure that criminals

don't have weapons, guns and other weapons, available to themselves.

So I would respectfully argue that in fact if we were to talk to the law enforcement experts in this state, we would hear from them that they have a very long list of issues that they hope we will accomplish legislatively and budgetarily that would make them more safe in their jobs.

But that there is not, again, a strong argument that the death penalty would be a deterrent even for people in a prison situation from the perspective of the safety of our officers.

Thank you, Madam President.

SENATOR NOZZOLIO: Madam President, will Senator Krueger continue to yield?

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, do you continue to yield?

SENATOR LIZ KRUEGER: Yes, I do, Madam President.

ACTING PRESIDENT LITTLE: The

Senator yields.

SENATOR NOZZOLIO: Respectfully, Madam President, I don't believe Senator Krueger has answered my question. Other than to say this should be discarded to other law enforcement officials to consider.

That each member of this conference who has spoken out in favor of this bill or the last bill have talked of law enforcement officers who in fact indicate that this is exactly the type of protection they desire. We're not asking -- we don't have to read additional articles, we don't have to do additional surveys or conduct additional polls or even hearings. Law enforcement officers are telling us this is something they want for the protection of particularly those COs.

I'm saying would Senator Krueger --

SENATOR CONNOR: Point of order, Madam President. I'm waiting for the question. I've waited for two minutes of dialogue here. It's a debate, it's not a question.

ACTING PRESIDENT LITTLE: I believe Senator Nozzolio has asked a question.

He's explaining further his question.

Continue.

SENATOR NOZZOLIO: Thank you, Madam President.

What particular sanctions does Senator Krueger have in place to suggest the protection of our correctional personnel who work behind bars governing the most violent of criminals in our state?

ACTING PRESIDENT LITTLE: Thank you.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I believe now that I understand the question was specific to correctional officers in our prison system, not police officers per se out on the street.

Again, for the record, there are quite a few police organizations who have come out formally against the death penalty.

And I suppose the answer to the question for correctional officers is in fact is there no other option available to them to protect them in the prisons. I have to believe that's not the case. I have to

believe we have very -- in most circumstances, good mechanisms in place. Because I'm not aware of that many situations, with thousands and thousands of people in our prison system, where we have death penalty type of cases arising out of people who are already in prison.

We certainly have the ability to do, I believe in New York State, and it's controversial in its own right, almost 24/7 individual lockup where you have no access either to the general prison population or to correction officers.

Again, my argument, Madam President, is that in a civil society the right answer is not the death penalty. And certainly from a statistical research analysis, as a deterrent for further crime the death penalty has also proved not to be an effective deterrent.

I suppose an added irony I might add in this situation is these are people who are already in prison but, I gather we assume, not on death row. If you had the death penalty specifically -- if I'm to understand

your question correctly, Senator -- if you were to have a death penalty unique only to those already in lockup in our prison system, you would then move them from being in prison to being on death row in prison, perhaps again for extended numbers of years.

So it's not obvious to me how that would change the daily scenario for correction officers, because again it would be someone still in the prison system under an additional set of charges, perhaps, or even found guilty of additional crimes, but still they are in the prison system, now technically on death row.

SENATOR NOZZOLIO: Madam President.

ACTING PRESIDENT LITTLE: Senator Nozzolio.

SENATOR NOZZOLIO: Will Senator Krueger continue to yield?

ACTING PRESIDENT LITTLE: Senator Krueger, do you continue to yield?

SENATOR LIZ KRUEGER: Yes, I do, Madam President.

ACTING PRESIDENT LITTLE: The

Senator yields.

SENATOR NOZZOLIO: Madam President, my question is very simple. What is Senator Krueger's intention if a convicted murderer, life without parole, sentenced to life without parole, commits another murder while they're in prison, what is Senator Krueger's suggestion for appropriate sanctions and punishment for that convicted murderer?

SENATOR LIZ KRUEGER: Thank you, Madam President.

I believe I did -- I do understand the question. I'm not sure it's different than the one I just answered.

I think that the answer is that in reality, as I stated several times, there are some truly evil people in our midst that have no ability for redemption. And the question is what can you to control to make sure that they are not in a position to murder again. Which I suppose in the situation you are describing, or the hypothetical you are describing, is a much more intense and careful lockup procedure within the prison.

Again, I don't believe that your

question leads me to reevaluate my argument of why we should not have a death penalty in our society. But again, I think you are speaking of a very subspecific analysis.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR NOZZOLIO: Thank you, Madam President.

ACTING PRESIDENT LITTLE: Senator Klein.

SENATOR KLEIN: On the bill, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Klein, on the bill.

SENATOR KLEIN: Back in 1995 when we passed our original death penalty statute, I voted for it then and spoke on the floor in the State Assembly.

Over 10 years later, I still remain in favor of the death penalty. I don't think anything has really changed other than the fact that we're lucky enough that we've seen a tremendous decrease in crime in New York State.

And I think it's incumbent upon us to continue what we did 12 years ago. It was passed by the Legislature. I still have some doubts whether or not the bill that we passed should have been found unconstitutional by the Court of Appeals.

But I really don't want to go on and talk in favor of the death penalty, even though I still remain committed, I still believe that it is a deterrent to crime. As a matter of fact -- I had the opportunity earlier to speak to Senator Volker -- the seminal study in this area done by Isaac Ehrlich, which is entitled "The Deterrent Effect of Capital Punishment: A Question of Life and Death," still remains something that I believe in.

According to Ehrlich's study, for every dangerous individual who commits such a heinous act that that person is executed, there's a three-to-one margin; for every one person, three people's lives are saved, according to Mr. Ehrlich.

What's interesting about Dr. Ehrlich, he's someone who himself is not

in favor of the death penalty, yet he put together this very, very important study which does show that there is a deterrent effect of the death penalty.

Even if there wasn't that type of evidence, I still believe that the death penalty fits into our basic common-law principles, our laws under our United States Constitution, because we are a society that's based on proportional justice. And I certainly believe that in this case, the death penalty cries out for certain types of criminals, people who commit very heinous crimes.

I think it's also worth bringing up that the death penalty statute which was passed, as I said earlier, in 1995, really, I think, provided a tremendous number of safeguards to make sure that someone wasn't wrongly executed. There's two juries. A fresh jury actually weighs whether or not that individual should get life in prison without parole or the death penalty. There's adequate representation through a separate office.

So I really believe that it was a

law that, I think, probably really passed constitutional muster more than any other death penalty statute across the state.

What I think is worth mentioning today -- and a lot of my colleagues I think spoke on this in other ways -- I think what we're doing today is very important and I think it makes for good government. And what we're doing is we're debating a very, very important piece of legislation, a piece of legislation that people feel very strongly one way or the other.

I wish I can say the same about my former house in the Assembly, which unfortunately doesn't think it's important enough to put a bill like this on the floor for debate. I'm not going to say that it's just the Assembly, because I know my colleague Tom Duane -- he's not here. But I think what he's been doing each and every day is just as important. He's raising an issue known as Timothy's Law, which is an issue that unfortunately here hasn't seen the light of day.

I think what's happening here is

our dysfunctioning government in Albany -- and I think the Senate and the Assembly both deserve some blame -- prevents us from doing some very important legislation. Timothy's Law. Here we are again without a death penalty in New York State, which I think is important and many feel is important. And even those who don't feel it's important should have that opportunity to vote no.

The other issue that I've talked about on this floor many times this year is eliminating our five-year statutory limitation on rape. We did pass a law here -- or a bill, I should say, in the State Senate. The Assembly passed something different. I think it's incumbent upon us now to work something out and not leave this legislative session without eliminating the five-year statutory limitation.

Civil confinement. Again, we passed a bill, the Assembly passed a bill. Once again, we're going to leave here without taking care of some very, very important matters.

So I think today is a good thing.

And I think we should have much more debate, and I think both houses should follow that lead, where all bills of importance, especially of something as important as the death penalty, should be debated and should be voted on by both houses of the Legislature.

I vote yes, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Klein.

Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Smith, on the bill.

SENATOR ADA SMITH: I rise to speak in opposition to the restoration of the death penalty in the State of New York.

While I have concerns about the unfair administration of the death penalty -- the racial and geographic disparities in its imposition, among others -- today I rise to discuss the application of capital punishment upon the mentally ill. In 2002 the U.S. Supreme Court Issued a landmark ruling ending the execution of those with mental

retardation. In Atkins v. Virginia, the court held that it is a violation of the Eighth Amendment's ban on cruel and unusual punishment to execute death row inmates with mental retardation. That decision reflects the national consensus regarding this issue.

As we debate restoring the death penalty in our own state, I ask you to keep in mind that there is nothing in New York's death penalty statute that would bar the execution of someone who is seriously mentally ill. New York juries have rendered guilty verdicts against obviously mentally ill defendants, often resulting in long prison sentences instead of treatment in a secure mental health facility.

The adversarial nature of the legal system assumes -- indeed, it requires -- rational self-interest on the defendant's part, an assumption that may go out of the window when the defendant is mentally ill. Although people with severe mental illness may have less culpability for behavior rooted in uncontrollable delusions, they are far more likely to give false confessions, to be unable

to cooperate with defense attorneys, and to mistake their self-interest when making crucial decisions, both before and during trial.

Yet there are no special provisions in New York's death penalty law designed to protect the mentally ill. In other death penalty states, people with severe mental illnesses such as schizophrenia and bipolar disorder are regularly put to death under laws very similar to the law proposed in New York State.

There are many reasons to oppose the death penalty, but laws that allow the execution of the mentally ill -- this bill will, if restored today -- these laws are just simply cruel. If we do plan to restore the death penalty in this state, I urge my colleagues to consider enacting a blanket prohibition on the execution of mentally ill.

We cannot forget that when we talk of death-eligible crimes, we are talking about very serious crimes. Nor can we overlook the suffering of the victim and his or her family.

The execution of a seriously

mentally ill individual runs contrary to the spirit of the Eighth Amendment of the U.S. Constitution with its prohibition against cruel and unusual punishment, to international law, and to all evolving standards of decency.

But I ask you to consider one final thought as you prepare to cast your vote on this important issue. What purpose does executing a sick person have?

ACTING PRESIDENT LITTLE: Thank you, Senator Smith.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I rise in opposition to this bill and will cast my vote in opposition to it.

Did a little calculation; I am the member in this body who has spoken against and voted against the death penalty more than any other, with one exception, and that is our esteemed colleague Senator Marchi.

You know, the history of the death penalty in New York, it kind of -- I listened to some members who haven't been in the Legislature quite so long as others of us, and

they talk about the death penalty as if it all started in 1995.

The fact is this Legislature repealed the death penalty in 1965, and the Legislature I believe in '73 or '74 put it back on the books. So there's been a death penalty on the law books -- not this bill, not this law -- since 1974, but that law was declared unconstitutional.

So whatever the technical points that my good colleague Senator Balboni was making, I don't get them, frankly. All those death penalty debates in the '70s and '80s until 1995 were about a death penalty bill when there was already one on the books but it was unenforceable. Now we have one on the books that's also unenforceable. It's constitutionally infirm and unenforceable.

It was adopted in 1995. At the time, I was the only legislative leader who voted against it. Yet the Governor, in doing that bill, in drafting it, had all four legislative leaders participating with their counsels. Everyone from -- all the counsels, from the Governor's counsel to mine to the

Speaker's, were actually personally opposed to the death penalty, but professionally they drafted the best bill they could -- with one exception, this provision that was found to be unconstitutional.

So this debate is about the death penalty. If you think New York ought to have a death penalty, you're for this bill. And if you think New York shouldn't have a death penalty, you're against this bill. And there's no way to parse it and say, oh, it's only a little technical amendment.

Now, various -- I've heard about every argument for or against the death penalty over the years that you can imagine, that could be imagined, heard every statistic thrown out from both sides that the absolute ingenuity, creativity and never-ending search for research can impose on academia. I've seen studies that prove it is a deterrent, it isn't a deterrent, it will save two-for-one in lives or it will cost more lives because there will be more murders after a death penalty.

I don't know that any of that is relevant. What is relevant is, Madam

President, we have a judicial system that's human, that's administered by humans. It's far from perfect. It may be the best system on earth -- probably is -- but it is far from infallible.

We also have a system that's based on everyone's right to counsel. But, you know, there are counsels and then there are counsel. There are the appointed counsel that get whatever they get now -- I don't know, $80, $90 an hour, maybe a hundred and some dollars in a capital case -- and then there are the kind that wealthy people can afford that get $800, $900 an hour. There is a difference, I suspect. I know there is a difference, I should say, and the difference isn't just in the billing rates.

As I said once in a death penalty debate, show me the millionaires, show me the millionaires that have ever gone to the chair. Now, I know there aren't that many millionaires that committed murder, but there have been some. And you know what? They don't get the death penalty.

The people who get the death

penalty are the bottom end of the rung. It has always been true. I grew up in a household -- thankfully, my grandfather actually lived to 105 and really only passed away about 10 years ago. He was born in 1890. He was an Irish-American, his parents were immigrants. He was the first one born here in America, a year after his parents emigrated.

He was rather conservative about a lot of things, and he wasn't so conservative about other things. He all of his life was against the death penalty. I asked him once when I was a boy why, and he said: "Well, when I was a kid, our people got the death penalty. Before my family came here, they got it for political reasons in Ireland, and after they came here, well, I grew up in a tough neighborhood, we were all poor kids, and I knew a lot of guys who got in a lot of trouble. And when they got in trouble, the book was thrown at them. And if they happened to kill someone, they got the death penalty."

Other people didn't. Leopold and Loeb didn't go to the chair for their calculated, heinous, brutal murder. They were

wealthy.

And not to refer to studies, I'd rather refer to literature. Someone once wrote an article, they got to review -- there's a logbook in the death house in New York State. They kept a log of who's executed. And believe me, in the late 19th century and early 20th century, a lot of people got executed.

In fact, when I was a kid -- I grew up in New Jersey -- I remember us saying, "Wow, New York, they fry a lot of people." New York was pretty liberal about imposing and inflicting the death penalty, not just for murder -- armed robbery, a lot of other crime. And New York used it.

But if you -- this survey of the logbook in the death house has this amazing, amazing clusters of ethnicity in the names. 1870s and 1880s and in the 1890s, you know, a lot of names that began with "O" and apostrophe -- you know, O'Malley, O'Brien, Murphy, whatever.

Then you got to the early parts of -- or the turn of that century, 19th to

20th, you started seeing a lot of vowels at the end of names, a lot of Italian-Americans. A lot of Jewish names.

And then as you progressed in that century, if you can call it progress -- I mean, I say "progress" in the sense that the years went by -- you saw a lot of names that sounded like Smith, Brown, first names like Willy, whatever. Clearly it started to be -- we were executing more and more African-Americans.

And then, you know, when you get into the '40s and '50s, you started seeing a lot of Latino names.

It is an accident that there were these clusters? No. Who was on the bottom of the heap, who were the poor people struggling, who were the people in poverty? And, yes, most likely to commit crimes, but not the only people who were committing crimes. Certainly not the only people committing murders. They were just the ones who were getting the chair, because they were the ones who couldn't afford the $800 -- in those days, $100-an-hour lawyers. They couldn't afford the fancy

defenses and the appeals and whatever. Society was more ready to inflict the penalty on them just because they were at the bottom of the heap.

That's a fact, Madam President. The death penalty has always had an inherent bias in it against the poor. And our criminal justice system has that bias. It's the nature of it. If you can't afford the best lawyers, you're going to pay the strongest penalties. You're not going to get the breaks the system seems to afford those who can afford a lawyer.

So the death penalty has those problems. Now, you know, now we're in the age of DNA. And some of my colleagues will say these DNA studies have shown people on death row were innocent. And Senator Volker will say, Well, no, no, no, not all of them were innocent. You know? They weren't innocent, they did something or whatever.

Madam President, maybe things have changed since I went to law school. Since when is it about whether you're guilty or innocent? Madam President, I know Senator Volker knows this. The issue is whether

you're guilty or not guilty. And you're guilty if you're proven guilty beyond a reasonable doubt.

And what these DNA instances -- and there are dozens of them -- have proved, that there were people on death row who were not guilty. Doesn't mean they're innocent, doesn't mean they're pure as the driven snow, it just meant they were not convicted beyond a reasonable doubt of why they were on death row.

And, Madam President, I hope in all this debate we go back to that fundamental. You have to be guilty. And the fear -- yes, the fear is that someone who is innocent will be executed. But the greater fear is that someone will be executed who was actually not guilty; i.e., his or her guilt was not proven beyond a reasonable doubt, it was based on flawed evidence or other evidence that wasn't available, such as DNA evidence, which proves that they were not guilty as convicted.

So that fallibility in the system is very, very disturbing. But let's talk about politics here. What political problem

are we addressing? Why did the Legislature repeal the death penalty in the mid-'60s, reimpose it in the mid-'70s, and, when it was thrown out, not get the political will and force together to reenact it until 1995? People were reacting to crime rates.

Now, proponents of the death penalty will say, Aha, crime has gone down, murders have gone down since we enacted the death penalty in 1995. But no one's been executed. No one's come close to being executed. I fail to see the great deterrent value in that.

Murders are down. That's wonderful. So is auto theft. So is almost every category of crime, except there may be some evidence now that rape has increased, but you always have the frequency of reporting of that have crime, a different problem, that makes those statistics open to question.

But all crime is down. Why? Better policing. Yes, strong sentences that we started passing. We started passing longer and longer sentences in this Legislature when Mel Miller was the Speaker, when studies came

out that showed recidivism was occurring.

Look, most crime is committed by young males; that's the statistic. And that recidivism went down greatly after like age 40. Criminals just age out. They can -- if they get out after age 40, they don't commit a crime again. They get out at age 28, they tend to be back in jail.

Those longer sentences had the effect of keeping criminals -- armed robbers, et cetera -- in jail longer until they aged out of that population most likely to commit crimes.

We did that. We did that back in the mid-'80s. We passed those sentences, and they have had an effect of taking repeat offenders out of the population while they are in that demographic that commits crime.

The other thing is if you look at population trends, the census, the census from 1980 and 1990 proves something. There was a huge dip in the population, in the percentage of the population that consisted of young males. Back in the early '80s, it was of young boys. But -- so projecting, there were

going to be less 16-to-35-year-old males in the population for the last 15 years.

And then there was better policing, more sophisticated policing that contributed tremendously to that drop in crime.

Does anybody think that contract killings are down because there was a death penalty on the books? Yet that's the most calculated, heinous, brutal, cold-blooded kind of killing there is. Those people don't think they'll get caught. The real premeditated murderers, they don't believe they're going to get caught. How could you premeditate a murder if you ever thought you'd get caught? You think they want to spend life in prison any more than they want to get executed? I don't think so. So I really have always seriously doubted the deterrence.

Concepts of justice, retribution, that's one argument that grabs me sometimes. I can't say that it's fundamentally unfair to take the life of someone who took a life in a calculated, deliberate way.

But I can say that for the state to do that, to take that very life in a

calculated, deliberate way, just as that person did to the victim, is unworthy of a civilized society. It demeans our civility. It demeans our whole value for life.

And there are alternatives. You know, this question that Senator Nozzolio asked Senator Krueger, how are you going to protect correction officers?

Well, how do we protect correction officers on death row when they have a population there of people with nothing to lose, nothing to lose if they kill a correction officer? They're not looking for life without parole. They're in there to be put to death. What have they got to lose? Yet we manage, with technology and modern prison methods, to protect those correction officers. You do the same thing for the life-without-parolees. It's very simple.

The bottom line, Madam President, is I'm against the death penalty. I think we can do better. And I think the fact that it's now here just reflects a preoccupation with -- the death penalty in New York is yesterday's issue. It's George Pataki's 1994 issue in

response to a 1985 problem using an 1885 penalty. Why in 2006 we are making this an issue is beyond me.

Madam President, I'm against it.

ACTING PRESIDENT LITTLE: Thank you, Senator Connor.

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. It has been said by many -- or some of the speakers that this debate today is a waste of time and that we are only killing time. But this is a good debate, and this debate is giving an opportunity to see things.

Like, for example, there are people that passionately and deeply, emotionally defend the death penalty. And they fight and they push and they will put in, any which way, the death penalty. They don't care about people dying. Those same people passionately emotionally defend the unborn babies. So they are pushing for a death penalty to take away life, and they fight against taking the life of an unborn baby.

On the other side, there are people that fight emotionally against the death

penalty because thou shalt not kill. And they don't want the death penalty because it's immoral, because whatever reason. But those same people fight emotionally to kill unborn babies. Even they fight to kill babies in something called late-term abortion. Meaning that you take the baby out half, you could examine the baby, and if you don't like the baby you kill it.

So there we are. People fighting against the penalty because thou shalt not kill and it is immoral, but they are fighting to kill unborn babies even in the late-term abortion.

And there are those again that would like to protect those babies and will fight tooth and nail to protect the unborn babies because thou shall shalt not kill; they will fight to kill human beings with the death penalty.

And there are others, there's a third kind. The third kind, those that fight to kill babies and fight for the death penalty.

And the fourth kind is like --

those like me. That is the fourth kind, those like me, that deeply respect life in all shapes and forms and don't believe that one life is worth more than the other. Those who, like me, believe that life is precious and sacred, no matter unborn babies, late-term abortion, half born, or a criminal.

So, ladies and gentlemen, my question to myself, to my inner me: How can you fight against the death penalty and then fight to kill unborn babies by the thousands and thousands and thousands? And how can you fight to defend the unborn babies because thou shalt not kill, but you want the death penalty?

Go figure. I don't know. Either you -- either death is immoral or it is not. Either you kill babies and you kill people or you don't kill anybody. Either all life are precious and sacred or not. But don't come here trying to be the last Coke in the desert defending and opposing the death penalty and then go out there and kill all the babies. Kill all the babies, all the babies, 9 months old, even when they come out halfway,

late-term abortion -- kill them, it's not life. Yes, they are life too.

And don't come here fighting for to defend the babies and push the death penalty, or pushing the death penalty and defending the babies. It doesn't make sense. It does not make sense. Either you are the third category, the one that kills babies and wants the death penalty, or the fourth category, like me, kill no one. Life is sacred. Life, everybody is the same -- bodegueros, police officers, children, battered women, senior citizens, teachers, anybody. All life are equal. They are equal. They're all worth the same. Thou shalt not kill. That means no killing.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Diaz.

Are there any other Senators wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Senator Skelos.

SENATOR SKELOS: Madam President,

just to inform the members.

We haven't read the last section yet on this bill, but once we complete the roll call, Senator Young's bill will be brought up. I believe Senator Duane wanted to cast a negative vote. So if you could stay in the chamber, that will happen quickly.

Then there's going to be a Rules meeting in which one bill will be brought up for a vote when we come out of Rules.

So thank you. If we could read the last section.

ACTING PRESIDENT LITTLE: Thank you.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Volker, to explain your vote.

SENATOR VOLKER: Thank you, Madam President. Because of the time here, I decided not to sum up. Let me just make a

couple of comments.

First of all, as far as we know, no seriously mentally ill person has ever been executed in this state. There's all kinds of protections in this bill. The anti-death penalty people desperately wanted us to put a provision in that said no mentally ill people could be executed. That would probably finish the whole system, because defense attorneys would pile on and say, well, anybody that kills is mentally ill.

As far as race is concerned, we've done studies of New York's system and pretty well everyone has said that the New York system has been extremely good on the issue of race. No person has ever been executed in this state where he or she has ever been found by any definitive nature to be not guilty. And I mean to not have committed the crime.

Third, let me tell you, Senator Connor, being Irish myself, that my grandfather came over late in the 1800s. He would tell you why so many Irishmen were executed. They were very tough people. And they were fighting each other. And I don't

know if you've ever seen "The Gangs of New York," but the reason there were executions -- and some of them were cops, by the way. There were some really bad Irish cops at that time.

The next group was the Italians. And that's true. You know, they weren't just poor, a lot of them were wealthy, by the way, and did very well.

And by the way, Julius and Ethel Rosenberg. You talk about millionaires? They were executed. I just want you to remember that.

You know, most of the anti-death penalty people will tell you we have more protections in this bill than any bill in the country. Massachusetts, that doesn't have a death penalty statute, claims they've got a lot of protections. Well, they'd better look at this bill if they're ever going to restore it. But they don't have the guts to do it. They'll never restore it in Massachusetts as long as the Kennedys are around.

I vote aye.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you. Thank you, Madam President. Thank you.

Gee. Julius and Ethel Rosenberg, they weren't rich. They lived in my -- what's now my district, Knickerbocker Village, which was one of the first subsidized housings in New York State. I mean, yes, they were Jewish, but they weren't rich. And the fact is, someone very close to me actually has -- is a cousin of Ethel Rosenberg. Was.

So, I mean, they weren't millionaires who were executed. And, I mean, who wants to get into that case? That was the ultimate political case of the last century.

The fact of the matter is that it is the poor people. All those people were tough. Yes, they were tough. They were tough immigrants. The streets are tough. The street of the ghettos are always tough. It's dog eat dog, and a lot of crime is committed. But the people who dwell in those ghettos, whenever they were and whoever inhabited them

at the time, yes, they were tough, but they were poor. That's why they were there. And they disproportionately paid the ultimate penalty for their heinous crimes because they were poor.

ACTING PRESIDENT LITTLE: Thank you. Senator Connor will be recorded in the negative.

Senator Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Very briefly.

Again, I concur with many of my colleagues who said this has been a good debate. It would be a better debate if we would go forward -- and Senator Volker raised this earlier -- and conduct some hearings and get the facts on the table.

The truth of the matter is we're hearing a lot of assertions and as to whether or not they're true, I think we have only faith and hope to back them up. It's time again to seriously revisit this issue. But I would urge Senator Volker that if he thinks New York State has all these protections and

that racism is over in the State of New York, that he take a look at the report of the Bar Association of the City of New York that I referred to earlier. There are serious questions about this.

And once again, after a Republican governor in Massachusetts -- nothing to do with the Kennedys -- appointed a commission to look at their death penalty, they made recommendations for 10 essential safeguards to make sure no innocent person was executed. Nine of those 10 are lacking in New York State's current criminal law.

And finally, as far as the issue that was raised by Senator Nozzolio in his colloquy with Senator Krueger, I would commend to you a monograph called "The Myth of Prison Murder: Lifers and the Death Penalty," by Equal Justice USA, which makes it clear that after statistical analyses, 90 percent of prison murders occur in jurisdictions that do have the death penalty.

So there's a lot more for us to discuss. I think a lot of good points have been made. Let's have some hearings and get

the latest information on the table before we move forward with this.

Thank you, Madam President. I'll be voting no.

ACTING PRESIDENT LITTLE: Thank you. Senator Schneiderman will recorded in the negative.

Senator Diaz, to explain your vote.

SENATOR DIAZ: Thank you, Madam President.

As I said before, my only daughter is a police officer, a sergeant in the City of New York. I love my daughter. I love police officers. I love correctional officers. I love peace officers. And I also love unborn babies. They have been killed, they have been killed by dozens, thousands every year.

So I respect life in all shapes and forms. I don't understand why those that want to kill babies are opposing the death penalty and those that are for the death penalty oppose the killing of babies. It does not make sense.

Life is sacred. I deeply respect life. I do not believe in killing anyone. I

believe that the life of my daughter, who is a police officer, yeah, it's valued to me, and I don't know what I'd do if she gets hurt. But it doesn't -- it's not worth more than the life of a child that has been killed by a rapist or by a woman that has been killed by a rapist. And it isn't worth more than the life of a bodeguero that has been killed in the bodega, in the grocery store.

So yes, it has worth to me, and I love my daughter. But go and tell that to a senior citizen or to the mother of a child that has been raped and killed or to a woman that has been battered and killed, their family, go tell them that. So all life are equal, all life are sacred, all life have the same value. You don't kill one and not the other. If you're going to kill, kill everybody. There are people that would like to kill everybody.

Me, I don't believe in killing. I don't believe in the death penalty. I don't believe in abortion. I believe that life is sacred. God give it, God take it. I'm --

ACTING PRESIDENT LITTLE: Senator

Diaz. Senator Diaz, excuse me --

SENATOR DIAZ: I vote against the bill.

ACTING PRESIDENT LITTLE: Thank you. Your two minutes were up.

Senator Diaz will be recorded in the negative.

And the Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 455 are Senators Andrews, Breslin, Connor, Coppola, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Oppenheimer, Parker, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stavisky and Valesky.

Absent from voting: Senator C. Kruger.

Ayes, 37. Nays, 23.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could call up Senate Number 1045.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1045, by Senator Young, Senate Print 6276, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Madam President.

I'm going to be voting against this bill because it doesn't include domestic partners in the list of people who could make a statement on behalf of a victim.

And, you know, it's 2006. And it says "spouse," the bill says "except where such victim is deceased and survived by both a spouse and a parent." And that it doesn't say "domestic partner" is just -- I just -- you

know, it's 2006. Come on. Equal rights. Spouse, domestic partner should be included.

So I would encourage my colleagues to vote no on this, and then I hope that it will come back to us and say "spouse" and "domestic partner" both.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Duane will be recorded in the negative.

Senator Young, to explain her vote.

SENATOR YOUNG: Thank you, Madam President, to explain my vote.

I think it's very appropriate that we're passing this legislation in the Senate today, based on all the very healthy debate that we just had on the death penalty and also as it relates to penalties given to those who would kill police officers.

This bill actually is based on an actual case from 1997 when Patrolman Anthony Sanchez was gunned down in New York City during a robbery. And during the sentencing portion of the trial, both his mother and his wife wanted to give an impact statement and

were unable to do so. So this would correct that part of the law.

And it really only is right. I've dealt with many victims' families over the years since I was elected to the State Legislature, and it should be the option, the discretion of the court to allow more than one family member to give their perspective, their context. For example, a mother's context would be very different than a spouse. And we need to correct the law. We shouldn't have to choose between family members.

Senator Maziarz talked about a case that I worked on during the previous debate with Penny's Law, when Penny Brown was killed in 1999 on Mother's Day, she jogged. And the juvenile who killed her was tried as an adult but still got a juvenile sentence. And one word kept coming to the family's mind all throughout the trial, was that they felt like they were helpless. They were helpless. There wasn't much that they could do.

However, when it came to sentencing, only one family member was able to testify. And they chose Kaitlyn Brown, who

was 13 years old when her mother was killed. She was 14 at the time of the trial. And one of the things that she said was: "Sometimes I still whisper the word 'mom' just so I can hear it again."

Kaitlyn was able to give her perspective, but Penny also left behind a husband and two grieving parents. And they say to me many times over they wish they could have given their perspective during the sentencing portion of the trial.

Victims need and deserve to have a voice. This bill corrects that issue. Appropriate sentences must be given for these terrible crimes. I would urge my colleagues to vote yes on this very important piece of legislation.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Young. You will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 58. Nays, 3. Senators Andrews, Connor and Duane

recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

And if we could return to the order of motions and resolutions.

ACTING PRESIDENT LITTLE: Thank you.

There's an immediate meeting of the Rules Committee in the Senate Conference Room.

Motions and resolutions.

Could we have it quiet while people are leaving the chamber.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

I wish to call up my bill, Print Number 503A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1377, by Senator Nozzolio, Senate Print 503A, an act to amend the Criminal Procedure Law.

SENATOR NOZZOLIO: Madam President, I move to reconsider the vote by which the bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT LITTLE: Call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR NOZZOLIO: Madam President, I now move to recommit Senate Print Number 503A, Calendar Number 1377, to the Committee on Codes, with instructions to said committee to strike the enacting clause.

ACTING PRESIDENT LITTLE: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Meier, on page number 28 I offer the following amendments to Calendar Number 737, Senate Print Number 7042, and ask that said bill retain its place on

Third Reading Calendar.

ACTING PRESIDENT LITTLE: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: Madam President, amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Young, page 35, Calendar Number 877, Senate Print Number 6562A;

By Senator Maltese, page number 58, Calendar Number 1301, Senate Print Number 7677;

By Senator LaValle, page number 68, Calendar Number 1426, Senate Print Number 3113A;

By Senator Flanagan, page number 72, Calendar Number 1480, Senate Print Number 7621;

By Senator LaValle, page number 74, Calendar Number 1503, Senate Print Number 7690;

By Senator Farley, page number 58, Calendar Number 1291, Senate Print Number

7764;

By Senator Balboni, page number 37, Calendar Number 923, Senate Print Number 7681;

By Senator LaValle, page number 6, Calendar Number 172, Senate Print Number 1092B;

By Senator Young, page number 27, Calendar Number 708, Senate Print Number 7053;

By Senator Morahan, page number 53, Calendar Number 1226, Senate Print Number 4103.

I now move that these bills retain their place on the order of third reading.

ACTING PRESIDENT LITTLE: Thank you. The amendments are received, and the bills will retain their place on the Third Reading Calendar.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

On behalf of Senator Balboni, I wish to call up Bill Number 7358A, having passed both houses and not delivered to the Governor.

ACTING PRESIDENT LITTLE: Thank

you.

The Secretary will read.

THE SECRETARY: Calendar Number 863, by Senator Balboni, Senate Print 7358A, an act to amend the Eminent Domain Procedure Law.

SENATOR BONACIC: Madam 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 LITTLE: The Secretary will call the roll for reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR BONACIC: Thank you, Madam President. I now offer up the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR BONACIC: Thank you.

I have another bill, Madam President. I wish to call up, again on behalf of Senator Balboni, Bill Print Number 7266,

recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 982, by Senator Balboni, Senate Print 7266, an act to authorize.

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

ACTING PRESIDENT LITTLE: The Secretary will call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR BONACIC: Madam President, I now offer the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR BONACIC: And last but not least, on behalf of Senator Larkin, I wish to call up Print Number 3243, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The

Secretary will read.

THE SECRETARY: Calendar Number 1569, by Senator Larkin, Senate Print 3243, an act to amend the Education Law.

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

ACTING PRESIDENT LITTLE: The Secretary will call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR BONACIC: Madam President, I now offer the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR BONACIC: Thank you.

ACTING PRESIDENT LITTLE: Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. The remaining bills on the active list that were laid aside will be laid aside for the day.

ACTING PRESIDENT LITTLE: Those

bills are laid aside for the day.

SENATOR MORAHAN: We're just waiting for the Rules report, and then we'll do a noncontroversial calendar.

ACTING PRESIDENT LITTLE: Thank you.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Could we please return to reports of standing committees.

ACTING PRESIDENT LITTLE: Reports of standing committees.

The Secretary will read.

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

Senate Print 207, by Senator Maziarz, an act to amend the Mental Hygiene Law;

321, by Senator Padavan, an act to amend the County Law;

447A, by Senator Larkin, an act to amend the Tax Law;

509, by Senator Nozzolio, an act to repeal;

1773B, by Senator Fuschillo, an act to amend the Environmental Conservation Law;

2205, by Senator Golden, an act to amend the Penal Law and the Railroad Law;

3305A, by Senator Wright, an act to amend the Not-For-Profit Corporation Law;

3329, by Senator DeFrancisco, an act to amend the Penal Law;

3512A, by Senator Leibell, an act authorizing;

3794B, by Senator Leibell, an act to amend the Tax Law;

4464, by Senator Leibell, an act to amend the Tax Law;

4564, by Senator Trunzo, an act in relation to authorizing;

5030, by Senator Golden, an act to amend the Penal Law and the Vehicle and Traffic Law;

5114A, by Senator Spano, an act to amend the Education Law;

5240A, by Senator Wright, an act to amend the Public Service Law;

5768, by Senator Golden, an act to amend the Penal Law;

5813A, by Senator Golden, an act to amend the Real Property Tax Law;

6224A, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

6402A, by Senator Balboni, an act to amend the General Business Law;

6427A, by Senator Little, an act to amend the Vehicle and Traffic Law;

6597A, by Senator Morahan, an act to amend the Real Property Tax Law;

6628, by Senator Spano, an act to amend the Social Services Law;

6660, by Senator Oppenheimer, an act to amend the Town Law;

6693B, by Senator Larkin, an act to amend the Agriculture and Markets Law;

6694A, by Senator Larkin, an act to amend the Agriculture and Markets Law;

6891A, by Senator Golden, an act to amend the Not-For-Profit Corporation Law;

7641A, by Senator Meier, an act to amend the Social Services Law;

7927, by Senator Golden, an act to amend the Criminal Procedure Law and the Executive Law;

7928, by Senator Golden, an act to amend the Penal Law;

7936, by Senator Johnson, an act to amend the Real Property Tax Law;

7962, by Senator Marchi, an act to amend the Vehicle and Traffic Law;

8011, by Senator Bonacic, an act authorizing;

8044, by Senator Padavan, an act to amend the Family Court Act;

8080, by Senator Spano, an act to amend the Public Authorities Law;

8091, by Senator Maziarz, an act establishing;

And Senate Print 8179, by Senator Bruno, an act to amend the Social Services Law.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Morahan.

SENATOR MORAHAN: I move that we accept the report of the Rules Committee.

ACTING PRESIDENT LITTLE: All in favor of accepting the report of the Rules

Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposing, nay.

(No response.)

ACTING PRESIDENT LITTLE: The report is accepted.

Senator Morahan.

SENATOR MORAHAN: Madam President, if we could pick up 1699, by Senator Bruno.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1699, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11809 and substitute it for the identical Senate Bill Number 8179, Third Reading Calendar 1699.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1699, by the Assembly Committee on Rules,

Assembly Print Number 11809, an act to amend the Social Services Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: I believe we have another motion, Madam President, by Senator Seward.

ACTING PRESIDENT LITTLE: Thank you.

Senator Seward.

SENATOR SEWARD: Yes, Madam President, on page 66 I offer the following amendments to Calendar Number 1407, Senate Print Number 6332A, and ask that the said bill retain its place on the Third Reading Calendar. I do this on behalf of Senator

Marchi.

ACTING PRESIDENT LITTLE: Thank you.

The amendments are received, and the bill will retain its place on the Third Reading Calendar.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. There being no further business before the Senate, I move that the Senate adjourn until Wednesday, June 14th, at 11:00 a.m.

ACTING PRESIDENT LITTLE: On motion, the Senate stands adjourned until Wednesday, June 14th, at 11:00 a.m.

(Whereupon, at 5:07 p.m., the Senate adjourned.)