NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:04 p.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

As we observe our Pledge of Allegiance to the Flag today, I should inform you that the Governor has lowered the flags to half-mast in honor of 32 murdered college students in Virginia. All of our prayers go to their families, the other students, and to that bereaved community.

I suggest we have a moment of silence even prior to our Pledge of Allegiance.

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Now I'd ask everyone assembled to please rise and join me in reciting the Pledge of Allegiance to our Flag.

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

THE PRESIDENT: Our invocation today will be delivered by the Reverend Harold H. Comings, of the Bible Baptist Church of Cortland, New York.

Reverend.

REVEREND COMINGS: Let's look together to the Lord in prayer.

Our God, You mandate us in Your word to pray on behalf of those who are in leadership in government. And we seek to do that, but it's a rare occasion when we have the opportunity to do it in the hearing of some of those men and women. And today we have that privilege.

And as we meet here, we have been reminded afresh in a very public way that these men and women are responsible to try to give us some degree of order in a world that is very, very messed up and messes with our minds, with our hearts and our lives. We live in a world that is fallen, and many is the time it falls upon us or upon ones that we love and care about.

And so in fulfilling Your commission to pray for these men and women gathered here today, we would ask, Father, that You would give to them in common grace, day by day, the ability to be wise, the ability to be discerning, the ability to be

compassionate, and the ability to be continually in touch with the real world going on outside these walls. That their hearts, their passions might be in what they do here.

We thank You for them and for the desire to make a difference in their world which motivates them.

We also remember that when they come here, they carry on their shoulders the burdens of life as well. We realize that they too experience things that weigh down upon their hearts -- loved ones who are sick, decisions that have to be made that confuse them, things with which they struggle, and perhaps even -- perhaps even disillusionment sometimes that comes into their heart as they seek to do the right thing and find themselves criticized, find themselves vilified, sometimes even looking back on decisions wondering if they did the right thing.

I ask, Father, that You day by day would give to these folks the common grace of Your wisdom. And we realize that not every one of them is going to embrace Your son, the Lord Jesus Christ, as savior. Thank You for a

country that gives to us the freedom to accept or to reject.

But, Father, may they each one have within their circle of friendships men or women who do know Christ who will represent Him well. This I would ask in His name.

Amen.

THE PRESIDENT: Thank you, Father, and thank you, Senator Seward.

The reading of the Journal.

THE SECRETARY: In Senate, Monday, April 16, the Senate met pursuant to adjournment. The Journal of Sunday, April 15, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: The Journal is approved as read.

To the order of business.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator O. Johnson, from the Committee on Finance,

reports the following nominations.

As the chairman of the Public Employment Relations Board, Jerome Lefkowitz, Esquire, of Albany.

THE PRESIDENT: Senator Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

THE PRESIDENT: Senator Maltese, on the nomination.

Senator Maziarz, on the nomination.

SENATOR MAZIARZ: Thank you very much, Mr. President. I appreciate Senator Maltese yielding to me.

Mr. President, I rise in support of this nomination. Jerome Lefkowitz appeared before the Senate Labor Committee two or three weeks ago. And I have to tell you that, Mr. President, speaking with Mr. Lefkowitz both privately and at the committee meeting, it was almost like talking to Senator Marchi about the history of the state of New York and all of his work back in the 1960s with Governor Rockefeller and former Attorney General Louie Lefkowitz and his construction of the Taylor Law and other issues, important

issues which really make this state great.

So, Mr. President, I congratulate Governor Spitzer on this nomination and on the next nomination we're going to take up, the nomination of Mr. Hite, both of whom appeared.

And I want to point out for all of my friends that Governor Spitzer, when he was running, said he was going to reach across the aisle, and these are two great examples of that, since both Mr. Lefkowitz and Mr. Hite happen to be registered members of my political party, Mr. President.

You looked shocked, Mr. President. I'm sorry, I didn't mean to stun you.

Thank you.

THE PRESIDENT: Thank you, Senator Maziarz.

Are there any other members that would like to speak on the confirmation?

Hearing none, on the nomination, all those in favor please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: All opposed, nay.

(No response.)

THE PRESIDENT: The nominee is confirmed. Jerome Lefkowitz of Albany, New York, who is here accompanied by his wife, Myrna, is hereby confirmed as chair of the Public Employment Relations Board.

And, Senator Maziarz, before we have applause, I'd like you to know he's a long-time member of my family, and we reach across the aisle as well.

So congratulations, Mr. and Mrs. Lefkowitz, and best wishes as the chair of the Public Employment Relations Board.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the Public Employment Relations Board, Robert Hite, of Albany.

THE PRESIDENT: Senator Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

THE PRESIDENT: On the nomination, all those in favor please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Robert Hite, of Albany, New York, is now a member of the Public Employment Relations Board. He is here today with his wife, Tricia, and daughter, Alexandra. We welcome all of them to the chamber.

And, Mr. Hite, you are hereby confirmed as a member of the Public Employment Relations Board.

(Applause.)

THE PRESIDENT: Back to the order of business.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar, with the exception of Resolutions 1525, 1526, 1532, and 1534.

THE PRESIDENT: All those in favor of adopting the Resolution Calendar,

with the exception of Resolutions 1525, 1526, 1532 and 1534, please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a Resolution 6289, by Senator Fuschillo, which has been previously adopted. If we could have it read in its entirety at this time.

THE PRESIDENT: Thank you, Senator Skelos.

The Secretary will read.

THE SECRETARY: By Senator Fuschillo, Legislative Resolution Number 6289, honoring the Merrick/North Merrick Little League 10/11-year-old Baseball Team upon the occasion of capturing the 2006 New York State Championship.

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute

to those young people within the State of New York who have inspired and brought pride to their school and community by achieving outstanding success in athletic competition and

"WHEREAS, Attendant to such concern and in full accord with its long-standing traditions, this Legislative Body is justly proud to honor the Merrick/North Merrick Little League 10/11-year-old Baseball Team upon the occasion of capturing the 2006 New York State Championship; and

"WHEREAS, Outscoring their opponents in the three Final Four games by 26 runs, the Merrick/North Merrick Little League 10/11-year-old Baseball Team captured the 2006 New York State Championship with a 5-0 victory over College Point; and

"WHEREAS, The runners-up in the 2005 New York State Championship, the Merrick/North Merrick Little League 10/11-year-old Baseball Team are the most successful team in the 56-year history of their Little League; and

"WHEREAS, The athletic talent

displayed by this team is due in great part to the efforts of Manager Nick Yohe and Coaches Bill Goldband and Bill Murphy, skilled and inspirational tutors who have done a superb job in guiding, molding and inspiring the team members toward their goals; and

"WHEREAS, Loyally and enthusiastically supported by family, fans and friends, the Merrick/North Merrick Little League 10/11-year-old Baseball Team have proven themselves to be an unbeatable combination of talents, reflecting favorably on their community; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor the Merrick/North Merrick Little League 10/11-year-old Baseball Team, its members -- Ryan Goldband, Michael Mento, Jake Schwartz, Tommy Murphy, Dean Brownworth, Kevin Hiss, Tyler Goedtel, Danny Trepel, Timmy Murphy, Jack Zajaga, Jonathan Goldberg and Tommy Yohe -- Manager Nick Yohe, and Coaches Bill Goldband and Bill Murphy upon the occasion of capturing the 2006 New York State Championship; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Merrick/North Merrick Little League 10/11-year-old Baseball Team, Manager Nick Yohe, and Coaches Bill Goldband and Bill Murphy."

THE PRESIDENT: On the resolution, Senator Fuschillo.

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

I am proud to rise once again. This is the third year in a row, my colleagues, that a team from Merrick Little League has won the state champs in the Williamsport tournament. I don't think any other Senator can claim that.

I want to welcome these young boys to the State Capitol. I hope you've enjoyed your day. They had lunch up here. They just toured the Capitol. They met the Lieutenant Governor, they met the Majority Leader, and now you've seen the proceedings of the Senate.

They were runners-up in 2005. They came back, they won the state champs in 2006. I want to congratulate Nick Yohe, their

manager, their coaches Bill Murphy and Bill Goldband, but especially to the parents. As a parent of a child who we honored two years ago in the Williamsport team, I know the commitment. I want to congratulate you and thank you for all of your commitment to your children.

Boys, please stand up. Congratulations.

(Applause.)

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

THE PRESIDENT: On the resolution, Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

I too rise to congratulate these young warriors up here from Merrick. Thank you for what you do for Long Island and for Williamsport and what you do for your team and your community at home. You are truly young stars that are going to rise someday to be famous.

Keep up the great work. We appreciate what you've been able to achieve.

And there will be many more championships ahead for you guys. Keep it up.

I also wanted to point out across the street from you, right over here, we have more champs up that from Xaverian High School in Brooklyn. And they're here to join us today as they take a tour of this Capitol. And each one of them have played in Little Leagues and today play for Xaverian High School, many of them.

So thank you, both of you, both teams, for being here today, and we appreciate you coming up to this Capitol. God bless both of you. Thank you.

(Applause.)

THE PRESIDENT: Thank you, Senator Golden.

This resolution does not have to be passed. It was already unanimously approved by the Senate on September 15, 2006. But we reread it today because we're so happy to have the North Merrick Little League here with us.

Earlier today they came in and took pictures, and I met the coach, Nick Yohe, and the managers, Bill Goldband and Bill Murphy.

And we are very happy to have all of you here today.

So once again, a hearty congratulations, and we look forward to seeing all of you in your last Little League year appearing in Williamsport and maybe winning the Little League World Series.

Congratulations.

(Applause.)

THE PRESIDENT: That last applause is for Senator Skelos.

Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President. There's Resolution 1525 at the desk by Senator Maltese. If we could have it read in its entirety, open it up for cosponsorship, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Maltese, Legislative Resolution Number 1525, commemorating the 10th Anniversary of the Interboro Parkway in Kings and Queens Counties being renamed the Jackie Robinson Parkway, in

honor of the first African-American baseball player in the Major Leagues.

"WHEREAS, It is the intent of this Legislative Body to recognize and pay tribute to those exemplary athletes who have attained unprecedented success and achievement through personal courage, integrity and dedicated effort; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to commemorate the 10th Anniversary of the Interboro Parkway in Kings and Queens Counties being renamed the Jackie Robinson Parkway, in honor of the first African-American baseball player in the Major Leagues; and

"WHEREAS, On April 15, 1947, Jackie Robinson became the first African-American to play in a major league baseball game, when he started at first base for the Brooklyn Dodgers against the Boston Braves; and

"WHEREAS, Born on January 31, 1919, in Cairo, Georgia, Jack Roosevelt Robinson, or Jackie, as he was known, was raised, along

with his four brothers and sisters, by his mother in Pasadena, California; and

"WHEREAS, an athlete of outstanding physical skills with a burning, single-minded desire for victory, Jackie Robinson attended the University of California at Los Angeles, where he won an unprecedented four varsity letters in four different sports: track, football, baseball and basketball; and

"WHEREAS, During World War II, Jackie Robinson enlisted in the United States Army, where he rose to the rank of second lieutenant and was honorably discharged after two years; and

"WHEREAS, After leaving the Army, Jackie Robinson began playing with the Kansas City Monarchs of the Negro National League. He was later signed to a major league baseball contract by Branch Rickey and assigned to the Dodgers' Montreal farm team of the International League in 1946; and

"WHEREAS, At the age of 28, Jackie Robinson joined the Brooklyn Dodgers of the National League and led the team to its first pennant since 1941. During the season, he hit

.297, scored 125 runs, and led the league in stolen bases with 29, and was named Rookie of the Year; and

"WHEREAS, Instrumental in leading the Dodgers to six World Series appearances in ten years, Jackie Robinson was named Most Valuable Player in 1949, when he led the league in batting and stolen bases; and

"WHEREAS, Jackie Robinson retired from baseball in 1957 and was elected to the Baseball Hall of Fame in Cooperstown, New York, in 1962, a fitting climax to an illustrious career that triumphed over adversity and led the way for other African-American baseball players to emulate; and

"WHEREAS, On June 4, 1972, the Dodgers retired his No. 42 uniform in on-field ceremonies at Dodger Stadium in Los Angeles, California. All of major league baseball saluted him in 1997, on the 50th anniversary of his breaking the color barrier, and retired his number permanently from the game; and

"WHEREAS, on October 24, 1972, Jackie Robinson, a man who made it possible

for Americans to see beyond skin color to a person's true character, passed away at the age of 53; and

"WHEREAS, With him throughout were his wife, Rachel; his three children, David, Sharon, and the late Jack, Jr.; and his 11 grandchildren, all of whom felt privileged to be a part of his life and rejoiced in his many achievements; and

"WHEREAS, to celebrate his life and illustrious achievements, the Robinson family established the Jackie Robinson Development Foundation, a real estate development, management and training organization; the Jackie Robinson Foundation, a public, nonprofit organization that provides education and leadership development programs for minority youths with limited financial resources; and the Jackie Robinson Center for Excellence in Education, an alternative therapeutic educational program for students with emotional, behavioral and/or academic problems; and

"WHEREAS, The Interboro Parkway was an appropriate highway for this designation by

virtue of its location connecting the Borough of Brooklyn, the former home of the Dodgers and Ebbets Field, with the Borough of Queens, the present home of the New York Mets and Shea Stadium; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the 10th anniversary of the Interboro Parkway in Kings and Queens Counties being renamed the Jackie Robinson Parkway, in honor of the first African-American baseball player in the major leagues; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the family of Jackie Robinson and Fred Wilpon, chairman of the board and chief executive officer of the New York Mets."

THE PRESIDENT: On the resolution, Senator Maltese.

SENATOR MALTESE: Mr. President, I rise in support of the resolution as read.

What was not included in the resolution is the fact that Jackie Robinson served honorably in the United States Army and despite that honorable service, in 1944, he

was a first lieutenant and was asked to go to the rear of the bus that he was traveling on at the time. And as a result of the fact that he declined to do so, he was court martialed by the same military that he was serving so honorably. That court martial came back in August of 1945 with a not guilty on all counts.

The reason I mention that is twofold. Number one, that in 1955 Rosa Parks distinguished herself and also made history by doing the self-same thing in Montgomery, Alabama. And it is believed that she had been very much aware of what Jackie Robinson had done some years before.

In addition, one year and 23 days after his exoneration and not guilty verdict from the court martial, he went to Montague Street in Brooklyn, New York, and met with Branch Rickey, who was at that time the CEO and general manager of the Brooklyn Dodgers, and signed a contract to join the Brooklyn Dodgers and actually went to their farm team in Montreal.

The fact that one year and 23 days

later he was signing a contract to break the infamous color barrier in baseball is significant for us. Sixty years ago Sunday, at Ebbets Field, he became the first African-American to play in major league baseball. He played so well, then and subsequent months, that he was elected the National League Rookie of the Year in 1947. And as some of our baseball fans know, that Rookie of the Year Award now is called the Jackie Robinson Rookie of the Year Award.

I want to mention also, in deference to my colleague Velmanette Montgomery, that first season he lived all year long in Bedford-Stuyvesant with his wife Rachel and his baby son.

The significance of this great event has not been missed by our major league baseball players. Many of us were pleased to know that in the two weeks just passing, two to three weeks just passing, that the baseball players came forward -- Jackie Robinson wore the number 42, which was retired by the Brooklyn Dodgers and retired permanently some years ago. And the baseball players, on their

own, some weeks ago went to the officials of the leagues and asked to wear the number 42 on their jerseys on April 15th, the anniversary of Jackie Robinson's -- the 60th anniversary of Jackie Robinson's entry into major league ball. What a difference those years have made. Over 200 players wore that number 42 voluntarily, willingly, and gladly on their jerseys to commemorate that great day.

I want to point out that there were six major league teams that had everybody in uniform, by vote of the players, coaches, managers, and batboys. Those teams are the Dodgers, the St. Louis Cardinals, the Pittsburgh Pirates, Philadelphia Phillies, the Milwaukee Brewers, and the Houston Astros.

Ten years ago April 15th, I had the pleasure to cosponsor, with Assemblyman Jeff Aubry, a bill to rename the Interboro Parkway the Jackie Robinson Parkway. This weekend I went and visited the site of Jackie Robinson's grave. Gravesites are very important to me; I took a lot of pains to ascertain that my own family's gravesite is in my Senate district. So in going to that gravesite, I was so

pleased that no intervening mausoleum, grave monument or tree had interfered with the fact that from Jackie Robinson's gravesite, you can see the Interboro Parkway, previously named, and now named the Jackie Robinson Parkway. I imagine that in that ballfield on high, that that gives him a great deal of pleasure.

The inscription on the grave reads: "A life is not important except in the impact it has on other lives." And then his name, Jackie Robinson, is on that grave marker. Those were the exact words that Mayor Giuliani stated at the dedication of the Jackie Robinson Parkway.

I have sent around a brief copy of the Time magazine for 1947, together with a copy of this resolution. It says: "A Look Back in Time: A Tribute to Jackie Robinson." I think my colleagues can read it with the great pleasure of knowing the changes that have taken place. This article was written in tribute to Jackie Robinson, and yet some of the phrases, terminology and statements would have us shake at the fact that our great nation, such a relatively short time ago, had

such a problem with color.

Jackie Robinson went on to be inducted into the Hall of Fame, and not only that, but by his constant inspiration and example has inspired others, black and white, to enter into sports. He was an exemplary sportsman, played in all sports -- as a matter of fact, indicated at times that baseball was one of his least favorites. He excelled in all of them. He was a great sportsman and a great American.

I am very, very much pleased to sponsor this resolution and ask that it be opened to all those colleagues who wish to join.

Thank you.

THE PRESIDENT: On the resolution, Senator Adams.

SENATOR ADAMS: Thank you, Mr. President. I too rise in support of this resolution.

I think it's important that on a day that we acknowledge the young children and their victory in the Little League series, that because of Jackie Robinson they are able

to play on a field where they can communicate with children who not only look like them but come from different communities and different backgrounds. So it is important that this takes place on that same day.

When Jackie Robinson stepped on the baseball field, it put America into the game. The question is, are we going to continue to move in the spirit of that game?

We're fortunate to have an African-American that's lieutenant governor, we're fortunate to have African-Americans that hold other prestigious positions. But we have to extend the spirit of Jackie Robinson into so many different fields as we join here today. For Michael Russell, one of the major developers in this country, are we going to pull him into the game of economic development? Are we going to pull in other individuals across this entire state to participate in this baseball game called life?

We cannot applaud Jackie if we continue to boo the players that are on the field today and they can't participate in every aspect of the American dream.

The American game is not only baseball, it is also economic development, economic inclusion, economic prosperity. And I would love to live in the spirit of Jackie by not only putting on the uniform of the Dodgers but putting on the blue uniform and the blue suit that would permit me to go into American Express, Smith Barney, putting on those robes that allow our children to become college grads and college participants.

So I think in the spirit of Jackie Robinson, let's start the process of not only opening our baseball fields but opening our entire state to make sure all Americans can participate in this game we call life.

Thank you.

THE PRESIDENT: Senator Huntley, on the resolution.

SENATOR HUNTLEY: Yes, Mr. President.

I stand to support the resolution and also to let you know that I once personally met Jackie Robinson and his wife, Rachel. They were weekend guests at my grandparents' bed and breakfast in Riverhead,

Long Island, many, many years ago when I was a very young child.

They were instrumental in helping me. At that time I remember I was trying to tell time, and the hands were going this way and that way. I could do everything else, but it was so hard to be able to look at the clock and get the hands correct.

And I can tell you that Rachel Robinson was very instrumental. And when they left the bed and breakfast that weekend, I was the greatest time-teller there was in Riverhead, Long Island.

Thank you.

THE PRESIDENT: Are there any other Senators wishing to speak on the resolution?

Hearing none, the question is on the resolution. All those in favor please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

And Senator Skelos has informed us that Senator Maltese would like to open the resolution to all Senators. Anyone not wanting to be on the resolution should indicate so at the desk.

And when you're presiding over the Senate, you're not supposed to elicit any personal feelings other than that I'm going to change my son's name to Serphin.

(Laughter.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Mr. President, there's a Resolution 1532 at the desk, by Senator Marcellino. If we could have it read in its entirety, open it up for cosponsorship, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Marcellino, Legislative Resolution Number 1532, commemorating the 37th Anniversary of Earth Day on April 22, 2007.

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute to those organizations dedicating their

purposeful work to increasing public awareness of, and appreciation for, the natural resources of New York, recognizing the role all citizens have in protecting the environment and the quality of life in this Empire State; and

"WHEREAS, On April 22, 1970, approximately 25 million Americans participated in the first Earth Day demonstration to express their concerns over the environment and the fate of the planet; and

"WHEREAS, In the 37 years that have passed since the original Earth Day, the planet has been subjected to the continuing burdens of world population growth, increasing commercial and residential development, ocean pollution, increasing stores of toxic and nuclear waste, and other similar assaults which have exacerbated the growing dangers of global climate change, ozone depletion, toxic poisoning, deforestation, and mass species extinctions; and

"WHEREAS, Following the first Earth Day and the demonstrations of concern of over

20 million Americans, a collective national action has resulted in the passage of sweeping new laws to protect the invaluable resources of air, land and water; and

"WHEREAS, April 22, 2007, marks the 37th anniversary of Earth Day, a day set aside to celebrate the beauty and bounty of our environment and to revitalize the efforts required to protect and maintain respect for the environment and its resources; and

"WHEREAS, Earth Day 2007 activities and events will educate all citizens on the importance of acting in an environmentally sensitive fashion by recycling, conserving energy and water, using efficient transportation and adopting more ecologically sound lifestyles; and

"WHEREAS, Earth Day 2007 activities and events will educate all citizens on the importance of supporting the passage of legislation that will help protect the environment and will highlight the importance of a heightened awareness of environmental concerns amongst our state's leaders; and

"WHEREAS, The goal of Earth Day

2007 is not to plan only one day of events and activities but to continue worldwide efforts to protect all aspects of the environment; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the 37th anniversary of Earth Day on April 22, 2007; and be it further

"RESOLVED, That this Legislative Body congratulate all the concerned citizens of New York State who have embraced the responsible work of protecting and preserving the environment for future generations."

THE PRESIDENT: On the resolution, Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

A little while ago, on my way down, someone asked the question on the Resolution Calendar, they recognized that this resolution was on once again, and said: "Why are you doing it again? Every year you stand up about the same time, and you put this resolution forward. Why again? Hasn't the message gotten across? Who are you talking to?

Everybody knows the environment is something we have to protect."

And my answer was very simple. In the audience today we had some young people. And at the time when we were talking in the hallway, there were young people going by. And I said, "See those young people? It's for them. This resolution is about the future."

This resolution is to educate our people, to educate everyone that we don't own this planet. We are merely stewards. Our job is to keep it, keep it safe, protect it, fix some of the problems where they exist. But remember, our job is to pass it on to future generations better than we found it. That's our function.

That's the purpose of this resolution. And as long as I'm here, I intend to bring this resolution up each and every year as a reminder.

But I would urge each and every one of us to remember that every single day should be considered Earth Day. There's no one day for it. We celebrate it on the 22nd, but this is something that is ongoing every single day

of the year, 365. That's what it's all about, preserving and protecting the environment and passing on a cleaner and healthier planet to our future generations of children and grandchildren.

Thank you, Mr. President.

THE PRESIDENT: Senator Thompson, on the resolution.

SENATOR THOMPSON: Yes, Mr. President. I rise in support of this resolution.

And I commend Senator Marcellino for doing this every year, because this is the right thing to do.

And unfortunately, in our state right now and in our country, we see a situation where so many communities are under siege with brownfields. I think about places like the city of Niagara Falls, where it was a bustling community just like Buffalo where they have a lot of contaminated sites, and our efforts to encourage these sites not only to be remediated, but we also think about the young people who don't understand about the contamination that exists in our waterways, in

our air, the problems of many people that live in homes that are affected, impacted by lead-based paint. And the fight against contamination is very real.

So this week and throughout this month, you will see many people involved in efforts to protect our environment. And, Senator, I want you to know that I think that's really refreshing that you continue to sponsor this resolution, because the struggle for the future generations will be about the environment.

If we think about what's going on right now, from California to the Midwest to the Northeast to the Southwest, you're seeing all of these shifts, rapid shifts in weather patterns. And we know that it's because of our environment.

And we must continue to fight this good fight to protect the environment, not only for ourselves, but for people like my children and your children and the generations to come.

Thank you. I stand in support of this resolution.

THE PRESIDENT: On the resolution, all in favor please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

All members' names will go on the resolution. Anyone not wishing to be on the resolution may indicate so at the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a resolution at the desk, 1526, by Senator Maltese. If we could have the title read, move for its immediate adoption, and open it up for cosponsorship.

THE PRESIDENT: The Secretary will read the title.

THE SECRETARY: By Senator Maltese, Legislative Resolution Number 1526, memorializing Governor Eliot Spitzer to proclaim April 23, 2007, as a day of Remembrance for the Polish Martyrs of the Katyn Forest.

THE PRESIDENT: On the resolution, all those in favor.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

It is also open for cosponsorship. We'll put all the names of the Senators on the resolution. Anyone indicating otherwise may do so at the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, Resolution 1448 was previously adopted. It's sponsored by Senator Breslin. If we could just have the title read.

THE PRESIDENT: The Secretary will read the title of the resolution, Resolution 1448.

THE SECRETARY: By Senator Breslin, Legislative Resolution Number 1448, mourning the death of Mark T. Hayes, a man of singular distinction and extraordinary accomplishment.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

I rise for this resolution on the death of Mark Hayes, who died several weeks ago. And for many of us who have been in this chamber for many years, we knew Mark Hayes as an advocate in the battle against AIDS.

And in my dealings with him, which over the last number of years have been almost weekly, I found him to be an extremely bright, caring, sensitive, diligent person who believed with every part of his being in the fight against AIDS.

His loss to me is immeasurable, that he will be very, very difficult to be replaced. And I send this resolution to his family members, to his friends who number so many throughout this state.

Thank you, Mr. President.

THE PRESIDENT: On the resolution, Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: I was going to yield this time to Senator Krueger. However, Mr. President, thank you.

I rise to support this resolution

and to say that as someone who has worked in the field of HIV and AIDS, when I came to Albany, Mark was a person who visited me often and kept me abreast of those things as a reminder of why I came and some of the people for whom there was no voice here in Albany, or else that voice needed support and help in the person of Tom Duane.

I needed to be able to stand today to just let Mark know his spirit continues to be ever-present, that the work that he devoted his adult life to will not be in vain, and to thank the sponsors, both Senator Breslin and Senator Krueger, for their sensitivity in recognizing someone who most of you in this room will never know but who all of you should give thanks for, for the work and the advocacy, because each of us knows someone who has been infected or affected by HIV or AIDS. And no matter what we may feel about the disease, it is an illness that is afflicting larger numbers of people in our society every day.

And one of the things that Mark was able to do was to acknowledge his own illness

but to go beyond that and make sure that everyone was aware of what this condition meant, to remove the stigma so that people would not be affected where they lived, where they worked, and certainly how they were treated in this society.

And for those things, I am very grateful for him and for his life.

THE PRESIDENT: On the resolution, Senator L. Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I also want to thank my colleague Senator Breslin for putting in the resolution for his constituent -- and for many of us, our friend -- Mark Hayes.

And as my colleague Senator Ruth Hassell-Thompson said, Mark took his life and applied his own personal experiences to his advocacy on behalf of people he didn't know, many of us will never know, and reminds us all of the humanity of our job as legislators to try to do whatever we can to cure illness, to address the needs of people who live with chronic illness.

Mark Hayes' passing away reminds us that while we are living in a time where more and more people are living with AIDS, not dying from AIDS, that we still suffer from a reality that every year too many New Yorkers, too many Americans and, particularly abroad, too many people in this world are still dying from AIDS.

So I think that this resolution is a tribute not just to the work that Mark was committed to and the organization he advocated for, Housing Works, was committed to, but a moment for us to remember and recognize that there are still too many chronic illnesses that have yet to find cures -- and that it is never the wrong thing for us to stand up in respect for somebody who worked hard on behalf of so many and to remember them for who they were.

Thank you, Mr. President.

THE PRESIDENT: On the resolution, Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I want to thank Senator Breslin and

Senator Krueger for bringing this resolution to the floor.

I first met Mark Hayes when I was invited, when I was newly elected as the first -- and as far as I know, still only -- member of the Legislature who is living with HIV, to speak before a group of people living with HIV and AIDS at the Damien Center.

And someone raised their hand in the back of the room and said, you know, "Please don't forget about those of us living with HIV who are still working in corporate America." And it was Mark Hayes, who was at the time working for the New York State Automobile Dealers Association.

And it was a very brave moment for Mark Hayes. And I think that that moment, combined with the work that Housing Works in particular has done here in the capital, paved the way for Mark Hayes becoming a hero. And as we know, heroes are not born or trained, heroes are people that, due to a circumstance, rise to the occasion and change the world. And Mark Hayes was that kind of person.

Now, the good news is that in this

nation many people -- sadly, not all, but many people are living longer with HIV and AIDS. In fact, long enough to be afflicted with other diseases. And sadly, that was the case with Mark Hayes. But throughout his really two illnesses, he continued to fight every day to provide services and treatment for people living with HIV and AIDS.

Last week he was the recipient of the Keith Cylar Award. Keith Cylar is one of the cofounders, along with Charles King, of Housing Works. And Mark Hayes was the recipient of that award. Unfortunately, he didn't live long enough to receive the award.

But I hope that Mark Hayes, every day that he came here to the Capitol to fight on behalf of people with AIDS, knew that he was beloved by those who were given a voice because of his hard work.

And I just am hoping and I'm expecting that my colleague will open up this resolution to everyone. But I think that in some small way, if we sign on to this resolution honoring Mark Hayes, we can all be anointed as warriors in the fight against AIDS

here in New York State, in the United States in general, and in fact around the world.

Thank you, Mr. President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: I just would suggest that the resolution has been adopted. If anybody wishes to sponsor the resolution, they should notify the desk.

THE PRESIDENT: The resolution was adopted earlier today. Anyone who would like to go on the resolution may indicate so at the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a resolution at the desk, 1534, by Senator Bruno. If we could have it read in its entirety, open it up for cosponsorship, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senators Bruno and Morahan, Legislative Resolution Number 1534, memorializing Governor Eliot Spitzer to proclaim April 15 through 21, 2007, as Holocaust Remembrance Week in the State of

New York.

"WHEREAS, From 1933 to 1945, 5.8 million Jews were murdered in the Nazi Holocaust as part of a systematic program of genocide, and millions of other people perished as victims of Nazism; and

"WHEREAS, Jews who fell under German control in Eastern and Central Europe were quickly stripped of their rights and property; and

"WHEREAS, The Jews who perished at Nazi hands comprised two-thirds of all European Jewry, and in countries such as Poland, which before the Second World War included parts of the Ukraine and Belarus, the Jewish death toll surpassed 90 percent; and

"WHEREAS, The people of the State of New York should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

"WHEREAS, Those who survived the killing camps tell us that as many people walked to their deaths, their last words were 'Remember us'; and

"WHEREAS, The year 2007 marks the

66th anniversary of the beginning of the genocide of European Jews, the darkest, most murderous moment in history; and

"WHEREAS, We learn in the aftermath of the Holocaust that indifference to genocide cannot be tolerated. Holocaust remembrance imposes a moral obligation to speak out; and

"WHEREAS, The Holocaust represents the darkest period in the civilization of mankind and must always be remembered in order to prevent its reoccurrence anywhere else in the world; and

"WHEREAS, The people of the State of New York should continually rededicate themselves to the principle of equal justice for all people; and

"WHEREAS, The people of the State of New York should remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor Eliot Spitzer to proclaim April 15 through 21, 2007, as Holocaust Remembrance

Week in the State of New York; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Honorable Eliot Spitzer, Governor of the State of New York, and to the Holocaust Museum and Study Center, 17 South Madison Avenue, Spring Valley, New York, 10977."

THE PRESIDENT: On the resolution, Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President.

It is fitting that we remember what has gone on in the past in the hope that we'll never witness or hear of such atrocities in the future. The Holocaust period between 1933 and 1945 saw almost an entire religious community, two-thirds of the Jews in Europe, and almost 90 percent in other countries such as Poland, wiped from the face of the earth, men, women and children.

Senator Marcellino earlier in a resolution talked about our obligation to the young people for the future. We have that same obligation to pause in memory of the

Holocaust, that murder, that despicable action taken by the Nazis, the most inhuman treatment of man and mankind. That it's time that we make sure that our future citizens remember this Holocaust. How many people in this chamber were even alive at the end of 1945 when this Holocaust ended? How many of those of us who were youngsters at the time even knew of what happened?

In Spring Valley, New York, we have a Holocaust Center and Study Center, and it's a museum in tribute to the Holocaust. They have weekly membership meetings of survivors and liberators. They have testimony of those Jewish-American soldiers who went through Europe aiding and assisting the liberation of those souls who survived.

It is fitting, therefore, that we ask the Governor to commemorate the 15th through the 21st of April as Holocaust Memory Week in the State of New York and follow the lead of so many communities throughout the state and throughout the international community who so recognize this particularly dark time in the history of mankind.

There was a story that just a few days before Rosh Hashanah in 1944, in Auschwitz, one of the concentration camps, that the commander notified the community within that all the young children would need to be put to death or put to work. And he set up a bar just a little over 4-1/2 feet, and those children who could walk under that bar were to be exterminated and those who hit the bar with their heads would be put into labor camps.

On the morning of Rosh Hashanah, the parents of these children, knowing what was to become of them, gathered about the cellblock where they were housed. Of the 1600 children who had to walk under the bar, 1400 could not touch that bar. And those 1400 were to be executed.

The parents tried to negotiate with the guards for the life of their children. And the guards who started to get involved in some greed started to say, "Okay, if I let your son out, then some other Jew will have to die in his place," which gave great consternation to those parents.

One parent approached the rabbi who was watching this unfold, and he said to the rabbi: "Rabbi, I come to you and put to you one question, that question being would it be right for me to ransom my son knowing that another child or Jew would have to take his place?" The rabbi did not answer. And he asked him again, and he asked him repeatedly, and the answer was nothing. The rabbi gave him no guidance.

But the man said, "Rabbi, I understand your message, that there is no precedent that I would ransom one life at the cost of another. Therefore, I accept the judgment that my son shall die."

That is why we can't forget that inhumanity. That is why we have to make sure that our future citizens of the world remember the Holocaust and what it was -- the inhumane treatment, the experimentations, the torture, the unspeakable living conditions that almost exterminated an entire population in Europe.

Therefore, I support this resolution and all that it says and all that it calls for, all that it relates. As

President Eisenhower said as he toured some of these camps, "The world must know about this, the world must remember. We cannot let them forget." And the Holocaust study centers around the nation and around the world have committed themselves to that memory and to that commitment.

Thank you, Mr. President. And I also would extend the courtesy to all of the members of the Legislature to join us. And those who do not wish to be on the resolution can notify the desk.

Thank you very much.

THE PRESIDENT: Thank you. Thank you, Senator Morahan.

On the resolution, all those in favor please say aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

All members of the Senate will be placed on the resolution.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a substitution to be made at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 20, Senator Farley moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 2935 and substitute it for the identical Senate Bill Number 1519, Third Reading Calendar 408.

And on page 21, Senator Nozzolio moves to discharge, from the Committee on Crime Victims, Crime and Correction, Assembly Bill Number 4333 and substitute it for the identical Senate Bill Number 331, Third Reading Calendar 418.

THE PRESIDENT: The substitutions are ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will conduct the noncontroversial reading of

the calendar.

THE SECRETARY: Calendar Number 123, by Senator Maziarz, Senate Print 2307A, an act to amend the Labor Law, in relation to requiring employers.

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

The Secretary will 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 PRESIDENT: Announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 170, by Senator Larkin, Senate Print 539, an act to amend the Alcoholic Beverage Control Law, in relation to the sale of certain New York-produced alcoholic beverages.

THE PRESIDENT: The Secretary will read the last section.

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

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 170 are Senators Duane and Padavan.

Ayes, 55. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 273, by Senator Farley, Senate Print 920, an act to amend the Tax Law, in relation to filing of amended personal income tax returns.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 328, by Senator DeFrancisco, Senate Print 3077, an act to amend the Penal Law, in relation to creating the crimes of solicitation.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 328 are Senators Duane and Montgomery.

Ayes, 55. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 335, by Senator Seward, Senate Print 2140A, an act to amend the Social Services Law, in relation to a study.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 348, by Senator Larkin, Senate Print 1920, an act to authorize any municipality to enter into a contract.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 349, by Senator Little, Senate Print 2682, an act to amend the Real Property Tax Law, in relation to notification.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 364, by Senator Seward, Senate Print 3022 --

SENATOR DUANE: Lay it aside, please.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 383, by Senator DeFrancisco, Senate Print 3615, an act to amend the Uniform Justice Court Act, in relation to justices of criminal courts.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 408, substituted earlier today by Member of the Assembly Seminerio, Assembly Print Number 2935, 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 PRESIDENT: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 408 are Senators Larkin, Libous, Little, Morahan, Rath, Saland, Seward, Winner, Wright and Young.

Ayes, 47. Nays, 10.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 414, by Senator Maltese, Senate Print 303, an

act to amend the Election Law, in relation to military voters.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 418, substituted earlier today by Member of the Assembly Aubry, Assembly Print Number 4333, an act to amend the Correction 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 PRESIDENT: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, just briefly to explain my

vote.

I want to be on record saying that I happen to think this is a good bill. And this is one of the few times in my life that I will be complimenting Senator Nozzolio on his legislation, so I wanted that to be on record.

(Laughter.)

SENATOR MONTGOMERY: Thank you, Mr. President. I vote aye.

THE PRESIDENT: Senator Montgomery will be recorded in the affirmative. It's a shame Senator Nozzolio isn't here to see it.

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 432, by Senator Alesi, Senate Print 177A, an act to amend the Labor 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 PRESIDENT: Results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 466, by Senator Marcellino, Senate Print 602, an act to amend the Navigation Law, in relation to providing.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 474, by Senator O. Johnson, Senate Print 1348, an act to amend the Vehicle and Traffic Law, in relation to prohibiting.

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, 57.

THE PRESIDENT: The bill is passed.

That completes the calendar, Senator Robach. What is your pleasure?

SENATOR ROBACH: Yes, Mr. President. Is there any other business at the desk?

THE PRESIDENT: There is none.

SENATOR ROBACH: Seeing that there is no further business, I move we adjourn until Wednesday, April 18th, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate is adjourned until Wednesday, April 18th, at 11:00 a.m.

(Whereupon, at 4:13 p.m., the Senate adjourned.)