

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 May 10, 2010

11 3:47 p.m.

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13
14 REGULAR SESSION

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18 SENATOR CRAIG M. JOHNSON, Acting President

19 ANGELO J. APONTE, Secretary

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

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

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

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

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

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

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

16 The Secretary will read.

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

22 ACTING PRESIDENT JOHNSON:
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: Madam
10 President -- I'm sorry, Mr. President.

11 ACTING PRESIDENT JOHNSON: Out of
12 order, Senator Klein.

13 (Laughter.)

14 SENATOR KLEIN: I have several
15 motions.

16 First, on behalf of Senator Parker,
17 I move that the following bills be discharged
18 from their respective committees and be
19 recommitted with instructions to strike the
20 enacting clause: Senate Number 1935, Senate
21 Number 2080, Senate Number 2083.

22 ACTING PRESIDENT JOHNSON: So
23 ordered.

24 Senator Klein.

25 SENATOR KLEIN: On behalf of

1 Senator Thompson, I move that the following
2 bill be discharged from its respective
3 committee and be recommitted with instructions
4 to strike the enacting clause: Senate Number
5 7518.

6 ACTING PRESIDENT JOHNSON: So
7 ordered.

8 Senator Klein.

9 SENATOR KLEIN: On behalf of
10 Senator Breslin, on page number 29 I offer the
11 following amendments to Calendar Number 482,
12 Senate Print Number 7408, and ask that said
13 bill retain its place on Third Reading
14 Calendar.

15 ACTING PRESIDENT JOHNSON: So
16 ordered.

17 Senator Klein.

18 SENATOR KLEIN: On behalf of
19 Senator Addabbo, on page number 20 I offer the
20 following amendments to Calendar Number 366,
21 Print Number 5447B, and ask that said bill
22 retain its place on Third Reading Calendar.

23 ACTING PRESIDENT JOHNSON: So
24 ordered.

25 Senator Klein.

1 SENATOR KLEIN: On behalf of
2 Senator Savino, on page 13 I offer the
3 following amendments to Calendar Number 196,
4 Senate Print Number 2311B, and ask that said
5 bill retain its place on Third Reading
6 Calendar.

7 ACTING PRESIDENT JOHNSON: So
8 ordered.

9 Senator Klein.

10 SENATOR KLEIN: Mr. President, on
11 behalf of Senator Addabbo, I wish to call up
12 Print Number 6910, recalled from the Assembly,
13 which is now at the desk.

14 ACTING PRESIDENT JOHNSON: The
15 Secretary will read the title of the bill.

16 THE SECRETARY: Calendar Number
17 236, by Senator Addabbo, Senate Print 6910, an
18 act to amend the Election Law.

19 ACTING PRESIDENT JOHNSON:
20 Senator Klein.

21 SENATOR KLEIN: Mr. President, I
22 now move to reconsider the vote by which this
23 bill was passed.

24 ACTING PRESIDENT JOHNSON: Call
25 the roll on reconsideration.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 57.

3 ACTING PRESIDENT JOHNSON: The
4 bill is restored to Third Reading Calendar.

5 Senator Klein.

6 SENATOR KLEIN: Mr. President, I
7 now offer the following amendments.

8 ACTING PRESIDENT JOHNSON:
9 Amendments received.

10 Senator Klein.

11 SENATOR KLEIN: Mr. President, on
12 behalf of Senator Ruth Hassell-Thompson, I
13 wish to call up Calendar Number 245, Assembly
14 Print Number 8873.

15 ACTING PRESIDENT JOHNSON: The
16 Secretary will read the title.

17 THE SECRETARY: Calendar Number
18 245, by Member of the Assembly Gibson,
19 Assembly Print Number 8873, an act to amend
20 the Social Services Law.

21 ACTING PRESIDENT JOHNSON:
22 Senator Klein.

23 SENATOR KLEIN: I now move to
24 reconsider the vote by which this Assembly
25 bill was substituted for Print Number 3754 on

1 3/15.

2 ACTING PRESIDENT JOHNSON: The
3 Secretary will call the roll on
4 reconsideration.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 57.

7 ACTING PRESIDENT JOHNSON:
8 Senator Klein.

9 SENATOR KLEIN: I now move that
10 Assembly Bill Number 8873 be recommitted to
11 the Committee on Social Services and that the
12 Senate bill be restored to the order of Third
13 Reading Calendar.

14 ACTING PRESIDENT JOHNSON: So
15 ordered.

16 Senator Klein.

17 SENATOR KLEIN: Mr. President, I
18 now offer the following amendments.

19 ACTING PRESIDENT JOHNSON:
20 Amendments received.

21 Senator Klein.

22 SENATOR KLEIN: Mr. President, I
23 believe Senator Libous also has some
24 amendments.

25 ACTING PRESIDENT JOHNSON:

1 Senator Libous.

2 SENATOR LIBOUS: Thank you,
3 Mr. President and Senator Klein.

4 On behalf of Senator Morahan,
5 Mr. President, on page 28 I offer up the
6 following amendments to Calendar Number 471,
7 Senate Print Number 7432, and I ask that said
8 bill retain its place on the Third Reading
9 Calendar.

10 ACTING PRESIDENT JOHNSON: So
11 ordered.

12 SENATOR LIBOUS: Thank you.

13 ACTING PRESIDENT JOHNSON:
14 Senator Klein.

15 SENATOR KLEIN: Mr. President, I
16 believe there's a resolution at the desk by
17 Senator Breslin. I ask that the resolution be
18 read in its entirety and move for its
19 immediate adoption.

20 ACTING PRESIDENT JOHNSON:
21 Senator Klein, has this resolution been deemed
22 privileged and submitted by the office of the
23 Temporary President?

24 SENATOR KLEIN: Yes, it has,
25 Mr. President.

1 ACTING PRESIDENT JOHNSON: The
2 Secretary will read.

3 THE SECRETARY: By Senators
4 Breslin, Savino and Peralta, legislative
5 resolution objecting to the furlough language
6 in the emergency appropriation legislation for
7 the period of April 1, 2010, through May 19,
8 2010, and requesting Governor David A.
9 Paterson resubmit the emergency appropriation
10 legislation without including language that
11 would authorize the Governor to impose
12 furloughs on certain state employees.

13 "WHEREAS, The Governor submitted to
14 the New York State Senate and to the New York
15 State Assembly an emergency appropriation
16 bill, Governor's Program Bill Number 250, for
17 the period through May 20, 2010; and

18 "WHEREAS, Unless such bill is
19 passed by both houses of the Legislature and
20 signed by the Governor, New York State
21 government would be forced to shut down
22 because necessary expenditures would not be
23 authorized and could not be made; and

24 "WHEREAS, Notwithstanding the need
25 to pass the emergency appropriation bill to

1 ensure continued operation of state
2 government, without consultation with the
3 Senate the Governor inserted in such emergency
4 appropriation bill a provision which mandates
5 a nonconsensual furlough to apply to select
6 employees of the executive branch, resulting
7 in their loss of one day's pay in direct
8 contravention of their respective collective
9 bargaining agreements; and

10 "WHEREAS, The unions representing
11 these employees have negotiated collective
12 bargaining agreements that are currently in
13 full force and effect which establish the
14 terms and conditions of their members'
15 employment in accordance with the New York
16 State Constitution, the United States
17 Constitution, and the Taylor Law of the State
18 of New York, which grants public employees the
19 right to organize and enter into binding
20 collective bargaining agreements with the
21 state and its municipal agents; and

22 "WHEREAS, The Governor has not
23 sought to reach a voluntary furlough agreement
24 with any of the unions representing the
25 workers subject to these provisions to resolve

1 outstanding concerns; and

2 "WHEREAS, The furlough is estimated
3 to impact 100,000 workers, the vast majority
4 of which make under \$50,000 per year; and

5 "WHEREAS, The language in the bill
6 requiring a one-day furlough is contrary to
7 the laws and public policy of this state; and

8 "WHEREAS, This Legislative Body
9 believes it is not reasonable or fiscally
10 necessary to impose furloughs on unionized
11 state employees in violation of their existing
12 collective bargaining agreements in order to
13 address the budget crisis; and

14 "WHEREAS, There are other
15 alternatives available that can address the
16 fiscal challenges faced by the state which do
17 not violate the public policy of the state,
18 the New York State and the United States
19 Constitutions, the Civil Service Law, the
20 Taylor Law, and union contracts; and

21 "WHEREAS, This Legislative Body may
22 not alter an appropriation bill submitted by
23 the Governor except to strike out or reduce or
24 add items of appropriation; and

25 "WHEREAS, In order to avoid a

1 shutdown of all the state's essential services
2 the Legislature has little choice but to vote
3 for the provisions of the emergency
4 appropriation bill, notwithstanding its
5 objections to the furlough provision of the
6 bill; now, therefore, be it resolved

7 "RESOLVED, That this Legislative
8 Body pause in its deliberations to object to
9 the furlough language in the emergency
10 appropriation language for the period of
11 April 1, 2010, through May 19, 2010, and
12 requesting Governor David A. Paterson resubmit
13 the emergency appropriation legislation
14 without including language that would
15 authorize the Governor to impose furloughs on
16 certain state employees; and be it further

17 "RESOLVED, That this Legislative
18 Branch pause further to request Governor David
19 A. Paterson grants a message of necessity and
20 a message of appropriation for such new bill
21 to ensure that the bill can be voted on by the
22 Senate on Monday, May 10, 2010; and be it
23 further

24 "RESOLVED, That copies of this
25 resolution, suitably engrossed, be transmitted

1 to the Honorable David A. Paterson, Governor
2 of the State of New York; Lieutenant Governor
3 Richard Ravitch; Speaker of the New York State
4 Assembly, Sheldon Silver; and Assembly
5 Minority Leader Brian Kolb."

6 ACTING PRESIDENT JOHNSON:

7 Senator Breslin.

8 SENATOR BRESLIN: Thank you,
9 Mr. President.

10 This resolution relates to the
11 Governor's Program Bill 250. That's what we
12 commonly refer to as the extender bill. And
13 contained in that bill this week is a furlough
14 provision for 100,000 New York State
15 employees.

16 Those 100,000 employees, most of
17 whom make less than \$50,000, have mortgage
18 payments, tuition payments, payments to buy
19 food each week. Their union members have
20 negotiated contracts that didn't include any
21 discussion of furloughs. It's collective
22 bargaining under the Taylor Law. An
23 opportunity was had to discuss furloughs, but
24 it wasn't. There's been no emergency created
25 where the Governor said, "Come on in, let's

1 sit down, let's discuss it." This is a
2 unilateral decision by the Governor.

3 And it's a unilateral decision by
4 the Governor to force us to vote against the
5 extender bill.

6 Now, what if we voted against that
7 extender bill -- an extender bill that has
8 health insurance for every employee in the
9 State of New York, and if we voted against
10 that extender bill and it failed, everyone
11 would be without health insurance. Someone
12 who might need an operation the next day would
13 have to pay for it themselves.

14 Motor vehicle departments would be
15 closed down. State Police would be at an
16 impasse. Construction projects, all
17 construction projects would not be paid.
18 Health and Medicaid would be affected,
19 \$1.45 million, which includes 250 hospitals,
20 400 nursing homes.

21 The Department of Taxation and
22 Finance would be unable to collect revenues,
23 would in fact be unable to bring in receipts.
24 Things like the Association for the Blind, the
25 School for the Deaf would have temporary

1 closures. And it goes on and on and on.

2 No one expects to us close down
3 state government. They've tried it in other
4 states: Michigan, New Jersey, Tennessee,
5 Pennsylvania. The U.S. government tried it.
6 And in each of those states, there was a lot
7 of politics that went into it. But they
8 didn't get to the final consideration -- who
9 gets hurt. The people of the State of
10 New York get hurt.

11 So to include this furlough
12 provision in that extender creates chaos,
13 total chaos. And what this resolution would
14 do, it's asking the Governor: Governor, take
15 back your extender provision which includes
16 the furloughs, take it back today and reissue
17 today another extender without the furlough
18 provisions. Otherwise, many will be faced
19 with a choice, and that choice could include
20 closing state government. In order, some
21 would say, to pander to a few.

22 My view is that the unions are on
23 correct footing and when they bring this
24 appeal, after we pass the extender, they will
25 be successful in court.

1 But we cannot close state
2 government. So this resolution again says,
3 Governor, please take your extender bill back,
4 amend it today, give us an extender bill
5 without the furlough provision, and we will
6 pass it. Albeit we may only pass it 32 to 30,
7 but we will pass it.

8 So I urge everyone to vote in favor
9 of this resolution to send a message to the
10 Governor, a polite message, that the extender
11 bill as presented today is wrong and to give
12 us an extender bill that will provide basic
13 services without hurting those 100,000
14 employees.

15 Thank you, Mr. President.

16 ACTING PRESIDENT JOHNSON: Thank
17 you, Senator Breslin.

18 Senator Klein.

19 SENATOR KLEIN: Thank you,
20 Mr. President.

21 I want to thank Senator Breslin for
22 bringing forth this resolution and explaining
23 it so eloquently.

24 Certainly emotions are running
25 high. Our budget is late. We have over a

1 \$9 billion budget deficit. But I still think
2 it's incumbent upon us to act in a rational
3 fashion. And that means coming up with a
4 budget that is balanced and that reflects the
5 needs of New Yorkers.

6 The reading of the law on furloughs
7 is very, very clear. When they're negotiated
8 outside a collective bargaining agreement,
9 they're illegal. It was tried in California
10 recently. It was also recently tried in
11 Maryland; again, ruled unconstitutional.

12 And those who remember their
13 history remember when then-Governor Cuomo
14 tried to put forth a pay lag, that was also
15 struck down as a violation of collective
16 bargaining and a violation of the Taylor Law.

17 So clearly the Governor trying
18 force our hand through this budget extender
19 doesn't do anyone any good. We want
20 government to continue to run, even though on
21 a weekly basis. We want to make sure that
22 unemployment insurance continues to go to
23 those who need it. We want to make sure
24 Medicaid monies still go through our hospitals
25 so they continue to run.

1 So today, by voting on this
2 extender, I think we're doing the best we can
3 for state workers as well as our constituents
4 who want to see government run on a daily
5 basis. It's just unfortunate that part of
6 that very important extender also includes a
7 furlough which is clearly illegal.

8 So again, I want to thank Senator
9 Breslin. And of course I vote yes on this
10 resolution.

11 ACTING PRESIDENT JOHNSON: Thank
12 you, Senator Klein.

13 Senator Savino.

14 SENATOR SAVINO: Thank you,
15 Mr. President.

16 I also rise in support of this
17 resolution, and I want to thank Senator
18 Breslin and Senator Peralta for cosponsoring
19 it with me.

20 You know, before I came to the
21 Senate I spent the previous 15 years of my
22 life in the New York City public-sector labor
23 movement, 10 years directly working for a
24 municipal union, sitting at the bargaining
25 table many times, in good times and in bad,

1 negotiating work rules, negotiating salaries,
2 negotiating benefits, protecting the services
3 that our members provided to the public and
4 the jobs that they themselves had.

5 I actually went to school and got a
6 degree -- Tommy, I did -- in labor relations,
7 from the Cornell Industrial School of Labor
8 Relation. And I learned a few things both at
9 Cornell and at the bargaining table in the
10 City of New York. It takes two to make a
11 bargain; it only takes one to break it.

12 In 2007 the Governor entered into a
13 collective bargaining agreement with the state
14 workforce where he agreed to certain
15 conditions that would go forward for the
16 length of that contract, including a 4 percent
17 pay raise that was due on April 1st.

18 The forecast for the State of
19 New York was pretty dire then too. The State
20 Comptroller at the time talked about out-year
21 budget deficits and its impact. And yet and
22 still, the Governor, in full knowledge of
23 that, sat down and negotiated a contract.

24 Under the Taylor Law in New York
25 State, wages, hours and terms and conditions

1 of employment are mandatory subjects of
2 collective bargaining. And any attempt to
3 change those are equally considered mandatory
4 subjects of collective bargaining. They
5 require formal negotiation and agreement, and
6 then they are required to be taken back to the
7 membership who ratified the original contract,
8 be voted on again before they can be put in
9 place.

10 None of that has happened here. In
11 spite of the Governor's statements to the
12 contrary that he has tried to get some
13 concessions from the union, there has not been
14 one single formal collective bargaining
15 session between the state workers and the
16 Governor's office. Perhaps they should go to
17 Cornell's Industrial School of Labor Relations
18 and learn a bit about labor negotiating.

19 Be that as it may, none of that has
20 happened. The Governor has presented us here
21 today a Hobson's choice. We can reject his
22 illegal act -- which is what is in this budget
23 extender, attempting to get us to legalize
24 what is illegal under the law and what has
25 been struck down in other states and what is

1 essentially settled law, that you cannot
2 abrogate a collective bargaining agreement
3 without concerted negotiation. That has not
4 happened. And after today, I think it's going
5 to be very difficult for the Governor to get
6 any level of cooperation from the state
7 workforce.

8 But he's asked us to legalize an
9 illegal act. And I'm not happy about it. I
10 don't think anybody in this room is happy
11 about it. But the alternative is far worse.
12 If we were to reject this extender bill and
13 shut down government, it doesn't just affect
14 the workers who collect a paycheck from the
15 state who are facing an illegal furlough, it
16 affects every other entity that is dependent
17 upon the state budget, from our school
18 districts to our hospitals to people who are
19 on unemployment, people who are on cash
20 assistance collecting money from the state
21 under the safety net program. Neil outlined a
22 whole host of institutions.

23 More importantly, for those state
24 workers who are facing this furlough right
25 now, if we shut down government, their health

1 insurance ceases. Heaven forbid one of them
2 needs emergency surgery or has a baby or some
3 other crisis in their life. It's not a risk
4 I'm willing to take.

5 We need to do everything we can to
6 call upon the Governor to send us a new bill
7 eliminating this illegal action, and send him
8 a clear message that we will not be party to
9 his illegal activity and encourage him to
10 actually sit down and negotiate. It is what
11 the Taylor Law calls for, it is what the
12 Constitution calls for.

13 And while is he busy on the radio
14 criticizing people who won't come to the
15 table, he hasn't opened the door and
16 designated where the table is.

17 So I fully support this resolution,
18 and I ask everyone to vote for it. And before
19 I close, I just want to point out a couple of
20 things. The Governor is estimating there are
21 about 100,000 state employees who will be
22 affected by this furlough. Of those 100,000
23 workers, the majority of them make under
24 \$40,000 a year. They can't afford a
25 20 percent pay cut.

1 There are 14,000 employees on the
2 state workforce that make over \$100,000 a
3 year. They're predominantly MCs. And not to
4 take anything away from the hard work of our
5 management confidential employees, they're not
6 being targeted for furlough. The Governor's
7 excuse is, well, they gave up their 4 percent
8 pay raise. They didn't give it up; he took it
9 away from them. They don't have collective
10 bargaining rights. The state workers and
11 their unions do.

12 There are 6,856 identified
13 employees who are disabled who are targeted by
14 this furlough. That is going to be the impact
15 on people -- the disabled, our lowest-paid
16 employees, our secretaries, our data entry
17 people. And yet the Governor's staff isn't
18 being furloughed. 14,000 people earning more
19 than \$100,000 aren't going to be affected by
20 that.

21 This is outrageous. We need to
22 call on the Governor to stop this and to stop
23 it today. I urge all of you to vote yes on
24 this resolution.

25 Thank you, Mr. President.

1 ACTING PRESIDENT JOHNSON: Thank
2 you, Senator Savino.

3 Senator Stavisky, on the
4 resolution.

5 SENATOR STAVISKY: Thank you,
6 Mr. President.

7 And thank you, Senator Breslin, for
8 so eloquently discussing this resolution, and
9 Senator Savino for your special insights into
10 the problems involved in labor-management
11 relations.

12 There's another group of people,
13 though, that we forget about, the people
14 employed in our higher education institutions.
15 And I would like to remind the Governor that
16 CUNY is not a state agency. The people who
17 work for the City University of New York
18 bargain collectively with CUNY, not with the
19 state, and yet they are subject to this
20 furlough.

21 The faculty, who teach on a
22 10-month basis, they are being subject to a
23 furlough for work that has already been
24 completed in many cases. Even as we meet here
25 today, students are taking final exams.

1 Professors are grading the final exams,
2 they're grading papers. And yet they're going
3 to be subjected to the furlough that the
4 Governor proposes.

5 And lastly, there are a great many
6 part-time employees who, if they are
7 furloughed, their healthcare benefits will be
8 jeopardized. They earn part-time wages, and
9 their income level will fall below the
10 threshold and they will not be entitled to
11 their healthcare benefits -- the
12 hospitalizations, the prescription drugs and
13 so on.

14 We have a terrible choice to make.
15 And as so often happens, we try to make the
16 less terrible choice, which is to vote for the
17 furlough and hope that the courts act in an
18 expeditious manner.

19 Thank you, Mr. President. And I
20 urge a positive vote on this resolution.

21 ACTING PRESIDENT JOHNSON: Are
22 there any other Senators that wish to be heard
23 on the resolution?

24 The question is on the resolution.
25 All those in favor please signify by saying

1 aye.

2 (Response of "Aye.")

3 ACTING PRESIDENT JOHNSON:

4 Opposed, nay.

5 (No response.)

6 ACTING PRESIDENT JOHNSON: The
7 resolution is adopted.

8 Senator Breslin has indicated he
9 would like to open the resolution up for
10 cosponsorship by the entire house. Any
11 Senator wishing not to be on the resolution
12 please notify the desk.

13 Senator Klein.

14 SENATOR KLEIN: Mr. President,
15 there will be an immediate meeting of the
16 Finance Committee, followed by a meeting of
17 the Rules Committee in the Majority Conference
18 Room, Room 332.

19 Pending the return of the Rules
20 Committee can we please stand at ease.

21 ACTING PRESIDENT JOHNSON: There
22 will be an immediate meeting of the Finance
23 Committee, followed by an immediate meeting of
24 the Rules Committee in Room 332.

25 Pending the return of the Rules

1 Committee, the Senate will stand at ease.

2 (Whereupon, the Senate stood at
3 ease at 4:11 p.m.)

4 (Whereupon, the Senate reconvened
5 at 4:53 p.m.)

6 ACTING PRESIDENT JOHNSON:
7 Senator Klein.

8 SENATOR KLEIN: Mr. President, I
9 believe there's a report of the Rules
10 Committee at the desk. I move that we adopt
11 the report at this time.

12 ACTING PRESIDENT JOHNSON: There
13 is a report of the Rules Committee at the
14 desk.

15 The Secretary will read.

16 THE SECRETARY: Senator Smith,
17 from the Committee on Rules, reports the
18 following bill direct to third reading:

19 Senate Print 7777, by the Senate
20 Committee on Rules, an act making
21 appropriations for the support of government.

22 ACTING PRESIDENT JOHNSON: All
23 those in favor of adopting the Rules Committee
24 report please signify by saying aye.

25 (Response of "Aye.")

1 ACTING PRESIDENT JOHNSON:

2 Opposed, nay.

3 (No response.)

4 ACTING PRESIDENT JOHNSON: The
5 Rules Committee report is adopted.

6 Senator Klein.

7 SENATOR KLEIN: Mr. President, at
8 this time can we please go to a reading of the
9 Supplemental Calendar 45A.

10 ACTING PRESIDENT JOHNSON: The
11 Secretary will read.

12 THE SECRETARY: Calendar Number
13 507, by the Senate Committee on Rules, Senate
14 Print 7777, an act making appropriations for
15 the support of government.

16 ACTING PRESIDENT JOHNSON:
17 Senator Klein.

18 SENATOR KLEIN: Mr. President, is
19 there a message of necessity and appropriation
20 at the desk?

21 ACTING PRESIDENT JOHNSON: There
22 is a message of necessity and appropriation at
23 the desk.

24 SENATOR KLEIN: Mr. President, I
25 move to accept the message at this time.

1 ACTING PRESIDENT JOHNSON: The
2 question is on the acceptance of the message
3 of necessity and appropriation. All those in
4 favor please signify by saying aye.

5 (Response of "Aye.")

6 ACTING PRESIDENT JOHNSON:
7 Opposed, nay.

8 (No response.)

9 ACTING PRESIDENT JOHNSON: The
10 message is accepted.

11 Read the last section.

12 SENATOR LIBOUS: Lay the bill
13 aside, please.

14 ACTING PRESIDENT JOHNSON: The
15 bill is laid aside.

16 Senator Klein.

17 SENATOR KLEIN: Mr. President, at
18 this time can we please go to a controversial
19 reading of the supplemental calendar.

20 ACTING PRESIDENT JOHNSON: The
21 Secretary will ring the bell.

22 Members are all asked to come to
23 the chamber for a reading of the controversial
24 supplemental calendar.

25 The Secretary will read.

1 THE SECRETARY: Calendar Number
2 507, by the Senate Committee on Rules, Senate
3 Print 7777, an act making appropriations for
4 the support of government.

5 ACTING PRESIDENT JOHNSON:
6 Senator Libous.

7 SENATOR LIBOUS: Thank you,
8 Mr. President. There's two amendments at the
9 desk. The first one is by Senator Flanagan.
10 I would ask that you waive its reading and
11 call on Senator Flanagan, please.

12 ACTING PRESIDENT JOHNSON:
13 Senator Flanagan, your amendment is here at
14 the desk. Without objection, the reading is
15 waived and you may speak on the amendment.

16 SENATOR FLANAGAN: Thank you,
17 Mr. President.

18 Obviously, we're doing another
19 extender bill today. And the amendment that
20 I'll be offering on behalf of our conference
21 today has to do with school districts, public
22 schools, and non-public schools.

23 Last year we know in the context of
24 the budget, outside the budget, there was a
25 lot of discussion about the MTA, its financial

1 viability, and ultimately there was a plan
2 that included the MTA payroll tax. And in
3 that debate we had a lot of spirited
4 discussion about what should happen with
5 school districts.

6 I believe that what was done at the
7 time was ill-advised, inappropriate, and not
8 helpful to school districts. And there are
9 those who say, "Well, you know, the school
10 districts have to pay this payroll tax, but
11 we're going to reimburse them." We could
12 frankly have avoided this problem had we just
13 never made it apply to school districts to
14 begin with.

15 This amendment would change the law
16 in two respects. Number one, it would
17 effectively repeal the MTA payroll tax as it
18 relates to school districts. We're adding a
19 second portion to that which deals with
20 non-public schools.

21 And I will say, in the spirit of
22 trying to be cooperative and bipartisan, the
23 second part of our amendment has to do
24 directly with a bill that has been introduced
25 but not moved yet by Senator Klein,

1 reimbursing or dealing with the non-public
2 schools.

3 So public schools, non-public
4 schools, get rid of the payroll tax and make
5 this effective immediately so the Tax &
6 Finance Department can treat it as an
7 overpayment and a refund could go to the
8 school districts right now.

9 Since the budget is not done, they
10 think that the \$60 million will be going to
11 them, but they don't know. This would get it
12 done right now and would avoid any question
13 prospectively as we move into next year, so
14 that school districts, both public and
15 nonpublic, will not have to worry.

16 Mr. President, I move the
17 amendment.

18 ACTING PRESIDENT JOHNSON: Thank
19 you very much, Senator Flanagan.

20 Senator Klein.

21 SENATOR KLEIN: Mr. President,
22 point of order.

23 ACTING PRESIDENT JOHNSON:
24 Senator Klein, what is your point of order?

25 SENATOR KLEIN: According to

1 Article 7, Section 4 of the Constitution, the
2 Legislature may add only single line item
3 appropriations, stated separately and
4 distinctly.

5 Because the items in this amendment
6 are not single, distinct line items, the
7 amendment is unconstitutional and therefore
8 out of order.

9 ACTING PRESIDENT JOHNSON:

10 Senator Klein, your point of order is affirmed
11 and the nonsponsor amendment is ruled out of
12 order.

13 Senator Libous.

14 SENATOR LIBOUS: Thank you,
15 Mr. President. I rise as I have the last five
16 weeks, and I challenge the ruling of the chair
17 because we believe that it is constitutional.
18 Senator Flanagan's amendments have every right
19 to be implemented into this particular budget
20 appropriation. And I would challenge the
21 ruling of the chair, please.

22 ACTING PRESIDENT JOHNSON:

23 Senator Libous, would you like to make a
24 motion to overrule the ruling of the chair?

25 SENATOR LIBOUS: Yes, sir, I

1 would.

2 ACTING PRESIDENT JOHNSON: Okay.

3 Thank you.

4 SENATOR LIBOUS: By a showing of
5 hands, please.

6 ACTING PRESIDENT JOHNSON: All
7 those in favor of overruling the ruling of the
8 chair please raise your hands.

9 Senator Flanagan, why do you rise?

10 SENATOR FLANAGAN: Mr. President,
11 I'd like to be heard on the motion.

12 ACTING PRESIDENT JOHNSON:
13 Senator Flanagan, on the motion.

14 SENATOR FLANAGAN: Okay. I ask
15 that the roll call be withdrawn, at least
16 temporarily. I'd like to be heard on the
17 motion, please.

18 ACTING PRESIDENT JOHNSON:
19 Senator Flanagan, you may be heard.

20 SENATOR FLANAGAN: Thank you,
21 Mr. President.

22 I listened now and I listened
23 before as we've done these extenders where
24 Senator Klein has gotten up and made a point
25 of order and talked about the nature of our

1 amendments being unconstitutional. And I
2 don't want to sound like I'm splitting hairs,
3 but I will say this. We're not changing
4 anything, we're not deleting, we're not adding
5 to or subtracting to appropriations that are
6 in the bill that has been sent up by the
7 Governor.

8 We believe and I believe very
9 clearly that we can do this because we're
10 adding something new. We didn't take an
11 appropriation that the Governor said was a
12 million dollars or something like that and
13 reduce it or add to it, and we didn't delete
14 it. We're introducing something that's
15 brand-new.

16 And maybe the concept of bringing
17 brand-new is something that we should be
18 embracing. Because, ladies and gentlemen, all
19 we're really trying to do here is help school
20 districts. I believe at some point you're
21 going to want to do the same thing.

22 So I believe that this amendment is
23 in order. I don't believe it's
24 unconstitutional in any respects. And again,
25 I would move the amendment.

1 Thank you, Mr. President.

2 ACTING PRESIDENT JOHNSON:

3 Senator Flanagan, thank you.

4 The ruling stands. All those in
5 favor of overruling the chair please show by
6 raising your hands.

7 The Secretary will announce the
8 results.

9 THE SECRETARY: Ayes, 29. Nays,
10 32.

11 ACTING PRESIDENT JOHNSON: The
12 ruling stands.

13 Senator Libous.

14 SENATOR LIBOUS: Yes, thank you,
15 Mr. President. I believe Senator McDonald has
16 an amendment at the desk. And if you would
17 waive its reading and call on Senator
18 McDonald.

19 ACTING PRESIDENT JOHNSON:
20 Senator McDonald, your amendment is here at
21 the desk. Without objection, the reading is
22 waived and you may speak on your amendment.

23 SENATOR McDONALD: Thank you,
24 Mr. President. I'm sure my colleagues know
25 the amendment is the same one that I proposed

1 two weeks ago, and it's a confirmation of a
2 Governor's house bill that was presented.

3 It's about the New York Racing Association and
4 the track seasons for the three tracks --
5 Belmont, Aqueduct, and especially Saratoga --
6 coming upon us.

7 It's been a tough year, a tough
8 couple of years for our economy. Upstate
9 New York State saw more than its fair share of
10 negative economics. We're moving into the
11 area where a \$17 million loan to the New York
12 Racing Association to deal with capital
13 improvements in the three tracks, mostly
14 Saratoga, becomes very important, as the
15 season, for all practical purposes, is
16 starting in the North Country. And I say
17 North Country because it expands beyond
18 Saratoga, it's up into the Adirondack regions.

19 It's so important that we send a
20 signal that we're prepared to meet this season
21 and that we send a signal to the business
22 community, who is begging to pay us money,
23 sales tax money, various forms of income taxes
24 for the people they employ. They want to pay
25 state taxes into our revenue stream that

1 desperately needs that money.

2 Now, I don't care if a bill comes
3 down and somebody else's name is on it. I
4 don't care if it's all the other side. I
5 respect that. I understand this. What I care
6 about is doing something for these tracks.
7 It's especially damaging that the VLT process
8 has been so tainted and gone so long that
9 these three tracks and the horse industry and
10 all the industries related to it -- tourism,
11 the agricultural industry -- have been hurt by
12 this.

13 I recognize that this will have a
14 quote from a lawyer that says we can't vote on
15 this. I recognize that. I'm disappointed by
16 it. I'm disappointed on a lot of things I
17 don't get to vote on, which I think is unfair.
18 But it's especially unfair because my
19 constituency, like your own, is made up of so
20 many different people of different political
21 parties. They're not asking for partisanship.
22 They're not deviating from their own political
23 philosophies -- many of them share yours.
24 What they're simply asking for is an
25 opportunity to work for the season.

1 It's important that revenue stream
2 comes in because the way this budget process
3 is going -- and there is no process -- we
4 could be here back in November and December
5 working on a budget, and we will be looking at
6 revenue streams, such as sales tax collected
7 throughout our great state.

8 And if we don't do something about
9 these tracks, which should have been done
10 years ago -- should have done this year with
11 the VLT process, and probably a case should
12 have been done in the last eight or nine
13 years, since it was open -- we're going to be
14 short revenue again.

15 Now, we're losing a million dollars
16 a day. That's \$365 million without having a
17 VLT Aqueduct vendor. Nobody can get together
18 on it. Simply amazes my constituency why this
19 property has gone literally into the can.

20 So whatever the outcome of the
21 ruling -- and I don't kid myself. It will be
22 non-germane, out of order and some interpreted
23 legal interpretation that will simply say to
24 my voters we're not going to get to vote on
25 this. So my response is going to be, Listen,

1 I understand the politics. I'm not going to
2 say I agree with it, but I understand it. And
3 I know it goes both ways. I respect that.

4 I am going to tell you folks if you
5 mess around too much longer with the track
6 seasons, there's going to be a lot of people
7 in this room and down the hallway and in the
8 Governor's office that are going to be
9 responsible for people not making money, not
10 being able to take care of themselves, and not
11 giving us revenue that we desperately need to
12 run this great state.

13 It's time we start doing something.
14 So I've accepted the fact that this will not
15 be voted on. I've accepted the fact that it's
16 not germane, and that's the headline will be
17 in my district. I've accepted the fact that
18 it may be out of order. But I had no
19 recourse. There's no joint budget, house
20 meetings and joint conference meetings.
21 There's no place that we can actually vote on
22 a budget, a line item. I've never seen
23 anything like this before.

24 So I appeal to you as responsible
25 men and women to recognize this critically

1 important industry in upstate New York and
2 indeed throughout our entire state. I don't
3 doubt for a moment that you don't care about
4 this industry. But I think brinksmanship is
5 going to hurt a lot of innocent people, a lot
6 of hardworking people that need better than
7 this.

8 So before you call it out of order,
9 I wanted to state there's never out of order
10 when you have a chance to vote on something.
11 Isn't that what we're here for?

12 Thank you, Mr. President.

13 ACTING PRESIDENT JOHNSON: Thank
14 you, Senator McDonald.

15 Senator Klein.

16 SENATOR KLEIN: Mr. President,
17 once again, point of order.

18 ACTING PRESIDENT JOHNSON:
19 Senator Klein, what's your point of order?

20 SENATOR KLEIN: Mr. President,
21 according to Article 7, Section 4 of the
22 Constitution, the Legislature may only add
23 single line item appropriations stated
24 separately and distinctly.

25 Because the items in this amendment

1 are not single, distinct line items, the
2 amendment is unconstitutional and therefore
3 out of order. In theory, Mr. President, the
4 bill is inconsistent with the basic executive
5 budgeting.

6 ACTING PRESIDENT JOHNSON:

7 Senator Klein, your point of order is affirmed
8 and the nonsponsor amendment is out of order.

9 Senator Libous.

10 SENATOR LIBOUS: Mr. President,
11 as I did just a few moments ago, I challenge
12 the ruling of the chair on this issue.

13 ACTING PRESIDENT JOHNSON:

14 Senator Libous, the ruling stands. All those
15 in favor of overruling the ruling of the chair
16 please signify by raising your hands.

17 Announce the results.

18 THE SECRETARY: Ayes, 29. Nays,
19 32.

20 ACTING PRESIDENT JOHNSON: The
21 motion fails. The ruling of the chair is
22 affirmed.

23 The bill is before the house.

24 SENATOR LIBOUS: Explanation.

25 ACTING PRESIDENT JOHNSON:

1 Senator Libous has requested an explanation of
2 Senator Carl Kruger.

3 Senator Kruger.

4 SENATOR CARL KRUGER: An
5 explanation of the bill, not of me.

6 What we have today in front of us
7 is another emergency appropriation bill, the
8 sixth since we failed to enact a budget. This
9 bill provides for \$3.6 billion in All Funds
10 Appropriation, \$837 million from the General
11 Fund.

12 As the previous extenders from last
13 week, it also denies the implementation of the
14 4 percent labor increase. And we are
15 restoring some bridge and tunnel authority,
16 plus there is an additional \$5 million
17 appropriated in bridge and tunnel work for
18 state projects.

19 Additionally, as has been discussed
20 in great length this afternoon, and part of
21 the resolution that was adopted by our house,
22 the Governor is calling for a furlough of
23 state employees. Approximately 100,000
24 employees would be affected by this furlough,
25 which we view to be unconstitutional. And the

1 expected saving, in his judgment, would be
2 approximately \$30 million a week.

3 ACTING PRESIDENT JOHNSON:
4 Senator LaValle.

5 SENATOR LaVALLE: On the bill,
6 Mr. President.

7 ACTING PRESIDENT JOHNSON:
8 Senator LaValle, on the bill.

9 SENATOR LaVALLE: I'll yield to
10 Senator DeFrancisco.

11 ACTING PRESIDENT JOHNSON:
12 Senator DeFrancisco.

13 SENATOR DeFRANCISCO: Would
14 Senator Kruger yield to a few questions?

15 ACTING PRESIDENT JOHNSON:
16 Senator Kruger, will you yield to some
17 questions from Senator DeFrancisco?

18 SENATOR CARL KRUGER: Absolutely.

19 ACTING PRESIDENT JOHNSON:
20 Senator DeFrancisco, Senator Kruger will
21 yield.

22 SENATOR DeFRANCISCO: Senator
23 Kruger, when we had this dialogue last week, I
24 mentioned how it would be a little bit more
25 difficult this week to support an extender for

1 those who had supported it in the past because
2 we all knew that a furlough was going to be in
3 it. And I mentioned also the fact that this
4 furlough would obviously be extremely
5 difficult to deal with and that it's important
6 to get a budget done by today so we wouldn't
7 have to go through this.

8 Can you tell me what leaders'
9 meetings took place on the budget from last
10 week this time till today?

11 SENATOR CARL KRUGER: I would be
12 happy to.

13 On Friday, May 7th, there was a
14 five-way meeting with an overview on
15 transportation appropriation, for the sixth
16 emergency spending bill.

17 On Thursday, May 6th, there was
18 another five-way meeting, a general overview
19 of the provisions in the sixth emergency
20 spending bill as well as the Article 7
21 language bill.

22 There were several three-way
23 meetings as well in the ensuing periods.

24 SENATOR DeFRANCISCO: Would
25 Senator Kruger yield to another question?

1 ACTING PRESIDENT JOHNSON:

2 Senator Kruger, will you yield?

3 SENATOR CARL KRUGER: Yes.

4 ACTING PRESIDENT JOHNSON:

5 Senator DeFrancisco.

6 SENATOR DeFRANCISCO: Were those
7 meetings among staff members or with the
8 leaders present?

9 SENATOR CARL KRUGER: Staff.

10 SENATOR DeFRANCISCO: All right.

11 So --

12 ACTING PRESIDENT JOHNSON:

13 Senator DeFrancisco, do you wish him to yield
14 for another question?

15 SENATOR DeFRANCISCO: Yes, if he
16 would, please.

17 ACTING PRESIDENT JOHNSON:

18 Senator Kruger?

19 SENATOR CARL KRUGER: Yes, I do,
20 Mr. President.

21 ACTING PRESIDENT JOHNSON:

22 Senator DeFrancisco.

23 SENATOR DeFRANCISCO: So despite
24 the fact that everyone knew the furloughs were
25 going to be in the budget extender this week,

1 there were no three-way leaders' meetings in
2 the last week; is that fair to say?

3 SENATOR CARL KRUGER: I think
4 that's a fair assumption, yes.

5 SENATOR DeFRANCISCO: Would
6 Senator Kruger yield to another question?

7 ACTING PRESIDENT JOHNSON:
8 Senator Kruger, will you yield?

9 SENATOR CARL KRUGER: Yes, I
10 will, Mr. President.

11 ACTING PRESIDENT JOHNSON:
12 Senator DeFrancisco, he will yield.

13 SENATOR DeFRANCISCO: Now, can
14 this body, if you know, can this body
15 intentionally, knowingly and willfully pass a
16 bill that is determined to be unconstitutional
17 and in violation of contract rights of an
18 individual?

19 ACTING PRESIDENT JOHNSON:
20 Senator.

21 SENATOR CARL KRUGER: Through
22 you, Mr. President, I guess a response to your
23 question is that that would be a matter that
24 would have to be litigated.

25 SENATOR DeFRANCISCO: Would

1 Senator Kruger yield to another question?

2 ACTING PRESIDENT JOHNSON:

3 Senator Kruger, do you yield for another
4 question?

5 SENATOR CARL KRUGER: Yes, I do,
6 Mr. President.

7 ACTING PRESIDENT JOHNSON:

8 Senator DeFrancisco, he does yield.

9 SENATOR DeFRANCISCO: Would you
10 agree with the statement that the language in
11 this extender bill requiring a one-day
12 furlough is contrary to the laws and public
13 policies of this state?

14 ACTING PRESIDENT JOHNSON:

15 Senator Kruger.

16 SENATOR CARL KRUGER: Through
17 you, Mr. President, as was indicated in the
18 resolution that was supported by 32 of the
19 Majority members of this house, we dealt with
20 the issue of the furlough and our
21 interpretation of what it meant.

22 Once again, we pass a bill and
23 ultimately it's for the courts to determine
24 the legality of the bills that we pass.

25 SENATOR DeFRANCISCO: On the

1 bill.

2 ACTING PRESIDENT JOHNSON:

3 Senator DeFrancisco, on the bill.

4 SENATOR DeFRANCISCO: Of course
5 it's up to the courts to determine when
6 there's a dispute and when the dispute is
7 brought before them. However, there was a
8 unanimous vote moments ago on a resolution
9 that basically had in it the language "the
10 bill requiring a one-day furlough is contrary
11 to the laws and public policy of this state."

12 And in fact, there were several
13 speakers who basically said that, including
14 Senator Savino. And I believe Senator Breslin
15 mentioned it. The authors clearly agree with
16 it, in view of the fact that they wrote it.
17 And the whole body voted for this resolution
18 basically acknowledging that fact.

19 And it seems to me that if everyone
20 acknowledges it, you don't need a court
21 determination to find that something is
22 unconstitutional and violates the laws and
23 policies of the State of New York. You've
24 already made that determination by your
25 unanimous vote.

1 And if that's the case, I can't see
2 how anybody in good conscience, when they've
3 made that decision, can vote for an extender
4 which does exactly that, violates the
5 provisions of the laws of the State of
6 New York, and also the constitution and public
7 policy.

8 But even more importantly, I
9 believe that there's a lot of --

10 ACTING PRESIDENT JOHNSON:
11 Senator Kruger, why do you rise?

12 SENATOR CARL KRUGER: I rise for
13 a point of information.

14 ACTING PRESIDENT JOHNSON: Point
15 of information, Senator Kruger. What is your
16 point of information?

17 SENATOR CARL KRUGER: Thank you,
18 Mr. President. Would the Senator yield for a
19 question?

20 ACTING PRESIDENT JOHNSON:
21 Senator DeFrancisco, will you yield for a
22 question from Senator Kruger?

23 SENATOR DeFRANCISCO: I'd be more
24 than happy to yield to the point of
25 information question.

1 ACTING PRESIDENT JOHNSON:

2 Senator Kruger, Senator DeFrancisco does
3 yield.

4 SENATOR CARL KRUGER: Thank you.

5 Senator, in your judgment, what
6 would be the scenario of events that would
7 happen today if we did not vote for this
8 extender?

9 SENATOR DeFRANCISCO: Well, first
10 of all, it's not a today-or-nothing thing.
11 That's why I was very careful last week when
12 the whole world knew that there would be
13 consequences this week when we voted on an
14 extender, and those consequences included a
15 furlough of some, not all, employees.

16 And I stated quite frankly -- and I
17 reiterated today when I asked you those
18 various questions -- that next week's going to
19 be extremely interesting, so you'd better get
20 to work and get the budget process going. I
21 wasn't even calling for a public budget
22 process last week, I was saying you've got to
23 get the process open because you're going to
24 find yourself in this bind.

25 So to suggest for one moment that

1 it's all or nothing today and, if we don't
2 vote for an extender, the world's going to
3 end -- that isn't what would make the world
4 end. It would be the total lack of any kind
5 of budget progress, not even a leaders'
6 meeting when we had these dire consequences
7 that were going to happen and we knew of it at
8 least a week ago.

9 Worst-case scenario, we vote no on
10 this proposal, then somebody's going to have
11 to go back to the drawing board. Either
12 somebody's going to decide that a budget is
13 important or somebody's going to have to
14 provide another extender. And it's not us.
15 We don't provide the extenders. We're not the
16 ones who call the public meetings. It's
17 somebody else who happens to run this house.
18 And those are the individuals that should be
19 held responsible for not performing their
20 duties.

21 SENATOR CARL KRUGER: Thank you,
22 Senator.

23 ACTING PRESIDENT JOHNSON:
24 Senator Kruger.

25 SENATOR CARL KRUGER: Once again,

1 through you, Mr. President.

2 ACTING PRESIDENT JOHNSON:

3 Senator DeFrancisco, will you yield for
4 another question?

5 SENATOR DeFRANCISCO: Yes.

6 SENATOR CARL KRUGER: Now that
7 we've made the speech, let's get --

8 SENATOR DeFRANCISCO: No, that
9 wasn't a speech, it was an answer.

10 ACTING PRESIDENT JOHNSON:

11 Senator DeFrancisco, let Senator Kruger finish
12 his question.

13 SENATOR CARL KRUGER: Well, there
14 was a spin on the answer.

15 I'll try to encapsulize it. If we
16 do not pass this extender today with the
17 furloughs, as the Governor has pointed out,
18 our choices today, furloughs or shut down --
19 that's what the Governor said, that's his
20 quote -- what would be your position?

21 ACTING PRESIDENT JOHNSON:

22 Senator DeFrancisco.

23 SENATOR DeFRANCISCO: My position
24 is the same as it was for the last four weeks
25 I voted no. Namely, that a budget process is

1 supposed to begin. It was supposed to begin
2 after the Governor provided his January
3 budget.

4 So my answer to you is that what
5 happens is that the Majority leaders, the
6 three New York City Democrats -- that didn't
7 even go into the room this week, not being
8 concerned about what's going to happen today
9 if we're faced with passing an illegal,
10 unconstitutional violation of public policy --
11 if it wasn't important enough for the three
12 leaders to get in that room and start
13 something constructive -- and by the way, I
14 was just advised that the only meetings among
15 staff were on the extender bill, not budget
16 negotiations, to correct you. And I'm sure
17 you were well aware of that.

18 But the fact of the matter is what
19 would happen now is if the government shut
20 down, it's because of a total lack of concern
21 by the people running government in this state
22 right now. And if it shut down, what would
23 happen? You've got a few hours to get up
24 there and start working and start doing
25 something. Call a meeting. Maybe we can

1 participate and give you some advice on how to
2 handle this thing, because you obviously can't
3 do it.

4 So the problem is that we'd have to
5 go back and try to get an extender that's
6 constitutional and in support of public
7 policy.

8 SENATOR CARL KRUGER: Through
9 you, Mr. President.

10 ACTING PRESIDENT JOHNSON:
11 Senator DeFrancisco, do you yield for another
12 question?

13 SENATOR DeFRANCISCO: Yes, of
14 course.

15 SENATOR CARL KRUGER: So then
16 it's your suggestion that we vote down this
17 extender, shut down for, for all practical
18 purposes, government as we know it to be at
19 the moment, and now go upstairs and try to
20 negotiate another, in your version, a
21 constitutional extender.

22 SENATOR DeFRANCISCO: You know,
23 maybe I'm not being clear. The choice didn't
24 happen at 4 o'clock today when we got --

25 SENATOR CARL KRUGER: But that's

1 where we are right now.

2 SENATOR DeFRANCISCO: Well,
3 that's where we are right now for one reason.
4 Because you and your colleagues decided that
5 it wasn't important enough to even have a
6 staff meeting on the budget, let alone a
7 three-way leaders' meeting, so you frittered
8 away last Monday, Tuesday, Wednesday,
9 Thursday -- probably went to a few fundraisers
10 here and there -- Friday, Saturday, Sunday.
11 And now you're going to say to us we're
12 shutting down government?

13 SENATOR MONTGOMERY: Point of
14 order, Mr. President.

15 ACTING PRESIDENT JOHNSON: Before
16 you do, first I'm going to remind the members
17 of the body to address through the chair. And
18 second, I'm going to ask each member of the
19 body to keep it within the bill itself and
20 keep the personal out.

21 Senator Montgomery, why do you
22 rise? Point of order? What's your point of
23 order, Senator Montgomery?

24 SENATOR MONTGOMERY: My point of
25 order was, Mr. President, that I thought that

1 the questions should go through you. And it
2 sounded like we were boiling down to a floor
3 fight, and I thought it inappropriate, so I
4 wanted to bring that to your attention. And
5 hopefully my colleagues will respond
6 accordingly.

7 Thank you.

8 ACTING PRESIDENT JOHNSON:

9 Thinking alike.

10 Senator Kruger.

11 SENATOR CARL KRUGER: Thank you,
12 Mr. President. And it was never my intention
13 to have an old floor fight. But again,
14 through you, Mr. President.

15 ACTING PRESIDENT JOHNSON:

16 Senator DeFrancisco, do you yield for another
17 question?

18 SENATOR DeFRANCISCO: Yes.

19 ACTING PRESIDENT JOHNSON:

20 Senator Kruger.

21 SENATOR CARL KRUGER: Senator,
22 regardless of how you try to characterize our
23 cumulative efforts to reach a budget, my fact
24 that I'm dealing with at the moment is a very
25 simple question that I ask for you to give me,

1 as you asked me last week, for a simple yes or
2 no answer.

3 Do you suggest that we vote against
4 this extender and close down government this
5 afternoon?

6 SENATOR DeFRANCISCO: First of
7 all, I've been asking you questions for --
8 this is the sixth week, and you have never
9 given me a simple any answer, let alone a
10 simple yes or no answer.

11 But my answer is very clear. It
12 came down to today because you didn't do your
13 job. It would seem to me, it would occur that
14 if someone had the time to write a resolution
15 saying that this is going to be
16 unconstitutional when you recognize it's going
17 to be unconstitutional, then maybe someone in
18 your conference, maybe one of the sponsors of
19 the resolution, might have said to your
20 leader, Hey, leader, we're going to be asked
21 to do something that's illegal. We've got to
22 start to negotiate.

23 And if you didn't have enough votes
24 among your conference, maybe you could have
25 asked a few of us to try to provide you with

1 enough votes to get the open conference
2 committee meetings.

3 So since you frittered the week
4 away, and actually since April 1 -- or
5 actually since the Governor submitted the
6 budget in January, since you've done nothing
7 all this time, if you could suggest that by us
8 voting no today, it's our fault that
9 government is shut down, then you're in a
10 different world than I am.

11 If we vote no, as I've said before,
12 and some other brave soul on the other side
13 decides enough is enough, that we've got to
14 have a budget, not just extenders, then under
15 those circumstances that means this would fail
16 and you have time to try to work out another
17 extender. And that's just the way it is.

18 And if you didn't have time, then
19 the reason you didn't have time is because you
20 wasted since January 15th or whenever the
21 Governor submitted his budget and done nothing
22 since then, even knowing for the last week
23 that you have to vote on an illegal,
24 unconstitutional bill that's against public
25 policy.

1 SENATOR CARL KRUGER: Once again,
2 through you, Mr. President.

3 ACTING PRESIDENT JOHNSON:
4 Senator DeFrancisco --

5 SENATOR CARL KRUGER: So,
6 Senator -- and as you pointed out, it's
7 probably difficult for me to understand
8 things, so maybe we should keep it simple.

9 In all practicality, you're
10 suggesting that we renegotiate another
11 extender, because that's just what you said,
12 that we negotiate another extender.

13 SENATOR DeFRANCISCO: Sure, you
14 can --

15 ACTING PRESIDENT JOHNSON:
16 Senator Kruger, Senator DeFrancisco, I ask
17 again --

18 SENATOR CARL KRUGER: Through the
19 chair.

20 ACTING PRESIDENT JOHNSON: --
21 through the chair. Thank you.

22 SENATOR DeFRANCISCO: Yes, I'll
23 yield. You could do a 12-hour extender. You
24 could do a one-day extender. You can do
25 extenders --

1 ACTING PRESIDENT JOHNSON:

2 Senator DeFrancisco, again, I ask you to do
3 it -- Senator, the reference is through the
4 chair.

5 SENATOR DeFRANCISCO: Okay, I'll
6 look at you.

7 (Laughter.)

8 SENATOR DeFRANCISCO: I think you
9 have to ask questions through the chair. You
10 don't have to look at you when I'm speaking.

11 ACTING PRESIDENT JOHNSON: Please
12 keep it through the chair.

13 SENATOR DeFRANCISCO: Unless is
14 there a rule on that?

15 ACTING PRESIDENT JOHNSON: Thank
16 you, Senator DeFrancisco.

17 SENATOR DeFRANCISCO: Well, I
18 have a point of order. I'd just like to know
19 what the rule is that I have to look at you
20 when I'm speaking.

21 (Laughter.)

22 ACTING PRESIDENT JOHNSON:
23 Senator DeFrancisco, I have given you some
24 leeway, but you are out of order right now.
25 If you wish to --

1 SENATOR LIBOUS: No, Mr.
2 President -- Mr. President, point of order.

3 ACTING PRESIDENT JOHNSON:
4 Senator Libous.

5 SENATOR LIBOUS: Thank you,
6 Mr. President. He can direct his answer
7 through the chair, but he could be looking up
8 in the balcony when he does it. That's the
9 rules of this house.

10 Certainly he is responding through
11 the chair, Mr. President, because the
12 questions come through the chair and the
13 responses go through the chair. But he
14 doesn't have to look at the chair when he
15 responds through the chair.

16 Thank you, Mr. President. That's
17 my point of order.

18 SENATOR DeFRANCISCO: Senator,
19 I'll look at you --

20 ACTING PRESIDENT JOHNSON:
21 Senator DeFrancisco, I'd like to address the
22 point of order that was made by Senator
23 Libous. Patience.

24 Senator Libous, I appreciate your
25 point of order.

1 And, Senator DeFrancisco, you don't
2 need to look at me. You can look at Senator
3 Kruger or anybody else. My purpose here is to
4 keep the decorum. And frankly the decorum at
5 this point is degrading a little bit. So
6 let's keep it in a civil tone. Let's stop
7 doing the accusatory. Your point is well
8 taken. You now may look at Senator Kruger.
9 That is my ruling.

10 (Laughter.)

11 SENATOR CARL KRUGER: When God
12 gives you lemons, you have to make lemonade.

13 SENATOR DeFRANCISCO: Come to
14 think of it, I don't think I want to look at
15 him, actually.

16 (Laughter.)

17 SENATOR CARL KRUGER: I don't
18 blame you.

19 (Laughter.)

20 SENATOR DeFRANCISCO: But getting
21 back to the point, the extender could be as
22 short as people want it to be. The fact of
23 the matter is that whatever it takes to get a
24 budget process started, we've got to start it.
25 And I'd like to now speak on the bill, if we

1 can.

2 SENATOR CARL KRUGER: Thank you,
3 Mr. President.

4 ACTING PRESIDENT JOHNSON: Thank
5 you, Senator Kruger.

6 Senator DeFrancisco, on the bill.

7 SENATOR DeFRANCISCO: Okay. And
8 what I was getting at is that we just had a
9 Finance Committee meeting where there was a
10 bill from Senator Serrano that said we should
11 keep the parks open. Well, everybody wants
12 the parks to be open, but there was no
13 appropriation.

14 Everybody wants contractors to be
15 paid, but there's no appropriation. Senator
16 Flanagan wants the monies that are supposed to
17 go back to the school districts for the MTA
18 tax to go to the school district, but it's not
19 in the bill, it's not germane. Senator
20 McDonald wants the racing industry to continue
21 going and create economic vitality in his
22 region and throughout the State of New York,
23 but we can't do that.

24 Everybody wants the school
25 districts to have some idea as to what they're

1 going to get so they can send something to the
2 people of their districts that will give them
3 some intelligent way to vote on what monies
4 they need.

5 And I can go indefinitely. The
6 Blind School and the Deaf School that Senator
7 Breslin was talking about that wouldn't get
8 paid if this extender doesn't pay -- you know,
9 they'd get paid if you had a budget. So would
10 all the employees get paid if there was a
11 budget. So the fact of "this extender has got
12 to happen because things won't happen" -- if
13 we had a budget, it would happen.

14 Now, I don't know what else --
15 other than the threat of furloughs that the
16 Governor gave -- that we could possibly say
17 that would convince somebody in the leadership
18 role here that this is important. We're
19 supposed to have budget conference hearings.

20 This is not -- people sometimes are
21 concerned about the lack of bipartisanship in
22 this house. You know, the comptroller happens
23 to be a Democrat, and he's calling again for
24 open conference meetings, it's the only way
25 that maybe public dialogue will get this thing

1 going. He's the comptroller who's been waving
2 red flags since the Governor presented his
3 budget and before that, and he's still raising
4 red flags. He's a Democrat. So we have a
5 bipartisan position here that we've got to get
6 the budget process going.

7 And it's also interesting that
8 apparently there's going to be a vote today
9 for an extender that's unconstitutional,
10 against public policy, illegal -- there seems
11 to be a pattern here. Because there's a 2007
12 reform package that says you've got to have
13 open conference committees. And if you have
14 to have open conference committees by law,
15 then apparently that law doesn't bother
16 anybody on the other side of the aisle. We'll
17 just forget about that when it suits our
18 purpose, and we'll come out when there's
19 critical mass to tell everybody about what's
20 happened.

21 But you can't get that critical
22 mass until you meet. And if anybody -- a lot
23 of people are pointing fingers, especially the
24 Legislature, at the Governor. The Governor
25 has submitted his budget. He doesn't have to

1 do a darn thing. It's the Legislature that
2 has to pass a budget by April 1.

3 So the fact of the matter is
4 there's more and more frustration. Each week,
5 it builds. And if the tone gets louder and
6 louder, it's the tone that we're hearing from
7 our constituents. And it's justified.

8 So all we can do on this side of
9 the aisle is keep urging the other side to
10 vote on something that's constitutional,
11 that's legal, follow a rule that's a law that
12 everybody that was there in 2007 voted for
13 because it was a great reform. Let's do what
14 we're supposed to do and start the budget
15 process.

16 I don't know, next week, if I was
17 the Governor, I think I'd probably increase
18 the furloughs or increase some other pressure
19 point to see how far the Legislature has to be
20 whipped before they're going to meet and have
21 some kind of discussion and get a budget.
22 Because we can't go on forever.

23 As a result -- each week, by the
24 way, of the five preceding weeks, we've had
25 more and more no votes. And there's going to

1 come a time hopefully when there's a brave
2 soul on the other side of the aisle where
3 we're not going to have enough votes and we'll
4 be in that critical stage that Senator Kruger
5 was concerned about. Apparently it's going to
6 take that in order to get a budget done in
7 this state, because there's no will in the
8 leadership to do it.

9 So I urge everyone to vote no on
10 this unconstitutional, illegal bill that also
11 violates public policy, and instead follow the
12 law that has been not followed since the
13 Governor presented his budget, the 2007 reform
14 bill.

15 So I intend to vote no. Thank you,
16 Mr. President. I enjoyed looking at you
17 during my time.

18 ACTING PRESIDENT JOHNSON: The
19 feeling is mutual, Senator DeFrancisco. On
20 looking at you.

21 Senator LaValle.

22 SENATOR LaVALLE: Thank you. On
23 the bill, Mr. President.

24 ACTING PRESIDENT JOHNSON: On the
25 bill, Senator Ken LaValle.

1 SENATOR LaVALLE: I think we are
2 showing a lot of frustration and that's what
3 happens when you try and fit square pegs into
4 round holes.

5 There has clearly, over the last
6 six weeks, been a process that is really kind
7 of nonexistent. We I think are in agreement
8 that we are in violation. The Majority knows
9 this. The Majority has 32 votes. They
10 control what goes on here. And we have not
11 had conference committees. That's what the
12 Budget Reform Act calls for.

13 So that process and the fact that
14 we do not have transparency, we do not have
15 public meetings with the Executive and the
16 leaders -- I don't know, since I'm not one of
17 the leaders, when the last time such a meeting
18 took place. But I think that's crucial to
19 have an open dialogue on where we are and what
20 the problems are so that everyone can in some
21 way participate.

22 So we don't have conference
23 committees, we are not having leaders'
24 meetings. So here we are, another week with
25 an extender. Each of the extenders seem to

1 have a poison pill. And while people have
2 been voting in favor, they're voting in favor
3 because they don't want to go to the precipice
4 on closing down government.

5 But each week, as Senator
6 DeFrancisco indicated, people are getting more
7 and more frustrated. And they're beginning to
8 vote no each week. They're voting no because
9 the contractors are not being paid. And at a
10 time, and I've said this before, where we went
11 through a whole period of time about
12 shovel-ready projects -- now those projects
13 have come to a halt.

14 We have in the State University
15 projects that have come to a halt, and then we
16 have City University being treated
17 differently; their projects are moving
18 forward. That does not seem to be fair to
19 treat one region of the state one way because
20 of an anomaly in the budget and then take
21 another region of the state and treat them
22 harshly, differently, particularly at a time
23 when upstate and Long Island communities
24 depend on those jobs and what is in the
25 economy.

1 This week, everyone I think is in
2 agreement -- and, you know, we could be, for
3 one day, Court of Appeals or Supreme Court
4 justices and say this is clearly impairing a
5 contractual agreement. I hear from the union
6 people that they would like to contribute in
7 some way, they understand what the problem is.
8 But they are saying to me that they are not
9 being called to the table to negotiate. And
10 if you have a contract, you know, you have to
11 negotiate that contract.

12 Put that aside. We are dealing
13 with real people. We are dealing with people
14 physical, some of the lower salaried workers,
15 some of the lower salaried workers at a time
16 when the economy is so bad. People don't put
17 on Facebook that in a family where there are
18 two jobs, one of them are unemployed. They
19 don't put on Facebook that they are close to
20 going into foreclosure. And we're playing
21 around with people's lives.

22 Single parents who are having a
23 tough time in this economy, we're telling them
24 take a furlough, take a cut? I don't
25 understand. And I know that every person in

1 this room cares about the people that they
2 represent.

3 Well, I want to tell you, we are
4 not doing right by those people. We are not
5 doing right. They are innocent bystanders
6 because there is no leadership in putting a
7 budget together.

8 And you know, I think it has to be
9 said we had an election in '08. And that
10 election clearly -- it's not something that we
11 as Republicans particularly liked, but we
12 elected a Democrat president, Democrat
13 Congress, Democrat Governor, Democrat Senate,
14 Democrat Assembly.

15 We don't have a budget. The three
16 Democrat leaders -- and as Senator DeFrancisco
17 said, they all happen to be from New York
18 City -- have not come together to give a
19 budget to the people. How much longer can we
20 go on? The numbers I heard -- oh, we'll wait
21 till April 15th, the numbers are going to
22 hopefully percolate better. They didn't. And
23 they're not going to get any better next week
24 or the week after.

25 So it's unfair to, as Senator

1 Flanagan talked about, the local school
2 districts, the university system, to the
3 workers -- the workers, the core of our
4 government, the core of our government. So I
5 can't in good conscience support a budget that
6 is going to hurt people. As my parents often
7 said to me, and I don't mean to demean anyone
8 in their status, but these are the people who
9 give us the sweat from their brow, put
10 themselves in harm's way.

11 And I'll tell you, there will be
12 people, if this moves forward, who will be
13 impaired and in peril within their family:
14 Could lose their homes, and just, in some
15 cases -- and you all know this. Everyone
16 knows this -- some people are having a hard
17 time putting food on the table. I hear all
18 the time, well, you know, we have sandwiches
19 now. That's the meal. And once in a while
20 we'll jazz it up and do something better.

21 So when the vote comes,
22 Mr. President, I am going to vote no on the
23 bill.

24 ACTING PRESIDENT JOHNSON: Thank
25 you, Senator LaValle.

1 Senator Marcellino.

2 SENATOR MARCELLINO: Thank you,
3 Mr. President. Well, we're here again --

4 ACTING PRESIDENT JOHNSON: On the
5 bill, Senator Marcellino?

6 SENATOR MARCELLINO: On the bill,
7 Mr. President.

8 ACTING PRESIDENT JOHNSON: Thank
9 you, Senator. Senator Marcellino, on the
10 bill.

11 SENATOR MARCELLINO: We're here
12 once again, another week has gone by, and we
13 have another extender before us.

14 And in the past we've had extenders
15 before, and I've voted to support some of
16 them -- not this year, but in the past years
17 when we had extenders -- because there was
18 negotiations going on. We were doing
19 something. Committees were meeting. Staff
20 was meeting. The leaders would have weekly
21 meetings with the Governor where, upon
22 occasions, committee members and committee
23 chairs would come in and give reports on their
24 aspects of the budget. I know because I
25 participated in some of those, down in the

1 Red Room on the second floor. And some of you
2 have also been there.

3 But this year nothing seems to be
4 happening. We're back again to pass another
5 extender. And we're told if we don't,
6 calamity, government is going to stop.

7 Well, I would suggest to you,
8 Mr. President, that government has in effect
9 stopped. Government has stopped. Because in
10 June, I'm told by the comptroller -- whom I
11 called over the weekend, and I asked him,
12 "What's going to happen in June, Mr. DiNapoli?
13 Are we going to run out of money, as you have
14 said before, as the Governor has said before?"
15 He said, "Yeah, it's possible. We could run
16 out of money in June, no doubt about it. The
17 state is not getting the revenues we hoped to
18 get. That's declining. Nothing looks all
19 that great. We could run out of money, as the
20 Governor has said."

21 I said, "Well, then, what's going
22 to happen?" "Well, then we'll have to make
23 some selections as to who we'll pay and who we
24 won't, what bills we'll pay and what bills we
25 won't pay. We'll probably withhold payments

1 to school districts, payments to
2 municipalities. We'll pick some bills to pay,
3 and we'll pick some bills not to pay."

4 Just as right now we are picking
5 some contractors to pay and some contractors
6 not to pay. We are paying for work at CUNY,
7 but we're not paying for work at SUNY.

8 We seem to be making choices here,
9 but we're not making the real choice, and that
10 is to get a budget done. We're not making a
11 real choice to get a process started where
12 true bipartisan negotiations go on and we
13 negotiate a budget.

14 So the Governor throws into the
15 situation, into the mix this time a suggestion
16 for a furlough. We're going to furlough some
17 workers. Again, some workers, not all
18 workers. He's picking. Who's he picking on?
19 The lowest-paid workers in the state
20 workforce, those making less than \$50,000 a
21 year, those workers who have mortgages to pay
22 those workers who are probably maxed out on
23 their credit cards, those workers who have to
24 put bread on the table, who have tuitions for
25 their children who want to go to college.

1 They've got bills to pay. They've got choices
2 to make.

3 Can you imagine if they decided to
4 delay paying their taxes? What would happen
5 if the people in this state said, "We want an
6 extender. We're not going to pay our taxes
7 this week because government is not working,
8 and we don't feel we're getting our money's
9 worth"? That ought to be a novel experience.
10 That would be an amazing experience. You know
11 darn well they'd be hauled off to jail.

12 There's something wrong here,
13 Mr. President. We're not telling the schools
14 what they're going to get, and yet they've got
15 to get a budget done and voted on by May 18th.
16 I know; I already cast my absentee ballot.
17 The name of the game is we're not doing our
18 job.

19 The MTA, they've got a budget
20 problem. They've always got a budget problem,
21 it seems, but this one is particularly
22 onerous. And what are they doing? They're
23 making cuts, again, on the weakest of the
24 weak. They're cutting the Able Ride system,
25 which provides rides for those who are

1 disabled, physically challenged, who need
2 it -- senior citizens -- who have to go to
3 dialysis treatments and other things, who need
4 the help of this system of transportation for
5 which there is no other. Yet they're cutting
6 that system out. They're making choices --
7 again, on some people, not on others.

8 So we're not impacting everybody.
9 I suggest to you a government that doesn't
10 serve all of the people in effect serves none
11 of them. We're here to represent and serve
12 all the people, not just some people. And if
13 we're going to do something for some people,
14 we have to do it for all the people.

15 We need a budget. The taxpayers of
16 this state need, want, and deserve a budget, a
17 budget that cuts state spending, a budget that
18 cuts taxes, a budget that will protect their
19 lives and preserve their safety. They need,
20 want, and deserve a budget, and it's up to us
21 to deliver it.

22 It's up to the leadership and the
23 Majority to get it done, to get committee
24 meetings started, get negotiations going and
25 stop this charade of budget extenders. I

1 voted against each and every one of them
2 because it is a charade.

3 Don't tell me government is working
4 today and if we don't vote for this and it
5 doesn't somehow pass, government will have
6 stopped. In effect, government has stopped,
7 ladies and gentlemen, because it no longer is
8 servicing, it is no longer serving all the
9 people of our great state, it is only serving
10 some of the people of this state. By
11 selection. Not everyone. That's a mistake.
12 That's wrong, and that's got to stop.

13 Mr. President, I fully intend to
14 vote -- as I have on all the other
15 extenders -- no on this extender. I want a
16 budget. I would give you a caveat. I would
17 support an extender if there was true, honest
18 negotiations. If conference committees were
19 ongoing and we needed the time, then I would
20 vote for an extender that would carry us while
21 we're doing the negotiations.

22 But as you heard here in the debate
23 between Senator Kruger and Senator
24 DeFrancisco, there is no discussions going on.
25 There are no negotiations going on. That's no

1 good. We cannot support this system. We
2 cannot continue doing this.

3 Mr. President, I respectfully say I
4 will vote no on this extender, as I have on
5 all the others. And if it comes up again next
6 week, I'm going to vote no again, sir, until
7 we get a budget process going.

8 Thank you.

9 ACTING PRESIDENT JOHNSON: Thank
10 you, Senator Marcellino.

11 Senator McDonald.

12 SENATOR McDONALD: On the bill.

13 ACTING PRESIDENT JOHNSON:
14 Senator McDonald, on the bill.

15 SENATOR McDONALD: Thank you.

16 I appreciate my colleagues'
17 comments about the humanity of what's going on
18 here. It's so discouraging to worry about my
19 public. And I represent a large portion of
20 the Capital District, which is without
21 question where a majority of the state workers
22 work. And as it was said, a lot of these
23 people are lower-income people.

24 I know about being a lower-income
25 person. I used to be a laborer in a steel

1 mill. So did my whole family. My father was.
2 I was raised in an uneducated laborer,
3 steel-mill family. As low as you can get on
4 many occasions.

5 I worry about my public here in the
6 Capital District paying for their apartments,
7 paying for their mortgages, paying a car
8 payment that they desperately need to get to
9 work. There is no subsidized fares.

10 I worry about my people trying to
11 educate their kids on a college loan. I worry
12 about my people being able to pay to feed
13 their families.

14 I'm looking at since April, since
15 actually when the Governor proposed his
16 budget, a shutdown in government. There is no
17 government right now, and there is no budget.
18 So talking about shutting down the government
19 is only for lawyers. If you're not a lawyer,
20 you want the bottom line, it's closed.

21 Construction jobs in upstate
22 New York, construction jobs, people who want
23 to work, they're out of work. School systems
24 was mentioned. My school systems, they can't
25 determine what the future is going to be, are

1 there unnecessary layoffs. Healthcare, same
2 issue.

3 The MTA, last week I supported a
4 resolution to reconsider laying off the lower
5 working-class people in the Metropolitan
6 Transportation Authority, as opposed to all
7 those big salaried people that I read about in
8 the New York City papers who are running this
9 mass transportation authority.

10 Now I see that the lower working
11 men and women in the Capital District are
12 going to be furloughed. Just as an evolution,
13 because we're doing nothing now and so you
14 know it will reoccur and reoccur. And
15 eventually, disaster for their families.

16 And I'm thinking to myself, why?
17 If I were the public, I would say why are
18 these people getting laid off, furloughed,
19 especially in a story I see in a local
20 television station where prisoners, Corcraft,
21 making product in our prisons. We're paying
22 them, and we're going to keep on paying them.
23 But my people, who are law-abiding family
24 people trying to get by, we're furloughing
25 them. Don't abide by the rules, go to prison

1 and we'll pay you. You've got to be kidding
2 me.

3 I can't tell these people that. I
4 don't care if they're Democrats, Republicans,
5 whatever they are. I know you care; we can't
6 be doing this. I don't want to see the MTA
7 laying off all the people at the bottom. I
8 don't want to see construction workers out.

9 How come, the layperson will ask,
10 the nonlawyer will ask, how come there is no
11 legislative people being furloughed, staff
12 people? How come it seems to be one or two
13 unions, one or two, the executive? What is
14 this? Are they a special breed, all of a
15 sudden we turned on them? How come we haven't
16 had a dialogue over a period of time about
17 these people?

18 So we're doing to upstate what a
19 foreign country couldn't do to us. We're
20 undermining our economy.

21 Now, folks, I recognize politics
22 plays a major issue. And I'm not saying,
23 naively, it shouldn't. I recognize that. But
24 we've crossed over this line of real people.
25 Real people have real families. Real people

1 have to get by.

2 I come from real people. I'm not
3 Republican or Democrat, I'm a real person
4 before I'm anything. So my appeal is don't
5 leave here tonight. Do what real people do
6 when they're struggling to feed their
7 families. Stay where we are till the job is
8 done. This is ridiculous. Stay here, right
9 now. We never should have left this place on
10 April 1st. It gets worse and worse.

11 Don't call each other names. We're
12 all friends, and I want to keep it that way.
13 Let's stay and work, like I did in the steel
14 mill. It isn't over till it's over. Do our
15 job like real people. Don't turn on these
16 people.

17 See what's happened to us? We let
18 this economy make us turn on the people that
19 we care about, we love, all of us do. Let's
20 stay here and work. That's a challenge.
21 Let's not go someplace after this session is
22 over. Let's break into conference committees.
23 Let's do an -- I will vote for an extender if
24 it doesn't hurt real people. I am not here to
25 destroy upstate New York, New York State, our

1 great state. I'm here to help people. That's
2 a challenge. I'm here.

3 So when I see everybody walk out,
4 that's what I'm telling my public. I'm
5 telling all those people who are worried about
6 their jobs -- construction, racing, schools,
7 MTA, you name it, anyplace -- we walked away.

8 Now, I know we don't want to do
9 that. So I'm appealing to you as just regular
10 folk, real folk, let's stay here.

11 Thank you.

12 ACTING PRESIDENT JOHNSON: Thank
13 you, Senator McDonald.

14 Senator Ranzenhofer.

15 SENATOR RANZENHOFER: Thank you.
16 I'd like to echo some of those very --

17 ACTING PRESIDENT JOHNSON:
18 Senator Ranzenhofer, on the bill?

19 SENATOR RANZENHOFER: On the
20 bill.

21 ACTING PRESIDENT JOHNSON: Thank
22 you, Senator.

23 SENATOR RANZENHOFER: I'd like to
24 echo some of those very eloquent comments of
25 some of my colleagues about this sixth

1 emergency appropriation bill.

2 Starting back in March, I have
3 voted against these because I get the sense
4 that nothing is being done. I don't believe
5 in doing a budget extender if it's simply for
6 the sense or for the purpose of extending it
7 with no progress being made.

8 As you've heard before, there's no
9 discussions, there's no dialogue, there's no
10 public meetings. The only thing that's being
11 done is things that are being done in secret.
12 And if you recall last year what happened when
13 the process was done in secret is we got a
14 budget with \$8.5 billion in new taxes,
15 \$12 billion in new spending.

16 Now, if I heard anybody tell me
17 that, well, you know, the reason why we don't
18 have a budget is because we're fighting to
19 repeal that energy tax that you put on last
20 year, well, I'd be with you on the extender.
21 If you told me that we're fighting real hard
22 to take away that health tax that you put on
23 last year, that's a fight worth fighting. I'd
24 be with you to extend that.

25 If you told me that we're fighting

1 to take away any of those 128 taxes that you
2 put on last year, I'd say, well, that's a
3 fight worth fighting. Let's extend it because
4 we're going to try to eliminate those taxes
5 that we put on last year. If you told me that
6 we were trying to eliminate any of that \$2,400
7 per family that you put on last year, I'd be
8 with you. That's a fight worth fighting.

9 If you told me that you were
10 fighting to cut spending so we weren't killing
11 the average person that Senator McDonald was
12 referring to, I'd be with you. I'd extend it
13 in a heartbeat.

14 But all I hear is silence. I hear
15 no public discussion, no private discussion.
16 I hear the only explanation is, well, we'll
17 tell you that something is going on when we
18 have this critical mass, whatever this
19 critical mass is.

20 Well, quite frankly, Mr. President,
21 that's not an acceptable solution. If there
22 was some progress on the horizon, I'd say yes,
23 then it makes sense to extend it. But after
24 seven weeks, six extenders, it's pretty
25 obvious what's happening here, and that is

1 absolutely nothing. You're not fighting to
2 lower taxes. You're not fighting to cut
3 spending. You're not fighting for anything
4 that the ordinary New Yorker wants.

5 When that happens, then I'll join
6 you and vote to pass an extender. When I see
7 some progress that you're getting close, I'll
8 vote to pass an extender. When something is
9 done in public and there's actually some
10 negotiations and we're getting close, then an
11 extender makes sense.

12 But at this point in time when
13 there's no public dialogue, when you're
14 shutting down construction projects on the
15 roadways, when you're shutting down
16 construction at SUNY, when you're killing the
17 private sector by not funding these contracts
18 and not funding private-sector people, then
19 you're just hurting, as Senator McDonald said,
20 the ordinary person.

21 So today, as on March 29th,
22 April 12th, and every day between then and now
23 when I voted against them because there is no
24 progress, you're not fighting for the ordinary
25 person, I voted against them, I'll be voting

1 no today as well.

2 Thank you, Mr. President.

3 ACTING PRESIDENT JOHNSON: Thank
4 you, Senator.

5 Debate is closed.

6 The Secretary will ring the bells.

7 Read the last section.

8 THE SECRETARY: Section 17. This
9 act shall take effect immediately.

10 ACTING PRESIDENT JOHNSON: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT JOHNSON:
14 Senator Robach, to explain his vote.

15 SENATOR ROBACH: Yes,
16 Mr. President, very quickly.

17 I just -- I rise to vote no for
18 this. And I come from a little different
19 place than some of my colleagues. This is my
20 first time voting no on these extenders. And
21 you've heard all those good reasons -- the
22 damage, the chaos we're creating by not having
23 a budget.

24 When I hear the questions answered
25 in such a cavalier manner by the chairman of

1 Finance and see nothing in the media from the
2 leadership to give any indication whatsoever
3 that we're trying to get a budget done, I
4 really don't feel I have any alternative. It
5 would be better to shut government down for a
6 day to make the leaders do their job and get a
7 budget done.

8 People where I live expect us to do
9 our job. Nothing is more important than the
10 budget. I'm asked every day when we're going
11 to get this done. And I want to let my
12 colleagues know in New York City, I've heard
13 it before offline, "People where we live don't
14 care when the budget gets done." Guess what?
15 They're starting to pay attention. I know
16 they care where I live. I think they're
17 starting to pay a little bit more attention to
18 it where you live.

19 And I say this in the most
20 nonpartisan way. This would have been the
21 perfect year of all years to have conference
22 committees and let the public know what tough
23 choices we have to make in these tough times.
24 Instead, what have we done? Just the
25 opposite, gone underground. One leader, I

1 couldn't even tell you if he even cares about
2 getting a budget done at all. We ask logical
3 questions week after week with flippant
4 answers and really almost like nobody cares if
5 we get a budget done or not.

6 Well, you know what? Where I live,
7 they do. I think where you live, they do too.
8 And is the plan here really to do a budget by
9 extender for the rest of the year? And if it
10 isn't, what are we going to do to stop it?

11 The only thing I can do is take my
12 one vote, along with several other colleagues,
13 and try and put some pressure for the people
14 that want us to do a budget and say: No more.
15 Enough is enough. Let's get a budget. That's
16 why I'm changing my vote to a no.

17 ACTING PRESIDENT JOHNSON:
18 Senator Robach to be recorded in the negative.

19 SENATOR LIBOUS: Mr. President,
20 are we on the vote right now?

21 ACTING PRESIDENT JOHNSON: We
22 have called the roll. We are waiting for the
23 results.

24 SENATOR LIBOUS: Are members in
25 their seats?

1 ACTING PRESIDENT JOHNSON: I
2 believe so, Senator Libous.

3 SENATOR LIBOUS: I believe not
4 so, Mr. President. Don't members need to be
5 in their seats, according to the rules?

6 ACTING PRESIDENT JOHNSON:
7 Actually, you're not in your seat, Senator
8 Libous, so --

9 SENATOR LIBOUS: I'm sorry?

10 ACTING PRESIDENT JOHNSON: You're
11 not in your seat, Senator Libous.

12 SENATOR LIBOUS: Yes, I am,
13 Mr. President.

14 ACTING PRESIDENT JOHNSON: You're
15 standing in front of your seat. You're not
16 sitting in your seat.

17 SENATOR LIBOUS: Well, at least
18 I'm in front of my seat, Mr. President.

19 ACTING PRESIDENT JOHNSON:
20 Announce the results.

21 THE SECRETARY: Those recorded in
22 the negative on Calendar Number 507 are
23 Senators Alesi, Bonacic, DeFrancisco, Farley,
24 Flanagan, Fuschillo, Golden, Griffio, Hannon,
25 O. Johnson, Lanza, Larkin, LaValle, Leibell,

1 Libous, Little, Marcellino, Maziarz, McDonald,
2 Nozzolio, Padavan, Ranzenhofer, Robach,
3 Saland, Seward, Skelos, Volker, Winner and
4 Young.

5 Ayes, 32. Nays, 29.

6 ACTING PRESIDENT JOHNSON: The
7 bill is passed.

8 Senator Klein, that completes the
9 reading of the controversial supplemental
10 calendar.

11 Senator Klein.

12 SENATOR KLEIN: Mr. President,
13 can we please go to a reading of the calendar.

14 ACTING PRESIDENT JOHNSON: The
15 Secretary will read.

16 THE SECRETARY: Calendar Number
17 74, by Senator Klein, Senate Print 2490D, an
18 act to amend the Correction Law.

19 ACTING PRESIDENT JOHNSON: Read
20 the last section.

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

23 ACTING PRESIDENT JOHNSON: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT JOHNSON:

2 Senator Klein, to explain his vote.

3 SENATOR KLEIN: Thank you,
4 Mr. President.

5 This piece of legislation I think
6 is going to go a long way towards protecting
7 all tenants in public housing around the State
8 of New York.

9 Presently, even though in 1998
10 Congress banned subsidized housing for the
11 most serious dangerous sexual predators,
12 there's still 86 registered Level 2 and 3
13 dangerous sexual predators living in public
14 housing throughout our state.

15 This legislation is a very simple
16 and easy approach in making it easier for
17 housing authority developments around our
18 State of New York to be able to comply with
19 this law.

20 First, the State Division of
21 Criminal Justice Services will now be required
22 to notify each public housing development
23 around the state once a month with up-to-date
24 information of dangerous sexual predators who
25 are already living there or moving into the

1 facility.

2 It next treats public housing
3 developments as vulnerable organizations, the
4 same as daycare centers and schools, which now
5 would require public housing developments
6 around the state to be notified by local law
7 enforcement when a dangerous sexual predator
8 moves into the development.

9 So I think this is taking a
10 comprehensive approach at notification, which
11 I think at the end of the day will keep our
12 families safe in public housing by having
13 adequate notification.

14 I vote yes, Mr. President.

15 ACTING PRESIDENT JOHNSON: Thank
16 you, Senator Klein.

17 Announce the results.

18 THE SECRETARY: Those recorded in
19 the negative on Calendar Number 74 are
20 Senators Duane, Hassell-Thompson and
21 Montgomery.

22 Ayes, 58. Nays, 3.

23 ACTING PRESIDENT JOHNSON: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 102, by Senator Thompson, Senate Print 1230A,
2 an act to amend the General Municipal Law.

3 ACTING PRESIDENT JOHNSON: Read
4 the last section.

5 SENATOR MAZIARZ: Lay the bill
6 aside, please.

7 ACTING PRESIDENT JOHNSON: The
8 bill is laid aside.

9 THE SECRETARY: Calendar Number
10 354, by Senator Stavisky, Senate Print 3603C,
11 an act relating to reporting on the Tuition
12 Assistance Program.

13 ACTING PRESIDENT JOHNSON: Read
14 the last section.

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

17 ACTING PRESIDENT JOHNSON: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT JOHNSON:
21 Announce the results.

22 THE SECRETARY: Ayes, 61.

23 ACTING PRESIDENT JOHNSON: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 378, by Senator Klein, Senate Print 5896D, an
2 act to amend the Real Property Law.

3 ACTING PRESIDENT JOHNSON: Read
4 the last section.

5 THE SECRETARY: Section 2. This
6 act shall take effect on the 60th day.

7 ACTING PRESIDENT JOHNSON: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT JOHNSON:
11 Announce the results.

12 THE SECRETARY: Those recorded in
13 the negative on Calendar Number 378 are
14 Senators DeFrancisco, Flanagan, Golden and
15 Lanza.

16 Ayes, 57. Nays, 4.

17 ACTING PRESIDENT JOHNSON: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 381, by Senator Perkins, Senate Print --

21 SENATOR KLEIN: Lay the bill
22 aside for the day, please.

23 ACTING PRESIDENT JOHNSON: The
24 bill is laid aside for the day.

25 THE SECRETARY: Calendar Number

1 416, by Member of the Assembly Gottfried,
2 Assembly Print Number 7670, an act to amend
3 the Criminal Procedure Law.

4 ACTING PRESIDENT JOHNSON: Read
5 the last section.

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

8 ACTING PRESIDENT JOHNSON: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT JOHNSON:
12 Announce the results.

13 SENATOR LIBOUS: Mr. President,
14 lay the bill aside.

15 ACTING PRESIDENT JOHNSON: The
16 bill is laid aside. The roll call is
17 withdrawn; the bill is laid aside.

18 THE SECRETARY: Calendar Number
19 445, by Senator Oppenheimer, Senate Print
20 6152B, an act to authorize the Village of
21 Mamaroneck.

22 SENATOR LIBOUS: Lay it aside.

23 ACTING PRESIDENT JOHNSON: There
24 is a home-rule message at the desk.

25 The bill is laid aside.

1 THE SECRETARY: Calendar Number
2 446, by Senator C. Johnson, Senate Print 6691,
3 an act to amend the Tax Law.

4 ACTING PRESIDENT JOHNSON: Read
5 the last section.

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

8 ACTING PRESIDENT JOHNSON: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT JOHNSON:
12 Announce the results.

13 THE SECRETARY: Ayes, 60. Nays,
14 1. Senator Aubertine recorded in the
15 negative.

16 ACTING PRESIDENT JOHNSON: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 449, by Member of the Assembly Pheffer,
20 Assembly Print Number 10260, an act to amend
21 the Public Authorities Law.

22 ACTING PRESIDENT JOHNSON: Read
23 the last section.

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

1 SENATOR LIBOUS: Lay it aside.

2 ACTING PRESIDENT JOHNSON: The
3 bill is laid aside.

4 THE SECRETARY: Calendar Number
5 456, by Senator Thompson --

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

8 ACTING PRESIDENT JOHNSON: The
9 bill is laid aside for the day.

10 THE SECRETARY: Calendar Number
11 466, by Member of the Assembly Schimel,
12 Assembly Print Number 9992, an act to amend
13 the Village of Plandome Heights.

14 ACTING PRESIDENT JOHNSON: There
15 is a home-rule message at the desk.

16 Read the last section.

17 THE SECRETARY: Section 2. This
18 act --

19 SENATOR LIBOUS: Lay it aside.

20 ACTING PRESIDENT JOHNSON: The
21 bill is laid aside.

22 Senator Klein, that completes the
23 reading of the noncontroversial calendar.

24 SENATOR KLEIN: Mr. President, at
25 this time can we please go to a reading of the

1 controversial calendar.

2 ACTING PRESIDENT JOHNSON: The
3 Secretary will ring the bell. Members are all
4 asked to come to the chamber for a
5 controversial reading of the calendar.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number
8 102, by Senator Thompson, Senate Print 1230A,
9 an act to amend the General Municipal Law.

10 ACTING PRESIDENT JOHNSON:
11 Senator Maziarz, why do you rise?

12 SENATOR MAZIARZ: Would the
13 sponsor yield for some questions? We really
14 don't need an explanation. If he would yield
15 for just a couple of quick questions.

16 ACTING PRESIDENT JOHNSON:
17 Senator Thompson, will you yield for Senator
18 Maziarz for a few questions?

19 SENATOR THOMPSON: Sure.

20 ACTING PRESIDENT JOHNSON:
21 Senator Maziarz, Senator Thompson does yield.

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

24 Senator, is there a home-rule
25 message with this bill, according to Municipal

1 Home Rule Law Section 40?

2 SENATOR THOMPSON: No, there
3 isn't. But I don't believe it's required.

4 SENATOR MAZIARZ: Okay.
5 Senator -- Mr. President, through you, if
6 Senator Thompson would continue to yield.

7 ACTING PRESIDENT JOHNSON:
8 Senator Thompson, do you continue to yield?

9 SENATOR THOMPSON: Yes.

10 ACTING PRESIDENT JOHNSON:
11 Senator Maziarz.

12 SENATOR MAZIARZ: Senator, has
13 anyone in the Niagara County Legislature that
14 appoints members to the IDA requested this
15 particular legislation?

16 SENATOR THOMPSON: Through you,
17 Mr. Chair. Yes, in the past, I have received
18 requests from various members of the
19 legislature requesting that we have this
20 organization have representation the same way
21 that they have a similar law that was created
22 many years ago with the Erie County Industrial
23 Development Agency, which includes the City of
24 Buffalo.

25 SENATOR MAZIARZ: Would Senator

1 Thompson continue to yield?

2 ACTING PRESIDENT JOHNSON:

3 Senator Thompson, do you continue to yield for
4 Senator Maziarz?

5 SENATOR THOMPSON: Yes.

6 ACTING PRESIDENT JOHNSON:

7 Senator Maziarz.

8 SENATOR MAZIARZ: Thank you.

9 Could you tell me which members of
10 the county legislature?

11 SENATOR THOMPSON: There were a
12 number. I can't recall all the different
13 members. But there were a number of them over
14 the last couple of years. And as I'm certain
15 you're aware, that this bill we've been
16 working on for a long time.

17 SENATOR MAZIARZ: Through you,
18 Mr. President, would Senator Thompson continue
19 to yield.

20 ACTING PRESIDENT JOHNSON:

21 Senator Thompson, do you continue to yield to
22 Senator Maziarz?

23 SENATOR THOMPSON: Yes.

24 ACTING PRESIDENT JOHNSON:

25 Senator Maziarz.

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

3 Senator Thompson, I know that there
4 are 19 members of the legislature there.
5 Could you name just one that asked you for
6 this particular piece of legislation?

7 SENATOR THOMPSON: Well, I know
8 that there are a couple that I helped get
9 elected over the years and I just can't
10 remember which one. But I think most of the
11 ones like Dennis Virtuoso and a number of them
12 that are in Niagara County have supported the
13 bill.

14 SENATOR MAZIARZ: Thank you very
15 much.

16 Mr. President, on the bill.

17 ACTING PRESIDENT JOHNSON:
18 Senator Maziarz, on the bill.

19 SENATOR MAZIARZ: Thank you very
20 much, Senator Thompson.

21 Mr. President, this is a classic
22 case of a solution in search of a problem.
23 I've been involved in county government and an
24 observer of county government in Niagara
25 County for a long time. There has always been

1 a minority member on the Niagara County IDA
2 appointed by both Democrat- and
3 Republican-controlled county legislatures.

4 Senator Thompson is incorrect in
5 his comparison with Erie County, because in
6 Erie County the dedicated members of the
7 Industrial Development Agency were all done at
8 the request of the Erie County Legislature.

9 Now, the current president of the
10 NAACP, we're talking about one particular
11 individual. The current president is a good
12 friend of mine, Bill Bradberry. He's a great
13 guy. He really wants to be on the Niagara
14 Frontier Transportation Authority. And if it
15 hadn't been for the local Democratic Party
16 chairman and the Assemblyperson who represents
17 Niagara Falls killing his appointment he'd be
18 there, where he really wants to be.

19 We don't know who the president is
20 going to be in the future of the NAACP. It
21 may be somebody who's not interested in being
22 on this board. It may be somebody without a
23 background in economic development. If this
24 were an -- and I would say to the Senator that
25 the only minority member of Niagara County

1 Legislature spoke to me today, reached out to
2 me today and told me that they'd feel much
3 more comfortable if they could have a
4 representative of the Niagara Falls NAACP, not
5 necessarily just the president, but a
6 representative of it. And that's legislation
7 that I think would be better than this
8 particular bill before us today.

9 So I'm going to be voting in the
10 negative, Mr. President, and I would ask my
11 colleagues to join me. Thank you.

12 ACTING PRESIDENT JOHNSON: Thank
13 you, Senator Maziarz.

14 Are there any other Senators who
15 wish to be heard on the bill?

16 Hearing none, the debate is closed.
17 The Secretary will ring the bells.

18 Oh, I apologize, Senator Thompson.

19 SENATOR THOMPSON: Yeah, on
20 the -- let me say just a couple of things.

21 First, I think it's important to
22 note that this is a very important piece of
23 legislation to make sure that we have
24 representation on -- that this group does have
25 representation on the board. My colleague

1 probably is unaware that the Niagara County
2 chapter of NAACP was defunct and I actually
3 helped get it reorganized.

4 Secondly, in Erie County they do
5 have a number of dedicated seats. And I
6 believe one of the authors -- the author of
7 that bill is sitting in this chamber.

8 And part of the challenge is that
9 the president of that organization is usually
10 the official spokesperson. And so this is
11 nothing unique.

12 And the reason why I embarked on
13 this a couple of years ago is because people
14 have said that periodically that some of these
15 communities of color have a seat on that
16 board, the same challenge as they had in Erie
17 County. So we put forward this legislation to
18 make sure that that organization would always
19 have a seat at the table.

20 And this bill mirrors existing
21 legislation that was passed by the Senate.
22 And I should note that I believe this bill has
23 also passed the Senate before unanimously. So
24 I don't understand why -- what the hesitancy
25 is about today. And I believe that, as I said

1 to folks who asked -- only one person that I
2 know said they had a concern about it, and I
3 said that let's get the bill passed. If the
4 president of the NAACP is not interested, then
5 maybe that's something that that organization
6 should do.

7 But there's precedent for this in
8 Erie County. It's been very successful. No
9 one has complained about it. And I think the
10 same -- if it's good enough for Erie County,
11 it should be good enough for Niagara County
12 too.

13 Thank you.

14 ACTING PRESIDENT JOHNSON: Are
15 there any other Senators now wishing to be
16 heard on the bill?

17 SENATOR VOLKER: Mr. President.

18 ACTING PRESIDENT JOHNSON:
19 Senator Volker.

20 SENATOR VOLKER: Mr. President,
21 Senator Thompson, I have to say, this
22 legislation is not identical to the Erie
23 County legislation. And I think I passed the
24 bill that enabled the NAACP to have a
25 representative on it.

1 The difference between that bill
2 and this bill is that this is the president of
3 the NAACP. I don't know that we have ever
4 done a bill since I've been here that
5 designates a specific person to be on an
6 authority. Normally we do an organization.

7 And you're right, there are
8 organizations on the various IDAs and on the
9 NFTA. But I would have to tell you that as
10 far as I know, this is a different bill than
11 the Erie County Legislature.

12 ACTING PRESIDENT JOHNSON: Thank
13 you, Senator Volker.

14 Are there any other Senators
15 wishing to be heard on the bill?

16 Hearing none, debate is closed.

17 The Secretary will please ring the
18 bells.

19 Read the last section.

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

22 ACTING PRESIDENT JOHNSON: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT JOHNSON:

1 Announce the results.

2 THE SECRETARY: Those recorded in
3 the negative on Calendar Number 102 are
4 Senators DeFrancisco, Farley, Flanagan,
5 O. Johnson, Lanza, Larkin, LaValle, Leibell,
6 Maziarz, Nozzolio, Saland, Seward, Skelos,
7 Volker, Winner and Young. Also Senator
8 Libous.

9 Ayes, 44. Nays, 17.

10 ACTING PRESIDENT JOHNSON: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 416, by Member of the Assembly Gottfried,
14 Assembly Print Number 7670, an act to amend
15 the Criminal Procedure Law.

16 ACTING PRESIDENT JOHNSON:
17 Senator Hannon, why do you rise?

18 SENATOR HANNON: On the bill.

19 ACTING PRESIDENT JOHNSON:
20 Senator Hannon, on the bill.

21 SENATOR HANNON: I was struck by
22 the fact that this bill, which would
23 supposedly extend protection of law to
24 unfortunate victims of prosecution, is just so
25 ill-laid-out that it does not actually offer

1 any real protection to the individuals.

2 It's supposed to enable victims of
3 sexual trafficking who are convicted of
4 prostitution to get the conviction vacated.
5 However, when you start to read the bill, it
6 gives such empty rights -- it first of all
7 says that the motion must be made with due
8 diligence, unlike anything else in the
9 Criminal Procedure Code, which spells out
10 times, and then it says that the defendant has
11 ceased to be a victim of such trafficking --
12 an almost impossible standard, to make a proof
13 of a negative -- or has sought services for
14 victims of such trafficking, but without the
15 standards as to who would offer those
16 services, and then subject to reasonable
17 concerns for the safety of the defendant,
18 et cetera, et cetera.

19 And what really disturbs me is this
20 is, on a day we're supposed to be doing a
21 budget, nothing more than an empty press
22 release without sufficient standards for
23 drafting, and giving false hopes to
24 individuals as to they may seek protection
25 under this when in reality it would be an

1 empty relief.

2 And so for that reason I think that
3 I would vote against this until we have a
4 decent implementation of the goals that are
5 sought by the memo.

6 ACTING PRESIDENT JOHNSON: Thank
7 you, Senator Hannon.

8 Senator Duane. Senator Duane, on
9 the bill?

10 SENATOR DUANE: Thank you,
11 Mr. President. Yes, on the bill.

12 The impetus for this bill actually
13 is something that I thought about and felt was
14 necessary. And I want to say that it was
15 based upon information that I received,
16 garnered, at probably the -- if not the best,
17 one of the best hearings I have ever attended
18 in my time here in the New York State Senate.
19 It was incredibly informative and enlightening
20 and eye-opening.

21 And it was a hearing which Senators
22 Volker and -- Senator Padavan I know was
23 there; I'm trying to remember what other
24 Senators were there -- and I was there. And
25 it was a hearing on human trafficking, on sex

1 trafficking. And it was very, very powerful,
2 the hearing, and very -- as I say, it was in
3 some ways life-changing for me, the
4 information that I learned at this hearing.

5 And I think I even at the time told
6 Senator Volker that it was, as I say, among
7 the best hearings I have ever been to and
8 involved with.

9 And that hearing led to excellent
10 legislation which we passed here I want to say
11 in 2007. And it was really -- I remember
12 speaking on the floor when the bill came, to
13 voice my admiration for and gratitude to the
14 then-majority for bringing it to the floor.
15 It was just an excellent piece of legislation,
16 of which -- you know, as with virtually every
17 piece of legislation that we pass in this
18 house, it wasn't absolutely complete. There
19 was more that could be done; maybe didn't have
20 to be done, but could be done.

21 And one of the elements that I was
22 most concerned with and concerned about the
23 people who needed additional help beyond what
24 was already in the legislation were those --
25 and mostly women; not exclusively, but mostly

1 women -- who were trafficked and forced into
2 prostitution, in some cases kidnapped and
3 brought here, in some cases brought here under
4 false pretenses for the promise of high-paying
5 jobs that didn't materialize. Some of the
6 women -- many of them, maybe most of them had
7 their passports taken away from them. And
8 they were brought to a country, some of them
9 without a tremendous amount of education even
10 in their own country, and not knowing what the
11 rule of law is here in our country.

12 And so many of these women are
13 caught in the net of prostitution arrests and
14 go through the criminal justice system. Often
15 they've pled because they thought it was the
16 thing that was best, in their best interests
17 at the time.

18 And I just want to say one other
19 thing, that, you know, sometimes it's in
20 alternative newspapers but sometimes it's in
21 mainstream newspapers and magazines you see
22 ads with pictures of women who are offering
23 the services of massage and more. But, you
24 know, the myth that the vast majority of those
25 women are happily engaged in this profession

1 is just exactly that, it's a myth. There's
2 nothing.

3 If you really think about what is
4 happening, if you really knew what had
5 happened to these women, if people who used
6 these services really knew the lives that
7 these women lead, there would be nothing
8 sexually enticing about it at all. It would
9 be depressing and predatory and nothing happy,
10 nothing pleasurable about it. It is exactly
11 that, a myth. For the vast majority of these
12 women, that they are subjugated into it.

13 And the irony is that one of the
14 parts of that legislation that was so good, so
15 excellent, was that we provide social services
16 and -- I mean, I know that maybe people
17 don't -- I mean, really, I know that people
18 maybe don't care about what happens. But as I
19 say, it was the best hearing, if not the best,
20 one of the best hearings I've ever been to.
21 And one of the things that came out of it is
22 it's not enough just to prosecute the johns
23 and the slave-traders and the pimps and the
24 terrible people who do this to women. We also
25 have to get these women on their feet.

1 And one of the things that we do is
2 provide services for them, social services,
3 counseling. Because what has happened to them
4 is trauma. In some cases, we help them with
5 education so that they can become productive
6 citizens.

7 And the irony is that while we're
8 providing all those services because we're
9 convinced that this has happened to these
10 women, we deny them a clean record or a
11 cleaned-up record. So even if we're providing
12 job training and social services, they're
13 still handicapped in their ability to get a
14 job because they have a record. And we're
15 often loath to hire people that have records.

16 So what this bill does is it
17 just -- it allows them the chance -- and just
18 one time. You can't use it more than once.
19 You can only use it once -- the chance to
20 vacate the conviction so that they can
21 actually go on to get the jobs that we believe
22 they should be eligible to get because we've
23 provided the services to get them the
24 education and the training for that.

25 So I just want to say just a couple

1 of things about the bill, more things about
2 it. It simply allows a person who's been
3 victimized by sex trafficking -- maybe beaten,
4 maybe raped, maybe has their passport taken,
5 but terrible things, traumatized, victimized
6 by pimps and the johns who have used them like
7 they're less than human.

8 And if it's shown that under
9 duress, and because of the fear of the
10 consequences, that they weren't able at the
11 time of trial to provide the proof that they
12 were trafficked -- which is hard enough for
13 anyone who's been arrested. But for these
14 women -- and some men, yes, but for these
15 women, mostly -- sometimes the first time in
16 court with the pimp or the john or the
17 trafficker sitting in court, of course they're
18 not going to point out what's happened. They
19 are scared. And maybe in their country of --
20 they don't know and can't understand even
21 what's going on, and they are stuck with this
22 record.

23 And even if afterwards we
24 acknowledge that and we know that that's
25 what's happened to them and we provide them

1 services to help them get a job, they can't
2 get a job because they can't have that
3 conviction vacated.

4 It doesn't cover people who are
5 arrested, you know, for loitering for the
6 purposes of prostitution or -- it doesn't
7 even -- it provides the ability for some women
8 who can show, one time only -- if they've
9 already tried it at their trial, if they've
10 already said in the trial "I was the victim of
11 trafficking," they can't use it again. You
12 only get one chance to use it. There's even a
13 form that's provided which can be used but
14 doesn't have to be used, by OTDA, that would
15 help one time, one chance to have it vacated
16 so they can go on and have a life free of
17 having a record.

18 Which even beyond a job, so they
19 don't to tell their -- if they don't want to,
20 that they don't have to tell their children or
21 their whatever that they have a criminal
22 record because of something terrible that
23 happened to them that had nothing to do with
24 their own free choice, that was done under
25 duress of pain or rape or death.

1 So one chance to have that vacated.
2 And it goes along with the chance -- which we
3 believe was the right thing to do, because we
4 heard about at this hearing that they can go
5 on and get education and job training to get a
6 job and to be able to have a life. That's
7 what this bill does.

8 So I just urge my colleagues to
9 build upon the good work that we already did
10 here, to do something else to actually
11 acknowledge that human trafficking for the
12 purposes of prostitution is a terrible thing
13 and that we are actually taking one more step
14 in the continuum of saying this is a terrible
15 thing and allowing people to actually go on to
16 have a productive life.

17 So I'm urging my colleagues to vote
18 yes. It's the right thing. It's not even
19 just the compassionate thing, it's the right
20 thing. And it makes sense, and it's part of
21 what we have already been doing in this house.

22 Thank you, Mr. President.

23 ACTING PRESIDENT JOHNSON: Thank
24 you, Senator Duane.

25 Senator Liz Krueger.

1 SENATOR LIZ KRUEGER: Thank you,
2 Mr. President.

3 I want to thank my colleague
4 Senator Duane for sponsoring the bill. And
5 just again reiterate, I think, some of the
6 points he was making and clarify one point
7 that somebody raised already.

8 This bill can easily be implemented
9 by our courts. And in fact the New York City
10 Bar's Committee on Sex and the Law has
11 submitted a memo in support clarifying exactly
12 how the bill would be applied to allow victims
13 of trafficking to request a court to vacate
14 judgment against them for sex trafficking of
15 certain prostitution offenses.

16 It all sounds very technical. But
17 again, as my colleague Senator Duane was
18 trying to point out, these are victims of
19 human trafficking. This state and this
20 country now have passed laws defining what
21 human trafficking is, has verified that the
22 dynamics of sex trafficking forces, again,
23 usually women, young women into horrible,
24 abusive-control situations where the
25 recruiters and traffickers use battering, use

1 physical and sexual abuse, use psychological
2 and economic abuse, use threats against these
3 women, their family members. They use
4 isolation, locking them up. They use forced
5 drug use. And in fact in the human
6 trafficking literature and documentation that
7 we have seen in the Senate, traffickers employ
8 and manipulate their victims in a form that is
9 defined as torture by Amnesty International.
10 So these women -- disproportionately young
11 women, or even minors -- are tortured and
12 forced into prostitution and a life of
13 slavery.

14 And so what this bill does is it
15 says they can go to our courts -- again, as
16 Senator Duane has already said, one time --
17 and make an argument to have the charges that
18 have been brought against them for
19 prostitution-related offenses vacated from
20 their criminal records.

21 Many times these are juveniles who
22 should be treated as victims and who now are
23 recognized under current law as victims. And
24 yet if they have these charges that have been
25 brought against them successfully in court,

1 perhaps before the State of New York wisely
2 passed new laws in 2007, then they must live
3 now a life with a record, a record of
4 prostitution, as opposed to a recognition that
5 they are in fact victims of abuse and torture.
6 And all this bill does is it allows them to
7 come back into court with evidence and get
8 these charges vacated.

9 I know that New York State has a
10 series of laws that allow the records to be
11 sealed of juveniles, records to be expunged if
12 one goes into court for many different types
13 of charges. I do not understand how people
14 could vote against a bill that would allow
15 victims of torture and sexual exploitation and
16 violence against them to go back into a court
17 and ask a judge to vacate the previous order
18 against them so that they can move on in their
19 lives without a criminal record, with more
20 likelihood that they can successfully find
21 employment and lead constructive lives and try
22 to put this trauma behind them.

23 I also ask my colleagues to vote
24 for this bill. Thank you, Mr. President.

25 ACTING PRESIDENT JOHNSON: Thank

1 you, Senator Krueger.

2 Senator Padavan.

3 SENATOR PADAVAN: Thank you,
4 Mr. President.

5 First let me thank Senator Duane
6 for your very generous comments relative to
7 the hearing that we all attended and that I
8 and Senator Volker chaired dealing with the
9 very, very difficult issue of human
10 trafficking.

11 It took two years to get that bill
12 finally agreed on with the other house and in
13 law. And it is the toughest human trafficking
14 bill in the nation, even more so than the
15 federal law that it relates to.

16 During this hearing we had victims
17 such as the type of person, individual, you
18 described come before the committee and
19 demonstrate the history of their having been
20 trafficked into this country, the abuse they
21 endured, the human bondage in which they were
22 placed. We had district attorneys coming to
23 us telling us about cases they were involved
24 in. We also had representatives of the
25 federal government there who were also

1 involved on a regular basis with the issue.

2 So everybody participated.

3 And in the final analysis, the bill
4 had the support of every human rights group,
5 every advocacy group. There was nobody in
6 opposition to it. And it became law.

7 Now, nothing would give me more
8 pleasure, Senator Duane, to vote for your bill
9 if it expanded upon the basic premise that a
10 victim of human trafficking who becomes part
11 of the sex trafficking industry would not
12 suffer any consequences, either presently or
13 in the future, by virtue of having been
14 trapped into that ungodly situation. Because
15 we said very directly -- and if you read the
16 law, much of it deals with the victim. And in
17 this case, the one you're dealing with, that
18 woman is a victim. And a victim should not be
19 punished more than they've already had to
20 endure.

21 But unfortunately, as the district
22 attorneys are pointing out to us, there is a
23 technical glitch. And Senator Hannon
24 described it to you.

25 Now, we could reach your objective

1 and get rid of that problem very easily. A
2 few sentences in your bill changed and
3 modified would bring us to a point where the
4 district attorneys, who are the ones we rely
5 upon in the courtroom to implement our sex
6 trafficking bill -- and it's been used, by the
7 way, in a number of instances since it became
8 law.

9 I'm asking you to do a favor of the
10 very people that you're advocating for. Take
11 a day, look at your bill, read the memo from
12 the district attorneys, talk to whatever
13 counsel you feel comfortable with, make the
14 changes, and I'm sure you'll get every member
15 of this chamber to vote for it. But we cannot
16 allow something that is worthy to become the
17 basis by which we make a mistake, and we know
18 what the mistake would be here.

19 I applaud your intentions. I
20 support your initiative. Your heart's in the
21 right place. Your motivation is exactly where
22 it should be. But unfortunately, what we have
23 got on paper in this bill is a problem. And
24 we ought to deal with it.

25 You know, we all have a pride of

1 authorship. But sometimes if someone brings
2 up an issue and says, Hey, there's a little
3 error here -- or a big error, or a
4 medium-sized error -- here's how we could
5 correct it, we listen. And that's what I'm
6 asking you to do.

7 ACTING PRESIDENT JOHNSON:
8 Senator Volker.

9 SENATOR VOLKER: Yeah, very
10 quickly.

11 Tom, I just want to say to you --
12 and what you said was absolutely correct.
13 That is, that these people in many cases were
14 treated horribly. And I am totally in
15 agreement with what you said.

16 Except that the problem, we are
17 told by prosecutors is and by people who are
18 familiar with these cases, is that this bill
19 really, the way it is written, could very well
20 allow people who were really not a part of a
21 sex trafficking business to use that as an
22 excuse.

23 You know, we passed the toughest
24 sex trafficking bill in the country. And the
25 same people who helped us pass that bill are

1 now telling us that this bill, in their
2 opinion, will weaken it. And I know you don't
3 mean to do that. You're worried about the
4 victims, and you should be. But I would have
5 to say to you that I would have to vote
6 against this.

7 I think the problem is that the
8 committee, apparently some committee at the
9 Bar of New York -- not the Bar Association. I
10 couldn't believe that they did. It was a
11 committee. Whatever the committee was, they
12 must have read the bill thinking with their
13 heart instead of their head.

14 But, you know, personally I commend
15 you for this kind of bill. But I ask you --
16 I'm going to have to vote against it because
17 all the federal and state prosecutors are
18 telling us that this bill could be a real
19 problem if it's not changed.

20 ACTING PRESIDENT JOHNSON: Are
21 there any other Senators wishing to be heard
22 on the bill?

23 Senator Schneiderman. Senator
24 Schneiderman, on the bill?

25 SENATOR SCHNEIDERMAN: Yes, thank

1 you. On the bill, Mr. President.

2 I have to say, ladies and
3 gentlemen, this is a very narrow addition to
4 the program set up in the original bill that
5 outlawed sex trafficking in New York State.
6 And if you're proud of the work on that bill,
7 I honestly don't see how you can possibly vote
8 against this.

9 The New York State anti-trafficking
10 law provided that the victims of sex
11 trafficking would get counseling, would get
12 support in their efforts to reintegrate
13 themselves into society. But there was an
14 omission in the original bill that is dealt
15 with by Senator Duane's legislation, that you
16 cannot reintegrate into society if you're
17 walking around with a conviction.

18 And these 440 motions -- and, you
19 know, my partner in justice here, Senator
20 Volker, we've argued about 440 motions for
21 many joyful years, and I'll be denied that
22 pleasure next year. But there are a lot of
23 less sympathetic people who are eligible to
24 make 440 motions to vacate their conviction
25 than the people this bill addresses.

1 In order to apply to have your
2 conviction vacated under this bill, you have
3 to prove that you were a victim of sex
4 trafficking. That means you have to have been
5 the victim of someone who provided illegal
6 drugs, withheld or destroyed immigration
7 documents, engaged in terror tactics. This is
8 something that you have to prove to be
9 eligible to make an application to vacate your
10 conviction.

11 This only applies to demonstrated
12 victims of sex trafficking. And the notion
13 that we're going to pretend that we want to
14 help these people reintegrate without giving
15 them an opportunity to have a clean record so
16 they can get a job, so they can get housing,
17 so that perhaps they can continue with the
18 process of applying to change their
19 immigration status, this is -- we're talking
20 about children, ladies and gentlemen. There
21 are 4,000 children in New York City alone who
22 are the victims of sex trafficking.

23 And if someone can prove that they
24 are a victim of sex trafficking -- and I
25 assure you, no one who's still a victim of sex

1 trafficking is going to make it into court for
2 a 440 motion. Come on, you guys are not
3 talking about the real world. You have to
4 have escaped from the sex traffickers to get
5 to court to make a 440 motion. I mean, this
6 is just -- you know, you guys are not talking
7 about reality.

8 You are going to deny these
9 children who are victims the right to get a
10 clean record? I think it is a major, major
11 error. I would urge, Mr. President, that
12 everyone vote in favor of this bill. This is
13 a critical addition to the sex trafficking
14 law. I thank Senator Duane.

15 And please, apply a little common
16 sense as you're reading the statute and
17 thinking about its implications. There is no
18 one who's still the victim of the sex
19 traffickers who's going to get into court to
20 make a motion. You have to prove you were a
21 victim of this horrendous crime.

22 For the children who are suffering
23 today and want to try and get their lives back
24 on track, please vote yes on this bill.

25 Thank you, Mr. President.

1 ACTING PRESIDENT JOHNSON: Thank
2 you, Senator Schneiderman.

3 Senator Duane.

4 SENATOR DUANE: Thank you,
5 Mr. President.

6 I just first want to -- because I'm
7 going to just speak for a couple of moments.
8 And I take my colleagues on the other side of
9 the aisle at their word that there's a memo
10 from the district attorneys. And I hope that
11 they'll pass it down the aisle now to me,
12 because I have not seen this memo. I don't
13 know of anyone on this side of the aisle
14 that's seen this memo. And it's beyond news
15 to me.

16 And I'm very upset about it because
17 of course I want to craft the best possible
18 legislation, and of course I want it to pass.
19 And I don't know of this objection from the
20 DAs. So I am hoping that they'll pass it
21 along so that I can work off it and even know
22 who to contact about it. Because I don't -- I
23 haven't seen it, and no one on our side of the
24 aisle, as far as I know, has seen said memo.

25 So it's odd and, you know -- so but

1 while it's I hope being, you know, shared, I
2 want to -- you know, this goes exactly to the
3 point that my colleague Senator McDonald was
4 raising before about how it is that we
5 intentionally or -- which I don't think we do.
6 Well, I'll speak for myself. I don't do and I
7 know there are other people in this house,
8 including Senator McDonald and others, who
9 would never intentionally victimize a person
10 for even another day, whether it's on the
11 budget or whether it's someone that wants to
12 have their conviction vacated because they
13 can't get a job and get on with their lives.

14 And that's what our intention was,
15 was to help -- I mean, "victim" is almost
16 too -- it's almost not the right word.
17 Traumatized victims, brutalized victims. To
18 be able to not just take advantage of the
19 services which this legislation, you know, was
20 intended to do, but to actually -- it's not
21 even helping them, it's not holding them back.
22 It's not special treatment. It's not holding
23 someone back.

24 And, you know, believe me, I am --
25 I agreed with practically everything that

1 Senator McDonald had to say. And I am also
2 frustrated at what's been happening with the
3 budget process. I don't think there's anyone
4 here who is not. But why would we then say
5 that this bill, for one person, why would we
6 punish one person who could have their
7 wrongful conviction -- because they were
8 convicted because of slavery -- vacated?
9 Like, I don't get that. I don't get that.

10 So if there is such a memo and
11 maybe even if there isn't, of course I would
12 be willing to pull this bill back and make
13 everybody wait longer, because promises of
14 tomorrow -- I've been around a while.
15 Tomorrow is not always tomorrow around here.
16 If there is such a piece of paper that says
17 what this objection is. Because I haven't
18 seen it. And, you know, maybe there's a
19 misunderstanding. Maybe it's about another
20 piece of legislation. Maybe it's not about
21 this. I mean, everybody makes mistakes like
22 that. I understand that.

23 But we're here. We could pass this
24 bill today --

25 ACTING PRESIDENT JOHNSON:

1 Senator Padavan -- Senator Padavan, why do you
2 rise?

3 SENATOR PADAVAN: Would Senator
4 Duane yield briefly?

5 SENATOR DUANE: Yes, Mr.
6 President.

7 ACTING PRESIDENT JOHNSON: For a
8 question, Senator Padavan? Senator Padavan,
9 for a question?

10 SENATOR PADAVAN: I'm going to
11 try and phrase it in the form of a question so
12 I don't violate the rules.

13 ACTING PRESIDENT JOHNSON: Fine.

14 SENATOR PADAVAN: Senator, did
15 you know that the president of the DAs
16 Association, by the name of Kate Hogan, DA,
17 Warren County, communicated verbally today to
18 our counsels -- not in memo form, but
19 verbally -- the issues that you've heard
20 raised by some of our members with regard to
21 what they perceive and feel is a technical
22 glitch, if you will, in the language that
23 you've embodied in your law? Not with its
24 intent, not with its goal. We already said
25 that.

1 And if that is the case, would you
2 give them the benefit of the doubt for a day
3 to communicate that information to you so that
4 you could consider incorporating what they
5 think would be a modified language and deal
6 with their problem? That is my question.

7 SENATOR DUANE: Mr. President, if
8 I could just clarify the question.

9 ACTING PRESIDENT JOHNSON: Of
10 course.

11 SENATOR DUANE: The question is
12 the phone call was on behalf of the entire
13 association of the DAs? Or is it just one DA?
14 That's what I'd like clarification of, if
15 that's okay, Mr. President.

16 ACTING PRESIDENT JOHNSON:
17 Senator Padavan, could you please clarify for
18 Senator Duane the question?

19 SENATOR PADAVAN: My
20 understanding is that DA Hogan was speaking in
21 her capacity as president of the DAs
22 Association.

23 SENATOR DUANE: Through you,
24 Mr. President, I do have a concern that I
25 really -- and I can actually, you know, I'm a

1 good talker. There is time to verify whether
2 this is the official position of the
3 Association, because I can say more about the
4 bill and why it's so important.

5 So I would like clarification on
6 whether this is the official position of the
7 DAs Association. Because I would hate to
8 think that whoever it is in their association
9 who tracks legislation missed this, since it
10 passed the Assembly unanimously. So it is of
11 concern to me that they were so off their game
12 that they completely missed this piece of
13 legislation.

14 So while that's being verified,
15 precisely whether this is a DA or the
16 association, I'd like to make a few more
17 comments about the legislation, and I will
18 take a moment to do that while we await word
19 from the District Attorneys Association.

20 So, Mr. President, under this
21 legislation -- there's a whole other area of
22 this legislation that is incredibly important.
23 And that is the issue of how it is that we
24 actually go up the chain from those who are
25 enslaved to get the actual traffickers. And

1 how it is that we are able to turn a victim --
2 and again, that word is too weak for who we're
3 talking about -- that slave, that abused,
4 raped, you know, really without a country,
5 because they're without a passport, how it is
6 that we are able to allow them to help us to
7 get the kingpins, if you will, of human
8 trafficking, sexual predatory trafficking.

9 And I strongly believe that this
10 legislation is actually -- is it the biggest?
11 No. But it is a tool that will help us to
12 end, someday, human trafficking, particularly
13 for the purposes of sexual enslavement and
14 prostitution.

15 And, you know, really what this is,
16 it allows just the smallest -- one time to
17 make the presumption just the slightest bit
18 stronger in order to allow a victim, and only
19 deserving and only under very stringent
20 circumstances, of which, as I say, OTDA even
21 has a form for the court to use to look at,
22 the victim to bring to court, to bring to the
23 DA, to bring to the judge. One time. Because
24 if they've said during the trial that they
25 were the victim of human trafficking and they

1 are convicted anyway, they cannot bring it up
2 again. That's it. That is it. It's one time
3 that they're allowed to use this in order --
4 so if the claim has been made before during
5 trial, they can't go back and do it again.
6 Only, only this one time.

7 And again, I strongly believe that
8 not doing this is one more acquiescence,
9 acceptance of the stereotype -- not even a
10 stereotype, the stupid fantasy of some people
11 who are willing to pay for sex. And I don't
12 mean to -- you know, there are people, listen
13 we read about them in the newspapers all the
14 time. There might even be people here who
15 have actually used it. I'm not saying that
16 anyone here is perfect or in the world, that
17 people make mistakes. And I get that. I have
18 made mistakes. Mistakes are made.

19 But what this is doing is to try to
20 eliminate one more of the dumb ideas that
21 people have that those happy-looking women in
22 the back of an -- I mean, even New York
23 magazine used to carry these ads until finally
24 women's groups said, Why are you exploiting
25 women like this who are being enslaved?

1 There's a newspaper here in this
2 area, there's one in New York City which, if
3 you look in the back of it, perpetuates that
4 myth that these are happy women who love
5 having sex with ugly men. Come on. I'm
6 serious. That they love sex so much that
7 they're willing to do it with anyone. I mean,
8 it's absurd.

9 And not doing this bill -- maybe
10 we'll do it tomorrow if there really is a
11 problem with it. But it would be better to do
12 it today if there isn't a problem with it.
13 That we not be part of the myth that these are
14 happy, mostly women doing this because they
15 want to have sex with men who are willing to
16 pay. It's just not true. It's just not true.
17 Even if they act like it, that's part of the
18 things that they have to do. Sometimes there
19 are cameras in the room to make sure that
20 they're smiling. But they're not really
21 smiling, they're acting. Because they're not
22 having a good time, they're basically being
23 raped. And we're going to send them out into
24 the world, send them out into the world with
25 job training so they can't get a job because

1 they have a record. That's what we're doing
2 by not passing this bill.

3 I could tell you stories. We heard
4 stories. We heard stories at the hearing of
5 Senator Padavan and Senator Volker of exactly
6 that situation, where a young woman, sometimes
7 her family, thinking that they were sending
8 their daughter to a better life in the United
9 States, some decent-paying job, maybe as a
10 domestic worker or maybe as a secretary or a
11 nurse, and the family bought into the myth
12 that they were sending their daughter to a
13 better life. And what they were doing was
14 sending their daughter to a life of rape and
15 degradation and slavery and fear and
16 desperation. And their families did that,
17 unintentionally.

18 And we make it so they can't even
19 get a job to make enough money to visit their
20 family after that. It is beyond -- you know,
21 again, I'm waiting for confirmation. I would
22 say pass the bill. If and when we get the
23 confirmation, I'm happy to do a chapter
24 amendment. We do it here all the time. All
25 the time we do it. I'll talk to the Assembly

1 sponsor of the legislation. I didn't even
2 care -- again, it was just something that I
3 focused on. I thought it was an injustice
4 that we needed to fix. I don't care. Similar
5 to what Senator McDonald said, I don't care if
6 the bill is under my name. Mr. President, you
7 know that. Even on legislation which you and
8 I have worked on, bipartisan legislation, I
9 don't care whether my name is the caboose. I
10 don't care if my name is not on it at all.

11 I care about the result. I care
12 about ending this absurd myth that these are
13 happy hookers who love having sex with
14 middle-aged men that look like me. No, I
15 don't think so, Mr. President. I don't think
16 I could pay enough money. We're talking
17 acting, Mr. President. We're not talking
18 happy, happy, happy to see someone like me
19 lumber into the room. They're smiling because
20 there may be a camera on them. They're
21 smiling because they're afraid not to,
22 Mr. President.

23 I mean, you know, I realize that
24 people think -- like, I'm not trying to be
25 funny. It's -- you know, how would you like

1 to be in that position? How would you like it
2 if you were forced to have sex with people
3 against your will and then ended up with a
4 criminal record on top of it? Where's the
5 justice in that? You're right, it's
6 injustice.

7 Now, I'm hoping that maybe -- has
8 anyone reached the DAs Association in the
9 meantime? No, I haven't gotten word. I'm
10 just -- like you want to hear more bad
11 stories? You want to hear about more terrible
12 things? I'm a bottomless pit, a bottomless
13 pit of bad things happening to people and how
14 we continue to punish them with things like
15 criminal records.

16 All right. So sometimes there are
17 women whose families -- or who don't have a
18 family, who are from orphanages, and who a
19 trader comes with -- and we know that people
20 think that the United States is the place
21 where actually you can get ahead, where there
22 are good jobs. Who wouldn't believe that if
23 you had nothing else? If you were destitute,
24 if you had no family, who wouldn't believe
25 that about the United States? Right? And

1 it's true for a lot of people. But not for
2 these women. Not for these women. They end
3 up here -- sometimes they come here, they're
4 snuck in, they never had a passport. Or they
5 had the passport taken away from them and it's
6 kept by the trafficker.

7 Imagine. Imagine, your family,
8 your single parent can't take care of you and
9 in some cases doesn't want to take care of
10 you, and you end up in a home. Right? With
11 other children. And you know what? You can't
12 live there forever. It's off to the streets
13 afterwards when you age out of it. Not so
14 dissimilar to what happens in our country.
15 But, okay, probably worse. And you are
16 offered the chance to come to the United
17 States, be a nurse's aide, get an education,
18 maybe work as a domestic but then we'll help
19 you to move up, to get a better-paying job.
20 Maybe be a nanny. Who knows the promise
21 that's made. Maybe a secretary. Who knows
22 what the promise is.

23 And you go along. Right? And you
24 go along. And you say, I'm going to go to the
25 United States and I'm going to have a chance.

1 We know it happens. We know it happens. We
2 heard about it happening. We heard about it
3 at this hearing. We know about it. You read
4 the -- I mean, it's known. Movies are made
5 about it, television movies. Lifetime, the
6 Lifetime Network came and testified about this
7 because they just put a movie on about this
8 exact kind of human trafficking. Right?

9 So then you come here and what
10 happens to you is unspeakably terrible. And
11 we took a huge, huge step -- again, thanks to
12 the leadership of Senators Padavan and Volker.
13 I mean, this is not an unknown issue in this
14 house. Bipartisan. I know that the DAs know
15 about it. I can't believe they don't know
16 about it. They need to, I don't know, have
17 someone follow -- or they need to watch us on
18 TV, I don't know. They need to see what even
19 gets passed in the Assembly, what happens in
20 our committees. They need to do a better job,
21 I guess. Far be it from me.

22 But other groups know about this.
23 I mean, there are memos in favor from other
24 groups -- the New York City Bar Association.
25 Sanctuary for Families, which is probably the

1 premier domestic violence program, certainly
2 in New York City. The Urban Justice Center.
3 I mean, there's a list. Even, you know, the
4 ones that represent those who are voluntarily
5 whose job it is to be sex workers want to
6 actually help those women who are doing it
7 involuntarily. I mean, there's a broad
8 coalition.

9 And I have nothing, not a word in
10 opposition. Believe me, I have -- and you
11 know, Mr. President, you know that I am
12 willing to, happy to work with people on both
13 sides of the aisle, with people on different
14 sides of the issue outside this house. I am
15 happy to try to craft legislation. We may not
16 always agree -- we may not always agree, but
17 I'm certainly willing to do my best to bring
18 as many people into it as possible.

19 And I never heard from the DAs
20 about this. I never heard from the DAs about
21 this. It is news to me that the association
22 has a position. Maybe there was a
23 misunderstanding about -- I don't know. I'm
24 absolutely willing to give the benefit of the
25 doubt. The person that has brought it is

1 someone that I have enormous respect for on
2 this issue, because it was the hearing that he
3 put together with another Senator that
4 actually opened my mind to how we could
5 actually solve, in some way, this problem.

6 In some way I also thought we might
7 actually be able to help a victim -- which is
8 not a strong enough word -- a survivor to get
9 a job for which we, through our programs in
10 the state, have actually prepared them,
11 invested in, and for which I believe we think
12 they should be able to get a job. But they
13 can't, because they have a record.

14 You know -- and you know what? If
15 someone here hired that person and a newspaper
16 said that Senator So-and-So hired a convicted
17 felon, oh, boy, oh -- I mean, really. Right?
18 Isn't that what would happen? Sure. Many of
19 us would -- I don't even want to say risk
20 that, would absolutely do that. But it's a
21 thing. And sometimes it's unfair. And in
22 this case, we know it's unfair and we could do
23 something about it today.

24 If we have to do something about it
25 tomorrow, I'll do it tomorrow. But I need to

1 know whether it's a real thing or whether it's
2 just justice deferred for a day.

3 You know, I was speaking with
4 someone who wants to be a Supreme Court judge,
5 and her Supreme Court judge boss from several
6 years ago --

7 ACTING PRESIDENT JOHNSON:
8 Senator Duane --

9 SENATOR DUANE: -- said justice
10 delayed is justice denied.

11 ACTING PRESIDENT JOHNSON:
12 Senator Duane.

13 Senator Nozzolio, why do you rise?

14 SENATOR NOZZOLIO: Mr. President,
15 will Senator Duane yield?

16 ACTING PRESIDENT JOHNSON:
17 Senator Duane, will you yield for Senator
18 Nozzolio?

19 SENATOR DUANE: Yes,
20 Mr. President.

21 ACTING PRESIDENT JOHNSON:
22 Senator Nozzolio, Senator Duane will yield.

23 SENATOR NOZZOLIO: Thank you,
24 Mr. President.

25 Mr. President, my question to

1 Senator Duane is as follows. Does the
2 legislation have any qualification relative to
3 age of the -- as Senator Duane describes, of
4 the victim, where the victim would, if a
5 certain age -- and his discussion about
6 children was certainly noteworthy. But is
7 there an age restriction or qualification
8 within this legislation?

9 ACTING PRESIDENT JOHNSON:

10 Senator Duane.

11 SENATOR DUANE: Through you,
12 Mr. President, I need some clarification on
13 the question. Is the question regarding the
14 age of the person who was -- while they were
15 in slavery, if you will? Or is it about their
16 age when they came with the -- to say "I would
17 like to vacate this conviction"?

18 ACTING PRESIDENT JOHNSON:

19 Senator Nozzolio, do you understand the
20 clarification you're seeking?

21 SENATOR NOZZOLIO: My question is
22 are those who are shielded from being allowed
23 to vacate their convictions, are those limited
24 to a certain age group? In other words, under
25 18, over 18? Where is the -- is there any

1 delineation in the legislation for qualifying
2 those who are under the age of majority or of
3 consent?

4 ACTING PRESIDENT JOHNSON:
5 Senator Duane.

6 SENATOR DUANE: Through you,
7 Mr. President. You know, I -- while I asked
8 for the clarification, in a way there was no
9 need to. You know, I think the answer is --
10 well, the short answer is no. Because there
11 isn't a big difference between being
12 victimized, enslaved, when you're 15 or if
13 you're 25. You know, slavery is slavery.

14 However, we do know that those who
15 are enslaved skew towards younger. But is
16 there an age limitation for when you could go
17 to have it vacated? Well, not specifically.
18 But, you know, we have -- no. Not
19 specifically, no.

20 SENATOR NOZZOLIO: Thank you,
21 Mr. President.

22 ACTING PRESIDENT JOHNSON: Thank
23 you, Senator Nozzolio.

24 SENATOR DUANE: In this
25 legislation, no.

1 ACTING PRESIDENT JOHNSON: Thank
2 you. Senator Duane, you continue to have the
3 floor.

4 SENATOR DUANE: Yes,
5 Mr. President. Now I have the floor, yes.
6 And so I -- I -- I still am -- yeah, I'm
7 waiting, because I don't -- you know,
8 certainly someone has the phone number of
9 someone who is involved with the DAS
10 Association. You know, DAS are on duty --
11 there's night court everywhere, with DAS --

12 ACTING PRESIDENT JOHNSON:
13 Senator Libous, why do you rise?

14 SENATOR LIBOUS: Mr. President,
15 would Senator Duane yield for a question?

16 ACTING PRESIDENT JOHNSON:
17 Senator Duane, will you yield for a question
18 from Senator Libous?

19 SENATOR DUANE: Rarely do I not.
20 Of course, Mr. President.

21 ACTING PRESIDENT JOHNSON: Yes,
22 Senator Libous, Senator Duane yields.

23 SENATOR LIBOUS: Thank you,
24 Senator Duane.

25 Senator Duane, are you willing to

1 lay the bill aside for a day if we could get
2 this individual to reach out to you? I
3 believe that I can arrange that. This is not
4 a bluff. This is not -- we have some serious
5 concerns about the legislation. And if she
6 does not reach out to you within the next
7 24 hours, the bill can come back on the floor
8 on Monday and we would do whatever we need to
9 do on the floor.

10 And I believe I can arrange for you
11 for her to speak with you, possibly this
12 evening.

13 SENATOR DUANE: Through you,
14 Mr. President. Before I answer, I need a
15 clarification. This person, on behalf of the
16 official DAS Association -- this person will
17 be speaking on behalf of the official DAS
18 Association?

19 ACTING PRESIDENT JOHNSON:
20 Senator Libous, Senator Duane has asked for a
21 clarification.

22 SENATOR LIBOUS: Thank you,
23 Mr. President.

24 Mr. President, the way I understand
25 it -- and certainly, Senator Duane, this is

1 coming to me from secondhand from this person,
2 because I don't want to be misrepresentative.
3 But the legislative committee of the DAs
4 Association met and they recommended against
5 this bill and said that there was a technical
6 flaw that they would be willing to sit down
7 with the sponsor and get it corrected.

8 ACTING PRESIDENT JOHNSON: So,
9 Senator Libous, does your question still then
10 remain as to --

11 SENATOR LIBOUS: Yes,
12 Mr. President. I'm not -- lookit, I'm not
13 trying to give the sponsor a hard time. He
14 certainly made his points. I believe we made
15 our points. And all we're trying to do is say
16 that this individual will reach out to him.
17 And if for whatever reason matters can't be
18 resolved, then he can bring it back on the
19 floor.

20 ACTING PRESIDENT JOHNSON:
21 Senator Duane.

22 SENATOR DUANE: Mr. President,
23 I'm going to say -- before I give the answer,
24 I will be very disappointed with the District
25 Attorneys Association, I will be disappointed

1 if I am making the wrong decision here. And I
2 cannot -- within the realm of civility,
3 although I can't say that it won't be
4 free-floating and somewhat misdirected.

5 Of course, with those provisos,
6 yes. But I'm on a very short and tight
7 timeline either to pass the legislation or to
8 get it fixed if this is the DAs Association
9 official position. And really, I shouldn't be
10 accepting it because it's of a committee and
11 not the association, because this bill has
12 been around for a while and already passed the
13 Assembly unanimously.

14 But my answer, with those
15 qualifications, and maybe some more in the
16 interests of time that I'm just not going to
17 bother to say right now, the answer is yes.

18 ACTING PRESIDENT JOHNSON:
19 Senator Libous.

20 SENATOR LIBOUS: Thank you.

21 ACTING PRESIDENT JOHNSON: Thank
22 you, Senator Libous.

23 SENATOR DUANE: So I'm going to
24 ask my floor leader and my deputy leader to
25 ask to let it --

1 SENATOR KLEIN: Mr. President,
2 could we lay the bill aside for the day.

3 ACTING PRESIDENT JOHNSON: The
4 bill is laid aside for the day.

5 SENATOR LIBOUS: Thank you.

6 ACTING PRESIDENT JOHNSON: Thank
7 you.

8 Senator Klein.

9 SENATOR KLEIN: Mr. President,
10 can we please lay the rest of the calendar
11 aside for the day.

12 ACTING PRESIDENT JOHNSON: The
13 remainder of the calendar is laid aside for
14 the day.

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

17 SENATOR KLEIN: Mr. President, I
18 have a motion. On behalf of Senator Huntley,
19 on page number 24 I offer the following
20 amendments to Calendar Number 426, Senate
21 Print Number 6844, and ask that said bill
22 retain its place on Third Reading Calendar.

23 ACTING PRESIDENT JOHNSON: So
24 ordered.

25 SENATOR KLEIN: Please recognize

1 Senator Libous.

2 SENATOR LIBOUS: Thank you,
3 Mr. President. Mr. President, I wish to call
4 up Calendar Number 344, Assembly Print 9070.

5 ACTING PRESIDENT JOHNSON: The
6 Secretary will read the title of the bill.

7 THE SECRETARY: Calendar Number
8 344, by Member of the Assembly Hoyt, Assembly
9 Print Number 9070, an act to amend the Real
10 Property Law.

11 ACTING PRESIDENT JOHNSON: Can we
12 have some order, please. We're still doing
13 business of the Senate.

14 Senator Libous.

15 SENATOR LIBOUS: Thank you,
16 Mr. President. I now move to reconsider the
17 vote by which this Assembly bill was
18 substituted for Senate Print 7170 on April 14,
19 2010.

20 ACTING PRESIDENT JOHNSON: Call
21 the roll on reconsideration.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 61.

24 ACTING PRESIDENT JOHNSON:
25 Senator Libous.

1 SENATOR LIBOUS: Thank you,
2 Mr. President. I now move that Assembly Bill
3 Number 9070 be recommitted to the committee on
4 Judiciary and that this Senate bill be
5 restored to the order of Third Reading
6 Calendar.

7 ACTING PRESIDENT JOHNSON: So
8 ordered.

9 SENATOR LIBOUS: Thank you,
10 Mr. President.

11 ACTING PRESIDENT JOHNSON: Thank
12 you, Senator Libous.

13 Senator Klein.

14 SENATOR KLEIN: Mr. President,
15 could you please recognize Senator Volker.

16 ACTING PRESIDENT JOHNSON: May we
17 please have some order in the chamber.

18 Senator Volker.

19 SENATOR VOLKER: Mr. President, I
20 just wanted to remind everybody that tomorrow
21 night is the Senate Club dinner at Jack's.
22 And we'd appreciate it if all those who have
23 already committed to come. I just don't want
24 anybody to forget.

25 The Governor is coming. He's

1 gratefully agreed to come. And so we hope to
2 see as many people as can tomorrow night at
3 Jack's.

4 ACTING PRESIDENT JOHNSON: Thank
5 you, Senator Volker.

6 Senator Klein.

7 SENATOR KLEIN: Can you recognize
8 Senator Oppenheimer for an announcement.

9 ACTING PRESIDENT JOHNSON:
10 Senator Oppenheimer.

11 SENATOR OPPENHEIMER: This is
12 just a request for the other Senators.
13 Someone walked out of the Green Room with my
14 district office papers. So when you look
15 through your papers, if you have Suzi district
16 office papers, please get them returned to me.

17 ACTING PRESIDENT JOHNSON: So if
18 you have Senator Oppenheimer's papers, please
19 return them to Senator Oppenheimer.

20 Senator Klein.

21 SENATOR KLEIN: I just want to
22 remind Mr. President I think there's a stalled
23 car in the parking lot, license plate
24 number --

25 (Laughter.)

1 SENATOR KLEIN: No, Mr.
2 President. Is there any further business at
3 the desk?

4 ACTING PRESIDENT JOHNSON:
5 Senator Klein, other than the stalled car, the
6 desk is clear.

7 SENATOR KLEIN: Mr. President,
8 there being no further business, I move that
9 we adjourn until Tuesday, May 11th, at
10 3:00 p.m.

11 ACTING PRESIDENT JOHNSON: There
12 being no further business to come before the
13 Senate, on motion, the Senate stands adjourned
14 until Tuesday, May 11th, at 3:00 p.m.

15 (Whereupon, at 7:30 p.m., the
16 Senate adjourned.)

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