

1 NEW YORK STATE SENATE

2
3
4 THE STENOGRAPHIC RECORD

5
6
7
8
9 ALBANY, NEW YORK

10 March 10, 2010

11 3:36 p.m.

12
13
14 REGULAR SESSION

15
16
17
18 SENATOR DAVID J. VALESKY, Acting President

19 ANGELO J. APONTE, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT VALESKY: The
3 Senate will please come to order.

4 I ask everyone present to please
5 rise and recite with me the Pledge of
6 Allegiance.

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

9 ACTING PRESIDENT VALESKY: In the
10 absence of clergy, may we bow our heads in a
11 moment of silence.

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

14 ACTING PRESIDENT VALESKY: The
15 reading of the Journal.

16 The Secretary will read.

17 THE SECRETARY: In Senate,
18 Tuesday, March 9, the Senate met pursuant to
19 adjournment. The Journal of Monday, March 8,
20 was read and approved. On motion, Senate
21 adjourned.

22 ACTING PRESIDENT VALESKY:
23 Without objection, the Journal stands approved
24 as read.

25 Presentation of petitions.

1 Messages from the Assembly.
2 Messages from the Governor.
3 Reports of standing committees.
4 Reports of select committees.
5 Communications and reports from
6 state officers.
7 Motions and resolutions.
8 Senator Klein.
9 SENATOR KLEIN: Mr. President, on
10 behalf of Senator Foley, I wish to call up
11 Print Number 5945, recalled from the Assembly,
12 which is now at the desk.
13 ACTING PRESIDENT VALESKY: The
14 Secretary will read.
15 THE SECRETARY: Calendar Number
16 86, by Senator Foley, Senate Print 5945, an
17 act to amend the Election Law.
18 SENATOR KLEIN: Mr. President, I
19 now move to reconsider the vote by which this
20 bill was passed.
21 ACTING PRESIDENT VALESKY: The
22 Secretary will call the roll on
23 reconsideration.
24 (The Secretary called the roll.)
25 THE SECRETARY: Ayes, 49.

1 ACTING PRESIDENT VALESKY: The
2 bill is before the house.

3 Senator Klein.

4 SENATOR KLEIN: Mr. President, I
5 now offer the following amendments.

6 ACTING PRESIDENT VALESKY: So
7 ordered.

8 Senator Klein.

9 SENATOR KLEIN: Mr. President,
10 can you please call on Senator Libous for a
11 motion.

12 ACTING PRESIDENT VALESKY:
13 Senator Libous.

14 SENATOR LIBOUS: Thank you,
15 Mr. President. I'm glad you called on me,
16 because I wasn't sure if you would recognize
17 me.

18 On behalf of Senator Maziarz,
19 Mr. President, on page 10 I offer the
20 following amendments to Calendar Number 108, I
21 believe Senate Print Number 1055B, and ask
22 that said bill retain its place on the Third
23 Reading Calendar.

24 ACTING PRESIDENT VALESKY: So
25 ordered.

1 Senator Klein.

2 SENATOR KLEIN: Mr. President, do
3 we have any substitutions at the desk?

4 ACTING PRESIDENT VALESKY: There
5 are substitutions.

6 The Secretary will read.

7 THE SECRETARY: On page 8,
8 Senator Serrano moves to discharge, from the
9 Committee on Finance, Assembly Bill Number
10 8395 and substitute it for the identical
11 Senate Bill Number 5811, Third Reading
12 Calendar 51.

13 On page 9, Senator Klein moves to
14 discharge, from the Committee on Codes,
15 Assembly Bill Number 4015A and substitute it
16 for the identical Senate Bill Number 5988,
17 Third Reading Calendar 66.

18 On page 14, Senator Serrano moves
19 to discharge, from the Committee on Codes,
20 Assembly Bill Number 8154A and substitute it
21 for the identical Senate Bill Number 4603A,
22 Third Reading Calendar 189.

23 On page 15, Senator Schneiderman
24 moves to discharge, from the Committee on
25 Codes, Assembly Bill Number 7805B and

1 substitute it for the identical Senate Bill
2 Number 5461B, Third Reading Calendar 191.

3 And on page 15, Senator Adams moves
4 to discharge, from the Committee on Finance,
5 Assembly Bill Number 8182 and substitute it
6 for the identical Senate Bill Number 3021,
7 Third Reading Calendar 199.

8 ACTING PRESIDENT VALESKY:
9 Substitutions ordered.

10 Senator Klein.

11 SENATOR KLEIN: Mr. President, I
12 believe Senator Smith has a resolution at the
13 desk. I ask that the title of the resolution
14 be read and move for its immediate adoption.

15 ACTING PRESIDENT VALESKY:
16 Senator Klein, has this resolution been deemed
17 privileged and submitted by the office of the
18 Temporary President?

19 SENATOR KLEIN: Yes, it has,
20 Mr. President.

21 ACTING PRESIDENT VALESKY: The
22 Secretary will read.

23 THE SECRETARY: By Senator Smith,
24 legislative resolution honoring Ericka K. Wala
25 upon the occasion of being selected as

1 Constituent of the Month for her valuable
2 contributions as Principal of the Peninsula
3 Preparatory Academy, Far Rockaway, Queens.

4 ACTING PRESIDENT VALESKY: All in
5 this favor of adopting the resolution --

6 SENATOR LIBOUS: Mr. President.

7 ACTING PRESIDENT VALESKY:
8 Senator Libous.

9 SENATOR LIBOUS: Could I have an
10 explanation on what "Constituent of the Month"
11 is? I understand we're honoring an
12 individual. But what is the title
13 "Constituent of the Month"? Is this a new
14 honor bestowed upon individuals by the Senate?

15 ACTING PRESIDENT VALESKY:
16 Senator Libous, is this a point of order that
17 you're stating or --

18 SENATOR LIBOUS: Mr. President, I
19 could state a point of order. Or a point of
20 information.

21 ACTING PRESIDENT VALESKY:
22 Senator Klein.

23 SENATOR KLEIN: Mr. President,
24 can we please stand at ease.

25 ACTING PRESIDENT VALESKY: The

1 Senate will stand at ease.

2 (Whereupon, the Senate stood at
3 ease at 3:41 p.m.)

4 (Whereupon, the Senate reconvened
5 at 3:43 p.m.)

6 SENATOR KLEIN: Mr. President,
7 can we proceed?

8 ACTING PRESIDENT VALESKY:
9 Senator Klein.

10 SENATOR KLEIN: Move the
11 resolution.

12 ACTING PRESIDENT VALESKY: All
13 those in favor of adopting the resolution
14 signify by saying aye.

15 (Response of "Aye.")

16 SENATOR LIBOUS: I'd like to
17 speak on the resolution.

18 ACTING PRESIDENT VALESKY:
19 Senator Libous, on the resolution.

20 SENATOR LIBOUS: I just spoke
21 with Senator Smith, who is sponsoring the
22 resolution. And certainly his constituent is
23 worthy of being honored by the Senate, and I
24 congratulate the constituent.

25 But I suggested that in the future

1 the title "Constituent of the Month" might be
2 rewritten, only because I think if 62 Senators
3 decided that each one of us wanted to have a
4 constituent of the month, we would be kind of
5 buried in paperwork here.

6 While it's important to honor our
7 constituents, I think doing it in a way that
8 is not requiring a monthly or a weekly salute
9 is the way we should do it, as we have for the
10 last so many years.

11 So I will support the resolution
12 and hope that the title will be different in
13 the future.

14 ACTING PRESIDENT VALESKY: Thank
15 you, Senator Libous.

16 Senator Klein.

17 SENATOR KLEIN: On the
18 resolution.

19 This is a young woman who dedicated
20 her life to education. She was principal of
21 the Peninsula Preparatory Academy in
22 Far Rockaway.

23 I know over the course of this
24 legislative session my office, as well as the
25 Temporary President, has given tremendous

1 leeway to both sides of the aisle in what
2 resolutions we bring to the floor to honor our
3 constituents. I guess we have to look at it a
4 lot more carefully in the future.

5 And I guess we won't be as, I
6 guess, willing to give in to some of our
7 colleagues when they have their constituents
8 here who work so hard for their districts and
9 deserve the recognition on the floor of the
10 State Senate.

11 Thank you.

12 ACTING PRESIDENT VALESKY: Thank
13 you, Senator Klein.

14 All in favor of adopting the
15 resolution signify by saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT VALESKY:
18 Opposed, nay.

19 (Response of "Nay.")

20 ACTING PRESIDENT VALESKY: The
21 resolution is adopted.

22 Senator Klein.

23 SENATOR KLEIN: Mr. President,
24 can we please move to a reading of the
25 calendar.

1 ACTING PRESIDENT VALESKY: The
2 Secretary will proceed with the reading of the
3 active bills on Senate Calendar Number 19.

4 THE SECRETARY: Calendar Number
5 150, by Senator Sampson, Senate Print 6264A,
6 an act to amend the Judiciary Law --

7 SENATOR KLEIN: Lay the bill
8 aside for the day, Mr. President.

9 ACTING PRESIDENT VALESKY: The
10 bill is laid aside for the day.

11 THE SECRETARY: Calendar Number
12 177, by Senator Stavisky, Senate Print 1736 --

13 SENATOR KLEIN: Lay the bill
14 aside for the day.

15 ACTING PRESIDENT VALESKY: The
16 bill is laid aside for the day.

17 THE SECRETARY: Calendar Number
18 182, by Senator Aubertine, Senate Print 6317A,
19 an act to amend the Agriculture and Markets
20 Law, in relation to definition.

21 ACTING PRESIDENT VALESKY: Read
22 the last section.

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

25 ACTING PRESIDENT VALESKY: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 53.

4 ACTING PRESIDENT VALESKY: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 183, by Senator Aubertine, Senate Print 6443A,
8 an act to amend the Agriculture and Markets
9 Law, in relation to including production.

10 ACTING PRESIDENT VALESKY: Read
11 the last section.

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

14 ACTING PRESIDENT VALESKY: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 53.

18 ACTING PRESIDENT VALESKY: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 184, by Senator Valesky --

22 SENATOR LIBOUS: Lay it aside.

23 ACTING PRESIDENT VALESKY: The
24 bill is laid aside.

25 THE SECRETARY: Calendar Number

1 187, by Member of the Assembly Jeffries,
2 Assembly Print --

3 SENATOR KLEIN: Lay the bill
4 aside for the day.

5 ACTING PRESIDENT VALESKY: The
6 bill is laid aside for the day.

7 THE SECRETARY: Calendar Number
8 198, by Member of the Assembly DelMonte,
9 Assembly Print Number 901A, an act to amend
10 the Town Law and the Public Authorities Law,
11 in relation to travel.

12 ACTING PRESIDENT VALESKY: Read
13 the last section.

14 THE SECRETARY: Section 3. This
15 act shall take effect June 1, 2012.

16 ACTING PRESIDENT VALESKY: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 53.

20 ACTING PRESIDENT VALESKY: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 208, by Senator Dilan, Senate Print 1434, an
24 act to amend the Election Law, in relation to
25 prohibiting election commissioners.

1 ACTING PRESIDENT VALESKY: Read
2 the last section.

3 THE SECRETARY: Section 3. This
4 act shall take effect --

5 SENATOR KLEIN: Lay the bill
6 aside for the day.

7 ACTING PRESIDENT VALESKY: The
8 bill is laid aside for the day.

9 THE SECRETARY: Senator Klein,
10 that completes the noncontroversial reading of
11 the active bills.

12 SENATOR KLEIN: Mr. President, at
13 this time can we please go to a reading of the
14 controversial calendar.

15 ACTING PRESIDENT VALESKY: The
16 Secretary will ring the bells.

17 Members are asked to come to the
18 chamber for a reading of the controversial
19 calendar.

20 ACTING PRESIDENT STEWART-COUSINS:
21 The Secretary will read.

22 THE SECRETARY: Calendar Number
23 184, by Senator Valesky, Senate Print 6780, an
24 act to amend the Agriculture and Markets Law.

25 ACTING PRESIDENT STEWART-COUSINS:

1 Senator Padavan.

2 SENATOR PADAVAN: Yeah, Madam
3 President, would Senator Valesky yield to a
4 question.

5 SENATOR VALESKY: Certainly.

6 SENATOR PADAVAN: Or two.

7 ACTING PRESIDENT STEWART-COUSINS:
8 Senator Valesky, do you yield?

9 SENATOR VALESKY: Certainly.

10 SENATOR PADAVAN: Senator, your
11 bill would extend the current provision that
12 allows wine in frozen desserts from currently
13 ice cream to -- I quote in the bill -- "or
14 other frozen desserts." And up to 5 percent
15 of the volume of those other frozen desserts
16 could be wine.

17 Now, Senator, a question.

18 SENATOR LIBOUS: Can we have some
19 order, Madam President.

20 SENATOR PADAVAN: Frozen desserts
21 cover a wide range of products. As an
22 example, you could buy frozen pies, frozen
23 cakes, cheesecake and others.

24 Would this bill allow 5 percent by
25 volume of those products to be wine?

1 SENATOR VALESKY: Yes, it would.

2 Through you, Madam President, yes.

3 SENATOR PADAVAN: So, Senator, in
4 effect what we would be doing is in every
5 small or large retail establishment, from
6 bodegas to 7-11s to supermarkets, turning that
7 dessert area into a place where we're selling
8 5 percent of the volume -- which is a
9 significant amount if you take an apple pie --
10 of alcohol. Is that really what you want to
11 do in this state?

12 SENATOR VALESKY: The intent of
13 the bill is to allow sorbets, sherbets and
14 other products to be added to the list of
15 products that could be made with wine, in
16 conjunction with the bill passed in this house
17 a couple of years ago that created -- I
18 believe Senator Griffo actually sponsored
19 that.

20 SENATOR PADAVAN: On the bill. I
21 don't want to belabor the point.

22 ACTING PRESIDENT STEWART-COUSINS:
23 Senator Padavan, on the bill.

24 SENATOR PADAVAN: What Senator
25 Valesky said as extended to sorbets and

1 similar products is one thing. But the way
2 the bill is written it says "or other frozen
3 desserts." There's no limitation here. It is
4 a wide and broad category.

5 And as we consider one of the
6 proposals in the budget about selling wine in
7 supermarkets, it seems to me that this is
8 something that we're moving substantially,
9 when we talk about 5 percent by volume, in
10 that direction.

11 So I would either suggest to
12 Senator Valesky that he amend the bill to be
13 more specific -- namely, sorbets and what was
14 the other product, sherbet -- and not make it
15 as broad as it is here, covering virtually
16 every product that's in the frozen dessert
17 area.

18 Now, I go into my supermarket and
19 walk down the -- there's a whole aisle, all
20 kinds of frozen desserts. And I don't think
21 we really want to turn that whole aisle into a
22 place where 5 percent by volume is going to be
23 alcohol.

24 ACTING PRESIDENT STEWART-COUSINS:
25 Senator Golden.

1 SENATOR GOLDEN: Thank you,
2 Madam President. I -- Senator Valesky --

3 ACTING PRESIDENT STEWART-COUSINS:
4 Are you asking Senator Valesky to yield?

5 SENATOR GOLDEN: Yes, please.

6 ACTING PRESIDENT STEWART-COUSINS:
7 Senator Valesky, do you yield for a question?

8 SENATOR VALESKY: Yes, certainly.

9 SENATOR GOLDEN: Senator Valesky,
10 do you know how much volume is in a can of
11 beer, how much volume of alcohol is in a can
12 of beer?

13 SENATOR VALESKY: I don't have
14 that information in front of me, no, Senator.

15 SENATOR GOLDEN: Could you get
16 some of your staff --

17 SENATOR VALESKY: Madam
18 President, I'm not sure how the question is
19 relevant to the bill before us.

20 SENATOR GOLDEN: It's a -- it
21 does -- I will get there. I just want to know
22 how much volume of alcohol is in a beer or in
23 a glass of wine. I'm trying to come to the --

24 SENATOR VALESKY: Madam
25 President, through you, I believe it varies on

1 the product that we're talking about. I don't
2 think there's one answer to the question.

3 SENATOR GOLDEN: Well, I --

4 ACTING PRESIDENT STEWART-COUSINS:
5 Senator Golden, would you direct your question
6 through the President?

7 SENATOR GOLDEN: Yes. The -- I
8 know when I was in the service, there were
9 2 percent. But I believe the volume in beer
10 is somewhere around 5 percent, 7 percent.
11 Wine, similar.

12 So we're going to be selling these
13 types of parfaits, cakes, ice creams in these
14 stores, delicatessens, bodegas, that would
15 have content that would be equal to or similar
16 to or close to that of a can of beer or a
17 glass of wine.

18 SENATOR VALESKY: Madam
19 President, through you, I am not aware of any
20 product that presently exists or any interest
21 in creating such a product.

22 As Senator Padavan and I discussed,
23 there has been an interest in developing a
24 wine sorbet. And this bill simply, by
25 addressing that interest, expands the original

1 definition from law two years ago to include
2 the definition that is consistent with the
3 Agriculture and Markets Law in terms of frozen
4 desserts.

5 SENATOR GOLDEN: The -- on the
6 bill, Madam President.

7 ACTING PRESIDENT STEWART-COUSINS:
8 Senator Golden, on the bill.

9 SENATOR GOLDEN: We've seen only
10 recently in some delicatessens and bodegas
11 over in the Bronx that were attempting to sell
12 some concoctions in their stores that had
13 alcoholic contents to them. And I believe
14 many of the people in the community were very
15 upset about it, and many of our elected
16 officials were upset about it.

17 I believe right now it's difficult
18 for the policing agents, the SLA, the ABC, all
19 of those different units to be able to
20 supervise what is presently going on in our
21 state here, such as kids under the age of 18,
22 16, 17, purchasing beer, purchasing wine in
23 stores, purchasing liquor, going into some of
24 our institutions and our bars across the
25 state.

1 And I think this is just another
2 tool that our children will have the ability
3 to use to get that high that they're looking
4 for, in some cases. And I think that this
5 sends the wrong message in selling these out
6 of grocery stores, out of bodegas, out of
7 different stores across our state.

8 It's the wrong message. It's like
9 selling the wine in the grocery stores.
10 Tomorrow, it's our parfaits, wine in grocery
11 stores, and then eventually liquor in grocery
12 stores.

13 I think it's wrong. I think there
14 is a price to pay for that, and that's our
15 children. And some of them, unfortunately,
16 will go out, some of them will drive, some of
17 them will get into accidents, and some of them
18 will kill themselves and others in these
19 vehicle accidents. And others will have, you
20 know, opportunity to have alcohol when in fact
21 we, as a responsible state legislature, should
22 not be allowing this type of alcohol to be
23 available in the stores across the State of
24 New York --

25 ACTING PRESIDENT STEWART-COUSINS:

1 Senator Johnson. Senator Johnson, why do you
2 rise?

3 SENATOR CRAIG JOHNSON: Will
4 Senator Golden yield for a question, please?

5 ACTING PRESIDENT STEWART-COUSINS:
6 Senator Golden, will you yield?

7 SENATOR GOLDEN: Yes, sir.

8 SENATOR CRAIG JOHNSON: Thank you
9 very much, Senator Golden. And I didn't
10 mean -- I mean, if you wanted to finish your
11 statement, I'd gladly wait.

12 SENATOR GOLDEN: I finished it.
13 I voted no on the bill.

14 SENATOR CRAIG JOHNSON: Through
15 you, Madam President. Senator Golden, I was
16 listening to your statement, and I just want
17 to get some clarification.

18 First, when you talked about the
19 incidents in the Bronx with these bodegas, can
20 you expand upon that? You talked about
21 alcohol. I'm trying to get an understanding
22 about what these incidents were with respect
23 to these concoctions that were
24 alcohol-related.

25 SENATOR GOLDEN: Well, I don't

1 believe that that has anything to do with the
2 bill that I am talking about. Through you,
3 Madam President. But I believe it was in the
4 New York Post and in other newspapers. If you
5 want to read about it, you can.

6 But what I'm discussing here is
7 alcohol that is readily available to our
8 children at a low-cost price that is as cheap
9 as a parfait or an ice cream, that our parents
10 are unaware of that these children have
11 opportunities, going into these stores and
12 having the opportunity to purchase these
13 parfaits, these ice creams, and indulging in
14 what may be alcoholic content of 5 percent.

15 SENATOR CRAIG JOHNSON: Will
16 Senator Golden continue to yield?

17 ACTING PRESIDENT STEWART-COUSINS:
18 Senator Golden, do you continue to yield?

19 SENATOR GOLDEN: Yes, I do,
20 Madam President.

21 SENATOR CRAIG JOHNSON: Senator
22 Golden, I mean I just wondered, because you
23 brought up -- in your comments in explaining
24 the bill you brought up, as an example, this
25 incidence in the Bronx as maybe a basis for

1 why you didn't support Senator Valesky's
2 legislation, and now you say it doesn't apply.
3 So I was just trying to get clarification.

4 Do you know how much someone would
5 have to consume with respect to maybe one of
6 these wine-laden parfaits in order to get the
7 buzz or the state of inebriation that we're
8 all concerned about when it comes to our young
9 people?

10 SENATOR GOLDEN: Senator, I do
11 believe -- Madam President, I do believe that
12 it doesn't matter, my dear man, in how many it
13 takes.

14 What we're doing is allowing our
15 children to have the opportunity to have
16 alcohol and to break them into the possibility
17 of having and expanding into beer and wine and
18 giving them the steps and the ability to have
19 more alcohol when they are under the age of
20 21 years of age. This is just a slippery
21 slope that allows for the children to have
22 alcohol of 5 percent content.

23 SENATOR CRAIG JOHNSON: Madam
24 President, will the Senator continue to yield
25 for a question?

1 SENATOR GOLDEN: Of course,
2 Senator.

3 ACTING PRESIDENT STEWART-COUSINS:
4 Senator Golden, do you continue to yield?

5 SENATOR GOLDEN: Yes, I do,
6 Madam President.

7 SENATOR CRAIG JOHNSON:
8 Excellent. Senator Golden, when we passed
9 this legislation in 2008 when your side
10 controlled this great chamber of ours, how did
11 you vote on this bill, when we allowed it for
12 ice cream?

13 SENATOR GOLDEN: It was not the
14 same bill, my dear Senator. Madam President.

15 SENATOR CRAIG JOHNSON: Okay.
16 Madam President, through you, I repeat my
17 question for a simple yes-or-no answer.

18 Did you vote on this legislation in
19 2008 when it came to wine in an ice cream
20 product, yes or no?

21 SENATOR GOLDEN: The answer,
22 Madam President, is no. Because it's not the
23 same bill, Madam President.

24 And the state legislator should
25 understand the difference between last year's

1 bill in 2008, two years ago, versus this bill.
2 Maybe he should be briefed before he asks the
3 question.

4 SENATOR CRAIG JOHNSON: Thank
5 you.

6 Madam President, will Senator
7 Golden continue to yield?

8 ACTING PRESIDENT STEWART-COUSINS:
9 Senator Golden, do you continue to yield?

10 SENATOR GOLDEN: Yes, I do,
11 Senator.

12 SENATOR CRAIG JOHNSON: Senator
13 Golden, your concern about our children having
14 access to this product, when a child goes in
15 to purchase, let's say, beer in a supermarket,
16 I would assume that that child could -- that
17 child or that teenager would also be proofed
18 at the supermarket checkout; correct?

19 SENATOR GOLDEN: The law is yes,
20 they should, Madam President.

21 SENATOR CRAIG JOHNSON: Okay.
22 And through you, Madam President, are they
23 also proofed with respect to the ice cream
24 that's currently sold right now under the law?

25 SENATOR GOLDEN: No, they are

1 not, Madam President.

2 SENATOR CRAIG JOHNSON: And,
3 Madam President, through you, will Senator
4 Golden continue to yield?

5 ACTING PRESIDENT STEWART-COUSINS:
6 Senator Golden, do you continue to yield?

7 SENATOR GOLDEN: Yes. Yes, I do,
8 Madam President.

9 SENATOR CRAIG JOHNSON: Have you
10 received, by the way, you know, complaints
11 from constituents, either your district or
12 other districts, as to the rise in horrific
13 underage consumption of wine ice cream in this
14 state, or in your district or in my district?

15 SENATOR GOLDEN: Madam President,
16 since it's not legal in the state of our great
17 New York, no, I have not.

18 I will tell you, though, Madam
19 President, I get constant complaints about
20 underage drinking in my community. I have
21 numbers of hit-and-run accidents. I have
22 numbers of DWIs by young children that are
23 under the age of 21, 19, 18, 17 in my
24 community. And I think he, as the good
25 Senator from Long Island, has a similar

1 problem.

2 So that's why I am so ardently
3 against this bill, Madam President.

4 SENATOR CRAIG JOHNSON: Through
5 you, Madam President, will Senator Golden
6 continue to yield?

7 ACTING PRESIDENT STEWART-COUSINS:
8 Senator Golden, do you continue to yield?

9 SENATOR GOLDEN: Yes.

10 SENATOR CRAIG JOHNSON: Do you
11 have the same complaints with respect to
12 consumption of wine in ice cream with the
13 underage drinking-and-driving problems that
14 you've just talked about?

15 SENATOR GOLDEN: Madam President,
16 I don't have it because it's not yet sold.

17 But maybe after the good Senator
18 gets this bill passed and it's here in this
19 great state, then maybe yes, we will see the
20 problems that this bill, this action brings
21 upon our communities across the State of
22 New York.

23 SENATOR CRAIG JOHNSON: Madam
24 President, will Senator Valesky yield for a
25 couple of questions as the sponsor of the

1 bill?

2 ACTING PRESIDENT STEWART-COUSINS:

3 Senator Valesky, do you yield?

4 SENATOR VALESKY: Certainly.

5 SENATOR CRAIG JOHNSON: Senator
6 Valesky, in hearing this fascinating dialogue
7 between myself and Senator Golden, maybe you
8 can explain what would be the economic impact
9 for our great state --

10 SENATOR LIBOUS: Madam President,
11 point of order. I believe Senator Golden has
12 the floor.

13 SENATOR CRAIG JOHNSON: I
14 apologize for --

15 ACTING PRESIDENT STEWART-COUSINS:
16 -- have the floor.

17 SENATOR LIBOUS: He interrupted
18 him with a question.

19 ACTING PRESIDENT STEWART-COUSINS:
20 Senator Golden was asked whether or not he
21 would allow Senator Valesky to answer a
22 question. And Senator Golden, I believe you
23 were engaged and so you might not have heard
24 that.

25 But Senator Johnson would like to

1 direct his questioning to Senator Valesky, if
2 you --

3 SENATOR GOLDEN: Well, Senator
4 Valesky will have his opportunity to get on
5 the floor. But I am debating Senator Johnson
6 at this moment, and the answer is no.

7 SENATOR CRAIG JOHNSON: I'm
8 sorry, no to --

9 SENATOR GOLDEN: As to referring
10 to Senator Valesky.

11 SENATOR CRAIG JOHNSON: Senator
12 Golden, I thank you for your questions.

13 My understanding, by the way, when
14 I stood up, Senator Golden did say he was
15 complete with his statement. So I just want
16 to make sure, if we get clarification, who
17 actually has the floor right now. Senator
18 Golden had completed his statement.

19 ACTING PRESIDENT STEWART-COUSINS:
20 Senator Golden --

21 SENATOR LIBOUS: Point of order.
22 Senator Golden had the floor at the time.

23 ACTING PRESIDENT STEWART-COUSINS:
24 I understand that, Senator Libous.

25 SENATOR LIBOUS: It was never

1 relinquished.

2 ACTING PRESIDENT STEWART-COUSINS:
3 And I -- and I've said that. And I have just
4 repeated that.

5 SENATOR LIBOUS: Thank you.

6 ACTING PRESIDENT STEWART-COUSINS:
7 So it is very clear that Senator Golden has
8 the floor.

9 And, Senator Johnson, if --

10 SENATOR LIBOUS: Thank you.

11 ACTING PRESIDENT STEWART-COUSINS:
12 -- you are finished with posing questions,
13 then we will let Senator Golden continue his
14 statement.

15 SENATOR CRAIG JOHNSON: I am,
16 Senator Stewart-Cousins. Thank you very much,
17 Madam President.

18 Thank you very much, Senator
19 Golden.

20 ACTING PRESIDENT STEWART-COUSINS:
21 Thank you.

22 SENATOR GOLDEN: Thank you,
23 Senator Johnson.

24 And as I have said, Madam
25 President, I will be voting no on this bill.

1 Thank you.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Senator Little.

4 SENATOR LITTLE: Thank you,
5 Madam President. On the bill.

6 I'm going to vote yes on this bill.
7 But I would like to point out that while this
8 is a bill that certainly will help a segment
9 of population and some of the businesses in
10 New York State, there are many businesses and
11 many people in New York State that need to
12 know what we are doing about the budget
13 process and what is going to happen to them.

14 And just to point out, the school
15 districts have to come up with their budget
16 plan, they have to have a budget by
17 April 27th, they have a budget vote that has
18 to take place in mid-May. We have the halls
19 full of people, we have people visiting our
20 offices --

21 ACTING PRESIDENT STEWART-COUSINS:
22 Senator Little, we would like to keep the
23 comments germane to the bill.

24 SENATOR LITTLE: If I could just
25 conclude.

1 Being here, this is our third week
2 of four-day weeks, I think that we need to be
3 doing something more substantial and get to
4 the budget process so we don't have what
5 happened last year.

6 Thank you.

7 ACTING PRESIDENT STEWART-COUSINS:

8 Thank you, Senator.

9 Senator Padavan.

10 SENATOR PADAVAN: Are we voting?

11 ACTING PRESIDENT STEWART-COUSINS:

12 No, Senator Padavan.

13 Senator Johnson.

14 SENATOR CRAIG JOHNSON: Thank you
15 very much, Madam President. Will the sponsor
16 yield for a couple of quick questions?

17 ACTING PRESIDENT STEWART-COUSINS:

18 Senator Valesky, will you yield?

19 SENATOR VALESKY: Certainly.

20 Certainly.

21 SENATOR CRAIG JOHNSON: Thank
22 you. And thank you, Senator Valesky, for
23 taking the time.

24 I'm just trying to get an
25 understanding as to -- we've certainly heard

1 the concerns from Senator Padavan and Senator
2 Golden --

3 ACTING PRESIDENT STEWART-COUSINS:
4 May we have order in the chamber, please.

5 SENATOR CRAIG JOHNSON: -- and
6 certainly heard the support from Senator
7 Little. I'm trying to get an understanding.
8 What are the economic benefits to passing this
9 legislation?

10 SENATOR VALESKY: Madam
11 President, through you, this bill is
12 consistent with a number of bills that this
13 house has taken up in recent years that would
14 be of assistance to New York's wine and grape
15 industry.

16 In fact, the law that this bill
17 amends, I would just make clear for the
18 record, was approved, signed into law by the
19 Governor as Chapter 189 of the Laws of 2008,
20 which was approved in this house by a vote of
21 60 to nothing two years ago.

22 So this, Senator Johnson, to your
23 question, continues to move forward and
24 encourage the continued development of the
25 wine and grape industry in this state without

1 any risk of young people having access to
2 alcohol.

3 It is very clear, line 20 and 21 of
4 the bill: "The sale of this product to
5 individuals under the age of 21 years is
6 prohibited," consistent with any other product
7 that is sold in any establishment that
8 contains alcohol.

9 SENATOR CRAIG JOHNSON: Madam
10 President, will Senator Valesky -- I know he's
11 eager to sit down and not face my relentless
12 questioning. But will Senator Valesky
13 continue to yield?

14 ACTING PRESIDENT STEWART-COUSINS:
15 Senator Valesky, do you continue to yield?

16 SENATOR VALESKY: Yes, I will.
17 Certainly.

18 SENATOR GOLDEN: Now, Senator
19 Valesky, I was listening to this debate. And
20 I'm trying to get an understanding, because I
21 think the question came up -- maybe it was
22 from Senator Golden -- about the volume of
23 alcohol in glasses or beer cans. But how much
24 ice cream or sherbet -- I mean, ice cream is
25 the best example right now. But how much

1 ice cream would it take to equal one glass of
2 New York's finest red wine in terms of
3 alcohol? How much would it take for --

4 SENATOR VALESKY: Madam
5 President, through you, my understanding is it
6 would take about two quarts of ice cream to
7 equal the alcohol content in one glass of
8 wine.

9 SENATOR CRAIG JOHNSON: Madam
10 President, through you, will Senator Valesky
11 continue to yield?

12 SENATOR VALESKY: Certainly.

13 ACTING PRESIDENT STEWART-COUSINS:
14 Senator Valesky, do you continue to yield?

15 SENATOR VALESKY: Yes.

16 SENATOR CRAIG JOHNSON: I would
17 assume -- I don't profess to be an expert in
18 making ice cream or sherbet or sorbet. But I
19 would assume that same size -- two quarts of
20 ice cream would be similar also for sherbet or
21 sorbets, that two quarts of sherbet or sorbet
22 would equal one glass of red wine.

23 SENATOR VALESKY: That would be
24 correct, yes.

25 SENATOR CRAIG JOHNSON: Okay.

1 Through you, Madam President, one more
2 question.

3 ACTING PRESIDENT STEWART-COUSINS:
4 Senator Valesky, do you continue to yield?

5 SENATOR VALESKY: Yes, I do.

6 SENATOR CRAIG JOHNSON: Thank
7 you.

8 And just to clarify, the language
9 with respect to -- I think it was referenced
10 the 5 percent of alcohol by volume, we're not
11 talking about, you know, percentages of store
12 space, we're talking about percentages of
13 alcohol within the particular product; is that
14 correct?

15 SENATOR VALESKY: Madam
16 President, through you, that's correct.

17 SENATOR CRAIG JOHNSON: Thank
18 you, Senator Valesky.

19 On the bill, Madam President.

20 ACTING PRESIDENT STEWART-COUSINS:
21 Senator C. Johnson, on the bill.

22 SENATOR CRAIG JOHNSON: I'm going
23 to support this legislation for a number of
24 reasons.

25 First of all, I think, as Senator

1 Little talked about, and others, Senator
2 Valesky, I think this is going to have a very
3 positive economic impact for our state, in
4 particular our wine growers -- our
5 entrepreneurs who are going to enter into the
6 frozen market.

7 As a parent of three children, all
8 under the age of 8, I am very familiar with
9 the frozen ice cream and frozen treat section
10 of a supermarket, and I know what they sell in
11 terms of ice cream, sorbets. Look, you know,
12 my kids have -- I think children in general
13 are more interested in chocolate chip ice
14 cream than a Bordeaux sorbet. I mean, that's
15 what the tastes run in the Johnson household
16 and maybe other households.

17 But I think we are overreaching in
18 terms of some of the concerns here. No doubt,
19 no doubt we are trying to prevent any
20 particular problems when it comes to drinking
21 and driving. But I think what shows here is
22 that if you can eat more than two quarts of
23 ice cream in one sitting, you've got a better
24 constitution than I have when it comes to
25 holding something down like that.

1 So this is a piece of legislation
2 that's going to help our farmers, our grape
3 growers, our entrepreneurs in selling products
4 in New York State. I support this
5 legislation. I thank Senator Valesky for his
6 time in answering the questions. I thank you,
7 Senator Golden, as well for engaging in a
8 productive dialogue for this piece of
9 legislation.

10 I'll be voting yes, Madam
11 President. Thank you very much.

12 ACTING PRESIDENT STEWART-COUSINS:
13 Thank you, Senator Johnson.

14 Senator Klein.

15 SENATOR KLEIN: Thank you,
16 Madam President.

17 I want to stand in support of
18 Senator Valesky's legislation, and I want to
19 praise the Senator for once again upholding
20 the interests of upstate New York, once again
21 upholding the interests of our agricultural
22 industry in New York State.

23 It's very interesting that when a
24 bill is introduced and passed by a Democrat,
25 all of a sudden we change the meaning of the

1 bill, we change the importance of the bill. I
2 guess Senator Golden likes ice cream, but he
3 hates sherbet and sorbet.

4 Because this is something that
5 clearly is something that's very, very
6 important to the wine industry in New York
7 State. I constantly hear how we have to do
8 everything possible to make sure New York
9 wines are competitive with other wines across
10 our nation. And I'm all for that.

11 So anything we can do to promote
12 our wine industry by expanding the definition
13 to sorbet and other things is something that
14 we all should support, whether or not now
15 Senator Valesky, a majority member, is
16 introducing the bill.

17 So thank you, Senator Valesky. And
18 I vote yes on this legislation, Madam
19 President.

20 ACTING PRESIDENT STEWART-COUSINS:
21 Thank you.

22 Senator Libous.

23 SENATOR LIBOUS: Thank you,
24 Madam President.

25 You know, Senator Klein brings up a

1 very good point. And we care very much about
2 supporting upstate economies, and that's
3 something that this side of the aisle has done
4 and will continue to do.

5 And I guess, based on that, I have
6 a question for Senator Valesky, if he would
7 yield.

8 ACTING PRESIDENT STEWART-COUSINS:
9 Senator Valesky, do you yield?

10 SENATOR VALESKY: Yes.

11 SENATOR LIBOUS: Thank you, Madam
12 President.

13 Senator Valesky, in the budget this
14 year, the Governor has a sugar tax. And the
15 sugar tax as proposed is --

16 ACTING PRESIDENT STEWART-COUSINS:
17 Senator Libous, is this germane to the bill?

18 SENATOR LIBOUS: Oh, it's very
19 germane, if you'd let me finish,
20 Madam President.

21 ACTING PRESIDENT STEWART-COUSINS:
22 This is about alcohol content in sorbet.

23 SENATOR LIBOUS: It is very much
24 about alcohol content, Madam President.

25 ACTING PRESIDENT STEWART-COUSINS:

1 Continue, Senator Libous.

2 SENATOR LIBOUS: Thank you,
3 Madam President.

4 As we care about the economy of
5 upstate New York, and as the Governor has
6 proposed in his budget, Madam President,
7 through you to Senator Valesky, a sugar tax,
8 and as these are alcohol and sugary treats,
9 and as alcohol is taxed in this state and now
10 we want to put a sugar tax on soda and
11 juices --

12 ACTING PRESIDENT STEWART-COUSINS:
13 Senator -- Senator --

14 SENATOR LIBOUS: Madam President,
15 my question to Senator Valesky is will there
16 be a sugar tax imposed on this product?
17 Because as we're talking about per volume of
18 liquid, I'm just somewhat concerned, as
19 proposed in your legislation.

20 SENATOR VALESKY: Madam
21 President, through you. This bill, if it's
22 approved today, would not have any impact on
23 the definition of a sugar tax as proposed by
24 Governor Paterson in his Executive Budget.

25 SENATOR LIBOUS: Thank you,

1 Madam President.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Thank you, Senator Libous.

4 Senator Marcellino.

5 SENATOR LARKIN: Thank you,
6 Madam President.

7 SENATOR MARCELLINO: Senator
8 Marcellino, she said.

9 SENATOR LARKIN: Oh, excuse me.

10 (Laughter.)

11 SENATOR LARKIN: I didn't have my
12 hearing aid in. I was worried about it.

13 SENATOR MARCELLINO: I know we
14 look so much alike.

15 (Laughter.)

16 SENATOR LARKIN: You have a
17 little more hair.

18 (Laughter.)

19 SENATOR MARCELLINO: I just have
20 a little more hair. Just a little more. But
21 it's going fast.

22 Madam President, could I ask my
23 colleague and friend Senator Valesky a
24 question, please?

25 ACTING PRESIDENT STEWART-COUSINS:

1 Senator Valesky, do you yield?

2 SENATOR VALESKY: Certainly.

3 Yes.

4 SENATOR MARCELLINO: David, I
5 heard you ask -- and I don't mean that with
6 disrespect. I heard you mention the fact that
7 the purpose of this bill is to enhance the
8 wine industry in upstate New York or in
9 New York in general. Is that correct?

10 SENATOR VALESKY: That's correct,
11 yes.

12 SENATOR MARCELLINO: Is the wine
13 to be used in these sugar desserts limited to
14 New York State wines?

15 SENATOR VALESKY: No, it is not.

16 SENATOR MARCELLINO: Are the
17 desserts produced in New York State?

18 SENATOR VALESKY: Some are, some
19 aren't.

20 SENATOR MARCELLINO: Yes, I go to
21 the grocery store -- and again, through you,
22 Madam President, if he will continue to yield.

23 ACTING PRESIDENT STEWART-COUSINS:
24 Senator Valesky, do you continue to yield?

25 SENATOR VALESKY: Yes.

1 SENATOR MARCELLINO: I go to the
2 grocery store. And I'm a Type 2 diabetic, and
3 I look at sugar content constantly. And I'm
4 constantly looking at the dessert counter. As
5 is obvious, I enjoy dessert now and again.
6 But I find that most of the desserts are not
7 made in New York State, they're not even made
8 in this country.

9 So I wonder, if we do not have been
10 some type of restriction on where it's made
11 and where the wine will come from, how can we
12 know that there's a benefit in any way, shape
13 or form to New York State wines?

14 SENATOR VALESKY: Well, Senator
15 Marcellino, I would -- in answer to that
16 question, I would refer back to the original
17 law from two years ago that we're amending. A
18 local business in Boonville, New York, in
19 upstate New York, Mercer's Dairy, has been
20 manufacturing wine ice cream since the
21 enactment of Chapter 189 of the Laws of 2008,
22 and that has been an economic success,
23 directly as a result of the law that we passed
24 here two years ago.

25 So I think it's consistent with

1 that law and in the spirit of that law that we
2 could envision and will see, should this
3 particular bill be approved, similar economic
4 businesses by New York businesses.

5 SENATOR MARCELLINO: Through you,
6 Madam President. Will Senator Valesky
7 continue to yield?

8 ACTING PRESIDENT STEWART-COUSINS:
9 Senator Valesky, do you continue to yield?

10 SENATOR VALESKY: Yes.

11 SENATOR MARCELLINO: Have you had
12 any requests from other manufacturers of
13 desserts for this product and for the
14 production of this product in the state?

15 SENATOR VALESKY: Madam
16 President, through you. We have received a
17 similar request -- actually, Assemblyman
18 Magee, the chairman of the Assembly
19 Agriculture Committee has directly received
20 that request.

21 I don't have that individual to
22 share with you today, but I can assure you
23 that through Assemblyman Magee's office that
24 outreach has been made, and hence the bill
25 introduced in both that house and here.

1 SENATOR MARCELLINO: Madam
2 President, through you, if the Senator will
3 continue to yield.

4 ACTING PRESIDENT STEWART-COUSINS:
5 Senator Valesky, do you continue to yield?

6 SENATOR VALESKY: Yes.

7 SENATOR MARCELLINO: Senator
8 Valesky, is it your understanding that the
9 wines used in these desserts are high-quality
10 wines? I mean, are they the kind of wines
11 that you would be putting on your dinner
12 table? Or are these, you know, like a cooking
13 sherry or something like that?

14 SENATOR VALESKY: My
15 understanding is -- Madam President, through
16 you -- these are wines from pinots to
17 chardonnays to other products that are
18 manufactured here in New York State and
19 elsewhere. Quality wines.

20 SENATOR MARCELLINO: Well, I'm
21 not talking about the quality of the producer,
22 I'm talking about the grade of the wine
23 itself.

24 I would not imagine -- Madam
25 President, if the Senator will continue to

1 yield.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Senator, do you continue to yield?

4 SENATOR VALESKY: Yes.

5 SENATOR MARCELLINO: I would not
6 imagine that they're going to use the
7 highest-quality chardonnay in a dessert or in
8 an ice cream wine. That would be the
9 lesser-quality product. That would make sense
10 to me. I don't see the highest quality
11 products going into this wine; that would be a
12 waste.

13 So again, is there and has there
14 been -- in your understanding, are there
15 numbers, are there requests from the wine
16 manufacturers that this is going to in effect
17 help them and help their bottom line?

18 SENATOR VALESKY: Madam
19 President, again through you, there has been
20 at least one request for this law to be
21 amended to include the opportunity to
22 manufacture ice cream sorbet in this state.

23 And the intent of the bill --
24 again, Madam President, through you -- Senator
25 Marcellino, is to provide our grape growers

1 and wine industry in this state with
2 additional opportunities by which to expand
3 their industry. This bill, I believe, is
4 consistent with that theory.

5 SENATOR MARCELLINO: Thank you,
6 Madam President. On the bill.

7 Thank you, Senator.

8 ACTING PRESIDENT STEWART-COUSINS:
9 Senator Marcellino, on the bill.

10 SENATOR MARCELLINO: Madam
11 President, I agree with my colleague Senator
12 Padavan. The definition of these desserts I
13 think has to be clarified. Will it require --
14 if the volume is such, will it require a
15 liquor license? Will it require some kind of
16 understanding as to where these desserts are
17 going to be placed? Will it require a
18 proofing process in order to get these wines?

19 I mean, we are opening a door here.
20 I understand trying to create a market. I do.
21 And I believe -- and we have wine growers on
22 Long Island; they're always looking to expand
23 their market. Hence the idea of selling wine
24 in grocery stores is coming into play, as we
25 all know. There is a move in that direction.

1 It can create a problem, because we
2 do have an enforcement situation. We do have
3 a concern that you cannot monitor and you
4 cannot go after the illegal sales of this
5 product. And there's no way the grocery store
6 is going to handle it like a liquor store
7 would.

8 So if you don't define carefully
9 the kind of product that you're going to allow
10 these wines in, then I think we have an
11 open-ended situation. You'll find them
12 everywhere. And it doesn't take -- I
13 understand Senator Johnson's comments about
14 how much. And a couple of quarts was designed
15 to say, well, it's insignificant.

16 Well, it really isn't. It's like
17 saying, you know, only one little sip is
18 insignificant of alcohol. My mother used to
19 give us, you know, wine at the table, my
20 brother and I. She would give us a glass of
21 wine. She'd take an 8-ounce glass of wine,
22 put about an eighth of an inch of wine in it,
23 and fill the rest of it up with water. You
24 could barely see a pink color. She wanted us
25 to have a taste of it, but she didn't want her

1 sons to become drunks. So this was a way of
2 protecting us.

3 But the idea here that only a
4 little bit is there, that it's only a small
5 amount -- we could use that argument
6 everywhere, in any situation. We're opening a
7 door, and we have to be careful how we open
8 that door. I understand we voted for the
9 ice cream, but that doesn't mean now we're
10 going to vote for this and then we're going to
11 have it in other products, and in other
12 products.

13 Because any other food product that
14 you can imagine, we can include wine. Where
15 does it end? What's the stop? I mean, the
16 wine industry has some group that's going to
17 say, We want more access and we want to be
18 able to sell our products, and therefore this
19 is a good idea and this is a good way to do
20 it.

21 Again, we're opening a door. And
22 if we don't look ahead and think ahead about
23 it, the potential is problematic. It may not
24 be a disaster, but it's problematic. And I am
25 concerned about the problem. I am concerned

1 about this making it too easy to access
2 alcoholic beverages. And I don't like it.
3 You know, I'm not saying I'm a teetotaler,
4 but I don't like the idea that we are now
5 opening this door and making it so simple that
6 you can get it.

7 So, Madam President, I will be
8 joining my colleague and vote no on this bill.
9 I would like to see if this bill was amended
10 and there were some restrictions put in as to
11 the kind of desserts, as to the kind of
12 product that it was in. And specifically
13 limiting the amount -- not so much 5 percent
14 by volume, because I think that's a lot.

15 If you limited it so that the
16 flavor you want to enhance, that's one thing.
17 But if you limit the kind of desserts that you
18 put them into, and you limit the places where
19 it can be sold, then I think I could support
20 it. But the way it is now, I think it's just
21 too broad. And it opens too big of a door in
22 much too wide a situation.

23 Thank you, Madam President.

24 ACTING PRESIDENT STEWART-COUSINS:

25 Thank you, Senator.

1 Senator Schneiderman.

2 SENATOR SCHNEIDERMAN: Thank you,
3 Madam President. I'd like to speak on this
4 bill in support of Senator Valesky.

5 I think that this bill in and of
6 itself is pretty straightforward. We've
7 passed a bill unanimously a while ago that
8 needed a technical correction and allowed the
9 use of wine in the manufacture of ice cream.
10 There's businesses in New York State doing it.
11 There are other businesses, in a time of
12 economic stress, that would like to make
13 sorbet; they're barred from doing so
14 currently. This would enable them to conduct
15 such businesses.

16 So the bill itself is worth
17 supporting. It's a pro-business bill.

18 But I have to say that dealing with
19 a lot of issues related to alcohol abuse and
20 drunk driving and the illegal sale of alcohol
21 in the Codes Committee, I am a bit dismayed at
22 the discussion that's just taken place. I do
23 sponsor the bill to ban what's called
24 "Nutcracker" -- and these are the articles
25 that Senator Golden was referring to about

1 bodegas and barber shops, actually, and other
2 stores selling very, very sweet, very highly
3 potent alcohol to children. Sometimes they
4 even have candies in the alcohol.

5 And I sponsor a bill that would
6 enable us to enforce the laws more effectively
7 to prevent that, that would actually enable us
8 to take away the licenses of these stores
9 because the SLA is not capable of policing
10 even the legitimate businesses that sell
11 alcohol, much less barbershops and others.

12 And in lieu of a complex debate
13 attempting to make the tenuous if not absurd
14 point that this bill would make sorbet the new
15 gateway drug in the State of New York, I would
16 appreciate it if Senator Golden -- who is not
17 a sponsor of the bill to ban Nutcracker --
18 would sign onto the bill to address the real
19 problem. And I welcome all of my colleagues
20 to join me in that effort.

21 Thank you, Madam President. I'll
22 be voting yes.

23 ACTING PRESIDENT STEWART-COUSINS:
24 Thank you, Senator.

25 Senator Larkin.

1 SENATOR LARKIN: Madam President,
2 would Senator Valesky yield for a question?

3 ACTING PRESIDENT STEWART-COUSINS:
4 Senator Valesky, do you yield?

5 SENATOR VALESKY: Yes.

6 SENATOR LARKIN: We talk about
7 the wineries. I just stepped out here before,
8 and I called four wineries. They knew nothing
9 about the bill. And I asked them, "What do
10 you think?" And all four said, "I don't want
11 a part of it."

12 Do you have any requests from
13 wineries that they want you to do this?

14 SENATOR VALESKY: Madam
15 President, through you. I've had numerous
16 conversations with the Farm Bureau -- who, as
17 Senator Larkin and others know, represent the
18 wine industry, the grape-growing industry in
19 this state -- and they have indicated to me on
20 behalf of the wine industry that they are
21 supportive of this legislation.

22 SENATOR LARKIN: Well, I think,
23 David, we also should hear from the wineries.
24 Thank you very much.

25 You know, Madam President, it's

1 4:23 now, at this time. And while I was out
2 there, I was told I had another phone call.
3 And the phone call was this: "I heard you're
4 debating wineries."

5 ACTING PRESIDENT STEWART-COUSINS:
6 Senator --

7 SENATOR LARKIN: Just a minute.
8 And he said, "When are you going to sit down
9 and discuss the budget? I am going to lay off
10 16 people in my school district. I think it's
11 about time" --

12 ACTING PRESIDENT STEWART-COUSINS:
13 Senator --

14 SENATOR LARKIN: -- "that we
15 start talking about the budget."

16 ACTING PRESIDENT STEWART-COUSINS:
17 Senator Larkin, we know that -- we are trying
18 to debate this bill, and your comments are not
19 germane.

20 SENATOR LARKIN: Well, they may
21 not be germane --

22 ACTING PRESIDENT STEWART-COUSINS:
23 They're out of order.

24 SENATOR LARKIN: -- Madam
25 President, but they are germane to the people

1 who are paying the taxes in this state. Thank
2 you.

3 ACTING PRESIDENT STEWART-COUSINS:
4 Thank you, Senator Larkin.

5 Senator Stachowski.

6 SENATOR STACHOWSKI: Madam
7 President, I too rise to support this bill.

8 I thought it was a good idea when
9 Senator Griffo had a bill to allow Mercer
10 Dairy to sell their wine-flavored ice creams.
11 And although I really like ice cream a lot, I
12 think those are -- they just taste terrible to
13 me.

14 (Laughter.)

15 SENATOR STACHOWSKI: But I don't
16 know why any kid would want to eat that stuff.
17 It's just -- it's good to people that like
18 wine, I think. But, you know, to an average
19 ice cream eater, it's not all that great.

20 But I think to expand it to sorbet
21 and sherbet is a great idea. The Farm Bureau
22 supports it. And the people that make this
23 product think it's a good idea. I don't see
24 anybody getting hooked on wine-flavored sorbet
25 or wine-flavored sherbet. I think that we

1 have much more serious things to worry about.

2 And if everyone felt so strongly
3 about that, it's amazing they didn't feel that
4 strongly about ice cream. So I'm supporting
5 Senator Valesky's proposal and hope it passes.
6 Thank you.

7 ACTING PRESIDENT STEWART-COUSINS:
8 Thank you, Senator Stachowski.

9 Is there anyone else wishing to
10 speak on the bill? Senator Golden.

11 SENATOR GOLDEN: I shall be
12 quick.

13 One of the reasons that I'm voting
14 no on this bill is because of Senator
15 Schneiderman's bill. And I would love to join
16 on Senator Schneiderman's bill, but you have
17 to circulate it so that we can get on that
18 bill.

19 Will the sponsor please yield for a
20 question?

21 ACTING PRESIDENT STEWART-COUSINS:
22 Senator Valesky, do you yield?

23 SENATOR VALESKY: Yes,
24 Madam President.

25 SENATOR GOLDEN: And I'll be

1 quick.

2 I think line one on your bill says:

3 "Consumption of alcohol impairs your ability
4 to drive a car" -- on page 2, line 1.

5 "Consumption of alcohol impairs your ability
6 to drive a car or operate machinery and may
7 cause health problems."

8 Line 3, the following advisory or
9 sign or poster, not less than 7 inches or
10 5 inches in a format. And then it goes down
11 to line 8, and that sign will say: "This area
12 contains wine ice cream and other frozen
13 desserts made with wine."

14 Line 10: "The sale of wine ice
15 cream or other frozen desserts made with
16 wine."

17 Line 11: "Individuals under the
18 age of 21 years of age are prohibited."

19 Line 12: "Wine ice cream or other
20 frozen desserts made with wine," 13, "contain
21 alcohol up to 5 percent by volume."

22 Line 17: "Women should not consume
23 alcohol during pregnancy because of the risk
24 of birth defects." Line 18.

25 Line 19: "Consumption of alcohol

1 impairs your ability to drive a car."

2 Line 20: "Operating machinery may
3 cause a health problem."

4 Line 21: "It is a violation
5 punishable under law if any person under the
6 age of 21" -- 22, 23 and 24, those lines --
7 "to present any written evidence of age that
8 is false, fraudulent or not actually his own
9 for the purpose of attempting to purchase wine
10 ice cream or other frozen desserts."

11 Why so many protections in this
12 bill, Sponsor?

13 SENATOR VALESKY: Madam
14 President, through you. The information that
15 Senator Golden just read is, with the
16 exception of "or other frozen desserts made
17 with wine," part of existing law.

18 Perhaps Senator Griffo, as the
19 sponsor of this law two years ago, who ably
20 wrote this law -- and I want to thank Senator
21 Griffo and credit him for his efforts in this
22 regard, to make sure that there is appropriate
23 warning signs or notification.

24 So perhaps Senator Griffo, as the
25 original sponsor of this law, would like to

1 respond, since Senator Golden's questions
2 really relates to the original law as opposed
3 to the bill that's in front of us today.

4 SENATOR GOLDEN: Madam President,
5 this 6780 I believe is Senator Valesky's bill,
6 not Senator Griffo's bill. And therefore, I'd
7 like Senator Valesky to explain, the sponsor
8 of the bill to explain why he believes we need
9 this much protection in his bill.

10 SENATOR VALESKY: Madam
11 President, I believe I've already answered
12 that question, but I will restate it.

13 We are simply -- this bill does
14 nothing more than add "frozen desserts made
15 with wine" to a statute that was passed and
16 signed into law as Chapter 189 of the Laws of
17 2008.

18 SENATOR GOLDEN: Is it not,
19 Madam President, because you, the sponsor,
20 believe that the alcohol content is high
21 enough that, according to state law, it is
22 required to be here in the bill?

23 ACTING PRESIDENT STEWART-COUSINS:
24 Is that a question for Senator Valesky?

25 SENATOR GOLDEN: Yes, it is,

1 Madam President.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Senator Valesky, do you continue to yield?

4 SENATOR VALESKY: Madam

5 President, yes. That's exactly why you have
6 to be over 21 years of age to purchase this
7 product.

8 SENATOR GOLDEN: And the
9 alcoholic content, Madam President, is high
10 enough that that's the reason for these
11 protections in this bill required by law here
12 in the State of New York?

13 SENATOR VALESKY: Yes.

14 SENATOR GOLDEN: That's why I
15 will be voting no, for the second time,
16 Madam President.

17 This is the wrong message for our
18 children. When you need this many
19 protections, there is alcoholic content in
20 here that our children across this state will
21 have the opportunity to get to and to use.
22 And you're putting onus again on business
23 owners to in fact --

24 ACTING PRESIDENT STEWART-COUSINS:

25 Senator Valesky, are you wishing to --

1 SENATOR GOLDEN: -- protect the
2 businesses here across the State of
3 New York --

4 ACTING PRESIDENT STEWART-COUSINS:
5 -- respond to Senator Golden?

6 SENATOR GOLDEN: -- from all of
7 this onerous regulation and products that we
8 believe should not be sold.

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator Golden, Senator Valesky has asked you
11 to yield.

12 SENATOR GOLDEN: I'd love to,
13 Senator Valesky.

14 SENATOR VALESKY: Senator Golden,
15 I'm just curious, then, why, if you have these
16 concerns with this bill, why did you vote for
17 Senator Griffo's legislation two years ago?

18 SENATOR GOLDEN: Because Senator
19 Schneiderman pointed out to me about the use
20 of alcohol that's going on across our city and
21 state and how easy it is for our kids to get
22 ahold of that alcohol and to be able to have
23 and digest that alcohol and cause danger to
24 themselves.

25 And it was to see that we're going

1 to add it to many other -- what we have here.
2 What are we adding it to? "Frozen desserts" I
3 think sends the wrong message to the children
4 across the State of New York that it's okay to
5 have wine and to participate in the drinking
6 of wine and alcohol.

7 SENATOR VALESKY: Would Senator
8 Golden yield to a question?

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator Golden, do you continue to yield?

11 SENATOR GOLDEN: Senator Valesky,
12 I would love to yield to you. Keep on getting
13 pumped up there by your staff. Whatever you
14 need --

15 ACTING PRESIDENT STEWART-COUSINS:
16 Senator Golden, a yes or no is fine.

17 SENATOR VALESKY: No, I'm just
18 trying to make a connection between the bill
19 two years ago and the bill that's before us
20 today.

21 So if Senator Griffo's bill were
22 before us today, would you vote for Senator
23 Griffo's bill if it were not already in law,
24 or would you vote against it because of the
25 concerns that you have raised here today?

1 SENATOR GOLDEN: Does that have
2 to be germane, Madam President?

3 ACTING PRESIDENT STEWART-COUSINS:
4 Well, again, I think -- no, no, no, the
5 original discussion obviously was on the bill.
6 But then I believe you mentioned that what you
7 read was, although on Senator Griffo's bill,
8 was part of Senator Valesky's bill. So it has
9 become part of the discussion.

10 SENATOR GOLDEN: It was the
11 sponsor that brought that up. But, Madam
12 President, I can see how we can redefine
13 "germane" when we need to.

14 But the answer is I would vote
15 against Mr. Griffo's bill if it were before me
16 today. Thank you.

17 ACTING PRESIDENT STEWART-COUSINS:
18 Thank you.

19 SENATOR VALESKY: Thank you.

20 ACTING PRESIDENT STEWART-COUSINS:
21 Senator DeFrancisco.

22 SENATOR DeFRANCISCO: Would
23 Senator Valesky yield to a question?

24 SENATOR VALESKY: Yes,
25 Madam President.

1 SENATOR DeFRANCISCO: You've
2 mentioned Senator Griffo on several occasions
3 and that it was his bill and that maybe he
4 should answer the questions and so forth.

5 As the chairman of the reform
6 movement in the State Senate, can you tell me
7 why it's your bill now and not Senator
8 Griffo's?

9 SENATOR VALESKY: Madam
10 President, through you. I received a request
11 from Assemblyman Magee, the chairman of the
12 Assembly Agriculture Committee, to sponsor
13 this bill. Hence, it's before us today under
14 my name.

15 SENATOR DeFRANCISCO: And
16 knowing -- would he yield to another question?

17 ACTING PRESIDENT STEWART-COUSINS:
18 Senator Valesky, do you continue to yield?

19 SENATOR VALESKY: Yes.

20 SENATOR DeFRANCISCO: And knowing
21 that Senator Griffo authored this bill in the
22 past, did it occur to you ever to contact
23 Senator Griffo and say: "Senator Griffo, this
24 is your bill, the Assembly would like to put
25 it through again. In all fairness, since you

1 authored it, even though you're a minority
2 member, I want to send it to you because I'm
3 chairman of the Reform Committee and I'm not
4 going to do something and steal a bill of
5 yours"?

6 SENATOR VALESKY: Well, Madam
7 President, through you. This bill actually
8 was not introduced -- there's no theft of any
9 legislation here. Senator Griffo's bill, I
10 think appropriately, as did 59 of my
11 colleagues back in 2008 saw it appropriate to
12 approve that bill. This expands upon existing
13 law.

14 What I would say, Senator
15 DeFrancisco, is Senator Griffo, yourself, any
16 other member of this house on either side of
17 the aisle, as a result of rules reform done
18 earlier in this term, have the opportunity to
19 cosponsor this bill. And perhaps Senator
20 Griffo would like to do that, given that he
21 has a history of support of these types of
22 issues.

23 SENATOR DeFRANCISCO: Thank you.

24 On the bill.

25 ACTING PRESIDENT STEWART-COUSINS:

1 Senator DeFrancisco, on the bill.

2 SENATOR DeFRANCISCO: I think
3 everybody really understands what actually
4 happened here. There are no cosponsors on
5 this bill the way I understand it right now.
6 So obviously, the bill was not circulated.
7 And this gesture of goodwill that's being
8 shown at this point in time is a gesture in
9 order to answer a very difficult question for
10 the movement that was pushing for reform where
11 bills that were majority member bills back
12 when we were in the majority --

13 ACTING PRESIDENT STEWART-COUSINS:
14 Is this on the bill, Senator DeFrancisco? On
15 the bill, the content?

16 SENATOR DeFRANCISCO: I'm
17 speaking on the bill.

18 ACTING PRESIDENT STEWART-COUSINS:
19 I understand. But the content of the bill,
20 sir.

21 SENATOR DeFRANCISCO: Well,
22 excuse me, I beg to differ. You just
23 mentioned a moment ago when Senator Golden was
24 asked about the Griffo bill, the Griffo bill,
25 you said that it was germane. Now it's not --

1 ACTING PRESIDENT STEWART-COUSINS:
2 Well, because it is the language that's also
3 contained in the Valesky bill.

4 SENATOR DeFRANCISCO: So the
5 procedure, including cosponsors and the like,
6 is not germane? Is that your ruling?

7 ACTING PRESIDENT STEWART-COUSINS:
8 The cosponsorship is not in question. It's
9 the content of the bill that is in question.

10 SENATOR DeFRANCISCO: Well, the
11 content of the bill is -- the procedure in
12 which the bill is being brought before the
13 house is just as relevant as the content. And
14 I'm going to continue unless you're telling me
15 I cannot speak any further on the process of
16 this particular bill that used to be Senator
17 Griffo's bill that is now authored solely by
18 Senator Valesky.

19 ACTING PRESIDENT STEWART-COUSINS:
20 Senator DeFrancisco, I will allow you to
21 continue for a moment or two.

22 SENATOR DeFRANCISCO: Thank you.
23 I've made my point. I have nothing
24 further.

25 (Laughter.)

1 ACTING PRESIDENT STEWART-COUSINS:

2 Thank you.

3 Senator Schneiderman.

4 SENATOR SCHNEIDERMAN: I was
5 going to ask Senator DeFrancisco to yield for
6 a question.

7 ACTING PRESIDENT STEWART-COUSINS:

8 Senator DeFrancisco, do you yield?

9 SENATOR DeFRANCISCO: Yes.

10 SENATOR SCHNEIDERMAN: Thank you.

11 Senator DeFrancisco, is it not the case that
12 prior to last summer, when our conference
13 reformed the rules of the Senate, that it was
14 not possible without the consent of the
15 sponsor for any of us to put our name on a
16 bill -- but that under the reform rules passed
17 by this conference, any one of you can file a
18 form, which is available to all of you, and
19 get your name on any bill you want?

20 SENATOR DeFRANCISCO: No. I
21 believe when we were in the majority, there
22 were Democrat sponsors on many bills. And
23 that was not prohibited.

24 And to remind you of the history
25 behind this, there was no reform in this

1 regard concerning what you were just referring
2 to until after there was a question as to
3 who's leading and what members of which side
4 of the aisle were going to be on which side of
5 the aisle ultimately.

6 Because that all came out of that
7 dispute. It wasn't something that was
8 originally out of any reform --

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator Schneiderman, is this going to be on
11 the bill?

12 SENATOR SCHNEIDERMAN: Yes,
13 thanks. I'd like to thank Senator
14 DeFrancisco.

15 Ladies and gentlemen, in case
16 there's any confusion, in July, after all of
17 the troubles were over, we did enact a rule
18 that allows anyone to get on any bill. I
19 personally was refused by sponsors to get on
20 bills on quite a few occasions when you all
21 were in the majority. There's now a form.
22 Senator Golden can get on my Nutcracker bill,
23 anyone can get on any bill. And I just want
24 to make sure that we're clear on that.

25 ACTING PRESIDENT STEWART-COUSINS:

1 Thank you.

2 SENATOR DeFRANCISCO: Point of
3 order.

4 ACTING PRESIDENT STEWART-COUSINS:
5 Senator DeFrancisco.

6 SENATOR DeFRANCISCO: Yeah, the
7 only point of order I have: Is this now
8 germane, the procedure?

9 ACTING PRESIDENT STEWART-COUSINS:
10 I have asked that question. And I think if
11 you -- as you were seated, I said to Senator
12 Schneiderman that I wanted him to discuss the
13 bill, because indeed we had become embroiled
14 in process.

15 So I believe we are back on the
16 bill.

17 SENATOR DeFRANCISCO: I think
18 it's germane. My only question is why -- I'm
19 just trying to see some consistency. I'm
20 trying to --

21 ACTING PRESIDENT STEWART-COUSINS:
22 And I was consistent.

23 SENATOR DeFRANCISCO: Okay. So
24 it's germane at this point?

25 ACTING PRESIDENT STEWART-COUSINS:

1 I had asked Senator Schneiderman to speak on
2 the bill, as opposed to the process, the same
3 way I asked you to do. Okay?

4 Senator Onorato.

5 SENATOR ONORATO: Madam
6 President, will the sponsor yield to a
7 question?

8 ACTING PRESIDENT STEWART-COUSINS:
9 Senator Valesky, do you yield?

10 SENATOR VALESKY: Yes, Madam
11 President.

12 SENATOR ONORATO: Senator
13 Valesky, are there any other products, is
14 there any products that you know of that
15 contain wine or other types of alcohol in
16 them?

17 SENATOR VALESKY: Madam
18 President, through you. Other than wine ice
19 cream, which was authorized by Chapter 189 of
20 the Laws of 2008, my understanding is some
21 chocolate confectionaries may be allowed to
22 contain contents of wine.

23 SENATOR ONORATO: And will you
24 continue to yield?

25 SENATOR VALESKY: Yes.

1 SENATOR ONORATO: To your
2 knowledge, has anybody ever been arrested for
3 driving an automobile while under the
4 influence of consuming too many desserts?

5 SENATOR VALESKY: Madam
6 President, through you. Not to my knowledge.

7 SENATOR ONORATO: Thank you,
8 Senator.

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator Craig Johnson.

11 SENATOR CRAIG JOHNSON: I hoped
12 to ask Senator Golden to yield for a couple of
13 clarifying questions pertaining to this
14 riveting debate we've had here today, but he's
15 not in the chamber right now. I don't know if
16 anybody else has to add something or not.

17 No, Senator Padavan wasn't the one
18 who made the comments, it was Senator Golden,
19 Senator Libous. Thank you.

20 SENATOR PADAVAN: Madam
21 President, where are we in terms of --

22 ACTING PRESIDENT STEWART-COUSINS:
23 At this point I have no one else who wishes to
24 speak on the item, and I believe your counsel
25 went to ask Senator Golden if he was

1 available.

2 SENATOR PADAVAN: Madam
3 President, if I may, I don't believe there's
4 anything in our rules about stopping the
5 Senate in terms of any discussion of a bill to
6 go get somebody.

7 Now, if the Senator who has the
8 floor wants to comment, he should.

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator Johnson, would you like too speak on
11 the bill?

12 SENATOR CRAIG JOHNSON: Well, I'd
13 like to, certainly.

14 I find it incredible with respect
15 to Senator Padavan. You know, Senator Golden
16 had made himself available throughout this
17 entire debate, oftentimes changing the subject
18 matter and, in fact, quite frankly rewriting
19 history. And I think for Senator Golden to
20 make statements and then walk out of the
21 chamber is a little bit disingenuous.

22 I appreciate Senator Padavan rising
23 to defend him. But as we wait, because I
24 think the people of New York deserve to have
25 questions answered --

1 ACTING PRESIDENT STEWART-COUSINS:

2 Senator Young, why do you rise?

3 SENATOR YOUNG: Is this line of
4 discussion from Senator Johnson germane to the
5 contents of the bill?

6 ACTING PRESIDENT STEWART-COUSINS:
7 I think at this point we had hoped that the
8 discussion that Senator Johnson had begun
9 would be continued.

10 At this point, Senator Johnson, we
11 might --

12 SENATOR CRAIG JOHNSON: Then I
13 think simply to clarify for the record,
14 because I think it's important for the record
15 to be accurate, on June 12, 2008, a bill came
16 before the Senate sponsored by Senator Griffo,
17 which was the original piece of legislation
18 that addressed the sale of ice cream with wine
19 pertaining to --

20 SENATOR LIBOUS: Madam President.

21 ACTING PRESIDENT STEWART-COUSINS:
22 Senator --

23 SENATOR LIBOUS: Point of order
24 to the germaneness. We keep talking about
25 this bill by Senator Griffo. That is not the

1 bill on the floor. Therefore, the discussion
2 to Senator Griffo's previous legislation is
3 not germane.

4 If our colleague would prefer to
5 discuss the bill by Senator Valesky, we would
6 have no problem with that. But I believe it
7 is not germane.

8 SENATOR KLEIN: Madam President.

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator Klein.

11 SENATOR KLEIN: Point of order,
12 please.

13 ACTING PRESIDENT STEWART-COUSINS:
14 Senator Klein.

15 SENATOR KLEIN: I correct my
16 esteemed colleague on the other side of the
17 aisle. Senator Johnson is speaking to this
18 bill, the original bill by Senator Griffo and
19 now the new bill by Senator Valesky. It
20 certainly is germane.

21 We are not talking about late
22 budgets or if we're going to do a budget or
23 when we're doing a budget or school districts
24 that are supposedly losing their money.
25 Senator Johnson's discussion is on the bill

1 ahead.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Senator Johnson, the discussion of the bill,
4 which is what you were conducting, is
5 certainly germane, as Senator Griffo's
6 original legislation contained I think
7 90 percent of what Senator Valesky's bill
8 contains.

9 SENATOR CRAIG JOHNSON: Thank
10 you. Thank you very much, Madam President,
11 for allowing me to continue.

12 I'm just simply trying to clarify
13 for the record the fact that Senator Golden
14 voted for the original bill.

15 I have the actual piece of
16 legislation -- and by "original bill," I mean
17 the bill that allows the sale of wine in ice
18 cream. And I think the record needs to
19 clarify that.

20 I have a copy of the voting tally.
21 It was Bill Number -- it was referring to Bill
22 Number A10132. It was voted 60 in the
23 affirmative, no nays. Senator Golden was a
24 yes vote. I think just letting the record
25 reflect it so there's no, you know, vagueness

1 when it comes to the record.

2 SENATOR LIBOUS: Madam President,
3 point of order.

4 ACTING PRESIDENT STEWART-COUSINS:
5 Senator Libous.

6 SENATOR LIBOUS: The vote was
7 already part of the record. It is already
8 reflected in the record. And I believe that,
9 in all due respect to our colleague, he's
10 being quite redundant in waiting for either
11 Senator Golden to appear or -- the record
12 reflects Senator Golden's vote on the Griffio
13 bill.

14 SENATOR CRAIG JOHNSON: Well,
15 Senator Golden made it clear that he --

16 ACTING PRESIDENT STEWART-COUSINS:
17 Senator --

18 SENATOR CRAIG JOHNSON: Well,
19 then it's first he voted for it before he
20 voted against it. Because then he just
21 said -- and if he were here, we could actually
22 ask him -- but he's --

23 ACTING PRESIDENT STEWART-COUSINS:
24 Senator Johnson -- Senator Johnson, I think we
25 quite understand the point.

1 SENATOR CRAIG JOHNSON: Thank
2 you, Madam President.

3 ACTING PRESIDENT STEWART-COUSINS:
4 And I appreciate the clarification.

5 Are there any other Senators
6 wishing to speak on the bill?

7 SENATOR MARCELLINO: Yes, Madam
8 President. One second.

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator Marcellino.

11 SENATOR MARCELLINO: I know,
12 groan a little bit. But this is okay.

13 What my good friend Senator Johnson
14 just said is a little disingenuous at least.
15 Senator Golden said he had voted, he agreed he
16 had voted for the bill, he said he had voted
17 for the bill. He was asked by Senator
18 Valesky, "Would you vote for it now?" He
19 said, "No, I changed my vote and I would vote
20 against it now."

21 That's not what you're saying,
22 Craig, and you know it. You're calling
23 Senator Golden that he changed his vote. He
24 didn't change his vote. He admitted what he
25 voted for, he agreed that he voted for it

1 before, and he said now that he would vote
2 against it in response to Senator Valesky --

3 ACTING PRESIDENT STEWART-COUSINS:
4 Senator Marcellino --

5 SENATOR MARCELLINO: That is the
6 record.

7 ACTING PRESIDENT STEWART-COUSINS:
8 You have clarified -- you have clarified -- I
9 think the clarification is on both sides.

10 SENATOR MARCELLINO: Thank you.

11 ACTING PRESIDENT STEWART-COUSINS:
12 I think we clearly understand where everyone
13 is and has been.

14 So if there is any other Senator
15 wishing to speak on the bill --

16 SENATOR LIBOUS: Read the last
17 section.

18 SENATOR MONTGOMERY: Read the
19 last section.

20 (Laughter.)

21 ACTING PRESIDENT STEWART-COUSINS:
22 Hearing none, debate is closed.

23 The Secretary will please ring the
24 bell.

25 Read the last section.

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

3 ACTING PRESIDENT STEWART-COUSINS:
4 Call the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT STEWART-COUSINS:
7 Senator Winner, to explain his vote.

8 SENATOR WINNER: Madam President,
9 briefly to explain my vote.

10 You know, I am a representative of
11 an area that has the most wineries in the
12 State of New York. And I'm a little
13 astonished to hear the Deputy Majority Leader
14 indicate that this is the Majority's response
15 to helping agriculture and the wine industry
16 in New York.

17 You know, all I can do is look
18 forward to deliberations on the budget where
19 we're going to see where your actions meet
20 your words as it relates to marketing and
21 promoting of New York wines. Because we have
22 a couple of things in there called the Wine
23 and Grape Foundation and other wine marketing
24 efforts that are far superior to having wine
25 in sherbet and sorbets. And they will do a

1 lot more to promote the New York wine industry
2 than this rather hollow effort, albeit an
3 effort that I support.

4 So we'll give you your chance. You
5 made some points today, and I give you credit
6 for that. However, the proof is going to be
7 in whether you deliver really for New York's
8 agriculture community, and particularly the
9 wine industry. And we'll see how you do.

10 I vote yes.

11 ACTING PRESIDENT STEWART-COUSINS:
12 Senator Winner to be recorded in the
13 affirmative.

14 Senator Diaz, to explain his vote.

15 SENATOR DIAZ: Thank you,
16 Madam President.

17 We have increased the age of
18 drinking to 21 years old, trying to prevent
19 our youth from tasting alcoholic beverages.
20 Now it seems that we are trying to circumvent
21 the law and telling our youth, Here, here is a
22 little taste of alcohol in your frozen
23 dessert.

24 So I think that we are sending a
25 wrong message to our youth, and I'm voting no.

1 ACTING PRESIDENT STEWART-COUSINS:
2 Senator Diaz to be recorded in the negative.

3 Anyone else wishing to explain his
4 or her vote?

5 Announce the results.

6 THE SECRETARY: Those recorded in
7 the negative on Calendar Number 184 are
8 Senators Diaz, Golden, O. Johnson, Marcellino
9 and Padavan.

10 Absent from voting: Senator C.
11 Kruger.

12 Ayes, 53. Nays, 5.

13 ACTING PRESIDENT STEWART-COUSINS:
14 The bill is passed.

15 Senator Klein, that completes the
16 reading of the controversial calendar.

17 SENATOR KLEIN: Madam President,
18 is there any further business at the desk?

19 ACTING PRESIDENT STEWART-COUSINS:
20 Senator Klein, the desk is clear.

21 SENATOR KLEIN: There being none,
22 Madam President, I move that we adjourn until
23 Thursday, March 11th, at 11:00 a.m.

24 ACTING PRESIDENT STEWART-COUSINS:
25 There being no further business to come before

1 the Senate, on motion, the Senate stands
2 adjourned until Thursday, March 11th, at
3 11:00 a.m.

4 (Whereupon, at 5:01 p.m., the
5 Senate adjourned.)