

1 NEW YORK STATE SENATE

2
3
4 THE STENOGRAPHIC RECORD

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7
8 ALBANY, NEW YORK

9
10 January 31, 2011

11 3:07 p.m.

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13
14 REGULAR SESSION

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18 LIEUTENANT GOVERNOR ROBERT J. DUFFY, President

19 FRANCIS W. PATIENCE, Secretary

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

2 THE PRESIDENT: The Senate will
3 now come to order, please.

4 I ask everyone to please stand and
5 join me in the Pledge of Allegiance.

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

8 THE PRESIDENT: Next we'll have
9 the Reverend Peter G. Young, from the Mother
10 Teresa Community Center.

11 REVEREND YOUNG: Thank you,
12 Governor.

13 Today I'd like, if I could, to say
14 dear Mother Nature, please be gentle as we
15 expect two feet of snow. It's not always easy
16 to be gentle. And in the political world
17 we're taught to be tough, competitive and
18 assertive. But there are times when we like
19 to be soothed and treated gently. We treat
20 packages with gentleness when they are labeled
21 "Fragile, Handle With Care."

22 So we ask our compassionate God to
23 give us the sensitivity and the courage to be
24 gentle with other people. Help us to hear
25 them and the anguish and the hurt in other

1 people, and to treat them with kindly care.

2 We'd like, if we could, to take a
3 moment to remember Senator Velella, who served
4 here for a long time, approximately 30 years
5 of dedicated service. We pray that he will be
6 now welcomed in heaven, as he has died this
7 past week.

8 Amen.

9 THE PRESIDENT: Next, the reading
10 of the Journal.

11 The Secretary will read.

12 THE SECRETARY: In Senate,
13 Sunday, January 30, the Senate met pursuant to
14 adjournment. The Journal of Saturday,
15 January 29, was read and approved. On motion,
16 Senate adjourned.

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

20 Next, we'll have presentation of
21 petitions.

22 Any messages from the Assembly?

23 Messages from the Governor.

24 Reports of standing committees.

25 The Secretary will read.

1 THE SECRETARY: Senator
2 DeFrancisco, from the Committee on Finance,
3 reports the following nomination.

4 As superintendent of the State
5 Police, Joseph A. D'Amico, of West Nyack.

6 THE PRESIDENT: Senator
7 DeFrancisco.

8 SENATOR DeFRANCISCO: I'm very
9 pleased to move the nomination of Joseph A.
10 D'Amico, of West Nyack, as superintendent of
11 the State Police.

12 Mr. D'Amico went through the Crime
13 and Corrections Committee and was unanimously
14 referred to the Finance Committee, went to the
15 Finance Committee and we unanimously voted to
16 approve his nomination and bring it to the
17 floor for a final vote.

18 I just want to say that the
19 Governor did a wonderful job in encouraging
20 and making certain that we had a good person
21 as the superintendent of State Police. In
22 this day and age when people have not very
23 good things to say about government and people
24 who serve government, we're very fortunate the
25 Governor nominated Mr. D'Amico, who has an

1 incredible, incredible career in law
2 enforcement, and an individual who wants to
3 participate in government and make government
4 better.

5 He's a cop's cop and he understands
6 the problems we've had with State Police over
7 the last few years -- not the membership, not
8 the rank-and-file, but a few people at the
9 top. And he's taking -- he has indicated he's
10 going to take that responsibility to make sure
11 that the stature of the State Police,
12 especially the people at the top, is restored
13 to what it was in the past.

14 So I'm very pleased to rise and
15 support the nomination and move the nomination
16 of Mr. D'Amico, and I know that he's going to
17 make an absolutely outstanding superintendent
18 of State Police for the State of New York.

19 Thank you, Mr. President.

20 THE PRESIDENT: Thank you,
21 Senator.

22 Senator Nozzolio.

23 SENATOR NOZZOLIO: Thank you,
24 Mr. President. On the nomination.

25 Mr. President and my colleagues, in

1 the years 1995 through 2007, that 12-year
2 period, we had one superintendent in the
3 New York State Police. Over the last four
4 years, with the inclusion of the nominee who
5 is before us, we will have had four
6 superintendents of the New York State Police.

7 One of the issues that the new
8 nominee, Mr. D'Amico, will be bringing to this
9 important position is to restore stability
10 among the ranks. And I echo the comments of
11 Senator DeFrancisco.

12 As I heard and reviewed
13 Mr. D'Amico's qualifications and comments as
14 he spoke before the Crime Victims, Crime and
15 Corrections Committee and the Finance
16 Committee, in answering that question, he did
17 an exemplary job and it was clear and apparent
18 that the type of police officer's police
19 officer that Mr. D'Amico has been throughout
20 his career is exactly what is needed now in
21 the stewardship of the most important law
22 enforcement unit, in my opinion, not only in
23 New York but in the entire nation.

24 Joseph D'Amico is extremely well
25 qualified, has had an exemplary career as a

1 police officer, as an inspector, in working
2 with the Attorney General's office. And that
3 I compliment Governor Cuomo on this nomination
4 and look forward to this Senate working very
5 hard to ensure that the challenges met by the
6 superintendent are met and that we do not see
7 a return from the successes that this body
8 helped put in place in establishing the most
9 dramatic drop in violent crime that any state
10 experienced in the history of our union.

11 It's an excellent appointment. I'm
12 proud to second the nomination and look
13 forward to working with Superintendent D'Amico
14 in meeting the challenges that our State
15 Police will be confronting in the weeks and
16 months ahead.

17 Thank you, Mr. President.

18 THE PRESIDENT: Thank you,
19 Senator.

20 Senator Carlucci.

21 SENATOR CARLUCCI: Thank you,
22 Mr. President.

23 It's an absolute honor to stand
24 here in support of nominating Mr. Joseph
25 D'Amico, who resides in the 38th Senate

1 District. And it's an absolute honor and
2 privilege to have him and his family as one of
3 my constituents in the district.

4 Mr. D'Amico has a long and
5 distinguished career serving the community
6 which he serves in. And I think Governor
7 Cuomo has made a great decision in putting
8 forth Mr. D'Amico to serve all of us as the
9 next superintendent of the New York State
10 Police.

11 The men and women that serve us in
12 the New York State Police Department really
13 deserve the best leader possible. And I am
14 honored and privileged to support
15 Mr. D'Amico's nomination and look forward to
16 you serving all of us in that capacity.

17 Thank you.

18 THE PRESIDENT: Thank you,
19 Senator.

20 Senator Golden.

21 SENATOR GOLDEN: Thank you,
22 Mr. President.

23 I too rise in support of the new
24 superintendent, Joe D'Amico. I had the
25 privilege of knowing Mr. D'Amico when he

1 worked for the New York City Police Department
2 and when he worked for the Attorney General's
3 office. And we have seen the successes that
4 he was able to obtain working the streets of
5 the Bronx and working the streets of the City
6 of New York and the State of New York. We've
7 seen what he was able to achieve when it came
8 to Medicaid fraud and Wall Street and other
9 great issues that faced our great state and
10 our nation.

11 And he was a true leader, and he
12 had 40,000 police officers, and down to about
13 32,000 police officers. So he did more with
14 less.

15 And that's the type of person that
16 we're going to need going forward: A good
17 manager, a person that knows how the police
18 departments are across this great city and
19 state, and how to deal with the ever-pressing
20 issues that will come before him over the next
21 several years. And it's good to see a steady
22 hand that will be leading the state troopers
23 across this great state as we move forward.

24 I remember, as you do, the times
25 when we had 2,200 or 2,145 homicides in the

1 State of New York. Those were outrageous
2 days, and they weren't too long ago. They
3 were in the early 1990s. And yes, we are in
4 the history books of being the greatest state
5 of being able to reduce crime. But I don't
6 want to be in the history book that raises
7 crime and be one of those states that will
8 cause more homicides, more robberies and
9 burglaries into our communities.

10 And I know that with the experience
11 of our new superintendent that we will be able
12 to keep crime down and to be able to keep the
13 resources flowing that we need for our state
14 troopers. And I will be voting aye for our
15 new superintendent, Superintendent D'Amico.

16 THE PRESIDENT: Thanks, Senator.
17 Senator Gallivan.

18 SENATOR GALLIVAN: Thank you,
19 Mr. President.

20 I also rise to commend the Governor
21 on the appointment of Joseph D'Amico as the
22 next State Police superintendent.

23 As a former New York state trooper,
24 former sheriff of Erie County, I know full
25 well the importance of having a true law

1 enforcement professional head such an
2 important agency to the citizens of New York.

3 Growing up, if you will, in my
4 professional career in the State Police, there
5 was a time when the State Police was
6 recognized as the premier agency across the
7 country. And we've seen the problems in the
8 recent past. And it will take a professional
9 to restore it to its rightful place as a
10 leader across the country.

11 And not only do I pledge my vote
12 today in support of this appointment but my
13 support, to the extent that I can, in
14 supporting Superintendent D'Amico and keeping
15 the citizens of New York State safe and
16 returning the New York State Police to its
17 rightful place as the premier agency in the
18 country.

19 Thank you.

20 THE PRESIDENT: Thanks, Senator.

21 Any other Senators wishing to speak
22 on the nomination?

23 (No response.)

24 THE PRESIDENT: The question is
25 on the nomination of Joseph A. D'Amico, of

1 West Nyack, as superintendent of the New York
2 State Police. All in favor signify by saying
3 aye.

4 (Response of "Aye.")

5 THE PRESIDENT: Opposed, nay.

6 (No response.)

7 THE PRESIDENT: Joseph A. D'Amico
8 is hereby confirmed as superintendent of the
9 New York State Police.

10 Superintendent D'Amico.

11 (Standing ovation.)

12 THE PRESIDENT: I also want to
13 congratulate Superintendent D'Amico's wife,
14 Judith.

15 Next, reports of select committees.

16 Communications and reports from
17 state officers.

18 Motions and resolutions.

19 Senator LaValle.

20 SENATOR LaVALLE: Mr. President,
21 would you recognize Senator Breslin, please.

22 THE PRESIDENT: Senator Breslin.

23 SENATOR BRESLIN: Thank you,
24 Senator LaValle. Thank you, Mr. President.

25 On behalf of Senator Squadron, I

1 move that the following bill be discharged
2 from its respective committee and be
3 recommitted with instructions to strike the
4 enacting clause: Senate Print 2326.

5 THE PRESIDENT: So ordered.

6 SENATOR BRESLIN: On behalf of
7 Senator Krueger, I move that the following
8 bill be discharged from its respective
9 committee and be recommitted with instructions
10 to strike the enacting clause: Senate Bill
11 432.

12 THE PRESIDENT: So ordered.

13 SENATOR BRESLIN: And on behalf
14 of Senator Peralta, I move that the following
15 bill be discharged from its respective
16 committee and be recommitted with instructions
17 to strike the enacting clause: Senate Print
18 1876.

19 THE PRESIDENT: So ordered.

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

22 THE PRESIDENT: Senator LaValle.

23 SENATOR LaVALLE: Mr. President,
24 I believe there's a privileged resolution at
25 the desk by Senator Perkins. May we please

1 have the resolution read in its entirety and
2 move for its immediate adoption.

3 THE PRESIDENT: The Secretary
4 will read the resolution in its entirety.

5 THE SECRETARY: By Senator
6 Perkins, Legislative Resolution Number 358,
7 honoring Howard Dodson upon the occasion of
8 his designation for special recognition by the
9 New York Public Library's Schomburg Center for
10 Research in Black Culture.

11 "WHEREAS, It is the sense of this
12 Legislative Body to recognize that the quality
13 and character of life in the communities
14 across New York State are reflective of the
15 concerned and dedicated efforts of those
16 individuals who devote themselves to the
17 welfare of the community and its citizenry;
18 and

19 "WHEREAS, Attendant to such
20 concern, and in full accord with its
21 long-standing traditions, this Legislative
22 Body is justly proud to honor Howard Dodson
23 upon the occasion of his designation for
24 special recognition by the New York Public
25 Library's Schomburg Center for Research in

1 Black Culture located in Harlem, New York; and

2 "WHEREAS, Howard Dodson, chief of
3 the Schomburg Center for Research in Black
4 Culture of the New York Public Library since
5 1984, is being acknowledged for his
6 long-standing tenure with the organization.
7 He is a specialist in African-American history
8 and a noted lecturer, educator, and
9 consultant; and

10 "WHEREAS, Earning his B.S. degree
11 in 1961 at West Chester State College and
12 graduating from Villanova University in 1964,
13 Howard Dodson completed the requirements for
14 an ABD at the University of California at
15 Berkeley in 1974. He has been awarded
16 Honorary Doctorates of Humane Letters by the
17 following: Widener University in 1987,
18 Adelphi University in May of 2004, West
19 Chester University of Pennsylvania in June of
20 2005, the City College of New York in June of
21 2006, and an Honorary Doctorate of Letters
22 from Villanova University in May of 2007; and

23 "WHEREAS, Prior to assuming his
24 position at the Schomburg Center, Howard
25 Dodson served as a consultant in the office of

1 the chairman of the National Endowment for the
2 Humanities in Washington, D.C., from 1979 to
3 1982. He also served in a number of
4 capacities from 1970 to 1979 at the Institute
5 of the Black World in Atlanta, Georgia,
6 including executive director from 1974 to
7 1979; and

8 "WHEREAS, Before joining the
9 institute, Mr. Dodson was a Peace Corps
10 volunteer in Equador from 1964 to 1966 and a
11 national Peace Corps office staff member from
12 1966 to 1969, including the positions of
13 deputy director of recruiting and director of
14 minority and specialized recruiting; and

15 "WHEREAS, Howard Dodson has taught
16 at California State College at Hayward, Emory
17 University, Shaw University, the City
18 University of New York, and Columbia
19 University. Under his leadership, the
20 Schomburg Center has developed into the
21 world's most comprehensive public research
22 library devoted exclusively to documenting and
23 interpreting African Diaspora and African
24 history and culture; and

25 "WHEREAS, During Howard Dodson's

1 tenure, the center's collections have more
2 than doubled, totaling over 10 million items.
3 Users have increased from 40,000 to over
4 125,000 annually; and

5 "WHEREAS, In 1989, Howard Dodson
6 completed a large capital campaign. In 1991,
7 he completed a major physical development
8 program which renovated the original Schomburg
9 Center building and created the Langston
10 Hughes Auditorium. More recently, he
11 completed a historic 75th Anniversary Capital
12 Campaign, raising a significant amount; and

13 "WHEREAS, Howard Dodson established
14 a Scholars-In-Residence program which has
15 provided six-month and one-year fellowships
16 for the more than 108 scholars who have been
17 provided for over the last 20 years. His
18 aggressive educational and cultural
19 programming agenda produces and presents 50 to
20 75 events annually, as well as four to six
21 exhibitions; and

22 "WHEREAS, Howard Dodson has
23 published 10 books as well as articles and
24 essays in newspapers, exhibition catalogs, and
25 professional journals. His most recent

1 publication is Becoming American: The
2 African-American Journey (Sterling Publishing,
3 Inc., 2009). His other publications include
4 In Motion: The African-American Migration
5 Experience (National Geographic Press, 2005),
6 Jubilee: The Emergence of African-American
7 Culture (National Geographic Press, 2002) and
8 The Black New Yorkers: Four Hundred Years of
9 African-American History (Wiley, 2000); and

10 "WHEREAS, Howard Dodson has curated
11 exhibitions on such diverse themes as
12 'Censorship and Black America' and 'Lest We
13 Forget: The Triumph Over Slavery,' and has
14 organized and produced major performing arts
15 events at Carnegie Hall and the Schubert and
16 Majestic Theaters on Broadway. Most recently,
17 he conceived, organized and directed the
18 development of a major website entitled 'In
19 Motion: The African-American Migration
20 Experience'; and

21 "WHEREAS, Howard Dodson served as
22 chair of the Federal Steering Committee on the
23 African Burial Ground. He was a founding
24 member of the board of directors of the Upper
25 Manhattan Empowerment Zone, serving on its

1 executive committee and as chair of the
2 cultural arts committee; and

3 "WHEREAS, In addition, Howard
4 Dodson was director of the research study to
5 establish the New York State Freedom Trail and
6 was a member of the President's Commission on
7 the National Museum of African-American
8 history and culture. He was also a former
9 member of the board of directors of the Apollo
10 Theater and now currently serves on the
11 Scientific and Technical Committee of the
12 UNESCO Slave Route Project; and

13 "WHEREAS, A true asset to Harlem,
14 New York City, the State of New York and the
15 world, Howard Dodson's distinguished record
16 merits the recognition and respectful tribute
17 of this Legislative Body; now, therefore, be
18 it

19 "RESOLVED, That this Legislative
20 Body pause in its deliberations to honor
21 Howard Dodson upon the occasion of his
22 designation for special recognition by the
23 New York Public Library's Schomburg Center for
24 Research in Black Culture, and be it further

25 "RESOLVED, That a copy of this

1 resolution, suitably engrossed, be transmitted
2 to Howard Dodson, Chief, Schomburg Center for
3 Research in Black Culture of the New York
4 Public Library."

5 THE PRESIDENT: Senator Perkins.

6 SENATOR PERKINS: Thank you very
7 much. I will be brief.

8 I wanted to express my appreciation
9 especially for you reading it into the record
10 as you have.

11 This individual was very, very
12 important in terms of my community and
13 particularly in terms of New York City. And I
14 think, if you know anything about Arturo
15 Schomburg, he was a great historian who was
16 one of the first to collect historical
17 artifacts, historical books, historical
18 information about the African-American and
19 Latino experience, which includes Puerto
20 Ricans. And he's a Puerto Rican that happens
21 to also be black.

22 So for those of us who identify
23 with him and his legacy, it's amazing the work
24 that Dr. Howard Dodson did to build up his
25 collection, to make it such a significant

1 collection, world-renowned. This is not just
2 a neighborhood resource, but is a
3 world-renowned resource.

4 And we wanted to take this moment
5 to thank Dr. Dodson for the extraordinary work
6 that he did by reading this resolution and
7 making some brief remarks that would extend
8 our tributes to him on a very personal level.

9 I just especially want to thank him
10 for those young men and women who found their
11 identity at the Schomburg and not at Rikers
12 Island.

13 Thank you so much. And I ask that
14 my colleagues join me in signing onto this
15 resolution.

16 THE PRESIDENT: Thank you,
17 Senator.

18 Any other Senators wishing to
19 speak?

20 The question is on the resolution.
21 All in favor signify by saying aye.

22 (Response of "Aye.")

23 THE PRESIDENT: Opposed, nay.

24 (No response.)

25 THE PRESIDENT: The resolution is

1 adopted.

2 Senator Libous.

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

5 I believe there is a privileged
6 resolution by Senator Sampson at the desk.
7 I'd ask that we would read it in its entirety
8 and move for its immediate adoption. But
9 before we adopt it, if you would call on
10 Senator Montgomery, please.

11 THE PRESIDENT: The Secretary
12 will read the resolution in its entirety.

13 THE SECRETARY: By Senator
14 Sampson, Legislative Resolution Number 262,
15 memorializing Governor Andrew M. Cuomo to
16 proclaim February 2011 as Black History Month
17 in the State of New York.

18 "WHEREAS, Black History Month,
19 previously known as Negro History Week, was
20 founded by Dr. Carter G. Woodson and was first
21 celebrated on February 1, 1926. Since 1976,
22 it has become a nationally recognized
23 month-long celebration held each year during
24 the month of February to acknowledge and pay
25 tribute to African-Americans neglected by both

1 society and the history books; and

2 "WHEREAS, The month of February
3 observes the rich and diverse heritage of our
4 great state and nation; and

5 "WHEREAS, Black History Month seeks
6 to emphasize that black history is American
7 history; and

8 "WHEREAS, Black History Month is a
9 time to reflect on the struggles and victories
10 of African-Americans throughout the country's
11 history, and to recognize their numerous
12 valuable contributions to the protection of
13 our democratic society in war and in peace;
14 and

15 "WHEREAS, Some African-American
16 pioneers whose many accomplishments, all of
17 which took place during the month of February,
18 went unnoticed, as well as numerous symbolic
19 events in February that deserve to be
20 memorialized, include: John Sweat Rock, a
21 noted Boston lawyer who became the first
22 African-American admitted to argue before the
23 U.S. Supreme Court on February 1, 1865, and
24 the first African-American to be received on
25 the floor of the U.S. House of

1 Representatives; Jonathan Jasper Wright, the
2 first African-American to hold a major
3 judicial position, who was elected to the
4 South Carolina Supreme Court on February 1,
5 1870; President Abraham Lincoln submits the
6 proposed 13th Amendment to the U.S.
7 Constitution, abolishing slavery, to the
8 states for ratification on February 1, 1865;
9 civil rights protester Jimmie Lee Jackson dies
10 from wounds inflicted during a protest on
11 February 26, 1965, leading to the historic
12 Selma, Alabama civil rights demonstrations,
13 including 'Bloody Sunday,' in which 600
14 demonstrators, including Martin Luther King,
15 Jr. were attacked by police; Autherine J. Lucy
16 became the first African-American student to
17 attend the University of Alabama on February
18 3, 1956 -- she was expelled three days later
19 'for her own safety' in response to threats
20 from a mob; in 1992, Autherine Lucy Foster
21 graduated from the university with a master's
22 degree in education, the same day her
23 daughter, Grazia Foster, graduated with a
24 bachelor's degree in corporate finance; the
25 Negro Baseball League was founded on

1 February 3, 1920; Jack Johnson, the first
2 African-American World Heavyweight Boxing
3 Champion, won his first title on February 3,
4 1903; and Reginald F. Lewis, born on
5 December 7, 1942, in Baltimore, Maryland,
6 received his law degree from Harvard Law
7 School in 1968. He was a partner in Murphy,
8 Thorpes & Lewis, the first black law firm on
9 Wall Street, and in 1989 he became president
10 and CEO of TLC Beatrice International Food
11 Company, the largest black-owned business in
12 the United States; and

13 "WHEREAS, In recognition of the
14 vast contributions of African-Americans, a
15 joyful month-long celebration is held across
16 New York State and across the United States,
17 with many commemorative events to honor and
18 display the cultural heritage of
19 African-Americans; and

20 "WHEREAS, This Legislative Body
21 commends the African-American community for
22 preserving for future generations its
23 centuries-old traditions that benefit us all
24 and add to the color and beauty of the
25 tapestry which is our American society; now,

1 therefore, be it

2 "RESOLVED, That this Legislative
3 Body pause in its deliberations to memorialize
4 Governor Andrew M. Cuomo to proclaim
5 February 2011 as Black History Month in the
6 State of New York; and be it further

7 "RESOLVED, That copies of this
8 resolution, suitably engrossed, be transmitted
9 to the Honorable Andrew M. Cuomo, Governor of
10 the State of New York, and to the events
11 commemorating Black History Month throughout
12 New York State."

13 THE PRESIDENT: Senator
14 Montgomery.

15 SENATOR MONTGOMERY: Thank you,
16 Mr. President.

17 I rise to speak on this resolution
18 honoring and commemorating February as
19 African-American, Black History Month for the
20 year 2011.

21 Thank you for reading it in its
22 entirety. It is simply a formality, because
23 we have been celebrating this annually for
24 some time -- many decades, in fact -- here in
25 New York State. But we are always reminded

1 that it is important to note the contributions
2 of people, Americans of all classes, all
3 communities, all groups. It's just important
4 that we make note of the contributions as we
5 deliberate in this chamber.

6 And so today we note the
7 contributions to America of the group of
8 people that I call the African Diaspora in
9 America. And even as part of that
10 celebration, we must also commemorate and
11 remember and remind ourselves that it took
12 several amendments to our Constitution, it
13 took Supreme Court cases that said people of
14 African descent had a right, as American
15 citizens, to be heard in court and to have
16 rights as other Americans. It's taken
17 legislation, as we know.

18 So it's taken a long time to get us
19 to this point. And let us never forget all of
20 the major, major contributions in science, in
21 medicine, in the arts and every other category
22 of life where members of the African Diaspora
23 have been extremely instrumental in building
24 America on every possible front.

25 So I'm happy to be able to stand

1 here. There are not many other places where a
2 person like me in the world would be able to
3 stand in a chamber like this and speak on
4 behalf of my people. So I'm very happy and
5 honored about that. And I'm also honored that
6 you in the chamber have agreed that we need to
7 take this moment and ask the Governor to
8 designate this month as Black History Month in
9 the State of New York.

10 Thank you, Mr. President.

11 THE PRESIDENT: Thank you,
12 Senator.

13 Any other Senators wishing to
14 speak?

15 (No response.)

16 THE PRESIDENT: The question is
17 on the resolution. All in favor signify by
18 saying aye.

19 (Response of "Aye.")

20 THE PRESIDENT: Opposed, nay.

21 (No response.)

22 THE PRESIDENT: The resolution is
23 adopted.

24 Senator Libous.

25 SENATOR LIBOUS: Thank you,

1 Mr. President.

2 There will be an immediate meeting
3 of the Finance Committee, followed by an
4 immediate meeting of the Rules Committee in
5 Room 332.

6 So for the time being, the Senate
7 will stand at ease.

8 THE PRESIDENT: There is an
9 immediate meeting of the Finance Committee,
10 followed by a meeting of the Rules Committee,
11 in Room 332.

12 And the Senate will stand at ease.

13 SENATOR LIBOUS: Mr. President,
14 before we stand at ease, I would also, on
15 behalf of Senator Sampson, say that the
16 resolution is open to all of the members. If
17 anyone wishes not to be on it, they should let
18 the desk know. Otherwise, all members will be
19 on the resolution.

20 Thank you, Mr. President.

21 THE PRESIDENT: Thank you,
22 Senator.

23 The Senate stands at ease.

24 (Whereupon, the Senate stood at
25 ease at 3:35 p.m.)

1 (Whereupon, the Senate reconvened
2 at 4:31 p.m.)

3 SENATOR LIBOUS: Madam President.

4 ACTING PRESIDENT YOUNG: The
5 Senate will come to order.

6 Senator Libous.

7 SENATOR LIBOUS: Thank you, Madam
8 President.

9 Can we return to the reports of
10 standing committees and have the report of the
11 Rules Committee, please.

12 ACTING PRESIDENT YOUNG: Reports
13 of standing committees.

14 The Secretary will read.

15 THE SECRETARY: Senator Skelos,
16 from the Committee on Rules, reports the
17 following bills:

18 Senate Print 2706, by Senator
19 Skelos, an act to amend the General Municipal
20 Law and others;

21 And Senate Print 2707, by Senator
22 Saland, an act to amend the General Municipal
23 Law and the Education Law.

24 Both bills ordered direct to third
25 reading.

1 Also, Senator Skelos reports Senate
2 Resolution Number 338, "RESOLVED, That the
3 Rules of the Senate for the years 2011-2012
4 are hereby adopted."

5 ACTING PRESIDENT YOUNG: Senator
6 Libous.

7 SENATOR LIBOUS: Madam President,
8 I move to accept the report of the Rules
9 Committee.

10 ACTING PRESIDENT YOUNG: All in
11 favor of accepting the report of the Rules
12 Committee signify by saying aye.

13 (Response of "Aye.")

14 ACTING PRESIDENT YOUNG: Opposed,
15 nay.

16 (Response of "Nay.")

17 ACTING PRESIDENT YOUNG: The
18 report is accepted.

19 Senator Libous.

20 SENATOR LIBOUS: Thank you.

21 Madam President, if we could now go
22 to the noncontroversial reading of the
23 calendar, the supplemental calendar, please.

24 ACTING PRESIDENT YOUNG: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 39, by Senator Skelos, Senate Print 2706, an
3 act to amend the General Municipal Law, the
4 Education Law, and the Municipal Home Rule
5 Law.

6 ACTING PRESIDENT YOUNG: Read the
7 last section.

8 THE SECRETARY: Section 26. This
9 act shall take effect immediately.

10 ACTING PRESIDENT YOUNG: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT YOUNG: Senator
14 Skelos.

15 SENATOR SKELOS: Thank you,
16 Madam President.

17 I'm going to just quickly explain
18 my vote and then indicate to the membership
19 that cosponsorship of this legislation will be
20 open for anybody who wishes to notify the desk
21 appropriately.

22 This is Governor Cuomo's Program
23 Bill Number 1, which indicates both the
24 Senate's desire and we have passed on a number
25 of occasions, going back to 2008, where we've

1 passed a property tax cap proposal.

2 What this legislation does is for
3 school districts it will establish a real
4 property tax levy cap of 2 percent, or the
5 CPI, whichever is less. The Big Five school
6 districts would be excluded. The Big Four
7 school districts would be included through the
8 local government property tax cap.

9 When it comes to school districts,
10 the only exception for a tax levy above the
11 2 percent, or CPI, are funds needed to support
12 voter approval of capital expenditures and an
13 override of the cap.

14 A school district would be required
15 to submit a tax levy proposition for approval
16 by voters at district annual meetings on the
17 third Tuesday in May. If the proposed tax
18 levy is within the tax levy limit, then a
19 majority would be required for approval. The
20 override provision would require a 60 percent
21 approval by the voters. On a second
22 submission, if it is voted down or less than
23 60 percent, if it is defeated a second time,
24 then the levy would have to be that of the
25 prior year.

1 In terms of local governments, the
2 2 percent or the CPI apply. To override, it
3 would require a two-thirds vote of the
4 governing body or, in the case of a district,
5 a fire district, a resolution.

6 There are certain exceptions for
7 local governments. One would be large
8 judgements in excess of 10 percent of the
9 prior year levy. Two, levy increases
10 resulting from municipal government
11 consolidation. Three, voter-approved capital
12 expenditures. And the fourth would be county
13 costs for the Temporary Assistance for Needy
14 Families -- TANF -- direct cash assistance and
15 safety net assistance programs.

16 This legislation, which will
17 hopefully pass the Senate today, will send a
18 message that we are going to control property
19 taxes in this state so that people can afford
20 to be here, that we can create jobs.

21 We are also, as we go through this
22 budget process, as we've indicated on a number
23 of times the clear message from the voters of
24 this state is government at all levels -- and
25 that includes the State of New York -- has to

1 cut spending, they can't raise taxes, they
2 want us focused on private-sector job
3 creation, and they want local real property
4 taxes stabilized.

5 So I thank you for the opportunity
6 to explain my vote.

7 ACTING PRESIDENT YOUNG: Thank
8 you, Senator Skelos. You will be recorded in
9 the affirmative.

10 Senator Breslin.

11 SENATOR BRESLIN: Thank you very
12 much, Madam President.

13 I rise to support this legislation.
14 I was happy last year when I was able to be
15 part of a majority that voted on a tax cap
16 twice.

17 Homeowners have said enough is
18 enough. Governor Cuomo has led the charge.
19 Our local taxes are 78 percent above the
20 national average. We have counties that are
21 leaders -- not leaders in jobs, but leaders in
22 having some of the highest property taxes in
23 this nation.

24 So it's time to place a cap, a tax
25 cap on property. And it's time, as the

1 Governor said, he will bring forth mandate
2 relief, which will be coupled by this
3 legislation.

4 And I am happy to rise and support
5 the tax cap in New York State.

6 Thank you, Madam President.

7 ACTING PRESIDENT YOUNG: Thank
8 you, Senator Breslin. You will be recorded in
9 the affirmative.

10 Senator Krueger.

11 SENATOR LIZ KRUEGER: Thank you,
12 Madam President. To explain my vote.

13 I have to respectfully disagree
14 with my colleagues who have spoken already
15 from both sides of the aisle. Yes, we have a
16 property tax issue in various parts of the
17 state. But I consistently have pointed out a
18 tax cap is not necessarily the right way to go
19 in solving the problem.

20 Again, property tax caps don't
21 reduce anyone's property tax. They don't
22 factor in the inequity and regressiveness of
23 the property tax system by not addressing that
24 someone might be low in income but house-rich
25 on some scale. And this will do nothing solve

1 that problem; in fact, it will probably
2 exacerbate the problem.

3 What we also know is the devil is
4 in the details. And depending on the math of
5 your school district, you might find yourself
6 through this property tax cap, particularly
7 poor school districts, with almost no money to
8 meet your school obligations and realistically
9 no way to have a 60 percent vote.

10 In a state such as New York, which
11 still suffers from inequities in the
12 distribution of education funds and
13 educational outcomes, what the research shows
14 is that a property tax cap will freeze and
15 exacerbate the problems we already see from
16 poor districts to wealthy districts.

17 I do believe this Legislature
18 should be working with the Governor to solve
19 the problem of inequitable distribution of
20 education money and a regressive property tax
21 model. But I don't believe, if this becomes
22 law, we will find ourselves a year or two down
23 the line believing this got us to the solution
24 to our problems. I vote no.

25 Thank you, Madam President.

1 ACTING PRESIDENT YOUNG: Thank
2 you, Senator Krueger. You will be recorded in
3 the negative.

4 Senator Carlucci.

5 SENATOR CARLUCCI: Thank you,
6 Madam President.

7 Over the past year I've had the
8 good fortune of speaking to thousands of
9 residents throughout the Hudson Valley. And
10 unfortunately, I've heard the same thing over
11 and over again, whether it's a young family
12 that recently lost a job and is worrying about
13 how they're going to pay their property tax
14 bill or a senior citizen that's been squeezed
15 out of the community which they've lived in
16 for decades because of spiralling,
17 out-of-control property taxes.

18 This is a step in the right
19 direction to get a handle on property taxes
20 and stop treating property owners like a
21 limitless ATM machine. So I look forward to
22 voting in the affirmative for this bill.

23 Through you, Madam President.

24 ACTING PRESIDENT YOUNG: Thank
25 you, Senator Carlucci. You will be recorded

1 in the affirmative.

2 Senator Oppenheimer.

3 SENATOR OPPENHEIMER: Well, it
4 looks like those outside of New York City have
5 a very similar problem.

6 And I'm voting in favor of this
7 because we need to do something. As many of
8 you know, Westchester has the highest property
9 tax, the county has the highest property tax
10 in America. And to say that we are
11 overburdened and it's now confiscatory is sort
12 an understatement.

13 I have been saying that we really
14 have to do more. Capping just says that it's
15 going to go up each year by 2 percent or
16 whatever. And what I've been saying is we
17 have to really study what the costs are. We
18 have to lower the property tax. And we can
19 only do that if we study closely what are the
20 costs that are driving up the property tax.

21 And that I think we must do, but we
22 also must listen at the same time. And I'm
23 sure many others have heard this: The schools
24 and the municipal governments are crying out
25 for mandate relief. Because there's no way

1 they can live with the 2 percent increase if
2 they don't have some support from us giving
3 them the mandate relief that will, as I said
4 earlier, cut their costs.

5 So that is, I think, something that
6 we must focus on in the coming year. This is
7 a one-house bill. Clearly it will have to be
8 negotiated. And I hope as a piece of that
9 negotiation we will be able to discuss those
10 costs that drive the property tax.

11 I'll be voting yes.

12 ACTING PRESIDENT YOUNG: Thank
13 you, Senator Oppenheimer. You will be
14 recorded as a yes.

15 Next is Senator Peralta.

16 SENATOR PERALTA: Thank you,
17 Madam Speaker.

18 I am explaining my vote voting in
19 the negative because we are here today voting
20 on a lengthy, complex piece of legislation
21 after being given the least amount of time
22 possible to review it and consider its impact.

23 My question is simple. Why? With
24 a \$10 billion budget gap to fill, why the
25 emphasis on tax cap and tax cuts before even

1 the first dime of savings has been identified?

2 A New York Times editorial last month
3 headlined "The Tax Cap Illusion" noted that
4 "History shows, painfully, that caps can do
5 more harm than good. California's Proposition
6 13 led to the deterioration of universities,
7 schools, and other public facilities."

8 The same editorial pointed out that
9 Massachusetts imposed a cap in 1980 and soon
10 police officers and firefighters were laid off
11 and senior centers were closed. By 1991, the
12 State Board of Education warned of a crisis
13 with too many classrooms simply warehousing
14 students.

15 As has been pointed out time and
16 time again by groups advocating for lower
17 property taxes, this tax cap will not solve
18 the problem of high property taxes or make
19 property taxes any more affordable. And it
20 certainly will not lower anyone's property tax
21 bill.

22 So again, the question is why? Why
23 on the eve of the release of the Executive
24 Budget are we being asked to take this vote?
25 We're putting the cart before the horse.

1 Whatever the answer may be, my
2 point is this. The point is, as Democrats we
3 must ensure that the budget is not balanced on
4 the backs of middle- and working-class
5 families and schoolchildren. There must be
6 shared sacrifices. And I say why not wait
7 until the Executive Budget comes out before we
8 take this vote.

9 I vote in the negative.

10 ACTING PRESIDENT YOUNG: Thank
11 you, Senator. You will be recorded as a no.

12 Senator Klein.

13 SENATOR KLEIN: Thank you, Madam
14 President.

15 I want to commend the Majority for
16 bringing this bill forward. I think if you
17 look at the history, one of the few things
18 that the Democrats and the Republicans agree
19 with is a property tax cap. In my time in the
20 State Senate I believe we've passed a property
21 tax cap, or a version of one, four times.

22 This is I think is a very, very
23 important step towards finally reducing
24 property taxes in the State of New York. One
25 of the things that I think is very clear is if

1 we're asking the citizens of our state each
2 and every day to balance their checkbook, live
3 within their means, tighten their belts, I
4 don't think it's too much to ask local school
5 districts as well as local governments to do
6 the same.

7 I'm not saying that our local
8 school districts are squandering money, or our
9 local governments. But let face facts. If
10 you're not required to live within a budget,
11 you just won't. And I see what happens in my
12 local school districts where, instead of
13 cutting costs, moving things in the opposite
14 direction, saving the taxpayers money, they
15 kind of figure out what budget will be
16 acceptable. Will a 3 percent increase do it
17 this year? Will a 4 percent, would a
18 5 percent? Well, that's really not the way to
19 do business in these tough economic times.

20 I know Majority Leader Skelos
21 alluded to the fact of sort of the ripple
22 effects of high property taxes, which are
23 quite true. One of the reasons why we can't
24 attract jobs through corporations in New York
25 State is because young families who would

1 maybe locate to New York or take those jobs or
2 remain in New York to keep those jobs can't
3 afford to live in the suburbs or anyplace
4 outside of the cities because of high property
5 taxes.

6 So I think this is a very, very
7 important first step. And I do believe the
8 first way we reduce property taxes is by
9 implementing a cap. But I don't think we can
10 operate in a vacuum. I've said this many
11 times on this floor, that I think it's sort of
12 a three-pronged approach, the first and most
13 important being the cap. Next is mandate
14 relief, which I know we're taking up a
15 resolution today on. And I think I would like
16 to see the return of some type of property tax
17 relief -- maybe a check, maybe a
18 circuit-breaker, which I know many in this
19 house have advocated for. But before we do
20 that, we have to make sure we have a definite,
21 finite funding stream to be able to accomplish
22 that.

23 So I'm very happy that so quickly
24 within this new legislative session we're
25 passing the property tax cap. Madam

1 President, I vote yes.

2 ACTING PRESIDENT YOUNG: Thank
3 you, Senator Klein. You will be recorded in
4 the affirmative.

5 Next we have Senator Robach.

6 SENATOR ROBACH: Yes, Madam
7 President. I too am happy too support this
8 bill. I think this is needed.

9 And I would concur with Senator
10 Carlucci. Everywhere I went for the last two
11 years, whether it was a community meeting,
12 walking with PAC-TAC groups to keep a
13 neighborhood safe, whether it was at a school,
14 even at the grocery store, people talked about
15 property taxes more than anything else on
16 their plate. They wanted -- and let me
17 explain to my colleagues in New York City, we
18 do not have hundreds of thousands of people
19 moving into our districts. People are voting
20 with their feet and are saying it's because of
21 high property tax.

22 You can actually afford a very nice
23 home, but then the taxes on it are so
24 outstanding it's not -- I have some
25 constituents that live on the shoreline of

1 Lake Ontario, very nice homes, that pay
2 \$24,000 a year in taxes. That's \$2,000 a
3 month -- without paying a mortgage, turning on
4 a light, cutting the lawn, nothing. It's a
5 lot.

6 And why we need a cap, when people
7 say you don't understand the time -- I don't
8 think it's okay to have 7, 8, 9, 10 percent
9 increases. People can't afford it. And
10 that's what they've been getting in many
11 places. And we need to change that. So we're
12 doing this.

13 And the other reason why I'm so
14 happy to support this legislation is many
15 people talked about this during the election,
16 and a lot of people talked about it for the
17 last four years but it didn't come to
18 fruition. So, number one, we're delivering on
19 a pledge that many people made as they were
20 running for reelection. And I think that's
21 important, especially at this time for
22 New Yorkers, because people lost faith that
23 we're going to put action behind our words.
24 Now we are.

25 Secondly, I'm more optimistic than

1 ever that with our new governor, Governor
2 Cuomo, who has said he supports a property tax
3 cap, that he may for the first time be able to
4 put enough pressure, along with the voters of
5 New York, on the Assembly to really get this
6 passed and make it a law.

7 So I think this is an important
8 bill, a needed bill, and a very important move
9 sending a clear message to the people of this
10 state, especially in Rochester and upstate
11 New York, that we hear them and we're acting
12 accordingly.

13 I vote in the affirmative.

14 ACTING PRESIDENT YOUNG: Thank
15 you, Senator Robach. You will be recorded
16 yes.

17 Senator Flanagan.

18 SENATOR FLANAGAN: Thank you,
19 Madam President. To explain my vote.

20 The bill that we got today has a
21 little symbolism right on it. It says
22 "Governor's Program Bill Number 1." So I'm
23 going to take that as an indication of the
24 seriousness that our new Governor attaches to
25 this issue, and frankly I think we all should.

1 Property taxes are just simply too high. The
2 Governor recognizes it, we all recognize it,
3 there's been a lot of talk about it. But we
4 haven't crossed the finish line.

5 Now, it doesn't matter what part of
6 the state you're from, they're still too high.
7 I look up in the balcony, and I actually have
8 constituents from my district here today,
9 three young kids in the schools. Their
10 property taxes are too high. It's getting
11 that much more difficult to live in all of our
12 communities across the State of New York.

13 But here's where I think, when
14 we're going to get criticized, we can stand on
15 firm ground. Because last week Senator
16 Ranzenhofer introduced a bill to institute a
17 state spending cap. We're not asking people
18 to do something that we're not willing to
19 impose upon ourselves. For far too long
20 Albany has told people how to do things but
21 has not been willing to do the same thing.

22 So we cannot have a one-dimensional
23 approach, as Senator Klein said. We need a
24 state spending cap. We need a property tax
25 cap. We need true, legitimate mandate relief.

1 We need massive regulatory reform. We need
2 real economic development. A thousand times,
3 Senator Skelos: "Taxes, jobs, spending.
4 Taxes, jobs, spending."

5 We have to do a lot more. This is
6 a very important first step. And I
7 congratulate Governor Cuomo and Senator Skelos
8 for bringing this bill to the floor. Thank
9 you.

10 ACTING PRESIDENT YOUNG: Thank
11 you, Senator Flanagan. You will be recorded
12 as a yes.

13 Next, Senator Kennedy.

14 SENATOR KENNEDY: Thank you very
15 much, Madam President.

16 I stand here today as a cosponsor
17 of this legislation in support of serious
18 property tax reform, serious property tax
19 relief, for working families, for middle-class
20 New Yorkers. This is not just a Western
21 New York problem, this is a New York State
22 problem. This is an Albany problem.

23 And whether we are from Western
24 New York, in Erie County -- Erie County, one
25 of the top 10 highest-property-taxed counties

1 not only just in New York State but in the
2 entire nation. Eight out of the top 10
3 highest-property-taxed counties in the entire
4 nation per percentage of home value are in
5 upstate New York.

6 We have a property tax epidemic,
7 not just a problem. And the only way we're
8 going to solve this problem is by enacting
9 legislation that provides serious relief and
10 serious solutions.

11 People have been voting with their
12 feet. In Western New York, in Erie County,
13 100,000 people have left Erie County since
14 1980: 100,000 people. As the Governor had
15 articulated in his State of the State,
16 2 million individuals have left in the last
17 couple of decades.

18 We need serious property tax
19 relief, and it starts today. So I'm proud to
20 stand in support of this property tax cap. I
21 look forward to furthering the agenda that
22 provides relief for middle-class and working
23 families across New York State.

24 ACTING PRESIDENT YOUNG: Thank
25 you, Senator Kennedy. You will be recorded in

1 the affirmative.

2 Senator Valesky.

3 SENATOR VALESKY: Thank you,
4 Madam President.

5 I rise in support of this
6 legislation. My constituents, and I'm sure
7 all of our constituents across the state, time
8 and time again have complained about the
9 property tax burden and the fact that we have
10 to do something about high property taxes here
11 in New York State.

12 Today, once again, in the Senate in
13 a bipartisan fashion we're doing something
14 about property taxes, one step in an overall
15 comprehensive approach. I want to thank
16 Senator Klein, who's spent a great deal of his
17 time over the last couple of years in
18 fashioning a proposal. I want to thank
19 Senator Skelos for making this one of the
20 first bills that we consider here in the new
21 2011 legislative session.

22 I want to thank Governor Cuomo. As
23 Senator Flanagan indicated, this is Governor's
24 Program Bill Number 1. The Governor believes
25 this is such a high priority that he would

1 send the legislation to the Legislature even
2 before his Executive Budget proposal,
3 underscoring how important this is.

4 But in the final analysis, we can
5 continue here in the Senate year after year
6 after year passing property tax caps, but I
7 hope, Madam President, that this is the
8 year -- finally, this is the year that I and
9 the 19.5 million New Yorkers can finally thank
10 the Assembly for doing the right thing and
11 passing a property tax cap, Governor Cuomo
12 signing that into law as soon as possible.

13 I vote in the affirmative.

14 ACTING PRESIDENT YOUNG: Thank
15 you, Senator Valesky. You will be recorded as
16 a yes.

17 Senator Martins.

18 SENATOR MARTINS: Good afternoon,
19 Madam President. I also rise in support of
20 this bill.

21 You know, I am reassured that we
22 have the support of our colleagues on both
23 sides of the aisle on this issue that is so
24 important to all of our constituents back
25 home. We've all gone through a rather

1 lengthy -- and some of us more so than
2 others -- process getting here these last few
3 months. And as you can see, and as we've
4 heard from others here in the chamber, time
5 and again people have told us: If you do one
6 thing when you get to Albany, lower my taxes.
7 Do something about taxes, but we simply can no
8 longer afford to pay any more.

9 This is the first step in that
10 road. This is the first step in our
11 commitment to our constituents where we send a
12 real message not only that we're committed to
13 a spending cap, as we approved this past week,
14 but also committed to structural change and
15 real structural change up and down, not only
16 affecting local governments but also affecting
17 ourselves.

18 You know, as we have this
19 opportunity, let's not forget also that this
20 is also a first step. We had an opportunity
21 today and we will have an opportunity today to
22 vote on a tax cap. But it goes hand in glove
23 also with the need for mandate relief. This
24 is only a first step. And I would remind
25 everyone to please keep that in mind as we

1 think about the necessary structural reforms
2 that we need for local governments and those
3 price-drivers that affect our ability on a
4 local level to continue to provide services,
5 not only for our villages and towns and
6 counties but also certainly for our school
7 districts.

8 So let's take this as an
9 opportunity not only to send a message and to
10 set a line in the sand, but also together to
11 work towards those necessary mandate reliefs
12 that our local communities so desperately
13 need, so that they can continue to provide
14 basic services to our constituents.

15 I vote in the affirmative. Thank
16 you.

17 ACTING PRESIDENT YOUNG: Thank
18 you, Senator Martins. You will be recorded as
19 a yes.

20 Senator Alesi.

21 SENATOR ALESI: Thank you, Madam
22 President and my colleagues.

23 As the day progresses, it seems as
24 though many of us, if not all of us,
25 unfortunately, should be saying the same

1 thing. And that is that this bill is good for
2 all of New York.

3 For far too long we've heard from
4 people upstate and downstate and all across
5 the state, from people in the business
6 community, people in labor, that property
7 taxes are really at the root of what's killing
8 our economy in New York State and, more
9 important, what is diminishing the quality of
10 life that we should be enjoying.

11 By capping property taxes and
12 following the leadership of Governor Cuomo,
13 who has made this his first program bill, with
14 the leadership of Senator Skelos and the
15 leadership of the previous leadership, we
16 focused on property tax caps for the last
17 couple of years. But now we have what I think
18 is not only the support of the executive, the
19 will of the people, but the hope that this
20 will find its way into the other chambers and
21 become reality. So that those young people
22 who want to build their families here, those
23 small businesses that want to stay here and
24 thrive, for our seniors that want to stay in
25 their homes, it will all be possible.

1 Many more things could be done as
2 far as tax caps or tax cuts in this state,
3 whether for individuals, retirees, businesses.
4 But you have to start that long journey with
5 this one large step -- not small step, this is
6 a large step.

7 In order for our economy to thrive,
8 in order for quality of life to improve, a tax
9 cap is reality if it's passed and signed. But
10 it's also a strong and powerful message that
11 New York State really is the place to live, to
12 grow a business, to grow a family.

13 When you look at all of the quality
14 educational facilities that we have, private
15 and public, in this state, we're educating the
16 best and the brightest that will go all across
17 this country -- in fact, all across the
18 world -- to pursue their professions, to
19 pursue their calling, how many of them do we
20 lose simply because they know that buying a
21 home here will cost them too much in taxes?

22 Now we can continue to invest in
23 those educational facilities, we can continue
24 to invest in our small and large businesses,
25 and we can continue to say to those people

1 that want to buy a home or stay in a home, you
2 can have it now, you can have it affordably,
3 and you can enjoy your life because we do have
4 this first key component in returning New York
5 State to the Empire State.

6 Thank you, Madam President and my
7 colleagues.

8 ACTING PRESIDENT YOUNG: Thank
9 you, Senator Alesi. You will be recorded as a
10 yes.

11 Senator Fuschillo.

12 SENATOR FUSCHILLO: Thank you,
13 Madam President. I'll be voting in the
14 affirmative on this legislation.

15 New York State has the unfortunate
16 distinction of being number one in interstate
17 migration. That means more people move out of
18 our state than any other state in the nation.
19 If this legislative body does nothing with
20 respect to property taxes, then they fail the
21 people of the State of New York.

22 There is nowhere that I go -- and
23 we've heard the same song and comments from
24 colleagues in this house, that every step they
25 take, somebody talks about property tax

1 relief.

2 But what's significant about
3 today's initiative and today's bill is that
4 we're changing the direction of this state.
5 We saw in the last couple of years reckless
6 spending, reckless increases in taxes and
7 fees, and a state that has drastically gone in
8 the wrong direction. Governor Cuomo and
9 Senator Skelos, by putting this bill in today,
10 is pulling it back. We're saying we want to
11 cap spending on the state level, we want
12 two-thirds of this house if you're going to
13 raise properties or any taxes, and we want to
14 provide tax credits to small businesses.

15 And now property tax relief. It's
16 the single most important issue in the State
17 of New York, and I'll be voting in the
18 affirmative.

19 Thank you, Madam President.

20 ACTING PRESIDENT YOUNG: Thank
21 you, Senator Fuschillo. You will be recorded
22 in the affirmative.

23 Senator Saland.

24 SENATOR SALAND: Thank you, Madam
25 President.

1 Madam President, I too rise in
2 support of this bill. Unfortunately, as our
3 business community has suffered, about the
4 only thing we've been exporting, if not
5 hemorrhaging, has been people and jobs. And
6 one of the principal reasons -- certainly
7 there are several -- but one of the principal
8 reasons has been the onerous burden of our
9 excessively high taxation, and particularly
10 painful and heinous within the ranks of those
11 taxes has been the property tax.

12 There can be no forum that I attend
13 in my district in which that subject does not
14 come up. It comes up when I speak with
15 seniors, it comes up when I speak with the
16 business community, it comes up when I speak
17 with my neighbors.

18 This tax cap has been something
19 that we have endeavored to accomplish over the
20 course of a number of prior sessions. But
21 never before have we had the good fortune of
22 having a Governor who has not only made this
23 Program Bill 1, working closely with Senator
24 Skelos, but he has asserted himself, he has
25 put himself on the line, he has aggressively

1 pursued this tax cap. I am optimistic that
2 before this session is over we will have a tax
3 cap.

4 And if you think of the things that
5 we need to revitalize our economy, if you
6 think of the things that we need to encourage
7 people to stay and others to come, dealing
8 with the property tax issue is at the top of
9 the list. There are things that we've done
10 previously that are critically important that
11 send that same message, whether it's the
12 spending cap, whether it's the package that we
13 did to incentivize the creation of
14 private-sector jobs, or whether it was the
15 supermajority required for increasing taxes.

16 This is a concerted and a
17 comprehensive effort to get out there that we
18 want New York open for business, that we want
19 to be the Empire State and we want people in
20 our respective districts to know that relief
21 is on the way.

22 Again, Madam Speaker, I vote in the
23 affirmative.

24 ACTING PRESIDENT YOUNG: Thank
25 you, Senator Saland. You will be recorded in

1 the affirmative.

2 Senator Ranzenhofer.

3 SENATOR RANZENHOFER: Thank you,
4 Madam President.

5 I also rise today in support of the
6 property tax cap, and I want to thank the
7 Governor for making it his number-one bill
8 that he's introduced, and also thank Senator
9 Skelos for his leadership.

10 I hope when people hear what we did
11 today they finally say to themselves, Well,
12 the Legislature finally gets it. We have
13 members on both sides of the aisle --
14 Democrats, Republicans, upstate, downstate --
15 really saying the same thing, that where else
16 are we going, how many more people do we have
17 to lose, how many more jobs do we have to
18 lose. And I think this sends an important
19 message that we are moving in the right
20 direction.

21 I'm sure for many of you this is a
22 very personal type of vote. Because if you're
23 like my family, many of your family members
24 have already left the state. I have no family
25 members left in the state other than my wife.

1 And, you know, it used to be when
2 you were in your neighborhood and you'd be
3 walking through the neighborhood, every once
4 in a while someone was moving out of state.
5 Well, now it's somebody in every single house
6 that has members of their family having left
7 the State of New York for states where they're
8 paying less property taxes. Nothing is
9 forcing them to stay here; they have an option
10 of whether they want to pay \$12,000 in New
11 York or \$4,000 in another state.

12 And this is a step in the right
13 direction that says we're not going to be
14 number one in highest property taxes anymore,
15 we're going to take a concerted effort to cap
16 our spending, to cap our taxes and to get this
17 state moving again.

18 So, Madam President, please record
19 me in the affirmative. I'm very, very proud
20 to be voting for this today. Thank you.

21 ACTING PRESIDENT YOUNG: Thank
22 you, Senator Ranzenhofer. You will be
23 recorded in the affirmative.

24 Senator Zeldin.

25 SENATOR ZELDIN: Thank you, Madam

1 President. I rise in the affirmative today on
2 this tax cap legislation. Our action
3 demonstrates that this body is serious about
4 property tax relief.

5 I was sent here by the residents of
6 the Third Senate District, those residents in
7 the towns of Islip and Brookhaven. As I
8 knocked on the 12,000 doors during this past
9 campaign season, I had a chance to talk to
10 many lower-income, middle-income families
11 struggling to survive right now on Long
12 Island. I spoke to many seniors trapped in
13 their house on fixed incomes but, because they
14 were living in just a regular three-bedroom,
15 two-bath house, yet still having to pay
16 \$15,000, \$18,000, \$20,000 a year in property
17 taxes. They have sent me here to represent
18 them.

19 Now, I'm not here, my purpose isn't
20 to block progress. And this is, as Senator
21 Martins mentioned, but one step, one first
22 step towards property tax relief for the
23 residents of Islip, Brookhaven, throughout
24 Long Island and across New York State. But I
25 am proud that when I leave here today I'm able

1 to go back to them and tell them that today,
2 on this day in the New York State Senate, I
3 did what I could to fight for them and to
4 provide that property tax relief that was
5 promised to them as I left their doors and
6 asked them for their vote.

7 I ask that when we leave here after
8 passing this property tax cap, that we
9 continue the dialogue about mandate relief,
10 about how to continue to provide an even
11 better education for our kids, more of a
12 quality education for our students.

13 My daughters, who are 4, are about
14 to start kindergarten in public school this
15 year, and I want them to have the best
16 education. And when they get older and they
17 are ready to start their families, if they
18 want to start their families on Long Island,
19 they should be able to. If they want to be
20 able to start their families here in New York,
21 they should be able to.

22 But for all of those family members
23 that have left from my family, Senator
24 Ranzenhofer, as in yours, they have relocated
25 down in Florida because they can't afford to

1 stay here in New York.

2 So this is our opportunity. And I
3 will not block progress, and I'll continue to
4 fight for fight for further progress when this
5 vote is done. And tomorrow is another day and
6 dialogue continues.

7 Please record my vote in the
8 affirmative.

9 ACTING PRESIDENT YOUNG: Thank
10 you, Senator Zeldin. You will be recorded as
11 a yes.

12 Senator Espaillat.

13 SENATOR ESPAILLAT: Thank you,
14 Madam President.

15 There are no easy solutions to many
16 of the problems that are facing New Yorkers.
17 Thousands of homeowners are seeking to get
18 property tax relief. Over a million tenants
19 will be seeking to get some kind of help this
20 year. And yet tomorrow we will listen to the
21 Governor propose his budget. In it I am sure
22 he will propose deep cuts that will help gap
23 the \$12 billion deficit affecting this state.

24 It is perhaps expedient to take
25 this property tax vote today, but I find it to

1 be a great mistake not to wait and listen to
2 the budget cuts that are going to be proposed
3 tomorrow. Many of those budget cuts will be
4 in the area of education. Many of the
5 localities that may benefit from this tax
6 relief would also face deep cuts in their
7 education funding. And families vote with
8 their feet not only because of property tax
9 relief, but they also vote with their feet
10 when there is crappy schools or when there is
11 a lack of public safety.

12 When many people purchase their
13 homes for the first time, as a young family,
14 they look at property taxes, they look at the
15 quality of education provided by the locality,
16 they look at the public safety in the
17 neighborhood. And these things are integrally
18 connected. And not to be able to wait for
19 tomorrow's proposal by the Governor is perhaps
20 a little bit too expedient, if not politically
21 expedient.

22 And I will be voting in the
23 negative on this. I think that some of those
24 localities will be coming back to us because
25 they're going to be strapped for cash.

1 They're going to get cut in education, they're
2 going to get cut in healthcare, and they're
3 going to be capped in their property tax, a
4 means of revenue for those localities. They
5 will come to these chambers asking for relief.

6 This vote is premature. I am
7 completely convinced that we need to bring
8 property tax relief to the State of New York,
9 but today is not the time. We should wait for
10 the Governor's proposal tomorrow, debate it
11 extensively, see what kinds of cuts he's
12 proposing to education in Long Island, in some
13 of the other counties that will otherwise
14 benefit -- Nassau -- tremendously from this
15 property tax cap.

16 Madam President, I will be voting
17 in the negative.

18 ACTING PRESIDENT YOUNG: Thank
19 you, Senator Espaillat. You will be recorded
20 as a no.

21 I do just want to take this
22 opportunity to remind the members that we have
23 a two-minute limit on explaining your vote.

24 Senator McDonald.

25 SENATOR McDONALD: Thank you,

1 Madam President.

2 I want to take this time to thank
3 our new governor, Governor Cuomo, Senator
4 Skelos, my colleagues from both sides of the
5 aisle. Property tax has been a problem for
6 working-class men and women for decades. If
7 anything, we should have done this years ago.

8 It's been mentioned about mandates.
9 That is a problem for our schools, our county
10 governments, our local governments. We cannot
11 just do a property tax cap without addressing
12 mandates. Legitimate mandates should be kept,
13 and ones that are impractical, in the wrong
14 place at the wrong time, should be gotten rid
15 of. We should be dealing with our local
16 officials, get the feedback from them.

17 The mandates, if not addressed,
18 won't help us at all, it will hurt us. But
19 what we did today, we started a dialogue on
20 capping property taxes. The comments that
21 came from the various communities that have
22 lost population -- many of them I know very
23 well, like Erie County. A great county.
24 Buffalo area, a great area. You feel so
25 sympathetic that these people are leaving our

1 state.

2 I represent two communities, one
3 very much like Erie County, an older
4 industrial community that I was actually
5 raised in. No reason that we keep on putting
6 burdens on them. They cannot continue to
7 carry the burden. They cannot tell people who
8 live in houses, who come from backgrounds,
9 blue-collar backgrounds, that we're going to
10 take your house. It's simply not fair.

11 My other community figured this out
12 a long time ago. Lower taxes, and people will
13 move there. Lower taxes, the schools get
14 better. Lower taxes, the roads, the emergency
15 services, economic development -- something
16 New York State used to be Number 1 in and now
17 is Number 50.

18 It's time we start figuring out
19 that people need jobs. If you don't come from
20 a background where jobs are important, nobody
21 cares. I come from a background where jobs
22 are important. People should realize that.
23 Jobs are important.

24 So this is part of a whole
25 continuation that our Governor, the Senate

1 leader, Dean Skelos, a variety of all of us
2 here have got to deal with.

3 So if you're talking to the public,
4 they're talking property taxes, income taxes.
5 In general, they're talking economics. Keep
6 people working, get people working, and start
7 bringing private sector business in. And the
8 private-sector business here, let it grow.
9 Let this state be what it's supposed to be,
10 the number one Empire State.

11 We have hurt this state, we have
12 hurt the people in it, and we've got to stop
13 doing that. Keep the working men and women in
14 our state and keep them working and let them
15 pay reasonable taxes for responsible services.

16 And I think we started it today,
17 and I'm very grateful. I am voting yes.

18 Thank you, Madam President.

19 ACTING PRESIDENT YOUNG: Thank
20 you, Senator McDonald. You will be recorded
21 in the affirmative.

22 Senator Marcellino.

23 SENATOR MARCELLINO: Thank you,
24 Madam President.

25 I rise in support of this

1 legislation. I think it's a very important
2 first step. I wish to thank, as many of my
3 colleagues have before me, the Governor and
4 Senator Skelos for bringing this bill to the
5 floor.

6 But I would remind us, and it's
7 been said before by others, that this is just
8 a first step. By freezing taxes at no more
9 than a 2 percent increase, we're not lowering
10 them, we're only hoping to slow down the
11 increase.

12 My constituents have sent me a loud
13 message. I've got email after email and a
14 stack of snail-mail letters that could be as
15 tall as the snowbanks back in my district, all
16 of them saying, You've got to cut my taxes,
17 Senator. We sent you back to Albany this year
18 to cut taxes, reduce spending, so that we can
19 attract some businesses, so we can keep our
20 young people in our state, so we can keep our
21 businesses in our state and bring new ones
22 here, so creating careers for our people.

23 We need to attract businesses. We
24 need to keep our residents here. We can't do
25 that by letting taxes increase. We can only

1 do that by decreasing taxes, by creating
2 private-sector jobs, and by cutting spending
3 at all levels of government.

4 This bill, as I said, is a good
5 first step, but it's just that. I look
6 forward to working in a bipartisan way with
7 all my colleagues so that we can move forward
8 and make life good for our constituents, make
9 life affordable for our constituents. And
10 this, as I said, is the beginning.

11 I proudly vote aye, Madam
12 President.

13 ACTING PRESIDENT YOUNG: Thank
14 you, Senator Marcellino. You will be recorded
15 as a yes.

16 Senator Larkin.

17 SENATOR LARKIN: Thank you, Madam
18 President.

19 I've been around this chamber a few
20 days more than most people except for Johnson.
21 And, you know, it's a happy day. My office
22 just told me a few minutes ago that we have 20
23 emails that say "vote for this." And the
24 response we give to them: I'm a sponsor of
25 it.

1 But what are we saying with this
2 vote? You know, I hear people say, "Well, why
3 don't we wait till tomorrow when the Governor
4 gives us his budget." Well, the Governor
5 didn't wait. The Governor handed down his
6 number-one bill on Friday and said to
7 Senator Skelos, "I need this passed."

8 So we're here today to pass this
9 bill so that when he talks about his budget
10 tomorrow, he can say we have achieved the
11 number-one priority that I have set for this
12 budget and for this state. And he'll commend
13 all of us who did stand up and vote for it.

14 I have 17 grandchildren, young men,
15 you know. And what do they say to me? "Why
16 should I stay here?" Gramp, you had a home in
17 North Carolina, you paid \$923 a year for total
18 taxes. I don't remember what we lost there.
19 But their attitude was, that's a nice place to
20 live, I can afford it.

21 Maybe it's tightening our belts.
22 We heard the Secretary of Defense, somebody
23 commented on him last week where he said
24 "You've got to do this and you've got to do
25 that" to the military. What's the difference

1 in saying it to someone else?

2 When you start to think that what
3 we've done is said in a cooperative manner,
4 bipartisan manner, we're going to stand up
5 here and work together so that we can make it,
6 as Senator Zeldin just said, the number-one
7 state again. You know our Governor has made
8 it very clear he wants our cooperation -- not
9 just Republicans, but bipartisan, Republicans
10 and Democrats -- to show the business
11 community across this state that we want to
12 cooperate. We are working to get it.

13 My district lost a thousand jobs on
14 a contract by Macy's because of taxes, the
15 payroll tax that supports New York City,
16 because the first shovel in the ground would
17 have cost Macy's \$34 million.

18 What we're saying here, we want
19 business to come and stay. More importantly,
20 we want our children to have a job here. And
21 if you don't vote for this bill, when your
22 children leave, tell them you're sorry.

23 ACTING PRESIDENT YOUNG: Thank
24 you, Senator Larkin. You will be recorded in
25 the affirmative.

1 Senator LaValle.

2 SENATOR LaVALLE: Thank you,
3 Madam President.

4 I too rise to support this
5 legislation. I have long been an advocate for
6 a tax cap. And as has been mentioned, this
7 chamber has passed a tax cap multiple times.
8 For those who say that we are moving
9 precipitously, I say the time has long come
10 that we do this measure.

11 I've been listening to individuals
12 here, and I thought about the process that we
13 have followed to try and support our education
14 system and our local governments. We've done
15 it by increasing state aid to record numbers,
16 thinking that that would lower taxes. In most
17 of the districts it has not.

18 We passed the STAR program thinking
19 it would lower taxes, and it did not because
20 it ended up being a supplement state aid
21 program.

22 We passed same-day budget vote
23 believing that more people would be involved
24 in the process and that involvement would
25 bring down taxes. It has not.

1 We have passed legislation to limit
2 the number of budget votes to two times. It
3 has not lowered property taxes.

4 We changed the contingency budget
5 law to cap spending. It has failed and has
6 not lowered taxes.

7 So today we stand with the last
8 possible choice, and that is to provide a tax
9 cap, property tax cap. And as has been said,
10 it is but a first step in a total process to
11 try and do two things: Deal with the
12 individual who pays the bill, and at some
13 point we will look at and ensure that our
14 constitutional mandate to provide a free and
15 appropriate education is maintained.

16 I vote in the affirmative.

17 ACTING PRESIDENT YOUNG: Thank
18 you, Senator LaValle. You will be recorded as
19 a yes.

20 Senator Nozzolio.

21 SENATOR NOZZOLIO: Madam
22 President, I ask permission to explain my
23 vote.

24 Madam President and my colleagues,
25 skyrocketing property taxes are by far the

1 number-one concern of the constituents I serve
2 in the Central Finger Lakes region. Property
3 taxes are making it difficult for seniors to
4 stay in their homes, making it virtually
5 impossible for young people to afford the
6 purchase of a new home, and are squeezing the
7 budgets of families and businesses all across
8 New York State.

9 The action we're taking today, by
10 placing a cap on school and local government
11 property taxes, is going to provide homeowners
12 the relief that they desperately need.

13 Madam President, 43 other states
14 have some type of property tax cap and they've
15 seen reductions in property taxes across their
16 states. It's time New York had the same type
17 of relief, and it's time in New York, as we
18 become the 44th state, to again try to make
19 New York more competitive.

20 This is bipartisan. Governor
21 Cuomo's first proposal, his very first
22 priority is establishing this property tax
23 cap. We support that priority. We've
24 supported it for a number of years. We're
25 hopeful that through the Governor's action the

1 Assembly will come on board and enact a real
2 property tax cap.

3 Groups from all across New York,
4 whether it be Unshackle New York, the National
5 Federation of Independent Businesses, the Farm
6 Bureau, they all have supported this
7 legislation, and I'm glad we are about to do
8 the same.

9 And lastly, Madam President,
10 establishing a cap that accompanied with that
11 is appropriate mandate relief, measures that
12 will help school districts and local
13 governments cut their costs, no longer having
14 to burden property taxpayers with those costly
15 mandates is also the essential ingredient in
16 this. Together, mandate relief and property
17 tax capping, putting New York back on the road
18 to economic recovery, it's a measure that I
19 wholeheartedly endorse.

20 Thank you, Madam President.

21 ACTING PRESIDENT YOUNG: Thank
22 you, Senator Nozzolio. You will be recorded
23 as a yes.

24 Senator Grisanti.

25 SENATOR GRISANTI: Thank you,

1 Madam President. I too support this measure.

2 But I have different reasons for
3 this. I represent an area in Western New York
4 that's the third poorest in the nation in
5 regards to its size. I also represent an area
6 in Buffalo, New York, that doesn't even have a
7 school tax bill. The City of Niagara Falls
8 that I represent does have a school tax bill,
9 but yet they have not raised their school tax
10 bill in 18 years. The reason being is they've
11 been coping, they've consolidated, they've
12 done what was right with regard to their
13 educational district and their schooling.

14 I then talked to the other towns,
15 in the City of Tonawanda and Grand Island.
16 They know that a tax cap is coming. They know
17 that this year is going to be very painful for
18 New York State. It's not going to be easy
19 this year. There's a large deficit, we all
20 know that. I'm proud because I ran on a
21 bipartisanship platform and we have a vote
22 here now that's bipartisanship.

23 But when I talked to these school
24 districts, they said to me, We know a cap is
25 coming, just give us an override provision.

1 Which is what's in that bill. So I accept
2 that.

3 I'm proud to have the support of
4 this bill. Thank you very much.

5 ACTING PRESIDENT YOUNG: Thank
6 you, Senator Grisanti. You will be recorded
7 in the affirmative.

8 Senator Farley.

9 SENATOR FARLEY: Thank you, Madam
10 President.

11 I come from a town called
12 Niskayuna, which some wag once said was an old
13 Indian word for "high taxes."

14 (Laughter.)

15 SENATOR FARLEY: This is an
16 example of a bill that is really needed by the
17 general population. Everywhere I go, they're
18 demanding that we pass this tax cap. It's
19 reasonable. It's reasonable from the point
20 that the local taxing unit, they can raise it
21 if they want to, with a two-thirds vote, but
22 then they're going to have to face the
23 taxpayer if they do that.

24 As we go forward with this bill --
25 and I'm so pleased to see so many on the other

1 side of the aisle joining in and supporting
2 this legislation. And our Governor, who's
3 made it his major priority and a major plank
4 in his campaign.

5 But I'm asking my colleagues on the
6 other side of the aisle, you all have Assembly
7 people. We all have one, two, three Assembly
8 people. Lobby them to take and pass this
9 particular bill. If this legislation goes
10 over to the Assembly and gets emasculated and
11 filled in with all kinds of exceptions and so
12 forth, it will be worthless.

13 This is the legislation we need.
14 We need to stand together and do the right
15 thing for the New York State taxpayer. I
16 proudly vote yes.

17 ACTING PRESIDENT YOUNG: Thank
18 you, Senator Farley. You will be recorded as
19 a yes.

20 Senator O'Mara.

21 SENATOR O'MARA: Thank you, Madam
22 President. I rise in support of this bill.

23 Although I have reservations of the
24 impact of this, if we do not proceed with
25 mandate relief, that it will be required.

1 I look back at the old adage of
2 what came first, the chicken or the egg. Our
3 taxpayers demand relief from property taxes.
4 This is one part of that that we have to move
5 forward with, the cap. But we also have to
6 move forward with mandate relief or this cap
7 will not be feasible for our school districts
8 or our local governments to contend with.

9 I'm proud of the legislation we've
10 done in this body already this year to put
11 forth legislation and progress for a spending
12 cap at the state level and to require a
13 supermajority at the State Legislature for
14 spending and tax and fee increases as we are
15 now looking to move forward with local
16 governments.

17 So while I would prefer to see
18 mandate relief come first or at the same time
19 with this, I understand the necessity of
20 moving forward and keeping the pressure on to
21 proceed with mandate relief so that this cap
22 that we move to impose today is feasible for
23 our local governments to meet and still
24 provide the necessary services at the local
25 level besides what we have forced upon them

1 from this State Legislature over decades of
2 mandates being piled on. We need to relieve
3 those mandates in addition to this legislation
4 today.

5 Thank you, Madam President.

6 ACTING PRESIDENT YOUNG: Thank
7 you, Senator O'Mara. You will be recorded as
8 a yes.

9 Senator Ball.

10 SENATOR BALL: Madam President,
11 on the bill.

12 I know we all have stories in our
13 district on property taxes and really what is
14 a system in New York State that has turned
15 what used to be the American dream into a
16 nightmare for many. And I know that we've all
17 gone door to door and we work all very hard in
18 our districts. And when you knock on those
19 doors and you go in, and many times it's a
20 senior and they invite you in and they talk
21 about downsizing.

22 When you're 72, 73, 74, 75 or
23 older, you don't want to downsize. It's a
24 polite way to say that I saved, I did the
25 right thing -- not like my generation, people

1 who are 75 and 80, believe me they did the
2 right thing and they saved. But they could
3 never prepare for tax increases that were
4 double digits compounded annually year after
5 year after year.

6 I'm the first in my family to
7 graduate from college. My mother went to work
8 when she was 17, 18. She never graduated from
9 high school. We talk about reforming
10 pensions, as if pensions and overtime are a
11 bad thing. My mother is retired. She made
12 \$29,000 a year. If it wasn't for overtime,
13 she wouldn't have been able to raise us kids.
14 She worked nights at Harlem Valley Psychiatric
15 Center, she came home and she worked in the
16 rich people's house up on Quaker Hill. She
17 literally would work 18 hours a day. That
18 wasn't one day, one week, that was a way of
19 life.

20 I watched my parents, who were
21 caretakers -- which they did during the day,
22 during their free time -- save enough money,
23 paycheck by paycheck, and we built the family
24 home, literally. My brothers, my mom, my
25 dad -- my mom, yes. My mom can outwork any

1 man I've ever met in my life. And they built
2 that home. And when I went off to college at
3 the United States Air Force Academy, I came
4 back and they said, "You know what, we're
5 going to sell. Because we know we're not
6 going to be able to afford the property
7 taxes."

8 That reality, that reality plays
9 itself out each and every day. And it's not
10 just residential. I met somebody, a local
11 business owner, a commercial property owner.
12 They said that when they moved into
13 Westchester County, there were over 60
14 businesses that were in that corporate park.
15 He's the last one there today. And last year
16 every penny he made from leasing out that
17 property, every single penny went to pay his
18 property tax bill. Folks, even organized
19 crime just takes a taste.

20 The New York State Legislature is
21 breaking the back of working people,
22 blue-collar people and small business owners
23 in this state. If we want people to be able
24 to stay here, if we want to have a state we
25 can be proud of, and if we want a tax base --

1 and if for no other reason than to be able to
2 fund the social programs that many of us
3 support -- we'd better get our act in gear.

4 And somebody said, "Well, why do we
5 have to do it now?" Because it isn't needed
6 now, it was needed 20 years ago, and we have
7 no more time to waste.

8 Madam President, I'll be voting in
9 the affirmative. Thank you.

10 ACTING PRESIDENT YOUNG: Thank
11 you, Senator Ball. You will be recorded as a
12 yes.

13 Does any other Senator wish to
14 speak?

15 The Secretary will record the vote.

16 THE SECRETARY: Those recorded in
17 the negative on Calendar Number 39 are
18 Senators Addabbo, Avella, Diaz, Dilan, Duane,
19 Espaillat, Hassell-Thompson, L. Krueger,
20 C. Kruger, Montgomery, Parker, Peralta,
21 Perkins, Rivera, Serrano, Squadron and
22 Stavisky.

23 Ayes, 45. Nays, 17.

24 ACTING PRESIDENT YOUNG: The bill
25 is passed.

1 The Secretary will read.

2 THE SECRETARY: Calendar Number
3 40, by Senator Saland, Senate Print 2707, an
4 act to amend the General Municipal Law and the
5 Education Law.

6 ACTING PRESIDENT YOUNG: Read the
7 last section.

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

10 ACTING PRESIDENT YOUNG: Call the
11 roll.

12 (The Secretary called the roll.)

13 SENATOR SALAND: To explain my
14 vote.

15 ACTING PRESIDENT YOUNG: Senator
16 Saland, to explain his vote.

17 SENATOR SALAND: Thank you, Madam
18 President.

19 Madam President, this a mandate
20 relief bill which effectively says there shall
21 be no mandates imposed by the state on any
22 lower level of government -- be it a school
23 district, be it a county, be it a
24 municipality -- unless the state is providing
25 the funding. It's a balanced bill that

1 recognizes there are certain exceptions;
2 unexpected judgments, things of that ilk.

3 It really reflects a bill that
4 we've seen in one or another form over the
5 course of I'd say the last 15 years or more.
6 It's something that we've been attempting to
7 do. It's been really a clarion call, I think,
8 for this house over the course of the past two
9 decades.

10 And unfortunately, we've yet to
11 find a response from our colleagues over in
12 the other side of this third floor, our
13 friends in the Assembly. They for some reason
14 or other find the prospect of dealing with
15 unfunded mandates to be foreign to anything
16 and apparently everything that the majority
17 there believes in.

18 This house again has had a long
19 history -- and a bipartisan one, at that -- of
20 supporting mandate relief measures. This
21 continues that history. And in this
22 particular case, I welcome the fact that the
23 Governor has appointed his mandate relief
24 reorganization team. They will be reporting
25 on the first of March. And we hopefully at

1 that point will begin the process of
2 supplementing this prospective legislation by
3 starting to roll back some of these onerous
4 mandates that have been imposed upon local
5 governments.

6 Thank you, Madam President, for
7 affording me the opportunity to explain my
8 vote. Needless to say, I vote in the
9 affirmative.

10 ACTING PRESIDENT YOUNG: Thank
11 you, Senator Saland. You will be recorded in
12 the affirmative.

13 Senator Squadron, to explain his
14 vote.

15 SENATOR SQUADRON: Thank you,
16 Madam President.

17 Dealing with the unfunded mandates
18 across New York State is important, is
19 critical. And I commend Governor Cuomo for
20 beginning the Mandate Relief Task Force, which
21 is so, so important.

22 The problem with this bill is it
23 has that great title, "mandate relief,"
24 without the process to make it work. As I
25 read the bill, any law that would -- that any

1 local government could claim costs them
2 \$10,000 a year would be invalidated or not
3 become law in some other way that's not fully
4 defined in this bill.

5 The truth is, just putting a great
6 slogan out there and throwing a bill on the
7 floor doesn't solve the problem of unfunded
8 mandates across the state, particularly a bill
9 that it seems would give near-veto power to
10 any local government in the State of New York
11 for any piece of legislation on any basis.

12 If you don't believe in the
13 existence of state government or the ability
14 to legislate, then this bill's details make a
15 lot of sense. Otherwise, they don't.

16 Let's work together with the
17 Governor to get real mandate relief, the sort
18 that Senator Oppenheimer, Senator
19 Stewart-Cousins and others have been fighting
20 for for years. Let's get it done this year in
21 a real way. I vote no, Madam President.

22 ACTING PRESIDENT YOUNG: Thank
23 you, Senator Squadron. You will be recorded
24 as a no.

25 The Secretary will announce the

1 results.

2 THE SECRETARY: Those recorded in
3 the negative on Calendar Number 40 are
4 Senators Avella, Diaz, Espaillat, Gianaris,
5 Hassell-Thompson, L. Krueger, Montgomery,
6 Parker, Peralta, Perkins, Rivera, Sampson,
7 Serrano, Smith, Squadron, Stavisky and
8 Stewart-Cousins. Also Senator Dilan. Also
9 Senator Duane.

10 Ayes, 43. Nays, 19.

11 In relation to Calendar Number 40,
12 in the negative also Senator C. Kruger.

13 Ayes, 42. Nays, 20.

14 ACTING PRESIDENT YOUNG: The bill
15 is passed.

16 Senator Libous, that concludes the
17 noncontroversial reading of the calendar.

18 SENATOR LIBOUS: Thank you, Madam
19 President. Can we please return to the order
20 of motions and resolutions.

21 And I believe there's a privileged
22 resolution at the desk by Senator Martins.
23 May we please have the title read and move for
24 its immediate adoption. And I would ask you
25 to call on Senator Martins after the

1 resolution is read.

2 ACTING PRESIDENT YOUNG: Motions
3 and resolutions.

4 The Secretary will read.

5 THE SECRETARY: By Senator
6 Martins, legislative resolution urging the
7 Governor of the State of New York and his
8 Mandate Relief and Medicaid Redesign Teams to
9 comprehensively address a real property tax
10 cap and mandate relief reform, in order to
11 provide the taxpayers of the State of New York
12 with lasting and meaningful real property tax
13 relief.

14 ACTING PRESIDENT YOUNG: Senator
15 Martins.

16 SENATOR MARTINS: Thank you,
17 Madam President.

18 I rise to urge our colleagues here
19 today to support this resolution as a
20 reaffirmation of that which we just spoke to,
21 and that is that the property tax cap is
22 merely a first step in the necessary real
23 property tax reform that we need as a state as
24 we move forward.

25 We heard time and again during our

1 comments this afternoon that it's not enough
2 just to cap taxes, but we also have to
3 understand that there are consequences that
4 are going to impact our local communities, our
5 villages, our towns and our counties as well
6 as our school districts, and that we should as
7 a chamber stand together in recognizing that
8 the tax cap was merely a first step, that we
9 do have additional work and that we should
10 focus on those mandate relief items that are
11 before us.

12 I know that the Governor has tasked
13 a Mandate Relief Task Force, in which we are
14 ably represented by our colleagues Senator
15 Little and Senator Stewart-Cousins, that is
16 tasked to come back with some recommendations
17 by March 1st, as well as our Medicaid Relief
18 Task Force, also due back with recommendations
19 by March 1st.

20 I think it's important that we send
21 a message to our local governments, to our
22 constituents that yes, we capped taxes today.
23 Yes, it's an important first step. But
24 equally as important, it's that we understand
25 that we have an obligation as a government at

1 every level to continue to provide basic
2 services to our local communities, wherever
3 they may be, and that we understand that there
4 are pressures that are placed on local
5 communities and on school districts by state
6 mandates that take away from their ability to
7 meet those requirements under the restrictions
8 that we have.

9 And that we should work together as
10 a chamber to understand those differences, to
11 understand those pressures, and to work to
12 offset those pressure points that exist and
13 those cost drivers that exist in local
14 government today.

15 So I stand to ask our colleagues
16 here to reinforce that message, that this job
17 and this process is not complete by any
18 measure, and that we're prepared to work
19 collaboratively not only as a chamber but with
20 the Governor and with the other chamber to
21 make sure that real mandate relief is part of
22 this session.

23 Thank you.

24 ACTING PRESIDENT YOUNG: Thank
25 you, Senator Martins.

1 On the resolution, Senator
2 Carlucci.

3 SENATOR CARLUCCI: Thank you,
4 Madam President.

5 I'd like to thank Senator Martins
6 for putting forth this resolution. As was
7 just spoken about, a property tax cap is an
8 important first step in the right direction
9 towards ultimately lowering property taxes in
10 New York State and bringing real relief to our
11 neighbors.

12 The most important thing here in
13 this resolution is giving municipalities and
14 school districts the tools that they need to
15 make the decisions, to make smart decisions
16 that cut costs.

17 Right in here is exactly what I was
18 talking about last week when I put forth a
19 bill to allow municipalities to pool their
20 employees together under one healthcare plan,
21 to allow them and give them the tools to share
22 services when needed. And that will bring the
23 relief that we need that we can pass that
24 savings on to property taxpayers.

25 So again, I want to thank Senator

1 Martins for putting this bill forward. And I
2 look forward to many of these issues becoming
3 a reality when we have bipartisan support here
4 in the Legislature.

5 So, Madam President, thank you so
6 much. I look forward to voting in the
7 affirmative on this resolution.

8 ACTING PRESIDENT YOUNG: Thank
9 you, Senator Carlucci.

10 Senator Klein.

11 SENATOR KLEIN: Thank you, Madam
12 President. I too would like to rise in
13 support of this resolution.

14 In reading through it, I hope a lot
15 of what Senator Martins has contained in this
16 resolution ultimately is passed in both the
17 Senate and the Assembly. Because as I said
18 earlier, there really needs to be a very
19 comprehensive approach if we're really serious
20 about reducing property taxes.

21 I too introduced a piece of
22 legislation, and I just want to remind my
23 colleagues not all mandates are what they call
24 unfunded mandates. But sometimes the state
25 just isn't allowing localities to do very

1 simple things which would generate money for
2 individual localities. My legislation would
3 allow the localities to be able to turn tax
4 arrears and other fines into municipal liens.

5 Right now what we're having in
6 municipalities all over the state is a lot of
7 people who own homes, most of them owned by
8 corporations, are running up huge, huge tax
9 bills, and the localities do not have the
10 ability to turn around and get them to pay.

11 By actually turning them into
12 municipal liens will allow our localities
13 throughout the State of New York to really
14 cash in and get potentially millions and
15 millions of dollars.

16 So of course I vote yes and support
17 this resolution as well, Madam President.

18 ACTING PRESIDENT YOUNG: Thank
19 you, Senator Klein.

20 Any other Senator wishing to speak?

21 (No response.)

22 ACTING PRESIDENT YOUNG: Then on
23 the resolution, all those in favor signify by
24 saying aye.

25 (Response of "Aye.")

1 ACTING PRESIDENT YOUNG: Opposed,
2 nay.

3 (Response of "Nay.")

4 ACTING PRESIDENT YOUNG: The
5 resolution carries.

6 Senator Libous.

7 SENATOR LIBOUS: Madam President,
8 Resolution Number 338 is at the desk. I ask
9 that the title be read and we move for its
10 immediate adoption.

11 ACTING PRESIDENT YOUNG: The
12 Secretary will read.

13 THE SECRETARY: By Senator
14 Skelos, Senate Resolution Number 338,
15 Resolved, That the Rules of the Senate for the
16 years 2011-2012 are hereby adopted.

17 ACTING PRESIDENT YOUNG: Senator
18 Breslin.

19 SENATOR BRESLIN: Thank you,
20 Madam President.

21 I believe there is an amendment at
22 the desk. I ask that the reading of the
23 amendment be waived and the sponsor be given
24 an opportunity to be heard. And that would be
25 Senator Squadron.

1 ACTING PRESIDENT YOUNG: Waive
2 the reading on the amendment, and you may be
3 heard on your amendment, Senator Squadron.

4 SENATOR SQUADRON: Thank you,
5 Madam President. On the nonsponsor amendment
6 to the Rules resolution put forward by Senator
7 Skelos.

8 It has long been held in this body
9 and long been agreed on both sides of the
10 aisle that the rules need to be fixed. And
11 that the reason the rules need to be fixed
12 isn't so we feel good about ourselves here in
13 this august chamber or around the halls of the
14 Capitol, but the rules need to be fixed
15 because that is the best way to deal with the
16 pressing issues before the State of New York.

17 Today we have spent some time
18 talking about some of the issues that are
19 incredibly important across the state. There
20 are any number of others. We're about to see
21 a budget tomorrow that is likely to be the
22 worst budget in terms of the pain of cuts that
23 we've ever seen proposed.

24 And the truth is for this body to
25 be prepared to debate it, to look at that

1 budget in the best possible way to ensure the
2 best possible outcome, we need rules that are
3 fair, that allow each of us to represent our
4 constituents. Our constituents don't care
5 whether we're in the majority or the minority.
6 They don't care whether we win an argument on
7 the floor or lose an argument on the floor.
8 What they care about is that we as a body are
9 able to get results on the things that matter
10 to them. And the rules are the number-one way
11 that we do that.

12 As Senator Bonacic said a little
13 over a year ago, good process makes good
14 policy. And I couldn't agree with him more.
15 In fact, Senator Bonacic, Senator Griffo,
16 former Senator Winner together, close to two
17 years ago, put out a report. This report came
18 at the end of the work of the Temporary
19 Committee on Rules and Administration which
20 Senator Smith had put together at the
21 beginning of the 2009 session.

22 That bipartisan committee,
23 cochaired by Senators Bonacic and Valesky,
24 including myself, Senator Parker, Senator
25 Stewart-Cousins, Senator Serrano and Senator

1 Klein, went all around the state. We were in
2 Syracuse -- we shared a bipartisan meal at the
3 Great Dinosaur Barbeque in downtown
4 Syracuse -- we were out on Long Island, we
5 were here in Albany, we were in New York City
6 having a deliberative process to figure out
7 the best rules for the house.

8 At the end of that process, the
9 minority members of that committee put out a
10 report. And it was called, I believe, the
11 "Minority Report of the Temporary Committee on
12 Rules and Administration," authored by
13 Senators Bonacic, Griffo and former Senator
14 Winner.

15 That minority report had a lot of
16 good recommendations in it. Some of those
17 recommendations were in fact adopted in the
18 last session. Not all of them were. As we
19 have long said -- as we said in January of
20 2009, again in April of 2009, again in July of
21 2009 -- the rules in this house have
22 historically been so bad, so unequal, so
23 nontransparent, so difficult to allow each
24 member to represent their constituents that we
25 need many steps to make those rules fair. We

1 had those conversations on the floor, we had
2 those conversations off the floor.

3 Senator Bonacic, Senator Griffo and
4 Senator Winner put out that minority report,
5 and it had some great components. In fact,
6 the first suggestion quoted Senator Klein, in
7 the spirit of bipartisanship. Quoting Senator
8 Klein in that report, "I would like to make a
9 recommendation that we allow the ranker of
10 committees to be able to hire their own
11 committee or committee staff person, have a
12 counsel as well as a director, the same as the
13 chair." The report then says, "Senator Klein
14 further pointed out that the chair should have
15 an additional allocation for a clerk. The
16 minority adopts Senator Klein's position."

17 The report also banned the
18 existence of what it so appropriately termed
19 "Senator Rules," the fact that the Rules
20 Committee can just put a bill in without a
21 sponsor.

22 It suggested, among other things,
23 equal access to Senate services so that things
24 like mailings to our constituents and
25 technology equipment and access to all of the

1 nuts and bolts of the place would be
2 nonpartisan and equal.

3 It suggested that we publish
4 committee agendas a week in advance so that
5 members have the time to really study the
6 bills ahead of time, advocates and those
7 outside have a time to weigh in.

8 It suggested civil-service-type
9 procedures for the staff of the Senate that
10 isn't political, that isn't partisan.

11 It also suggested that we develop
12 an amendment process in committee and that we
13 make it easier to create conference
14 committees.

15 None of those suggestions,
16 unfortunately, were adopted in the last two
17 years. Some of the other suggestions in here
18 were. But I stand here today with this
19 amendment to suggest that those suggestions
20 made by that minority report from the
21 temporary committee, made in a bipartisan
22 spirit, quoting a member from the other side
23 of the aisle, should be adopted as part of
24 these rules.

25 We all agreed the rules started

1 way, way back. Step by step by step, they are
2 getting better. The point today is to
3 continue to make them better, not to stop the
4 progress in its tracks.

5 For decades the rules only got
6 worse or they got a little cosmetic change.
7 Then, for two years, we worked together, all
8 of us -- I remember working with Senator
9 Libous and others -- we worked together to
10 improve the rules. And this amendment is
11 about continuing that progress so that
12 together we can continue to build the best
13 possible body here in Albany, so that across
14 the state our constituents can be well served
15 and we can get results that make a difference
16 in this time of crisis across the state.

17 You know, earlier today in the
18 Rules Committee there was a brief debate on a
19 resolution put forward by Senator Krueger.
20 Now, that was, in my view, the gold standard
21 of what we could do with rules, Senator
22 Krueger's resolution. And unfortunately, it
23 did not pass through the Rules Committee. And
24 perhaps as a body we're not yet there, we're
25 not yet ready for that.

1 But certainly today we are ready to
2 adopt the recommendations made 20 months ago
3 by members of the current Majority. Certainly
4 we can come together and say the next step is
5 to join both sides of the aisle -- those who
6 authored this report, those who participated
7 in that temporary committee -- and take the
8 next step for reform instead of stopping
9 reform in its tracks. Which is unfortunately
10 what this resolution does.

11 In fact, this resolution doesn't
12 even do that, unfortunately. This resolution,
13 like so many other rules resolutions over the
14 years, actually takes a step backwards.
15 Because this resolution, out of nowhere -- and
16 I've got to tell you, I've read the minority
17 report, I've read a number of the previous
18 rules resolutions going back a number of
19 years. I haven't read every one of them, but
20 I've got to tell you, in every rules
21 resolution I've read, there was never this
22 provision, the provision that would strip the
23 Lieutenant Governor of his or her ability to
24 ensure that the Senate keeps moving forward,
25 the provision that makes it impossible for the

1 Senate to devolve into the kind of gridlock
2 that we had for 31 days in June and July of
3 2009.

4 And yet these rules, rather than
5 taking the next step for progress -- and in
6 this case, in the case of this amendment, a
7 very measured step for progress but one that
8 hopefully we can all come together around --
9 these rules take a step backward and in fact
10 take a step backward towards the kind of chaos
11 we had. If you remember during that period,
12 sometimes called the coup, the reason that it
13 was impossible to move forward was because
14 there was no Lieutenant Governor. In fact,
15 the Governor at the time went to great lengths
16 to appoint a Lieutenant Governor so that we
17 could break that gridlock.

18 Unfortunately, the members of this
19 house were not able to come together for 31
20 days. We did in fact come into the chamber at
21 one point simultaneously, but it was certainly
22 not a session and certainly not productive,
23 certainly not any of our finest hours.

24 And that entire gridlock was
25 because we didn't have a Lieutenant Governor

1 who could move the process of the Senate
2 forward. That, by the way, is exactly the
3 reason that constitutional scholars going back
4 to 1777 have given for the casting vote for
5 the power of the Lieutenant Governor: To move
6 the process forward, to ensure that we don't
7 get stuck in a tie that stops the business of
8 the Senate.

9 So unfortunately today we have a
10 resolution before us that's no better in
11 reform than where we got as we were moving
12 forward over the last couple of years. It
13 freezes reform in its tracks and then,
14 unfortunately, turns it right around and takes
15 a couple of steps backwards.

16 Now, this amendment I'm putting
17 forward, in the interest of bipartisanship and
18 in the sincere hope that it actually can get a
19 majority of Senators, does not strike that
20 Lieutenant Governor clause, though I think
21 it's unconstitutional and frankly
22 unconscionable. What it does is it takes only
23 provisions put forward in the minority report
24 from the Temporary Committee on Rules and
25 Administration, and only takes those which I

1 think are most likely to find unanimous or
2 near unanimous support in this house. And it
3 would propose to amend the rules put forward
4 by the majority in that way, in the following
5 ways.

6 It would limit the number of
7 committees on which a Senator may serve to not
8 more than four committees and one
9 subcommittee. It would eliminate "aye without
10 recommendation," so that everyone has to vote
11 up or down in committee. It would require the
12 Journal Clerk to date and time-stamp each bill
13 upon introduction. It would call for regional
14 prebudget hearings to solicit input from
15 various areas in the state.

16 I would point out that the current
17 rules before us change the previous rules by
18 doing away with postbudget hearings. So this
19 would certainly correct for that.

20 It specifies that additional
21 funding should go to ranking members on
22 committees to allow them to hire necessary
23 staff. It specifies that the administration
24 and operations of the Senate shall be provided
25 equitably to majority and minority Senators.

1 It requires committee agendas to be
2 submitted one week prior to the scheduled
3 committee meeting. It requires the Secretary
4 of the Senate to develop nonpartisan
5 civil-service-based procedures to hire staff.
6 And it takes Senator Rules out of the picture
7 by taking the ability of the Rules Committee
8 to introduce legislation.

9 Every one of those provisions was
10 in the minority report authored by three
11 Republican Senators. Every one of those
12 provisions is a reasonable next step in
13 reform. And for that reason, I urge you to
14 vote for this amendment that I put forward for
15 this resolution.

16 Thank you.

17 ACTING PRESIDENT YOUNG: Senator
18 DeFrancisco, would you yield for a question?

19 SENATOR SQUADRON: Senator
20 DeFrancisco, I'd be happy to.

21 SENATOR DeFRANCISCO: Just -- my
22 question is, in view of all the benefits of
23 this minority report and how terrific it was,
24 when you were in the majority and had the
25 votes to adopt all of these, you must have had

1 a reason why not to adopt them. Can you give
2 us that reason?

3 SENATOR SQUADRON: Senator
4 DeFrancisco, I think that I was trying to
5 describe -- in fact, I thought I had hit it on
6 repeatedly, but I'm happy to do it again --
7 the process by which we went from rules that
8 were pretty much the worst rules under the two
9 previous majorities ago, that were pretty much
10 the worst rules in the nation in terms of
11 openness -- in fact, the only legislative body
12 in the nation I believe that had in effect a
13 nonoverrideable veto for the leader, who had
14 sole control over what bills went to the
15 floor, under the old rules, through the active
16 list and the starring system. And so we were
17 starting at a very, very low point.

18 And, look, my view was, and I said
19 this every step of the way -- and the
20 transcripts will reflect that -- every step of
21 the way, I said we should be going a little
22 bit farther and a little bit quicker. But the
23 truth is in January 2009 we put the best rules
24 in the history of this Senate into effect in
25 terms of bipartisanship, in terms of

1 empowering members. In April we put forward a
2 report that took the next --

3 ACTING PRESIDENT YOUNG: Senator
4 DeFrancisco, why do you rise?

5 SENATOR SQUADRON: -- step. In
6 July, the rules went even farther. And what
7 I'm saying is this is the appropriate next
8 step.

9 Do I wish we had done more in the
10 last two years? Absolutely.

11 ACTING PRESIDENT YOUNG: Senator
12 DeFrancisco.

13 SENATOR SQUADRON: Should we take
14 this opportunity right now? Without a doubt.

15 SENATOR DeFRANCISCO: Would you
16 yield to another question?

17 ACTING PRESIDENT YOUNG: Would
18 you yield, Senator?

19 SENATOR SQUADRON: I'd be happy
20 to.

21 SENATOR DeFRANCISCO: So from
22 December of 2009 to December of 2010, you
23 couldn't find time to get around to these
24 rules that are so important to pass at this
25 moment, is that the idea? There was no time

1 to do it or you were going slowly or -- you
2 know, I'm not quite sure the reason. You
3 haven't given me the reason why you didn't get
4 back to these rules.

5 SENATOR SQUADRON: Senator
6 DeFrancisco, I'm surprised to hear you say,
7 just based on having been here for a number of
8 debates over the last couple of years, that
9 you wish we had spent more time in process
10 over the last two years.

11 As I say, I do believe that we need
12 to be going farther and we need to be going
13 farther faster. What I don't understand is
14 why today we would freeze the progress that
15 we've made in its tracks. The truth is,
16 Senator DeFrancisco, there were new rules in
17 January of 2009; they were better than the
18 previous rules. There were new rules in July
19 of 2009; they were better than the previous
20 rules. And now it is January of 2011, and
21 these rules should be better than the previous
22 rules, not worse.

23 ACTING PRESIDENT YOUNG: Senator
24 DeFrancisco.

25 SENATOR DeFRANCISCO: One last

1 question, and one last attempt.

2 ACTING PRESIDENT YOUNG: Senator
3 Squadron, do you yield to Senator DeFrancisco?

4 SENATOR SQUADRON: I do, even if
5 it's not the last question or the last
6 attempt.

7 SENATOR DeFRANCISCO: Senator,
8 can you tell me why the prior majority freezed
9 the process from January of 2009 to December
10 of 2010?

11 SENATOR SQUADRON: Senator
12 DeFrancisco, I actually wouldn't say that we
13 froze the process. In fact -- I don't know if
14 you are on the Rules Committee; I am not. But
15 I know that Senator Krueger's, as I put it,
16 gold standard of rules was put forward there.
17 A lot of those provisions actually have been
18 developed over the last year and a half.

19 Again, Senator DeFrancisco, over
20 the last couple of years ago we did a whole
21 lot. We created a new temporary committee.
22 We unfortunately, because of the lack of a
23 Lieutenant Governor, the inability to break an
24 awful, awful stalemate, had some of the
25 darkest 31 days in this Senate's history.

1 And the truth is, as I said before,
2 the January 2009 rules were better than any
3 that had come before. The July 2009 rules
4 were better than any that had come before.
5 And now, unfortunately, in January of 2011 we
6 have before us rules that are worse. And that
7 is the wrong direction. That is the end of
8 progress here.

9 And I think I'll close by quoting
10 Senator DeFrancisco from January of 2009. And
11 he was standing on this side of the aisle and
12 looking across to that side, and so I will do
13 the same. "You can do now with your vote
14 exactly what you claimed was necessary for
15 many years. All I want to do is basically set
16 the record straight. Conduct is a heck of a
17 lot more important than words touting
18 reforms."

19 And so, Senator DeFrancisco, in
20 that spirit, I hope that these rules will not
21 be worse than the rules that we had in July
22 and in January over the last term. I hope
23 these rules will be better.

24 Thank you.

25 ACTING PRESIDENT YOUNG: Senator

1 Saland.

2 SENATOR SALAND: I was about to
3 ask Senator Squadron if he might yield.

4 ACTING PRESIDENT YOUNG: Senator
5 Squadron, do you yield?

6 SENATOR SQUADRON: I'd be happy
7 to.

8 SENATOR SALAND: Senator
9 Squadron, are you aware, in your review of the
10 rules that you undertook, whether or not the
11 members of this chamber could vote on bills,
12 as distinguished from resolutions, by voice
13 vote? Has this chamber ever been able to
14 vote --

15 SENATOR SQUADRON: I'm sorry,
16 would you repeat -- under which rules are
17 you --

18 SENATOR SALAND: Has there ever
19 been a set of rules in this chamber -- you
20 said you studied the rules, you went back and
21 looked at the rules. And I'm asking if you're
22 aware if there -- however lengthy or brief
23 your study was, did the rules ever permit a
24 voice vote on a bill as distinguished from a
25 resolution?

1 ACTING PRESIDENT YOUNG: Senator
2 Squadron, before you respond, I would like to
3 remind the members to go through the chair,
4 please.

5 Senator Squadron.

6 SENATOR SQUADRON: Thank you,
7 Madam Chair. I think I am interested in
8 hearing Senator Saland's reasoned analysis of
9 that question, because it doesn't seem to be a
10 simple yes or no.

11 SENATOR SALAND: I think the
12 question requires a simple yes or no. Have
13 you -- well, let me ask you, can you think of
14 a perhaps more inappropriate, less transparent
15 and more undemocratic means by which to govern
16 than to permit voice votes on bills as
17 distinguished from resolutions?

18 ACTING PRESIDENT YOUNG: Senator
19 Squadron.

20 SENATOR SQUADRON: If the
21 question is can I think of a less democratic,
22 less transparent and more -- perhaps
23 "dysfunctional" was the word you used; I don't
24 recall -- way of operating than to permit
25 voice votes on bills rather than resolutions,

1 yes, I can imagine significantly less
2 democratic, less transparent, and more
3 dysfunctional rules than that.

4 SENATOR SALAND: So if --

5 ACTING PRESIDENT YOUNG: Again,
6 Senator Saland, if you would go through the
7 chair, please.

8 SENATOR SALAND: If he'll
9 continue to yield.

10 ACTING PRESIDENT YOUNG: Will you
11 yield?

12 SENATOR SALAND: Senator
13 Squadron, so then you would find it acceptable
14 to --

15 ACTING PRESIDENT YOUNG: One
16 moment.

17 Senator Squadron, do you yield?

18 SENATOR SQUADRON: I do. Thank
19 you, Madam President.

20 ACTING PRESIDENT YOUNG: Thank
21 you, Senator.

22 SENATOR SALAND: So you would
23 find it an acceptable practice that members
24 would not be recorded on votes on bills and
25 would merely vote aye or no and have the

1 ability to say that they did whatever it is
2 that they would want to tell their
3 constituents that they did?

4 SENATOR SQUADRON: Through you,
5 Madam President --

6 ACTING PRESIDENT YOUNG: Yes,
7 Senator.

8 SENATOR SQUADRON: -- I actually
9 don't find that acceptable. I said that I
10 could imagine less democratic, less
11 transparent and more dysfunctional procedures
12 than that one. And in fact the one that gives
13 the majority leader of either party the
14 executive ability to in effect veto any
15 legislation in the State of New York I think
16 is all of those things.

17 But this also is problematic. As,
18 by the way, was the long tradition in this
19 house of so-called empty-seat voting, where
20 folks could check in and then did not need to
21 appear in the chamber at all and were able to
22 have their votes recorded.

23 ACTING PRESIDENT YOUNG: Thank
24 you, Senator.

25 Senator.

1 SENATOR SALAND: Well, if Senator
2 Squadron would continue to yield.

3 ACTING PRESIDENT YOUNG: Senator
4 Squadron, do you yield?

5 SENATOR SQUADRON: I do, yes.

6 ACTING PRESIDENT YOUNG: The
7 Senator yields.

8 SENATOR SALAND: If in fact,
9 again, you are in attendance and you are
10 permitted to vote by voice, as distinguished
11 from a show of hands or some electronic
12 device, is that not terribly undemocratic and
13 would that fit under a definition of
14 dysfunctional?

15 SENATOR SQUADRON: If you're
16 present and allowed to vote by a show of --
17 excuse me. Through you, Madam President. If
18 you're present and allowed to vote through a
19 show of hands --

20 SENATOR SALAND: Senator
21 Squadron, perhaps I didn't express myself
22 appropriately.

23 Will the Senator continue to yield?

24 ACTING PRESIDENT YOUNG: Will you
25 yield to Senator Saland?

1 SENATOR SQUADRON: I will, Madam
2 President.

3 ACTING PRESIDENT YOUNG: Thank
4 you.

5 SENATOR SALAND: I said if you're
6 present and -- as distinguished from voting by
7 a show of hands or in those chambers that
8 might have electronic devices -- you were
9 permitted by the rules of this house to cast a
10 voice vote on the bills we did today, for
11 example, would that not trouble you as being
12 undemocratic and dysfunctional?

13 SENATOR SQUADRON: Yes. Yes, it
14 would, Madam Chair. And this is one reason
15 that -- and I'm not sure if this is what
16 Senator Saland is referring to, but it's one
17 reason that this house under these rules,
18 under the rules adopted in the last session,
19 no longer has a canvass of agreement.

20 SENATOR SALAND: I'm sorry, I
21 didn't hear Senator Squadron's last --

22 ACTING PRESIDENT YOUNG: Senator
23 Squadron, could you please repeat what you
24 just said?

25 SENATOR SALAND: I caught

1 everything up to "That's one of the reasons
2 why this house," and then --

3 SENATOR SQUADRON: It's one
4 reason why this house no longer has a canvass
5 of agreement, thanks to the last term.

6 ACTING PRESIDENT YOUNG: Thank
7 you, Senator.

8 Senator Saland, would you like to
9 ask another question?

10 SENATOR SALAND: You, in your --
11 if you'll continue to yield.

12 ACTING PRESIDENT YOUNG: Will you
13 yield, Senator?

14 SENATOR SQUADRON: Through you,
15 Madam President, I will.

16 ACTING PRESIDENT YOUNG: Go
17 ahead, Senator Saland.

18 SENATOR SALAND: With regard to
19 your earlier comment -- and I think it had
20 something to do with the ability of the
21 Majority Leader to take a bill off the
22 calendar. That was something which was
23 referred to, before you came here, as starring
24 a bill. Which a member may still be able to
25 do, but a leader cannot do.

1 That was a practice that certainly
2 was decried, and appropriately so, and really
3 hadn't been used in a number of years. I
4 don't quite recall when I saw it, if I saw it
5 at all during my 20 years here.

6 And the purpose of my question is
7 just to establish some relativity. As
8 offensive as the practice of starring is, at
9 least you know who the individual is who was
10 the culprit who starred the bill. I would
11 find far more egregious the fact that a member
12 could vote on a bill and go home and claim
13 that he or she voted either yes or no and
14 there would be no record other than a voice
15 vote.

16 ACTING PRESIDENT YOUNG: Senator
17 Squadron.

18 SENATOR SQUADRON: Through you,
19 Madam President. I believe that both are
20 highly problematic.

21 As I say, the rules in the last
22 term eliminated the canvass of agreement which
23 in effect did that. And I'm glad it did.

24 And just briefly, what I was
25 referring to when I keep referring to the

1 nonoverrideable veto of the Majority Leader
2 was not just the ability of the leader to
3 star, but also the fact that the active list
4 was exclusively controlled by the leader
5 without any procedures that could otherwise
6 get a bill to the floor, procedures that did
7 get put in place last term: the petition for
8 chamber consideration, the motion for chamber
9 consideration.

10 ACTING PRESIDENT YOUNG: Thank
11 you, Senator Squadron.

12 Senator Saland, do you ask that
13 Senator Squadron continues to yield?

14 SENATOR SALAND: No.

15 Thank you, Senator Squadron.

16 ACTING PRESIDENT YOUNG: Do you
17 continue to yield, Senator?

18 SENATOR SQUADRON: I believe
19 Senator Saland is speaking on the amendment.

20 SENATOR SALAND: May I conclude?
21 Do I have the floor? I believe I do. I think
22 Senator Squadron is --

23 ACTING PRESIDENT YOUNG: Senator
24 Saland, on the amendment.

25 SENATOR SALAND: Thank you.

1 The purpose of the exercise was not
2 merely to engage in semantics. And the reason
3 for the reference to relativity, at least five
4 or so years ago, the last time I checked this
5 data, there were somewhere in the area of two
6 dozen houses, out of 99 -- so approximately
7 25 percent of the state legislative houses in
8 this nation permitted voice votes on
9 legislation. A practice which in and of
10 itself would certainly seem to be one of the
11 least transparent, most undemocratic, and
12 certainly, I think, grossly inappropriate
13 means by which members have the opportunity to
14 not merely cast their votes but to provide
15 themselves with the political good fortune of
16 saying whatever they want back home, depending
17 upon how the winds shift.

18 And the only reason I bring this up
19 is simply because in the course of your
20 comments you had characterized some of the old
21 rules as being particularly dysfunctional. I
22 find that to be -- and again, as recently as
23 five years ago, 25 percent of the houses in
24 this country permitted voice voting. I find
25 that, in fact, to be far more troubling.

1 And the rules that we will deal
2 with once the vote has been had on the
3 amendment effectively are the rules that were
4 adopted last year, with several minor changes
5 and one change that you alluded to as being
6 unconstitutional or unconscionable -- for
7 which there certainly is no authority, and
8 perhaps we can address that when we get to
9 that particular rule or resolution.

10 Thank you, Madam President.

11 ACTING PRESIDENT YOUNG: Thank
12 you, Senator Saland.

13 Senator Duane.

14 SENATOR DUANE: Thank you, Madam
15 President. If Senator Saland will yield.

16 ACTING PRESIDENT YOUNG: Senator
17 Saland, do you yield?

18 SENATOR DUANE: I'm sorry, I'm
19 sorry. If Senator Squadron will yield.

20 ACTING PRESIDENT YOUNG: Oh, I'm
21 sorry. Excuse me. Senator Squadron, do you
22 yield to Senator Duane?

23 SENATOR SQUADRON: I do, Madam
24 President.

25 ACTING PRESIDENT YOUNG: Senator

1 Duane, Senator Squadron yields.

2 SENATOR DUANE: Thank you, Madam
3 President.

4 Is it true that before the
5 now-majority invited Senators Monserrate and
6 Espada into their conference, that you were
7 particularly strong in your advocacy for rules
8 reform?

9 SENATOR SQUADRON: Through you,
10 Madam President, I certainly focused on it
11 quite a bit and pushed as hard as I could
12 while in the majority, both before and after
13 those 31 days.

14 SENATOR DUANE: Thank you, Madam
15 President. If the Senator will continue to
16 yield.

17 ACTING PRESIDENT YOUNG: Senator
18 Squadron, do you yield?

19 SENATOR SQUADRON: I do.

20 ACTING PRESIDENT YOUNG: Go
21 ahead, Senator Duane.

22 SENATOR DUANE: And is it not
23 true that after Senators Espada and Monserrate
24 joined the now-majority that the
25 then-majority, now minority, with a steady

1 hand was able to keep at least the operations
2 of the Senate functioning?

3 ACTING PRESIDENT YOUNG: Senator
4 Squadron.

5 SENATOR SQUADRON: Through you,
6 Madam President. Absolutely. And in fact,
7 though not everything we wanted to do was
8 done, a lot of significant legislation passed
9 in that period.

10 SENATOR DUANE: And, Madam
11 President, if the Senator will continue to
12 yield.

13 ACTING PRESIDENT YOUNG: Do you
14 yield?

15 SENATOR SQUADRON: I do.

16 SENATOR DUANE: And is it true
17 that even after Senators Espada and Monserrate
18 decided to leave the now-majority,
19 then-minority, that you, with Senators from
20 both sides of the aisle, continued to advocate
21 strongly for continued rules reform?

22 ACTING PRESIDENT YOUNG: Senator
23 Squadron.

24 SENATOR SQUADRON: It absolutely
25 is.

1 SENATOR DUANE: And --

2 ACTING PRESIDENT YOUNG: Senator
3 Duane, are you asking Senator Squadron to
4 yield?

5 SENATOR DUANE: Yes, Madam
6 President, I am.

7 ACTING PRESIDENT YOUNG: Do you
8 yield, Senator Squadron?

9 SENATOR SQUADRON: I do. Thank
10 you.

11 ACTING PRESIDENT YOUNG: Go
12 ahead.

13 SENATOR DUANE: And was it your
14 impression that -- or is it your belief that
15 in order to have lasting rules reform you need
16 buy-in from both sides of the aisle and
17 bipartisan agreement on rules reform?

18 ACTING PRESIDENT YOUNG: Senator
19 Squadron.

20 SENATOR SQUADRON: I absolutely
21 do. And in fact, that's what -- subsequent to
22 those two Senators helping to freeze the
23 chamber for 31 days, that's what we had.

24 And in fact, to just briefly go
25 back to a question of Senator DeFrancisco's,

1 in fact we had that agreement and had been
2 asked by the then-minority to commit to not
3 changing the rules through the rest of that
4 session so as not to get into any other
5 procedural battles of that sort so we could do
6 the people's business for the rest of the
7 session.

8 SENATOR DUANE: And through you,
9 Madam President, if the Senator will yield.

10 ACTING PRESIDENT YOUNG: Senator
11 Squadron, do you yield?

12 SENATOR SQUADRON: Yes.

13 SENATOR DUANE: And if the
14 Senator will tell us what was the result of
15 that request at that time.

16 SENATOR SQUADRON: Through you,
17 Madam President, the result of the request
18 from the minority at the time that the Senate
19 did get back to business, and did pass the
20 most significant rules changes that Albany has
21 seen in decades, was that rules were adopted,
22 rules were followed, the chaos and the fights
23 over rules and procedure melted away.

24 The house voted on bills; sometimes
25 they got passed, sometimes they didn't. I

1 wish more had gotten passed, but I'm glad the
2 process worked as it did. Members of both
3 parties were empowered. Members of both
4 parties were able to serve their constituents.
5 There were still procedural issues that needed
6 to be fixed, but the body worked. And the
7 majority, the Democratic majority at the time
8 kept its commitment to the Republican minority
9 not to change those rules within that session.

10 SENATOR DUANE: And through you,
11 Madam President, if the Senator will continue
12 to yield.

13 ACTING PRESIDENT YOUNG: Senator,
14 do you yield?

15 SENATOR SQUADRON: I do.

16 ACTING PRESIDENT YOUNG: Go
17 ahead.

18 SENATOR DUANE: Is it not your
19 belief, which is actually factually correct,
20 that there were numerous bills introduced by
21 members of both sides of the aisle that passed
22 with bipartisan support?

23 SENATOR SQUADRON: Through you,
24 Madam President, that did happen.

25 And in my understanding -- again, I

1 wasn't here, and I know that Senator Duane was
2 here previously and experienced a time when it
3 seemed that many fewer bills sponsored by
4 members of both parties passed. And during
5 that time, Senator Duane also was fighting
6 enormously hard for an open process, for an
7 improved rules process. And I know that
8 Senator Duane and others commented to me how
9 different it seems -- by the way, Senator
10 Duane and members on the other side of the
11 aisle -- how different it was after those
12 rules were passed.

13 SENATOR DUANE: And through
14 you --

15 ACTING PRESIDENT YOUNG: Thank
16 you, Senator.

17 Senator Duane, do you ask Senator
18 Squadron to continue to yield?

19 SENATOR DUANE: You're getting
20 ahead of me. But you did anticipate, yes,
21 Madam President, through you if the Senator
22 would --

23 ACTING PRESIDENT YOUNG: It's
24 always good to be on your toes, Senator.

25 Senator Squadron, do you yield?

1 SENATOR SQUADRON: I will, yes.

2 ACTING PRESIDENT YOUNG: Thank
3 you.

4 SENATOR DUANE: And was it your
5 intention and, to the extent possible, your
6 actions to continue to work with the other
7 side of the aisle on furthering what good
8 government groups and so many of us would call
9 more rules reform in our body?

10 ACTING PRESIDENT YOUNG: Senator
11 Squadron.

12 SENATOR SQUADRON: Through you,
13 Madam President, absolutely.

14 SENATOR DUANE: And, Madam
15 President, if the Senator would continue to
16 yield.

17 ACTING PRESIDENT YOUNG: Do you
18 yield?

19 SENATOR SQUADRON: I do.

20 SENATOR DUANE: And without --
21 with yielding that we wouldn't be going back
22 to the hideous days of the invention of the
23 onerous canvass of agreement which the
24 then-majority had us operate under, is it your
25 belief, Senator, that the rules that are being

1 presented not by us but, sadly, by the other
2 side of the aisle are a regression of the
3 reforms that we had been able to enact this
4 body thus far?

5 ACTING PRESIDENT YOUNG: Senator
6 Squadron.

7 SENATOR SQUADRON: Through you,
8 Madam President, I think that Senator Duane
9 articulates it very, very well.

10 The Senate rules before us now,
11 unlike both sets of rules that were passed
12 over the last two years under the Democratic
13 majority, goes back in terms of reform and
14 goes back in terms of clarity of the sort that
15 would prevent the kind of stalemate that we
16 had because of the provision that makes it
17 very unclear how is it, in the event of a tie,
18 that we would move forward by choosing that
19 all-important title in this house of Temporary
20 President and Majority Leader.

21 SENATOR DUANE: And through you,
22 Madam President, if the Senator would continue
23 to yield.

24 ACTING PRESIDENT YOUNG: Senator
25 Squadron.

1 SENATOR SQUADRON: Yes, thank
2 you, Madam President.

3 ACTING PRESIDENT YOUNG: Go
4 ahead, Senator.

5 SENATOR DUANE: Is it true that
6 the way the Senate had operated and in fact
7 the way it continued to operate last year
8 actually would make a coup like the one
9 precipitated by Senators Monserrate and Espada
10 when they joined the then-Republican minority,
11 is it not true that that continued to be
12 possible?

13 ACTING PRESIDENT YOUNG: Senator
14 Squadron.

15 SENATOR SQUADRON: Through you,
16 Madam President, there were a couple of
17 reasons it wasn't. One was -- a couple of
18 reasons that the sort of coup that Senators
19 Espada and Monserrate began and that led to
20 the 31-day stalemate wouldn't happen. One of
21 those was that we had a Lieutenant Governor in
22 place who was there to fulfill his
23 constitutional duty of providing a casting
24 vote whenever there was a procedural deadlock.

25 But also, secondarily, a process of

1 rules that had been developed together in a
2 bipartisan way, which those rules we were
3 operating under from July of 2009 through
4 December of 2010 are much less likely to
5 create that kind of deadlock -- that kind of
6 all-out power struggle that too often we see
7 in Albany where substance, even perception
8 fall by the wayside because power becomes
9 all-important -- because both sides had
10 participated at the table in developing those
11 rules and had agreed to operate under them for
12 a certain period of time.

13 SENATOR DUANE: And through you,
14 Madam President, if the Senator would continue
15 to yield.

16 ACTING PRESIDENT YOUNG: Thank
17 you, Senator Duane.

18 Senator Squadron, do you continue
19 to yield?

20 SENATOR SQUADRON: Yes, thank
21 you.

22 ACTING PRESIDENT YOUNG: Go
23 ahead, Senator Duane.

24 SENATOR DUANE: Is it correct to
25 say that at the time of the -- that traumatic

1 time when Senators Espada and Monserrate
2 joined the then-Republican minority, that the
3 then-Republican minority voted to elevate
4 Senator Espada to the position of temporary
5 president, which was in effect the acting
6 lieutenant governor?

7 ACTING PRESIDENT YOUNG: Senator
8 Squadron.

9 SENATOR SQUADRON: Through you,
10 Madam President, that did happen. I believe
11 that 30 members of the then-Republican
12 minority, with Senators Espada and Monserrate,
13 intended to vote in that way.

14 ACTING PRESIDENT YOUNG: Thank
15 you, Senator.

16 SENATOR DUANE: And finally --

17 ACTING PRESIDENT YOUNG: Senator
18 Duane, are you asking Senator Squadron to
19 yield?

20 SENATOR DUANE: Yes, I am, Madam
21 President.

22 ACTING PRESIDENT YOUNG: Very
23 good.

24 SENATOR DUANE: You say it so
25 much more succinctly than I do.

1 ACTING PRESIDENT YOUNG: Thank
2 you. Would you like to yield, Senator?

3 SENATOR SQUADRON: Yes, thank
4 you.

5 ACTING PRESIDENT YOUNG: Go
6 ahead, please.

7 SENATOR DUANE: I'm not sure more
8 correctly, but more succinctly.

9 ACTING PRESIDENT YOUNG: Thank
10 you.

11 SENATOR DUANE: So I just want to
12 ask one final time, is it your belief that it
13 would be best for us to move forward with
14 rules that are agreed upon by both sides of
15 the aisle so that they would be less likely to
16 be undone is a better route to follow? And is
17 it also your belief that what we're trying to
18 avoid by putting forward our rules reform now
19 is to deter the regression that would occur if
20 the rules put forward by the other side of the
21 aisle were to be approved today?

22 SENATOR SQUADRON: Through you,
23 Madam President, I think that Senator Duane
24 makes a very, very important point. And that
25 is that when you look at all of the different

1 sorts of dysfunction that this house has been
2 accused of, that certainly during that 31-day
3 stalemate I think we all were chagrined by,
4 the idea that it was impossible or very, very
5 difficult for the two sides of the aisle to
6 work together collaboratively was one of the
7 big challenges. And working together on rules
8 has all the benefits that I talked about in my
9 opening statement on these rules.

10 But the point Senator Duane is
11 making is such an important one, which is the
12 process of generating the rules and doing that
13 in a bipartisan way, doing that in a way that
14 way that puts our ability to work together
15 because we all represent New Yorkers ahead of
16 the sort of old-style partisan bickering is in
17 and of itself an important reform for this
18 house and I think is an important reason to
19 vote for this resolution and was, in fact --
20 and I thank you for articulating it much more
21 clearly than I was able to -- one of the
22 important reasons that this resolution I'm
23 putting forward today doesn't take everything
24 I would necessarily want to do, everything
25 that was in Senator Krueger's resolution, but

1 actually builds on ideas, builds on rules
2 reforms that were generated on the other side
3 of the aisle.

4 This is not about ramming something
5 down the other side of the aisle or having a
6 conversation here and asking the other side to
7 vote on something they can't vote on, it's
8 about working together on something that both
9 sides of the aisle have previously endorsed
10 and that in fact was generated by the other
11 side.

12 And accepting that process in and
13 of itself, as Senator Duane said, will change
14 the tone of this debate.

15 ACTING PRESIDENT YOUNG: Thank
16 you, Senator Squadron.

17 Senator Kruger.

18 SENATOR CARL KRUGER: Yes, Madam
19 President -- I apologize.

20 ACTING PRESIDENT YOUNG: The
21 question is on Senator Squadron's amendment to
22 the resolution. All those in favor signify by
23 saying aye.

24 (Response of "Aye.")

25 ACTING PRESIDENT YOUNG: All

1 those opposed signify by saying no.

2 (Response of "No.")

3 ACTING PRESIDENT YOUNG: The
4 amendment is defeated.

5 Senator Breslin.

6 SENATOR BRESLIN: Madam
7 President, I believe there is another
8 amendment at the desk. I ask that the reading
9 be waived and that Senator Serrano be allowed
10 to speak on the amendment.

11 ACTING PRESIDENT YOUNG: The
12 reading is waived, and Senator Serrano can be
13 heard on the amendment.

14 SENATOR SERRANO: Thank you,
15 Madam President.

16 This amendment will call for an
17 equal allocation for each member in this
18 house -- allocations for staff so that we will
19 be able to have adequate staff in our offices
20 both here and in our districts, equal
21 allocation for newsletters and other printed
22 materials, postage, and travel, with
23 exceptions for Senators in leadership
24 positions as well as serving as chairs or
25 ranking committees.

1 Now, we all know why this is
2 important. I think all of us can agree in a
3 very bipartisan fashion why this is of
4 enormous importance. And very similar to the
5 Congressional model, which I think says
6 regardless of the party that's in power,
7 individual members will be able to represent
8 their constituents in a way that's meaningful.

9 Over the years I've had the good
10 fortune of working with many Senators on both
11 sides of the aisle on issues such as this,
12 issues of reform. I want to thank Senator
13 Bonacic. We've worked together on a number of
14 these issues on the Temporary Committee on
15 Rules Reform as well as, most recently, on
16 creating a C-SPAN type channel for the state
17 to cover our legislative proceedings.

18 These are really good issues, and I
19 want to thank my colleagues for all that
20 they've done to make this a reality and to
21 make our house run better.

22 So again, this is not a partisan
23 discussion, in my mind. This is not something
24 that is Democrat or Republican. This is
25 something I believe that will make this entire

1 house better, that will make our constituents
2 that much more informed of the issues that we
3 care about and the issues that we're working
4 on, and I think will also help to alleviate a
5 lot of the crisis of confidence that we see
6 amongst our constituents throughout the state.

7 Another component of this
8 amendment, I should add, is that it will add a
9 mandatory secondary reference to the Codes
10 Committee that will ensure that if a bill,
11 some sort of legislation has any criminal
12 component to it or criminality component to
13 it, that the bill will get referred to the
14 Codes Committee so that there can be proper
15 deliberation amongst those experts on that
16 issue, on the penalty portion of that bill.

17 So again, my appeal is to members
18 of both sides of the aisle to consider this as
19 a way to make our rules better. There's been
20 a lot of progress over the years, but again,
21 it hasn't gone far enough. I'll be the first
22 to admit that. And I think that this could
23 help us continue to move the ball down the
24 field. So I hope that all of my colleagues
25 join me in supporting this amendment.

1 Thank you.

2 ACTING PRESIDENT YOUNG: Thank
3 you, Senator Serrano.

4 The question is on the amendment to
5 the resolution by Senator Serrano.

6 Senator Breslin, why do you rise?

7 SENATOR BRESLIN: Yes, Madam
8 President. I would request a show of hands on
9 the amendment, please.

10 ACTING PRESIDENT YOUNG: Senator
11 Breslin's request is that the members who
12 support this do so by a show of hands.

13 So the question is on Senator
14 Serrano's amendment to the resolution. All
15 those in favor signify by raising their hands.

16 (Members raised their hands.)

17 SENATOR DUANE: Point of
18 clarification, Madam President.

19 ACTING PRESIDENT YOUNG: Go
20 ahead, Senator Duane.

21 SENATOR DUANE: Madam President,
22 I just want to try to clarify. Under what
23 rules are we operating at this moment?

24 ACTING PRESIDENT YOUNG: Senator,
25 right now we're operating under the temporary

1 rules that were extended earlier this month.

2 SENATOR DUANE: And through you,
3 Madam President, just a further point of
4 clarification.

5 Is it correct that we bipartisanly
6 agreed that we would follow the old rules
7 until midnight? Is it tonight or tomorrow
8 night? I'm not -- I don't know.

9 ACTING PRESIDENT YOUNG: Senator,
10 I do believe that the rules expire on
11 February 1st, so they would expire as of
12 tomorrow.

13 SENATOR DUANE: So tonight at
14 midnight, there would have to be another
15 extension beyond tonight at midnight to go
16 forward, is that -- I ask it with no ulterior
17 motives, just of clarification.

18 ACTING PRESIDENT YOUNG: Right.
19 If I could clarify on your behalf.

20 It's my understanding that once
21 these rules pass today, they supersede any
22 kind of rules that were in place until
23 tomorrow. So when we pass these rules, those
24 would be the rules.

25 SENATOR DUANE: You don't mean

1 these, Madam President.

2 ACTING PRESIDENT YOUNG: No, but
3 the ones that I believe we will be passing
4 shortly, if we could get to those, will be the
5 ones that will supersede the extension that we
6 passed earlier this year.

7 SENATOR DUANE: Thank you, Madam
8 President, for your answers and your
9 clairvoyance.

10 (Laughter.)

11 ACTING PRESIDENT YOUNG: The
12 Secretary will announce the results.

13 THE SECRETARY: Ayes, 23. Nays,
14 39.

15 ACTING PRESIDENT YOUNG: The
16 amendment is defeated.

17 Senator Breslin.

18 SENATOR BRESLIN: First, Madam
19 President, could you announce the results in
20 detail, if you would.

21 ACTING PRESIDENT YOUNG: The
22 Secretary will call the roll.

23 SENATOR LIBOUS: Point of order.

24 ACTING PRESIDENT YOUNG: Senator
25 Libous.

1 SENATOR LIBOUS: Senator Breslin,
2 I'm sorry, could you be clear in what you're
3 asking for?

4 SENATOR BRESLIN: I would like to
5 know what Senators voted for it.

6 SENATOR LIBOUS: What Senators
7 voted for it?

8 SENATOR BRESLIN: For it. For
9 the amendment.

10 ACTING PRESIDENT YOUNG: Those
11 recorded in the affirmative.

12 SENATOR LIBOUS: Would you let
13 Senator Breslin know who voted in the
14 affirmative, please.

15 ACTING PRESIDENT YOUNG: The
16 Secretary will announce those results.

17 THE SECRETARY: Those members
18 recorded in the affirmative on Amendment
19 Number 2 to Resolution 338 are Senators
20 Addabbo, Avella, Breslin, Diaz, Dilan, Duane,
21 Espaillat, Gianaris, Hassell-Thompson,
22 Kennedy, L. Krueger, C. Kruger, Montgomery,
23 Oppenheimer, Parker, Peralta, Perkins, Rivera,
24 Sampson, Serrano, Squadron, Stavisky and
25 Stewart-Cousins.

1 ACTING PRESIDENT YOUNG: Senator
2 Breslin.

3 SENATOR BRESLIN: Thank you,
4 Madam President.

5 I believe there's a final amendment
6 at the desk. I ask that the reading of the
7 amendment be waived and that Senator
8 Stewart-Cousins be allowed to speak on the
9 amendment.

10 ACTING PRESIDENT YOUNG: Thank
11 you, Senator Breslin.

12 The reading of the amendment is
13 waived, and I'd like to recognize Senator
14 Stewart-Cousins.

15 SENATOR STEWART-COUSINS: Thank
16 you, Madam President.

17 This third amendment speaks to I
18 think all of our desire as rank-and-file
19 members to be more effective for our
20 constituents, to be able to bring forth the
21 concerns that they have. And also the second
22 part of this amendment speaks to more
23 transparency and more accountability.

24 And again, I know what this is what
25 we've spent so many of the past few months

1 trying to do. Clearly, the rules reform that
2 Senator Squadron referred to and I was able to
3 share in that rules reform committee with so
4 many of my colleagues on this side of the
5 aisle and across the aisle, in coming up with
6 rules all of which would empower rank-and-file
7 members and which would make things more
8 transparent for the residents of New York.

9 That being said, this amendment
10 will allow any member of a committee to call
11 for a public hearing unless a majority of the
12 committee members say they don't want it.
13 This amendment would also require for the
14 Senate stenographer to keep a transcript of
15 the public hearings. Thirdly, it requires
16 that at least two members of the committee be
17 present in order for the committee to take a
18 testimony at a public hearing. And it also
19 requires prior notice of the public hearing to
20 be formally filed with the Journal Clerk, LRS,
21 and the Temporary President. And such notice
22 shall contain the subject matter, date and
23 place of hearing. That's the public hearing,
24 the transparency part.

25 Also -- which I think is extremely

1 relevant, certainly, to some of the things
2 that have been said over the past few
3 months -- we talk about accountability. And
4 another part of this amendment would require
5 for the Senate budget to be detailed and
6 itemized for inclusion in the legislative and
7 judiciary budget bill.

8 Also, it requires a detailed and
9 itemized inclusion of member items. And I
10 know we're not really talking about member
11 items. But when and if they should happen
12 again, certainly requiring a detailed and
13 itemized inclusion of the member items in the
14 state budget would be helpful.

15 And lastly, it requires detailed
16 and simplified itemization of all
17 appropriations and reappropriations in the
18 revenue and the source of such funds.

19 Again, we've done a lot of good
20 things after having done almost nothing in
21 terms of rules reform. And when we put our
22 heads together, both sides of the aisle, we
23 were able to progress and to make this a more
24 inclusive, a more responsive, a more
25 transparent body. And again, this is why we

1 stand here saying don't go back.

2 And as my colleague Senator
3 Squadron referenced the minority report and
4 talked about the legislators who were part of
5 that report, I can claim no pride of
6 authorship for this particular amendment
7 because this amendment -- prophetically, I
8 imagine, because it was January 12th of
9 2009 -- was put forth by Senator Flanagan.
10 And it was important at that time and
11 continues to be important as we move forward
12 for a more transparent body, a more
13 accountable body, and certainly a body that
14 includes our constituency as we do the
15 business of New York.

16 So of course I would urge my
17 colleagues on both sides of the aisle, again,
18 to adopt this amendment and let's continue our
19 progress.

20 ACTING PRESIDENT YOUNG: Thank
21 you, Senator Stewart-Cousins.

22 Senator Carl Kruger would like to
23 speak on the amendment to the resolution.

24 SENATOR CARL KRUGER: No, Madam
25 President, I will speak on the actual

1 resolution.

2 ACTING PRESIDENT YOUNG: Thank
3 you, Senator.

4 Senator Bonacic.

5 SENATOR BONACIC: I'd like to
6 speak on the original resolution, please.

7 ACTING PRESIDENT YOUNG: Okay,
8 thank you.

9 Any other member wishing to be
10 heard?

11 Senator Breslin.

12 SENATOR BRESLIN: No, just again,
13 Madam President, I would request a show of
14 hands on the amendment.

15 ACTING PRESIDENT YOUNG: Thank
16 you.

17 The question is on Senator
18 Stewart-Cousins' amendment to the resolution.
19 All those in favor signify by raising your
20 hands.

21 (Members raised hands.)

22 ACTING PRESIDENT YOUNG: The
23 Secretary will announce the results.

24 THE SECRETARY: Ayes, 23. Nays,
25 39.

1 ACTING PRESIDENT YOUNG: The
2 amendment is defeated.

3 Senator Breslin.

4 SENATOR BRESLIN: Yes, thank you,
5 Madam President. Would you also read the
6 names of the people voting in the affirmative
7 for us, please.

8 ACTING PRESIDENT YOUNG: The
9 Secretary will read.

10 THE SECRETARY: Those Senators
11 recorded in the affirmative on Amendment 3 to
12 Resolution Number 338 are Senators Addabbo,
13 Avella, Breslin, Diaz, Dilan, Duane,
14 Espaillat, Gianaris, Hassell-Thompson,
15 Kennedy, L. Krueger, C. Kruger, Montgomery,
16 Oppenheimer, Parker, Peralta, Perkins, Rivera,
17 Sampson, Serrano, Squadron, Stavisky and
18 Stewart-Cousins.

19 ACTING PRESIDENT YOUNG: The
20 amendment is defeated.

21 The resolution is before the house.
22 All those in favor signify by saying aye.

23 (Response of "Aye.")

24 ACTING PRESIDENT YOUNG: Opposed,
25 nay.

1 (Response of "Nay.")

2 SENATOR SQUADRON: Excuse me,
3 Madam President. I believe Senator Kruger was
4 wanting to speak on the resolution before the
5 vote was called.

6 ACTING PRESIDENT YOUNG: Oh,
7 that's right.

8 Excuse me, Senator Kruger. Go
9 ahead.

10 SENATOR CARL KRUGER: Thank you
11 very much, Madam President.

12 I see that Senator Skelos is not in
13 the chamber. Who would I address my question
14 to?

15 SENATOR LIBOUS: Senator Kruger,
16 it would be indeed an honor for me --

17 SENATOR CARL KRUGER: I'm sure it
18 would. I'm sure it would.

19 SENATOR LIBOUS: -- to try, and
20 only try, to address your questions.

21 SENATOR CARL KRUGER: And I'll
22 try to keep mine as simple as I can put
23 through my old head.

24 When we're talking about rules
25 changes in this resolution, what to me seems a

1 glaring deviation is the question of the
2 powers of the Lieutenant Governor in this
3 chamber, and as the Lieutenant Governor -- of
4 western New York, a Democrat -- would be sort
5 of stripped of his right to cast a deciding
6 vote. How come?

7 SENATOR LIBOUS: Madam President,
8 through you.

9 ACTING PRESIDENT YOUNG: Yes,
10 Senator.

11 SENATOR LIBOUS: First of all,
12 Senator Kruger, as I answer your question I
13 would prefer not to talk about the personality
14 but talk about the position. I think it's not
15 fair to talk about any individual man or woman
16 who may or may not be Lieutenant Governor.

17 Let's talk about the position. Our
18 position is pretty clear that we believe there
19 are 62 elected Senators in this chamber and
20 that in order to pick a Majority Leader and
21 Temporary President, that the 62 elected
22 Senators should have a right to do that. And
23 that the Lieutenant Governor, who runs with a
24 Governor or whomever is elected Governor, is
25 not an elected Senator. Therefore, we don't

1 believe -- and we believe the Constitution
2 backs us up -- that that position has a vote
3 to elect a leader.

4 ACTING PRESIDENT YOUNG: Thank
5 you, Senator Libous.

6 SENATOR CARL KRUGER: Again,
7 through you, Madam President, if the Senator
8 would continue to yield.

9 ACTING PRESIDENT YOUNG: Senator
10 Libous?

11 SENATOR LIBOUS: I'd be happy to.

12 ACTING PRESIDENT YOUNG: Thank
13 you.

14 SENATOR CARL KRUGER: If we want
15 to extend that logic a little further down the
16 road, so now we're in a position where we have
17 31-31 as a tie vote. What's the process?

18 SENATOR LIBOUS: Madam President,
19 through you, I think the process is pretty
20 simple, is that this body would have to
21 collectively get together and function.

22 ACTING PRESIDENT YOUNG: Senator
23 Kruger.

24 SENATOR CARL KRUGER: Again
25 through you, Madam President, if the Senator

1 would continue to yield.

2 ACTING PRESIDENT YOUNG: Senator
3 Libous, do you yield?

4 SENATOR LIBOUS: I will continue
5 to yield, yes.

6 ACTING PRESIDENT YOUNG: Thank
7 you, Senator.

8 SENATOR CARL KRUGER: Senator,
9 how would we elect the leadership of the
10 house?

11 SENATOR LIBOUS: Well, I think,
12 Madam President --

13 ACTING PRESIDENT YOUNG: Yes,
14 Senator.

15 SENATOR LIBOUS: -- I think that
16 would depend on the situation. Obviously if
17 we had elected a leader, and if some for some
18 reason we went to 31-31, the person that we
19 had elected would still be the leader, because
20 to elect a new leader you would need 32 votes.
21 I think that's pretty simple.

22 SENATOR CARL KRUGER: Again
23 through you, Madam President.

24 ACTING PRESIDENT YOUNG: Yes,
25 Senator Kruger.

1 Senator Libous, do you yield?

2 SENATOR LIBOUS: Yes, Madam

3 President, I do.

4 ACTING PRESIDENT YOUNG: Thank
5 you, Senator Libous.

6 SENATOR CARL KRUGER: Rather than
7 talking about, Senator, the hypothetical
8 situation of an interim election, let's talk
9 about the absolute, the reorganization or the
10 organization of the chamber in a 31-31
11 environment. How do we elect the leadership?

12 ACTING PRESIDENT YOUNG: Senator
13 Kruger, excuse me. The stenographer cannot
14 hear what you're saying.

15 SENATOR CARL KRUGER: Oh, I'm
16 sorry.

17 ACTING PRESIDENT YOUNG: So we
18 would ask that you direct your comments to the
19 chair, and that way your microphone will pick
20 those up. It's very important that we hear
21 you.

22 SENATOR CARL KRUGER: I
23 apologize. I apologize. Okay.

24 SENATOR LIBOUS: Possibly, Madam
25 President, you could do it with 31 Republicans

1 and some independent legislators who might
2 want to join you. Or 31 Democrats and some
3 independent legislators who would want to join
4 you.

5 I mean, I think -- Madam President,
6 through you, I think there seems to be this
7 speculation that the body cannot function at
8 31-31. And I think we disagree with that.
9 Obviously, if you elect a leader with 32
10 votes, that person will remain as leader until
11 there's another vote where 32 individuals that
12 make up this chamber -- and I'm talking about
13 elected Senators -- would vote again. And it
14 seems pretty simple and matter of fact.

15 ACTING PRESIDENT YOUNG: Thank
16 you, Senator Libous.

17 SENATOR CARL KRUGER: Thank you,
18 Senator.

19 Again through you, Madam President,
20 if the Senator would continue to yield.

21 ACTING PRESIDENT YOUNG: Yes,
22 Senator Kruger.

23 Do you yield, Senator Libous?

24 SENATOR LIBOUS: I would be happy
25 to continue to yield.

1 ACTING PRESIDENT YOUNG: Go
2 ahead, Senator Kruger.

3 SENATOR CARL KRUGER: For a
4 moment, let's not talk about the hypothetical,
5 let's talk about -- let's go to past history
6 and talk about the realities.

7 There came a moment in time when
8 this chamber was 31-31, last June. How come
9 we couldn't function then?

10 SENATOR LIBOUS: Madam President,
11 I think I can answer that question.

12 Actually, Senator Kruger, there
13 were 30 Republicans and 32 Democrats at that
14 time. And for a brief moment, two of the
15 Democrats decided that they wanted to become
16 Republicans. But that was only for a brief
17 moment. So there were still 32 Democrats in
18 power that were controlling the chamber at
19 that time.

20 ACTING PRESIDENT YOUNG: Thank
21 you, Senator.

22 Senator Kruger.

23 SENATOR CARL KRUGER: Again
24 through you, Madam President, if the Senator
25 would continue to yield.

1 ACTING PRESIDENT YOUNG: Will you
2 yield, Senator?

3 SENATOR LIBOUS: I'd be happy to.

4 ACTING PRESIDENT YOUNG: Go
5 ahead, please.

6 SENATOR CARL KRUGER: Just for
7 historical purposes, there was a time,
8 Senator, where then-Senator Monserrate
9 rejoined the Democratic conference, which
10 created 31-31. And we -- and this body did
11 not function, by your definition. How come?

12 SENATOR LIBOUS: Well, Madam
13 President, I mean I don't want to -- I'm not a
14 historian. And I don't want to go back in
15 history, but I will try to do so to answer
16 Senator Kruger's question.

17 I believe, when it was 31-31, it
18 was the controlling party, the Democratic
19 Party, that locked the doors of the chamber
20 and would not let this body function. Now,
21 having said that, I don't want to repeat
22 history here. Senator Kruger, what finally
23 happened, obviously, is that 32 members got
24 together and this Senate began to function.

25 Again, I would state as I said

1 earlier, very simply, that the Lieutenant
2 Governor is not an elected Senator. The
3 position of Lieutenant Governor should not
4 have a vote in electing a leader to the
5 Senate. It is incumbent upon the 62 members
6 of this house to get along and figure it out,
7 if indeed there ever was a tie.

8 ACTING PRESIDENT YOUNG: Senator
9 Kruger.

10 SENATOR CARL KRUGER: Yes, Madam
11 President. If the Senator would continue to
12 yield.

13 ACTING PRESIDENT YOUNG: Senator
14 Libous, do you yield?

15 SENATOR LIBOUS: Sure.

16 ACTING PRESIDENT YOUNG: Thank
17 you very much.

18 SENATOR CARL KRUGER: Senator
19 Libous, how do you feel or think or propose
20 the constitutional issue on the role of the
21 Lieutenant Governor in casting a tie vote in
22 this chamber relates to the resolution as
23 proposed?

24 SENATOR LIBOUS: Well, Madam
25 President, I have my own opinion on that, and

1 I think I've given it several times. But I am
2 going to ask at this point, because I think
3 when you get into the constitutional issue
4 itself -- I believe the answer that I gave is
5 a sound one.

6 And like what always happens in
7 government, if you pass legislation and
8 someone deems that it's unconstitutional, you
9 take it to the court system. Just as when the
10 Democrats in this body were not happy with the
11 fact that Richard Ravitz was going to get
12 appointed, there was a lot of maneuvering
13 around who they decided who the president and
14 the temporary president and the conference
15 leader was going to be.

16 Having said that --

17 ACTING PRESIDENT YOUNG: Senator
18 Saland, why do you rise?

19 SENATOR SALAND: I'm wondering if
20 Senator Libous might yield some time to me and
21 perhaps I might be able to respond, in part,
22 to Senator Kruger.

23 SENATOR LIBOUS: Madam President,
24 I would be honored to defer to Senator Saland,
25 who might be able to go further than I have on

1 the constitutional issue.

2 Thank you, Senator.

3 SENATOR CARL KRUGER: Like
4 championship tag-team wrestling.

5 ACTING PRESIDENT YOUNG: Senator
6 Kruger was asking a question of Senator
7 Libous. Senator Saland, you're going to
8 answer that question?

9 SENATOR SALAND: I will, with
10 your permission, Madam President.

11 ACTING PRESIDENT YOUNG: Thank
12 you very much.

13 SENATOR SALAND: If I may, before
14 I get to the Constitution and the
15 constitutional issues, let me say that a
16 deadlocked house, were this house deadlocked,
17 would not be a case of first instance. It has
18 occurred in numerous legislative chambers
19 throughout this country at varying and
20 different times.

21 And it's been resolved in varying
22 and different ways. More often than not, by
23 interaction between the legislators, either a
24 division of responsibility of power -- by
25 year, perhaps. Sometimes coalitions are

1 formed, where people from one side of the
2 aisle join people from the other side of the
3 aisle in forging a majority. So this is not
4 the first time something like that would be
5 capable of happening.

6 There were a couple of things that
7 were mentioned, one earlier by Senator
8 Squadron and one by you, Senator Kruger. I
9 think Senator Squadron said something to the
10 effect of "I think the Lieutenant Governor
11 clause is unconstitutional and
12 unconscionable."

13 I would beg to differ. I would say
14 that it's both constitutional and the only
15 thing that would be unconscionable would be to
16 permit somebody who is a member of, in effect,
17 the executive branch to have the authority to
18 pick a leader in this house. And it would be
19 even more unconscionable now that the Court of
20 Appeals has ruled that you can have a
21 Lieutenant Governor who's not even elected but
22 appointed and has never been through a
23 confirmation process.

24 And it is not, as you described,
25 stripping his right to cast a deciding vote.

1 He doesn't have a right to cast a deciding
2 vote. The Constitution uses a particular
3 word. It's a casting vote. And there is no
4 dispute whatsoever anywhere, by any authority
5 anyplace to be found in this state, currently
6 or previously, that says he has a right to
7 cast a vote in anything legislative.

8 And if you disagree with that,
9 please tell me that you do and we'll engage on
10 that, with the permission of the President,
11 and then I'll continue my remarks with regard
12 to what the two relevant provisions of the
13 Constitution say.

14 ACTING PRESIDENT YOUNG: Thank
15 you, Senator Saland.

16 SENATOR CARL KRUGER: Through
17 you, Madam President.

18 ACTING PRESIDENT YOUNG: Senator
19 Kruger, are you asking Senator Saland to
20 yield?

21 SENATOR CARL KRUGER: I'm
22 responding to Senator Saland, through you.

23 ACTING PRESIDENT YOUNG: Okay.
24 Very good, Senator.

25 SENATOR CARL KRUGER: No, I was

1 not raising the issue of a casting vote, I was
2 talking about a tie vote. And to clarify that
3 even further, not on legislation but rather on
4 organization.

5 SENATOR SALAND: So we agree that
6 the Lieutenant Governor, whomever he or she
7 may be, doesn't have the authority to cast a
8 vote in the event of a tie on legislation.

9 SENATOR CARL KRUGER: That's
10 without question.

11 SENATOR SALAND: Let me, if I
12 may, go through the two relevant sections.
13 Madam President, if I may, the two relevant
14 sections are Article 3, Section 9 and Article
15 4, Section 6.

16 And Article 3, Section 9 basically
17 says that each house shall determine the rules
18 of its own proceedings, the qualifications of
19 its members, and shall choose its own officers
20 and the Senate shall choose a Temporary
21 President.

22 Now, I don't think that can be
23 disputed that we have the ability to do that.
24 That certainly was ruled on most recently in
25 the Monserrate case by the federal court. It

1 in effect has been enshrined in New York law
2 for over 130 years.

3 There was a Court of Appeals case,
4 I think it was People v. Hall back in 1880,
5 which basically cited the very language that
6 we have now and went on to say that this was
7 well within the realm of the Legislature to
8 determine the qualifications of its members.
9 And interestingly enough, it caused enough
10 controversy that in 1892 there was a
11 constitutional amendment that went to the
12 people proposing to do away with that section,
13 and it was defeated by the people.

14 So would we agree -- through you,
15 Madam President, would we agree that there's
16 no dispute as to the right of this house to
17 select the qualifications of its own members,
18 that nobody is being disenfranchised by giving
19 this house the right that has been recognized
20 for minimally 130-plus years?

21 SENATOR CARL KRUGER: Through
22 you, Madam President.

23 ACTING PRESIDENT YOUNG: Senator
24 Kruger.

25 SENATOR CARL KRUGER: In my mind,

1 that's when they're elected and they're
2 seated, as opposed to what we're talking
3 about.

4 SENATOR SALAND: Please -- if
5 he'll continue to yield.

6 ACTING PRESIDENT YOUNG: Yes,
7 Senator Saland. Go ahead.

8 SENATOR SALAND: Would you please
9 share with me your distinction?

10 SENATOR CARL KRUGER: Through
11 you, Madam President. I guess, Senator, when
12 I started this dialogue it was my intention to
13 raise issue with the election of leadership
14 for the chamber, rather than talking about the
15 qualification of seating of elected members.

16 SENATOR SALAND: If Senator
17 Kruger will yield.

18 ACTING PRESIDENT YOUNG: Senator
19 Kruger, will you yield?

20 SENATOR CARL KRUGER: Yes, Madam
21 President.

22 SENATOR SALAND: Is the
23 Lieutenant Governor a member of the Senate?

24 SENATOR CARL KRUGER: Through
25 you, Madam President, it's my understanding --

1 and the Lieutenant Governor is obviously not
2 an elected member of the Senate. However, he
3 serves as the President.

4 SENATOR SALAND: So when this
5 section -- and I'll get to Article 4, Section
6 6 momentarily. When this section says each
7 house shall determine the rules of its own
8 proceedings, shall choose its own officers,
9 and the Senate, the Senate, shall choose a
10 Temporary President -- the Senate -- is the
11 Lieutenant Governor a member of the Senate or
12 is he a Senator?

13 SENATOR CARL KRUGER: Through
14 you, Madam President, we go back to the theory
15 of the 31-31 rationale. In that environment,
16 if we are to function, then the use of the
17 President of the Senate -- the Lieutenant
18 Governor -- to break that tie would be, in my
19 mind, and I believe in the shared belief of my
20 colleagues on this side of the aisle at least,
21 that that would be the appropriate mechanism.

22 SENATOR SALAND: If you'll
23 continue to yield, Senator Kruger, let me go
24 to Article 4, Section 6, and then perhaps
25 we'll revisit Article 3, Section 9.

1 Article 4, Section 6 takes great
2 pains to include two terms or words that limit
3 or minimize the role of Lieutenant Governor.
4 After it talks about the Lieutenant Governor
5 possessing the qualifications and eligibility
6 for offices of the Governor, it says he shall
7 be the president of the Senate but shall have
8 only -- and I emphasize the word "only" -- a
9 casting vote therein. And I emphasize the
10 word "therein."

11 So these would appear to be words
12 of limitation or minimization, clearly making
13 it a very limited role for the Lieutenant
14 Governor.

15 SENATOR CARL KRUGER: Through
16 you, Madam President.

17 ACTING PRESIDENT YOUNG: Senator
18 Kruger.

19 SENATOR CARL KRUGER: During that
20 period in time when --

21 ACTING PRESIDENT YOUNG: Senator
22 Kruger --

23 SENATOR CARL KRUGER: Through
24 you, Madam President.

25 ACTING PRESIDENT YOUNG: Again, I

1 know it's difficult, but we just --

2 SENATOR CARL KRUGER: I
3 understand.

4 ACTING PRESIDENT YOUNG: What you
5 have to say is very important, and we want to
6 make sure that everyone can hear it.

7 SENATOR CARL KRUGER: It may be
8 important to you; I don't know if it's
9 important to everybody.

10 But in any event, if the Senator
11 would continue to yield.

12 SENATOR SALAND: I'll be more
13 than happy to yield after you respond to me.

14 SENATOR CARL KRUGER: Okay. In
15 each instance that we're talking about, this
16 body, when we have issues of procedure, we go
17 to the books, as you're doing right now. One
18 of those books that we go to is Mason's. And
19 in that litany, it clearly defines the vote of
20 the President in terms of breaking a tie.

21 If I can just clarify additionally,
22 as counsel points out to me, that the
23 definition of a casting vote is the vote that
24 breaks the tie.

25 SENATOR SALAND: If Senator

1 Kruger would continue to yield.

2 ACTING PRESIDENT YOUNG: Do you
3 yield, Senator?

4 SENATOR CARL KRUGER: Yes, Madam
5 President.

6 ACTING PRESIDENT YOUNG: Go
7 ahead, Senator Saland.

8 SENATOR SALAND: Senator Kruger,
9 is it not in fact the rules of this house that
10 you never reach Mason's unless, in fact,
11 there's nothing -- the only time you reach
12 Mason's is if there's nothing that governs in
13 the existing law or the existing practice?

14 SENATOR CARL KRUGER: Through
15 you, Madam President.

16 ACTING PRESIDENT YOUNG: Yes,
17 Senator.

18 SENATOR CARL KRUGER: It's my
19 understanding that the Constitution does not
20 define a casting vote. So consequently, we
21 would have to go to Mason's. After the rules,
22 after we kick the can down the road, we wind
23 up at Mason's.

24 SENATOR SALAND: I would
25 respectfully beg to differ with you. Let me

1 share with you historically what has occurred
2 where controversy has existed with regard to
3 the ability of a Lieutenant Governor to
4 exercise a casting vote.

5 The New York Times, in its
6 January 1, 1892 issue, reported on a similar
7 controversy. And there was a dispute about
8 organizing the Senate -- it was an election
9 dispute -- and the Democrats at that point
10 alleged that the Lieutenant Governor could
11 break a tie.

12 And the Republican position was
13 that the Constitution, the relevant section --
14 which is the one that we're talking about now,
15 which was numbered differently at that time --
16 stating that the Lieutenant Governor had only
17 a casting vote therein, meant that the vote on
18 the eligibility of a Senator or any other
19 question other than of a parliamentary nature,
20 as one which involved the advancement of
21 business, was held beyond the powers of the
22 Lieutenant Governor. The Lieutenant Governor
23 had no authority whatsoever to cast such a
24 vote.

25 ACTING PRESIDENT YOUNG: Senator

1 Kruger.

2 SENATOR CARL KRUGER: Once again,
3 Madam President, through you, in responding,
4 are we now using the New York Times of 1892 as
5 the basis for today's dialogue?

6 SENATOR SALAND: I'm merely
7 telling you, based on prior experience, prior
8 actions in this house as reported by the
9 New York Times.

10 SENATOR CARL KRUGER: So now if
11 we can refer to the New York Times of 1892,
12 through you, Madam President, I suspect that
13 that was the Republican position as it was
14 articulated in that article. That was a
15 little bit before I was born, that edition of
16 the paper, so I wasn't up to snuff at that
17 moment.

18 SENATOR SALAND: Well, again,
19 there was a similar issue that occurred in
20 1878, and again similarly reported that the
21 Lieutenant Governor similarly did not have the
22 ability to cast a vote that in effect would
23 have enabled him to be the controlling vote
24 for purposes of establishing the leadership of
25 the house.

1 ACTING PRESIDENT YOUNG: Senator
2 Kruger.

3 SENATOR CARL KRUGER: Through
4 you, Madam President. I'm advised that the
5 legislatures in both Montana and Idaho made
6 determinations that their presiding officer,
7 the lieutenant governor, could cast that
8 deciding vote, that leadership vote, and
9 citing New York law as the basis for that.

10 ACTING PRESIDENT YOUNG: Senator
11 Saland.

12 SENATOR SALAND: I believe the
13 distinction with respect to both of those
14 states is that both of those states permit
15 their lieutenant governors to cast deciding
16 votes on legislation as well. And that
17 underscored the ability of that particular or
18 those particular legislatures to respond as
19 you claim that they have responded.

20 But you've failed to acknowledge
21 the fact that there are other states that very
22 similarly do not permit the lieutenant
23 governor to cast such a vote.

24 SENATOR CARL KRUGER: Through
25 you, Madam President. Once again, just to

1 reiterate, that those states -- and I'm not
2 aware -- and there may be others that
3 specifically used New York law as the basis
4 for making that determination.

5 SENATOR SALAND: I find that to
6 be -- I'm sorry, Madam President. Madam
7 President, I suspect that what we are engaged
8 in is a little bit of cherry-picking, that in
9 fact the totality of what we're dealing with,
10 the sections that we are dealing with are not
11 necessarily consistent with what Senator
12 Kruger is attempting to convey to us here.

13 It is certainly clear that the
14 state apparently, as reported by none other
15 than the lion of the print media, has in prior
16 instances -- this Legislature in prior
17 instances has said that the Lieutenant
18 Governor's casting vote certainly did not
19 permit him, and to date it has been a -- well,
20 it hasn't always been a him -- him or her to
21 have the authority that we would now be told
22 by Senator Kruger that we're weaving
23 apparently out of thin air.

24 ACTING PRESIDENT YOUNG: Senator
25 Kruger.

1 SENATOR CARL KRUGER: Through
2 you, Madam President. Senator, when I rose to
3 speak on the --

4 SENATOR LIBOUS: Madam President,
5 point of order for a second, please. And
6 please indulge me, both speakers.

7 ACTING PRESIDENT YOUNG: Yes,
8 Senator Libous.

9 SENATOR LIBOUS: This is a
10 resolution in which the Senate requires that
11 there's an hour to have debate. And I know
12 that there are other and I just want to bring
13 it to the attention of the house that there
14 are other speakers on both sides of the aisle,
15 or individuals who would like to speak.

16 And I just wouldn't want Senator
17 Kruger and Senator Saland to take up --
18 seriously, to take up their time, because
19 everybody -- others want to be heard on this
20 issue.

21 ACTING PRESIDENT YOUNG: Senator
22 Libous, you are totally right. And present
23 rules say the debates on motions or
24 resolutions is limited to one half-hour per
25 side.

1 So if you could take that into
2 consideration, Senator.

3 SENATOR CARL KRUGER: Senator
4 Saland, when I rose on this resolution, I
5 wanted to keep it in very simplistic terms.
6 Where we have 62 members in this body, there
7 could come a time -- as it has -- where we
8 have a 31-31 standoff. We have a Lieutenant
9 Governor that's elected by the people of this
10 state with specific responsibilities.

11 My question to you is, do we want
12 to go back to where we were in June of two
13 years ago or a year ago and talk about the
14 Senate as it was? Or do we want to have a
15 very transparent, simple, straightforward
16 process where we have a 31-31 standoff and
17 have the Lieutenant Governor cast that
18 deciding vote? Is that a bad thing or is that
19 a good thing?

20 SENATOR SALAND: I would think,
21 regardless of which party, the separation of
22 powers and the importance of maintaining this
23 chamber -- and, for that matter, the other
24 chamber -- as a separate and distinct entity
25 and not an arm of the executive branch, I

1 would say very clearly that's a bad thing.

2 The Lieutenant Governor is not a
3 member of the Senate and I would say would be
4 precluded, under Article 3, Section 9, from
5 participating in the election of its officers.
6 The Lieutenant Governor is permitted to vote
7 on procedural issues. The election of a
8 Temporary President is anything but a
9 procedural issue.

10 SENATOR CARL KRUGER: Madam
11 President, to sum up on the resolution.

12 ACTING PRESIDENT YOUNG: Senator
13 Kruger on the resolution.

14 SENATOR CARL KRUGER: The
15 Constitution allows the Lieutenant Governor to
16 come in on a 31-31 logjam to cast that vote to
17 break that tie so that this body can go
18 forward doing its job. To treat the process
19 in any other way is only trying to add
20 confusion, delay, and basically put the courts
21 in the position to once again decide how we
22 function, rather than allow this house,
23 through its President, the Lieutenant
24 Governor, to decide the leadership as we would
25 go forward in a 31-31 environment.

1 Thank you. Thank you,
2 Senator Saland.

3 ACTING PRESIDENT YOUNG: Thank
4 you.

5 SENATOR SALAND: May I close?

6 ACTING PRESIDENT YOUNG: Senator
7 Saland, why do you rise?

8 SENATOR SALAND: May I just offer
9 some concluding remarks?

10 ACTING PRESIDENT YOUNG: Would
11 you like to speak on the resolution?

12 SENATOR SALAND: Yes.

13 ACTING PRESIDENT YOUNG: Okay.
14 Go ahead, Senator.

15 SENATOR SALAND: Thank you.

16 Madam President, the Lieutenant
17 Governor is not a member of the Senate. There
18 is no precedent that provides him or her the
19 ability to cast a vote other than on
20 procedural matters. The election of a leader,
21 a Temporary President of the Senate and
22 Majority Leader, is far from a procedural
23 matter.

24 SENATOR SQUADRON: Madam
25 President.

1 ACTING PRESIDENT YOUNG: Senator
2 Squadron, why do you rise?

3 SENATOR SQUADRON: Would Senator
4 Saland yield for a brief question? I
5 apologize for cutting off the conclusion,
6 but --

7 ACTING PRESIDENT YOUNG: Again,
8 Senator, I would like to remind all the
9 Senators that we need to be considerate of
10 other Senators who want to speak.

11 SENATOR SQUADRON: I will be very
12 brief.

13 ACTING PRESIDENT YOUNG: Go
14 ahead, Senator Squadron.

15 SENATOR SQUADRON: Senator
16 Saland, do you yield for a question?

17 SENATOR SALAND: Yes, I will.

18 SENATOR SQUADRON: Senator Saland
19 has made a case -- I don't believe it's a
20 compelling case, but has made a case that the
21 Lieutenant Governor doesn't now and has never
22 had any role in terms of a casting vote in the
23 Senate, despite the constitutional language.
24 And I would just ask Senator Saland what's
25 changed.

1 SENATOR SALAND: That's -- with
2 all due respect, I'll answer the question by
3 saying that's not what I said. I said he has
4 a casting vote, but the language is only a
5 casting vote therein. And the language is
6 such that his role or her role is very limited
7 and can only cast that vote on matters of
8 process.

9 And there is no authority, no case
10 law to the contrary, and there is nothing that
11 makes him a member of this body. He in fact
12 is not a member of the Senate. And if you go
13 back to Article 3, Section 9, each house shall
14 determine the rules of its own proceedings.
15 This house can determine those rules and is
16 proposing to do it with this very proposal.

17 SENATOR SQUADRON: Through you,
18 Madam President, if --

19 ACTING PRESIDENT YOUNG: Senator
20 Squadron, are you asking Senator Saland to
21 yield?

22 SENATOR SQUADRON: If Senator
23 Saland will yield again, yes.

24 ACTING PRESIDENT YOUNG: Do you
25 yield, Senator?

1 SENATOR SALAND: I will. But
2 then I think I've overstayed my welcome.

3 SENATOR SQUADRON: I'll ask one
4 question with multiple parts, very briefly, in
5 the interests of time.

6 I believe Senator Saland -- and he
7 should correct me if at any point I'm wrong --
8 has been in this body for 24 years, has voted
9 for certainly 13 rules resolutions in that
10 time. I believe this is the first rules
11 resolution with this provision. Senator
12 Saland does seem to be building quite a case
13 for court. And certainly if this provision
14 passes, goodness knows we're all too likely to
15 end up in court at some point.

16 I would just ask what compels
17 Senator Saland to so heartily defend this
18 provision and this change at this moment in
19 history. Might it be that we're at 32-30
20 with a Democratic Lieutenant Governor? That's
21 my final question.

22 Thank you, Madam President.

23 SENATOR SALAND: It's rather
24 basic. It's called separation of powers and
25 the right of this institution, through its

1 members, to make the decisions as to who shall
2 constitute its leadership and not abdicate
3 that responsibility to another branch of
4 government.

5 Thank you.

6 ACTING PRESIDENT YOUNG: Senator
7 Breslin, on the resolution.

8 SENATOR BRESLIN: Thank you very
9 much, Madam President.

10 As all of you know, the
11 Constitution of New York State was 1777.
12 That's over 200 years ago. And in Article 4,
13 Section 6 it talks about the Lieutenant
14 Governor giving the casting vote. It does say
15 "therein," "casting vote therein."

16 There's other sections that say the
17 Lieutenant Governor doesn't have a vote on
18 legislation, on bills. He does, in fact, have
19 the vote on a tie in this house.

20 That's over 200 years ago. The
21 Federal Constitution, which relied in part on
22 the New York State Constitution, was developed
23 some years later. And there are courts across
24 this country that have used our Constitution.
25 Idaho, which was referred to before,

1 specifically used New York State as an example
2 in a similar situation.

3 That's the law, in my opinion. The
4 facts, for 200 years, no one's bothered to
5 change this. And we don't want to get into
6 individuals, but it is probably coincidental
7 that we happen to have a Democratic Lieutenant
8 Governor, one from upstate who's an
9 outstanding leader from upstate. And we went
10 through years, my years here, when we had
11 Lieutenant Governors who were of the other
12 party, and there was no attempt to change
13 this.

14 I think it's a blatant attempt to
15 try to write the Constitution of the State of
16 New York. And I think that it's recognized
17 that -- when I asked questions in the Rules
18 Committee, there was no attempt to contact the
19 Governor or the Attorney General or the
20 Lieutenant Governor or constitutional experts,
21 for that matter.

22 I think there's a very important
23 reason why that hasn't been done. It is that
24 the words of Article 4, Section 6 are clear
25 enough for this body to recognize that when

1 there is a tie for the choice of the President
2 of this body, the casting vote is done by the
3 Lieutenant Governor.

4 Thank you, Madam President. And I
5 will vote against this resolution on the rules
6 changes.

7 ACTING PRESIDENT YOUNG: Thank
8 you, Senator Breslin.

9 Senator Liz Krueger.

10 SENATOR LIZ KRUEGER: Thank you,
11 Madam President. On the resolution.

12 So I have listened to the
13 discussion and even the debate going on
14 tonight, and there seems to be a little bit of
15 confusion over what we're arguing about
16 vis-a-vis the one section of the new rules
17 being proposed tonight by Senator Skelos and
18 how it violates or doesn't violate the intent
19 of the New York State Constitution and the
20 language of the New York State Constitution.

21 So just to go backwards a week, in
22 the Rules Committee on January 25th when I was
23 making the supposition that this was
24 complicated and that we should have a few
25 minutes or days to review with constitutional

1 scholars, and I suggested we not have this
2 rules debate last week, Senator Libous
3 confirmed that the intent behind the change to
4 Senate Rule 2, Section 1 sought to leave the
5 vote for Temporary President exclusively to
6 members of the Senate.

7 From the transcript. Myself: Is
8 it possible that this rule possibly changes
9 the role of the Lieutenant Governor vis-a-vis
10 tie-breaking votes? Senator Libous: Yes, it
11 require's a vote of 32. Senator Liz Krueger:
12 So it would require the vote of 32 in a 31-31
13 situation in the Senate? Senator Libous: We
14 believe that only members should break the tie
15 in a vote for President of the Senate.

16 So in fact we are arguing about the
17 role of the Lieutenant Governor in a casting
18 vote issue on procedure and whether the rules
19 resolution being submitted to us tonight is in
20 violation of the Constitution.

21 And I would argue that it is. That
22 the State Constitution and the current Senate
23 rules are clear that the Lieutenant Governor
24 shall be the President of the Senate but shall
25 have only a casting vote therein -- New York

1 State Constitution, Article 4, Section 6, and
2 current Senate Rule 1, Section 1, current
3 rules being the ones we're using tonight until
4 or if we change them with this resolution
5 tonight. A casting vote is defined many, many
6 places -- Mason's manual, our Constitution,
7 Black's Law Dictionary -- as a casting vote is
8 a deciding vote by the President, presiding
9 officer of a deliberative body, in case of a
10 tie.

11 The only specific constitutional
12 limitation on the Lieutenant Governor's
13 casting of a vote is found in Article 3,
14 Section 14, which provides that no bill can be
15 passed or become law except by the assent of a
16 majority of members elected to each branch of
17 the Legislature.

18 Most constitutional scholars agree
19 this provision prohibits the Lieutenant
20 Governor to use his casting vote on
21 legislation. But again, I don't believe I've
22 heard any colleagues on this side of the aisle
23 saying we want to recognize the Lieutenant
24 Governor's casting vote on legislation. We
25 want to assure his constitutionally

1 established right to have a casting vote on
2 procedure of the floor of the Senate,
3 including the decision over who ends up the
4 President or Majority Leader of the Senate in
5 situations where it may be 31-31.

6 And any number of my colleagues
7 have referenced the fact that the history of
8 this portion of our State Constitution goes
9 back to the 1700s. And in fact, Alexander
10 Hamilton, a great New Yorker who was a
11 delegate to the U.S. Constitutional
12 Convention, established the purpose and intent
13 of the role of a President outside of being an
14 elected member of the Senate, and the reason
15 that we ought to have a situation where a
16 casting vote can be assured, in his Federalist
17 Papers.

18 And in fact, in the Federalist
19 Paper Number 68, he explained the necessity of
20 a vice president in the Senate position: "To
21 secure definitive resolutions, the Senate
22 President must be able to cast tie-breaking
23 votes yet be denied a vote at all other times.
24 Therefore, the Senate's presiding officer must
25 not be a member of the Senate. Nor should a

1 Senator be next in line for the presidency,
2 since the President's successor shall be
3 chosen in the same manner as the President."

4 Now, he was referencing the U.S.
5 Constitution, but he was in fact taking his
6 recommendations and applying them through
7 state constitutions as well as the Federal
8 Constitution.

9 Now, there have been debates
10 throughout history, in the 1700s, in the
11 1800s, in the 1900s, and a number of them have
12 been cited here tonight around the issue of
13 who can vote to split a tie when. But I don't
14 believe, Madam President, there is any debate
15 on the powers of the Lieutenant Governor to be
16 a casting vote, to split a tie on procedural
17 issues here on the floor. This is a
18 fundamental interpretation of our Constitution
19 that we should not allow to go into the rules
20 of our Senate without assurance that they are
21 not intended to violate the Constitution.

22 I cannot vote for these rules
23 tonight because we have seen in recent
24 history, and it has been discussed already,
25 that sometimes you may end up in a tie. You

1 may end up in a tie that it's uncomfortable
2 for everyone, everyone on both sides of the
3 aisle.

4 But it is critical because of that
5 reality that we not violate our Constitution.
6 And we should not forget the lessons of our
7 Founding Fathers when they were creating our
8 the U.S. Constitution to recognize the
9 importance of having a mechanism in place to
10 ensure the civil discourse and continuity of
11 government.

12 And so it's a lot of debate, it's a
13 lot of time spent here, which is a good place
14 to have this debate, on the floor. One of my
15 colleagues also referenced, Well, let's say we
16 put it in the rules of the Senate and we end
17 up in a 31-31 situation, we'll then go and
18 litigate it. Well, we do litigate an awful
19 lot of things, ladies and gentlemen. And I
20 suppose you could argue, because we are the
21 creators of laws, it's appropriate for much of
22 what we do here to end up being the fodder and
23 discussion of courts.

24 But I would argue we don't want to
25 knowingly set ourselves up to have to have a

1 constitutional dispute through the courts at a
2 time where we might find ourselves in a 31-31
3 situation.

4 While we've been here this
5 afternoon and this evening, according to the
6 press, Lieutenant Governor Duffy has said he
7 intends to vote, if there's a tie situation.
8 He will use his casting vote authority.
9 Governor Cuomo has said he does not agree with
10 these proposed rules. He is clear that it is
11 the constitutional authority of the Lieutenant
12 Governor to use his casting vote to split a
13 tie in situations that we are describing
14 tonight.

15 Yes, we can wait and litigate the
16 whole situation if and when we are in a tie
17 situation. But I would have to argue with all
18 my colleagues it would be far, far better for
19 us not to make this mistake, not to write
20 rules of the Senate that we know not only are
21 a violation of the explicit language of the
22 Constitution but set us up to be forced into a
23 constitutional-challenge lawsuit if and when a
24 time comes.

25 We've not needed to put this

1 language in the rules of the Senate ever
2 before. Not having this language in the rules
3 of the Senate hasn't seemingly done us harm
4 for hundreds of years. So I suppose in urging
5 us to not accept the rules as written, and
6 certainly to remove this section of the rules
7 before we move forward, we ask ourselves the
8 question why do we need to open ourselves to
9 this problem.

10 Our Constitution is clear. It has
11 protected us for hundreds of years. There's
12 no reason to mess with it here on the floor of
13 the Senate tonight. I urge my colleagues to
14 vote no.

15 Thank you, Madam President.

16 ACTING PRESIDENT YOUNG: Thank
17 you, Senator Krueger.

18 Senator Diaz.

19 SENATOR DIAZ: Thank you, Madam
20 President.

21 Madam President, would Senator
22 Libous yield for a question or two, please.

23 SENATOR LIBOUS: I'm sorry,
24 Senator Diaz, you would like me to yield?

25 SENATOR DIAZ: Yes, sir.

1 ACTING PRESIDENT YOUNG: Oh, I'm
2 sorry. Would you yield, Senator Libous?

3 SENATOR LIBOUS: Sure. Sure.

4 ACTING PRESIDENT YOUNG: Go
5 ahead, Senator Diaz.

6 SENATOR DIAZ: Yeah. Thank you.

7 Senator Libous, more than once
8 tonight, various people, various Senators have
9 mentioned the names of Monserrate and Espada,
10 those times. And you said that we are 62
11 members in this chamber. For the benefit of
12 those that are viewing and listening to the
13 TV, would you please tell me, out of those 62
14 Senators, how many are registered Democrats
15 and how many are registered Republicans?

16 ACTING PRESIDENT YOUNG: Senator
17 Libous.

18 SENATOR LIBOUS: I believe there
19 are 32 registered Republicans and 30
20 registered Democrats at the present time,
21 Senator.

22 SENATOR DIAZ: Would Senator
23 Libous yield.

24 ACTING PRESIDENT YOUNG: Senator
25 Libous, would you continue to yield?

1 SENATOR LIBOUS: Yeah, I would.

2 ACTING PRESIDENT YOUNG: Go
3 ahead, Senator Diaz.

4 SENATOR DIAZ: Senator Libous,
5 I'm going to ask my question again. Are you
6 sure that there are 32 registered Democrats
7 and not 31?

8 SENATOR LIBOUS: Mr. President, I
9 don't have the Board of Election buff cards in
10 front of me, but I believe there are 32
11 registered Republicans and 30 registered
12 Democrats in this chamber.

13 ACTING PRESIDENT YOUNG: Senator
14 Diaz.

15 SENATOR DIAZ: Madam President,
16 would Senator Libous continue to yield?

17 ACTING PRESIDENT YOUNG: Senator,
18 do you yield?

19 SENATOR LIBOUS: Sure.

20 ACTING PRESIDENT YOUNG: Go
21 ahead, Senator Diaz.

22 SENATOR DIAZ: Senator Libous,
23 according to my knowledge -- maybe I'm wrong,
24 but would you please clarify for me this. I
25 understand that Senator Grisanti, from

1 Buffalo, is a registered Democrat. I
2 understand that Senator Valesky is Democrat.
3 I understand that Senator Jeff Klein --

4 SENATOR LIBOUS: Madam President,
5 in all due respect to Senator --

6 SENATOR DIAZ: Could you please
7 let me finish? I have the floor.

8 SENATOR LIBOUS: Well, in all due
9 respect, I don't know if this is germane to
10 the rules.

11 SENATOR DIAZ: It is. It is.
12 Because when I finish it, you will see it is.

13 ACTING PRESIDENT YOUNG: Point of
14 order.

15 SENATOR DIAZ: So --

16 ACTING PRESIDENT YOUNG: Senator
17 Diaz, could you please keep your remarks to
18 the germaneness of the --

19 SENATOR DIAZ: All right. My
20 question is, the -- Madam President, we are
21 deciding here the fate of the Lieutenant
22 Governor in this chamber, that in any given
23 time the Lieutenant Governor could decide who
24 keeps the majority or who goes into the
25 minority. And what I'm saying is that right

1 now this chamber has 31 Democrats and 31
2 Republicans.

3 Now, Senator -- Senator, I'm
4 speaking -- I'm addressing myself on the
5 resolution now. Okay?

6 ACTING PRESIDENT YOUNG: So you'd
7 like to speak on the resolution?

8 SENATOR DIAZ: Yeah.

9 ACTING PRESIDENT YOUNG: Thank
10 you, Senator. Go ahead.

11 SENATOR DIAZ: So Senator Saland
12 spoke about disenfranchising voters or that
13 we're going to disenfranchise, something like
14 that he said.

15 Now I'm saying that right now we
16 have 31 registered Republicans in this
17 chamber, on this floor, and 31 Democrats.
18 Let's assume, Madam President and ladies and
19 gentlemen, let's assume that those five
20 registered Democrats that are voting with you
21 now in any given time decide, okay, we are not
22 going to disenfranchise the Democratic voters
23 that elected us and we're going to become
24 Democrats again.

25 So that means that then the

1 Democrat Lieutenant Governor will be the one
2 that will decide who is going to be in the
3 majority. If those five Democrats -- the one
4 from Buffalo, Grisanti, Senator Klein, Senator
5 Valesky, Senator Savino, Senator Carlucci --
6 if those five Democrats decide to become
7 Democrats again tomorrow, tonight, there will
8 be 31-31 here.

9 So right now there is no reason why
10 you'd be in the majority -- if those
11 Democrats, five Democrats decide to be
12 Democrats again, the Republicans will not be
13 in the majority, because there will be 31-31.
14 And then the Lieutenant Governor will decide,
15 and we Democrats, together with those five
16 Democrats that are registered Democrats that
17 are not voting with us, we will become the
18 majority.

19 So it is important for the people
20 that are listening and it is important for
21 people to know what is it we do here tonight.
22 By taking away, by taking away the power of
23 the Lieutenant Governor to decide in matters
24 like this.

25 So, Madam President, it is

1 relevant, what I'm saying to -- what I was
2 asking Senator Libous. We have -- and it's
3 very important for everyone to know right now
4 we have 31 Republicans and 31 Senators that
5 are registered Democrats. And if we are
6 disenfranchising anybody, it is those five
7 Senators who are the ones that
8 disenfranchising the Democratic voters that
9 elected us.

10 Thank you, Madam President.

11 SENATOR LIBOUS: Madam President.

12 ACTING PRESIDENT YOUNG: Senator
13 Libous.

14 SENATOR LIBOUS: Would the
15 Senator yield for one quick question.

16 ACTING PRESIDENT YOUNG: Senator
17 Diaz, do you yield?

18 SENATOR LIBOUS: Would you yield
19 for one quick question?

20 SENATOR DIAZ: I will yield for
21 three or four or five, whatever.

22 SENATOR LIBOUS: No, just one,
23 Senator. Senator, did you or did you not have
24 the Republican line in this past election?
25 Did you or did you not have the Republican --

1 SENATOR DIAZ: But I was being a
2 Democrat. I'm a registered Democrat.

3 SENATOR LIBOUS: Did he or did he
4 not have the Republican line?

5 SENATOR DIAZ: Yes, I did.

6 SENATOR LIBOUS: Thank you, Madam
7 President.

8 SENATOR DIAZ: Madam President,
9 that's not the question. I'm asking who are
10 registered Democrats.

11 ACTING PRESIDENT YOUNG: Senator
12 Diaz -- Senator Diaz, thank you.

13 We do have some other speakers.
14 And I do want to remind you once again that
15 there's a time limit. The Minority side of
16 the house has exceeded their time limit, so we
17 are showing some indulgence toward that. But
18 please keep that in mind, because you are over
19 the limit.

20 So next we would call on Senator
21 Parker.

22 SENATOR PARKER: Thank you, Madam
23 President.

24 And I know that the time is late
25 and my colleagues are weary, having traveled

1 throughout the state last night and this
2 morning. But this is an important issue.

3 People think that the rules are
4 just simply the rules. But the reality is
5 that, you know, government is the one of the
6 few places where how you do things is as
7 important as what you do. And so you kind
8 of -- you know, garbage in, garbage out.

9 And so, you know, these rules are
10 important because also important decisions are
11 going to be made here. And who is able to
12 cast a final determining vote is going to be
13 critical.

14 And I just really want to associate
15 myself with a number of the comments by my
16 colleagues, particularly Liz Krueger, who
17 cited many of the things -- and I'm not going
18 to kind of go through all these things.

19 But I think it is important to note
20 that the Majority's attempt to change who is
21 able to make a casting vote is not only
22 against the Constitution of the state but also
23 flies in the face of both, unlike what Senator
24 Saland says, actually case law, the
25 Constitution, and it flies in the face of

1 really what the U.S. Constitution has created
2 as a precedent in terms of providing casting
3 votes.

4 The rules change that's being
5 proposed is the Senate shall choose a
6 Temporary President by resolution adopted upon
7 the vote of a majority of the members of the
8 Senate elected, unquote. And this is a
9 proposed rules change to Section 1. Although
10 Article 3, Section 9 of the New York State
11 Constitution permits the Senate to determine
12 its own rules, the State Constitution assigns
13 the Lieutenant Governor the power to make and
14 break deadlocks in the chamber by exercising a
15 casting vote. And again, that's in New York
16 City Constitution, Article 4. Sorry, check
17 that, Article 4, Section 6.

18 So I've heard lots of people say
19 that, you know, we're not changing the
20 Constitution. This rule change, if voted upon
21 tonight, would actually fly counter to what
22 the New York State Constitution says. And
23 consequently, the Republican Majority proposes
24 new rules violating the Constitution and
25 denies citizens of New York the ability to

1 participate in amending the New York State
2 Constitution.

3 Alternatively, if one accepts the
4 current Republican --

5 ACTING PRESIDENT YOUNG: Senator
6 Nozzolio, why do you rise?

7 SENATOR NOZZOLIO: Thank you,
8 Madam President. Madam President, will
9 Senator Parker yield to a question.

10 ACTING PRESIDENT YOUNG: Senator
11 Parker, do you yield?

12 SENATOR PARKER: I would like to
13 yield. I would like to finish this, and then
14 I'll be happy to yield. I need two minutes.

15 ACTING PRESIDENT YOUNG: The
16 Senator doesn't yield at this time, but we'll
17 revisit.

18 SENATOR PARKER: I will yield, I
19 just want to finish my thought and then I'll
20 be happy to yield.

21 ACTING PRESIDENT YOUNG: Very
22 good. Thank you, Senator.

23 SENATOR PARKER: Alternatively,
24 if one accepts the current Republican
25 Majority's narrow interpretation of the

1 Lieutenant Governor's authority to use a
2 casting vote only upon motions and
3 resolutions, the proposed rule would still be
4 unconstitutionally restricted by the
5 Lieutenant Governor's constitutionally
6 confirmed authority. And again, if you see
7 the New York Attorney General's opinion
8 83-F10, it actually confirms that.

9 Of course, the current Republican
10 Majority's interpretation of the casting vote
11 is the complete opposite of the historic
12 position, which was most forcefully stated in
13 2008 when then-Temporary President Joseph
14 Bruno stated that because of the lack of a
15 Lieutenant Governor, he would be able to vote
16 twice on deadlocked votes -- some of you guys
17 remember that, right -- including for the
18 Senate leadership. And you can see that in
19 the New York Times, there's an article called
20 "In a Senate Tie, Could Bruno Vote Twice?" of
21 March 12, 2008.

22 This has been an ongoing problem.
23 I think that Liz talked about that, in the
24 fact that it's really important to
25 understand -- and not only did Alexander

1 Hamilton refer to what states were doing to
2 start developing the U.S. Constitution, he
3 actually was specifically talking about
4 New York. It was actually the New York case
5 that was actually -- the New York State
6 Constitution was ratified in 1777, a full
7 10 years before the Federal Constitution, and
8 it was really the basis for what we see the
9 around the country.

10 What we're seeing here, folks, is a
11 simple power grab. And what would simply
12 happen, let me just be very clear about this,
13 in a 31-31 tie -- Senator Libous essentially
14 said it -- that whoever is the leader will
15 continue to be the leader. This is an attempt
16 to make sure that in 2012, if there's a new
17 election, that in 2013, when there's supposed
18 to be a change, if in fact we wind up with a
19 31-31 tie, that the Republican Majority, and
20 presumably Senator Skelos, would continue to
21 be the leader.

22 And this is again, I think, the
23 wrong way for us to be going at this time. I
24 think it's counter to what we see, again, not
25 just in the U.S. Constitution, the State

1 Constitution, but other states. In fact, the
2 National Council of State Legislators notes
3 that the lieutenant governor presides over the
4 senate in 25 states. In all but one of those
5 states, the lieutenant governor is able to
6 break ties.

7 More importantly, a lieutenant
8 governor vote broke organizational deadlocks
9 in Idaho in 1990 and in Pennsylvania in 1992.
10 A report prepared by the Virginia State Senate
11 Rules Committee in 1996 noted that in the
12 reported cases, only Minnesota concluded that
13 the lieutenant governor did not have the
14 authority to cast a tie-breaking vote.

15 And that's Howard, it's in the Law
16 28 -- I'll give you the citation if you want
17 it. I'm trying to move fast.

18 Alternatively, in seven decisions
19 the respective high courts decided that the
20 lieutenant governor may vote to break a vote
21 in procedural matters, including in Delaware,
22 Idaho, Kansas, Michigan, Montana, Nebraska and
23 North Dakota.

24 In conclusion, I really wanted to
25 say that we're going to disenfranchise voters

1 more than anything else. Not only are we
2 going to create a bad precedent in terms of
3 this house and what happens here, but the
4 voters who voted for a Governor voted for that
5 Governor because he had a different set of
6 powers and responsibilities than a Senator.
7 Senators should not be in line to become
8 Governor, and that's fine. You know, all of
9 our aspirations aside.

10 What we ought to be doing here is
11 having a process that is authentic and that
12 keeps the integrity of what voters voted for
13 when they elected us but, more importantly,
14 when they elected the Governor and the
15 Lieutenant Governor of the state.

16 I'll accept a question if Senator
17 Nozzolio still has one.

18 ACTING PRESIDENT YOUNG: Senator
19 Nozzolio passes at this time.

20 SENATOR PARKER: Thank you.

21 ACTING PRESIDENT YOUNG: Thank
22 you, Senator Parker.

23 Again, I would ask the speakers to
24 be brief.

25 The next speaker would be Senator

1 Gianaris.

2 SENATOR GIANARIS: Thank you,
3 Madam President. Would Senator Libous yield
4 for a question.

5 ACTING PRESIDENT YOUNG: Senator
6 Libous, do you yield?

7 SENATOR LIBOUS: I do, Senator.

8 ACTING PRESIDENT YOUNG: Thank
9 you, Senator.

10 SENATOR GIANARIS: Thank you.

11 My question to Senator Libous is
12 simply do you believe that the State
13 Constitution currently provides the Lieutenant
14 Governor the power to break ties over the
15 selection of a Temporary President in the
16 Senate?

17 SENATOR LIBOUS: No, I do not. I
18 think I've been very clear, Madam President.

19 SENATOR GIANARIS: You have.

20 Would the Senator continue to
21 yield, Madam President.

22 ACTING PRESIDENT YOUNG: Senator
23 Libous, do you yield?

24 SENATOR LIBOUS: I do, Madam
25 President.

1 ACTING PRESIDENT YOUNG: Go
2 ahead, Senator Gianaris.

3 SENATOR GIANARIS: Given that you
4 have made that position very clear, I have one
5 very simple question. Which is if you do not
6 believe the Constitution provides that power
7 currently, why is it necessary to include this
8 provision in the rules of the Senate?

9 SENATOR LIBOUS: It just
10 clarifies what we believe the Constitution
11 says.

12 SENATOR GIANARIS: Exactly.
13 Thank you, Senator Libous.

14 On the resolution, Madam President.

15 ACTING PRESIDENT YOUNG: On the
16 resolution.

17 SENATOR GIANARIS: What we heard
18 Senator Libous just admit to is that it is the
19 intent of the Senate Majority to use the
20 Senate rules to interpret a provision of the
21 Constitution. And that is an incredibly
22 dangerous thing to do.

23 It is without question that there
24 is a difference of opinion as to what the
25 Constitution provides in Article 4, Section 6.

1 We heard Senator Saland earlier refer to the
2 New York Times of the 1800s -- and far be it
3 from me not to accept the New York Times as an
4 authority.

5 But there is also another authority
6 from New York, from 1906, which postdates that
7 New York Times article, from Charles Lincoln,
8 a treatise called "The Constitutional History
9 of New York." The author was a member of the
10 New York Constitutional Convention. And he
11 stated very clearly: "The power to dissolve a
12 tie and decide the question has been properly
13 vested in the Lieutenant Governor. This power
14 extends to all matters not involving the
15 passage of a bill, including the choice of its
16 officers, including the Temporary President."

17 So at a minimum, there's a
18 difference of opinion as to what this
19 provides. And there are two ways our
20 government allows for varying interpretations
21 of the Constitution to be resolved. One is
22 for the court system to interpret those
23 provisions. And a situation like this
24 ultimately would be decided by the highest
25 court in the state, the Court of Appeals.

1 I find it rather ironic that we
2 hear from the Majority the complaint that the
3 Lieutenant Governor is not an elected member
4 of the Senate and therefore is inserting
5 himself as an elected member if he were to be
6 given this power, yet at the same time the
7 Senate Majority, by its own admission, is
8 inserting itself as members of the judiciary
9 in attempting to interpret what the
10 Constitution of the state provides.

11 There's a second way that disputes
12 as to constitutional interpretation can be
13 resolved, and that way rests properly with the
14 Legislature. That is to amend the
15 Constitution. And that is also not what the
16 Senate Majority is doing. They are not
17 suggesting a constitutional amendment to
18 further clarify Article 4, Section 6, which
19 would be the subject of a robust debate in
20 this chamber and in the other chamber across
21 the hall, would have to be passed by two
22 separately elected legislatures and,
23 importantly, be approved by the people of the
24 State of New York in a referendum.

25 What is not an option is for the

1 rules dictating the procedure of this house to
2 be used to interpret the most important
3 governmental document this state has, and
4 that's the Constitution of the State of
5 New York.

6 ACTING PRESIDENT YOUNG: Senator
7 Nozzolio, why do you rise?

8 SENATOR NOZZOLIO: Madam
9 President, will Senator Gianaris respond to a
10 question.

11 ACTING PRESIDENT YOUNG: Do you
12 yield, Senator?

13 SENATOR GIANARIS: I'd be happy
14 to.

15 ACTING PRESIDENT YOUNG: Go
16 ahead, Senator Nozzolio.

17 SENATOR NOZZOLIO: Thank you,
18 Senator Gianaris. Thank you, Madam President.

19 Senator Gianaris, the authority you
20 quote as the constitutional authority, who was
21 that?

22 SENATOR GIANARIS: Let me get it
23 exactly right. Charles Lincoln.

24 SENATOR NOZZOLIO: And, Madam
25 President, will Senator Gianaris continue to

1 yield.

2 ACTING PRESIDENT YOUNG: Do you
3 yield, Senator?

4 SENATOR GIANARIS: Yes, I do.

5 ACTING PRESIDENT YOUNG: Go
6 ahead, Senator.

7 SENATOR NOZZOLIO: Thank you,
8 Madam President.

9 Senator Gianaris, did Mr. Lincoln
10 in his analysis refer to any specific action
11 taken by this body and particularly by the
12 Lieutenant Governor? In Mr. Lincoln's
13 analysis, did he refer to any particular
14 action taken by the Lieutenant Governor in
15 making certain decisions of which you are
16 quoting from?

17 SENATOR GIANARIS: Just to
18 clarify, are you asking whether he's a
19 referring to a specific action that actually
20 took place, as opposed to a theoretical
21 discussion?

22 SENATOR NOZZOLIO: That's
23 correct.

24 SENATOR GIANARIS: Not in the
25 section that I quoted, no.

1 ACTING PRESIDENT YOUNG: Senator
2 Nozzolio.

3 SENATOR NOZZOLIO: If Senator
4 Gianaris would continue to yield, Madam
5 President.

6 ACTING PRESIDENT YOUNG: Will you
7 continue to yield, Senator Gianaris?

8 SENATOR GIANARIS: Yes, Madam
9 President.

10 ACTING PRESIDENT YOUNG: Go
11 ahead.

12 SENATOR NOZZOLIO: It's my
13 understanding, Senator, that the source and
14 authority of which you quote based his
15 decision on certain articles of the State
16 Constitution that were actually regarding --
17 in his argument supported by a single case in
18 which the mayor of a city in this state voted
19 to break a tie on a substantive matter, that
20 he had -- the constitutional authority which
21 you quote was not referring to the Lieutenant
22 Governor of the State of New York but rather
23 an action by a mayor and city council.

24 SENATOR GIANARIS: In discussing
25 the action which you reference, the author,

1 who has been regularly cited as a source by
2 our Court of Appeals, went into the
3 theoretical discussion of the powers of a
4 Lieutenant Governor in making the analysis as
5 it relates to the case you're talking about.

6 My point is simply that there are
7 authorities that are on either side of this
8 issue, and this matter is properly resolved
9 either by the court system itself -- which is
10 where a constitutional interpretation should
11 be interpreted -- or, if the Legislature is
12 going to take this up, it should do so through
13 the process of a constitutional amendment, not
14 through setting the procedural rules of this
15 house, which is what you are attempting to do
16 tonight.

17 SENATOR NOZZOLIO: Madam
18 President, will Senator Gianaris continue to
19 yield.

20 ACTING PRESIDENT YOUNG: Will you
21 yield?

22 SENATOR GIANARIS: Yes, Madam
23 President.

24 SENATOR NOZZOLIO: That I
25 appreciate your isolating this, although

1 certainly I recall last year or two years ago
2 when the selection of Lieutenant Governor was
3 made not by any constitutional authority but a
4 combination, of which I believe you suggested
5 be for with. Isn't that in fact the direct
6 opposite of what you're suggesting now,
7 that -- but let me -- let me --

8 SENATOR GIANARIS: Is that a
9 question, Madam President? Because I would
10 like to answer it.

11 ACTING PRESIDENT YOUNG: Is that
12 a question, Senator?

13 SENATOR NOZZOLIO: No, Madam
14 President, it wasn't.

15 (Laughter.)

16 ACTING PRESIDENT YOUNG: It was a
17 statement, Senator.

18 SENATOR NOZZOLIO: My question,
19 Senator, is this. There is one word in the
20 State Constitution that isolates the actions
21 of a Lieutenant Governor from the threshold to
22 the casting vote, and that one word is the
23 word "therein."

24 It's my opinion and the opinion of
25 others on our side of the aisle that the word

1 "therein" constitutes the operative time when
2 the Lieutenant Governor can engage his
3 authority after the body so chooses its
4 leadership.

5 And I believe that is an issue that
6 I did not hear you discuss. Are you not
7 familiar with that provision of the State
8 Constitution? Let me refer that to you. It's
9 Article 4, Section 6.

10 ACTING PRESIDENT YOUNG: Senator
11 Gianaris.

12 SENATOR GIANARIS: Yeah, I
13 respect the Senator's position on that. And I
14 respect that there can be differences of
15 opinion as to how Article 4, Section 6 should
16 be interpreted.

17 My point is simply that that is not
18 resolved on the floor of the Senate when we're
19 passing the rules of the Senate. That is
20 either resolved by the Court of Appeals, after
21 litigation -- which, to answer your previous
22 question which you revoked, was in fact where
23 the issue of the appointment of the Lieutenant
24 Governor was decided, ultimately, as it should
25 have been -- or by constitutional amendment.

1 What is it that the Senate Majority
2 is afraid of? Put forward a constitutional
3 amendment. Let's vote for it, if that's what
4 you want to do. Let's see what the Assembly
5 does. And let's change the Constitution the
6 proper way, if that's what you want to do, not
7 through this back-door mechanism of
8 establishing the procedural rules of this
9 house in a way that by Senator Libous's own
10 admission is intended to interpret the
11 Constitution.

12 SENATOR NOZZOLIO: Madam
13 President, will Senator Gianaris continue to
14 yield.

15 ACTING PRESIDENT YOUNG: Will you
16 yield?

17 SENATOR GIANARIS: Yes, Madam
18 President.

19 ACTING PRESIDENT YOUNG: I'm
20 confused, Senator. The purity of which you
21 wish to change the Constitution was ignored
22 totally in the selection of Lieutenant
23 Governor.

24 Your admonition that this body
25 change the State Constitution was a plea that

1 was totally ignored when this body put on a
2 rider to the last year's budget that totally
3 changed the way the census is determined in
4 New York State, in direct contradiction to the
5 State Constitution.

6 I guess that's the question we had
7 then: Why didn't the same Legislature change
8 the State Constitution during the prison
9 census issue or during the Lieutenant Governor
10 issue? Neither of those constitutional
11 questions were changed by the State
12 Constitution but rather by this body.

13 SENATOR GIANARIS: It was my
14 position, Senator Nozzolio -- I can speak most
15 authoritatively about the Lieutenant Governor
16 appointment issue. And it was my position and
17 continues to be my position that the
18 Constitution allowed that appointment. So the
19 Constitution did not need to be changed.

20 Others disagreed, and they took it
21 to court and they lost. So we had a
22 Lieutenant Governor that was appointed.

23 The fact is that in this case the
24 Senate Majority believes that the Constitution
25 does not provide the Lieutenant Governor the

1 power to break a tie. I disagree.

2 But given that the Majority does
3 not believe that power currently exists,
4 there's no reason to insert it in the rules
5 right now other than to try and interpret the
6 Constitution. And that is inappropriate, and
7 that is in contravention of the balance of
8 powers that this state has been living under
9 for over 200 years.

10 And I find it offensive, and I
11 think it's the worst of what people dislike
12 about Albany. The worst of what people
13 dislike about this Capitol is that we are
14 using the procedural rules of this house to
15 interpret something as important as the powers
16 of the Lieutenant Governor of the State of
17 New York.

18 SENATOR NOZZOLIO: Senator, you
19 and I respectfully --

20 ACTING PRESIDENT YOUNG: Senator,
21 are you asking Senator Gianaris to yield?

22 SENATOR NOZZOLIO: Yes, Madam
23 President.

24 ACTING PRESIDENT YOUNG: Do you
25 yield?

1 SENATOR GIANARIS: Yes, Madam
2 President.

3 ACTING PRESIDENT YOUNG: Proceed.

4 SENATOR NOZZOLIO: Senator
5 Gianaris, you and I respectfully disagree
6 about that tactic and the characterization of
7 the motivation for placement of these rules.

8 I appreciate you clarifying your
9 source, your constitutional source, and I
10 thank you for your yielding.

11 SENATOR GIANARIS: Thank you,
12 Senator.

13 And I know the time is short, so I
14 will just conclude. I think my points have
15 largely been made.

16 But this is not the time and the
17 place to be interpreting the Constitution or
18 to be tinkering with a document as important
19 as the Constitution. If there's a
20 disagreement as to what the Constitution says,
21 the courts should resolve it. If we're not
22 happy with what the Constitution says, we
23 should change it through the constitutional
24 amendment process, not through setting the
25 rules of the Senate.

1 And with that, I conclude my
2 remarks and thank the President for the time.

3 ACTING PRESIDENT YOUNG: Thank
4 you, Senator Gianaris.

5 I see Senator Duane in the chamber.
6 Senator Duane, I believe you had wished to
7 speak, and I would ask -- okay, thank you very
8 much. We really appreciate it.

9 Senator Bonacic.

10 Don't take that the wrong way.

11 (Laughter.)

12 SENATOR BONACIC: It's been a
13 long day. My name was invoked six times in
14 discussing the amendments of reform. And I'd
15 like to for a moment leave aside the
16 Lieutenant Governor debate. I think good
17 points were made on both sides, but it's going
18 to have to be determined by a court of law. I
19 think we have a difference of opinion.

20 I did not support the three
21 amendments. I supported the spirit of all
22 three amendments, but there were poison-pill
23 stuff in each of those amendments that were
24 not consistent with our rules report back in
25 April of 2009.

1 Let me first thank Senator Griffo
2 and all the members of that rules reform
3 committee, because I think when the nine of us
4 were at the table -- and I'm not a rules guy.
5 Don't talk to me about Roberts, don't talk to
6 me about Mason rules. I like policy. But we
7 got charged with this responsibility. And the
8 more we got into this, and the more we had
9 public hearings and the more we listened to
10 good government groups and the more we looked
11 at other states and the more we heard scholars
12 come in, and legal professors, there is
13 something to doing good rules.

14 And even though in the two years
15 when you were in the majority you did take
16 turtle steps -- that you interpret as
17 monumental, compared to what the majority
18 Republicans did years before, because they
19 basically didn't do anything. And I will say
20 to you that that blueprint of that report is
21 the model that we should try to get to, if we
22 can.

23 And why should we try to get there?
24 We should try to get there because the old
25 Albany culture does not work. To the victor

1 belongs the spoils. You see how that Assembly
2 is run. I've come from there; many of you
3 over there have come from that house. That is
4 a dictatorship where the leader and staff have
5 more power than the elected officials.

6 And to a great extent here, that
7 exists, although there are steps taken now to
8 break that culture. And it's all healthy.
9 And why is it healthy? Because every member
10 that gets to this seat as a Senator must have
11 the security of a certain amount of resources
12 to do his job. His constituents should not
13 suffer, his or her constituents should not
14 suffer if they're in the minority. They
15 didn't do anything wrong.

16 They should have access to equal
17 resources, they should have access to equal
18 member items, and they should have access to
19 equal capital. Not the Senator, but the
20 constituents. And you should be able to
21 communicate and have the resources so you can
22 communicate with each other, the Senator and
23 the constituents. Under this system now, that
24 doesn't happen.

25 Our conference did not go far

1 enough in following the rules. In my humble
2 opinion, they did not. And I wanted them to.
3 But there's so much distrust between each side
4 of the aisle, there's so much partisan
5 politics, and the stakes are so high with
6 32-30 and redistricting coming down the road.
7 So the environment is toxic for people of
8 goodwill to try to get to that comfort
9 position that the blueprinters laid out in
10 that report in April.

11 I believe that -- and I liked the
12 chemistry of those nine members, because they
13 were sincere, they were new, many of them, and
14 they said this is a better way. But when it
15 got up the flagpole, when you have the
16 leadership has the power and they have the
17 money and they have the control, they don't
18 want to let go of this. Again, back to the
19 Albany old culture.

20 So all I will say in conclusion is
21 that it's very difficult when you're in the
22 majority to move the rules reform to get to
23 that place of comfort where Senators are
24 treated equally and constituents are treated
25 fairly and equally. The only way that this is

1 going to get done -- and this is a long
2 shot -- is we've got to do it in statute.

3 So what I plan on doing is I'm
4 going to prepare legislation that embodies the
5 heart of those rules reform, such as a
6 petition of 32. Because that's more
7 democratic. If 32 of us want a bill to come
8 to the floor, it should come to the floor and
9 be voted on.

10 I remember when Nettie Mayersohn,
11 the Assemblywoman, when we were over there in
12 the Assembly had 108 votes and couldn't get
13 the bill on the floor. That's not a
14 democracy, that's a dictatorship.

15 And I do believe that there should
16 be equal resources. And we can't -- you know,
17 and I like my leader, Senator Skelos. I think
18 he's respectful. He's benevolent. And I
19 think by his conduct he will try to treat
20 everybody with respect. But leaders come and
21 go, and they could change with more power as
22 they're in a longer time.

23 So it may sound utopian, it may
24 sound not based in reality. But what I would
25 ask each member here, when this legislation

1 comes before you, sign the petition so we can
2 get it on the floor. We took the best of the
3 Brennan Institute, we took the best of the
4 good government groups, we took the best of
5 other states. Because process does affect the
6 quality of the product for the people we
7 represent.

8 So I will say, in conclusion, that
9 I'm supporting this resolution because -- the
10 Lieutenant Governor issue, that's not going to
11 be resolved here tonight, obviously. But
12 there are other things worth fighting for.
13 And as this comes down the road -- now
14 tomorrow, rules won't even be on the radar
15 screen. We'll have economic challenges, we'll
16 have the Governor's blueprint, and that will
17 take all our time. But we will overcome the
18 challenges of the Governor.

19 But every day you have to deal with
20 the rules, each of us do. Every day. That's
21 worth fighting for. That never goes away. So
22 I say, in conclusion, don't lose it off your
23 radar screen as we go into session.

24 Thank you very much, Madam Speaker.

25 ACTING PRESIDENT YOUNG: Thank

1 you, Senator Bonacic.

2 Senator DeFrancisco to close.

3 SENATOR DeFRANCISCO: Just -- I
4 wasn't going to speak on this point, but since
5 it was just raised by Senator Bonacic, you
6 know, it's this utopian philosophy of various
7 policies until you're the individuals who are
8 in control of the house.

9 The Minority is now wanting equal
10 resources. If you look at the numbers from
11 last year, the total final numbers for the
12 amount spent on the Democrat side of the
13 aisle, the amount spent on the Republican side
14 of the aisle, despite their philosophical
15 desire for equality, 71 percent of the
16 resources went to the Democrats in this house,
17 29 percent went to Republicans. The Democrats
18 in the house went over their budget by 10 to
19 14 million; the Republicans went under their
20 budget by several million.

21 So it's one thing talking
22 philosophy and trying to lecture one side or
23 the other side. But if you look at the facts,
24 what is the real reality behind what's being
25 argued for and what was really done.

1 But on the Lieutenant Governor
2 issue, which I think is a very important
3 issue, there's been some suggestion by Senator
4 Gianaris that we are somehow interpreting the
5 Constitution by putting it in the rules. All
6 that's being done, if you look at the
7 Constitution, the phrase from the Constitution
8 is taken from the Constitution and put in the
9 rules. There's no changes. It's taken from
10 the Constitution and put in the rules. No
11 interpretation of anything.

12 And when you indicate that this is
13 some way doing something wrong, just listen to
14 the rules here -- the Constitution, I mean.
15 The Constitution says this. A majority of
16 each house shall constitute a quorum,
17 et cetera. Each house shall determine the
18 rules and be judge of elections and
19 qualifications and shall choose its own
20 officers. And the Senate, the Senate shall
21 choose a Temporary President and the Assembly
22 choose a Speaker. The Senate.

23 I don't think anybody in here truly
24 believes that the Lieutenant Governor is a
25 member of the Senate. The Lieutenant Governor

1 does not run for the Senate. He runs -- and
2 he's not even here tonight. The Lieutenant
3 Governor is a presiding officer. That's all
4 he does.

5 So all that's being done is the
6 Constitution phrase is put right in the rules
7 to make it very clear that this body,
8 including Democrats and Republicans, choose
9 who their leader is going to be, not someone
10 who ran with the executive and is a member of
11 the executive branch.

12 I'll answer a question as soon as I
13 get done with this last point.

14 There's been a lot of argument
15 about another section of the Constitution, on
16 what a casting vote is. Whatever a casting
17 vote is -- and you can have one interpretation
18 from somebody who wrote something in 1902 or
19 someone from the New York Times or whatever.
20 The fact of the matter is it's irrelevant
21 what's meant by a casting vote. That's a
22 general concept. The specific section of the
23 Constitution says the Senate shall choose.

24 So as to the choice of a Temporary
25 President, it's very clear. The specific

1 clause overrides some possible different
2 interpretations by pundits and treatise
3 writers and so forth as to what a casting vote
4 is.

5 Now I'd be happy to answer any
6 question that Senator Squadron might have.

7 SENATOR SQUADRON: Madam
8 President, I --

9 ACTING PRESIDENT YOUNG: Senator
10 Squadron, why do you rise?

11 SENATOR SQUADRON: Will Senator
12 DeFrancisco yield for a question? I think he
13 indicated he would.

14 ACTING PRESIDENT YOUNG: Do you
15 yield, Senator DeFrancisco?

16 SENATOR DeFRANCISCO: Yes.

17 ACTING PRESIDENT YOUNG: Thank
18 you.

19 SENATOR SQUADRON: Just two
20 questions. The hour is beginning to get late,
21 and we only have a couple more hours of this,
22 so just two brief questions.

23 First of all, Senator DeFrancisco,
24 I'm not an attorney. I believe you are an
25 attorney. I believe from time to time you've

1 been helpful in helping me interpret laws
2 before the house.

3 In the case that there's a conflict
4 between the rules of the Senate and the
5 Constitution of the State of New York, Senator
6 DeFrancisco, can you just describe for me
7 which would prevail and carry the weight of
8 law?

9 SENATOR DeFRANCISCO: Which would
10 prevail would be the Constitution. Except
11 here, as I just mentioned moments ago. All
12 these rules are is taking a phrase from the
13 Constitution and putting it in the rules. So
14 they're going to be extremely consistent.
15 They're going to be identical on that issue.

16 SENATOR SQUADRON: And through
17 you, Madam President, just a clarification
18 question to that answer, if Senator
19 DeFrancisco is willing to yield again.

20 SENATOR DeFRANCISCO: Yes.

21 SENATOR SQUADRON: Again, whether
22 there is a conflict here or not, in the case
23 of a conflict, the Constitution certainly
24 would prevail over the rules of the Senate.

25 SENATOR DeFRANCISCO: Senator

1 Squadron, I don't know how I can answer it
2 more clearly. This will not be a conflict.
3 So that esoteric theoretical question that may
4 be on a law exam is immaterial here.

5 The phrase is taken out of the
6 Constitution and put in the rules. They are
7 the same. There is no conflict. The words
8 are identical.

9 SENATOR SQUADRON: Thanks,
10 Senator DeFrancisco. If he's willing to yield
11 to just one final question.

12 ACTING PRESIDENT YOUNG: Senator,
13 do you yield?

14 SENATOR DeFRANCISCO: Yes.

15 ACTING PRESIDENT YOUNG: Go
16 ahead, please.

17 SENATOR SQUADRON: Senator
18 DeFrancisco described a percentage based on
19 some calculation, I'm not sure what the
20 calculation was, of the distribution of
21 resources and somehow suggested that that
22 impugns this debate overall.

23 Just out of curiosity, what does
24 Senator DeFrancisco think is the appropriate
25 division of resources between conferences and

1 among members so that we can all represent our
2 constituents?

3 SENATOR DeFRANCISCO: Well, I
4 certainly don't think that any member should
5 double the cost of their district office that
6 was allocated. That's one thing I think is --
7 you would agree with that, wouldn't you,
8 Senator? Would you agree with me on that?

9 SENATOR SQUADRON: I believe
10 Senator DeFrancisco is asking me to yield, so
11 I will yield briefly and answer that question.
12 Which, as Senator DeFrancisco knows, for
13 better or worse, the Secretary of the Senate
14 makes those decisions in this house.

15 Also, the question is not about
16 that but, again, what does Senator DeFrancisco
17 think would be fair.

18 SENATOR DeFRANCISCO: I'll be
19 happy to answer that.

20 First of all, I think that -- I'm
21 sorry you were forced to spend twice the
22 amount of money by the Secretary of the
23 Senate. But others went under their budget.

24 What I think is fair, I think
25 what's the fairest way to do it is a base

1 amount and then committee chairs have
2 additional funds that would be available to
3 the committee chairs. Because obviously
4 committee chairs have a heck of a lot more
5 responsibility than others. That's the way I
6 would do it. Unfortunately -- well, that's
7 the way I would do it.

8 Thank you very much.

9 ACTING PRESIDENT YOUNG: Thank
10 you.

11 SENATOR SQUADRON: Just for
12 clarity, I didn't hear a percentage
13 distribution of resources. Senator
14 DeFrancisco clearly is quite good at
15 calculating percentages of resources --

16 ACTING PRESIDENT YOUNG: Senator
17 Libous, why do you rise?

18 SENATOR LIBOUS: I believe
19 Senator DeFrancisco --

20 SENATOR DeFRANCISCO: All I
21 wanted to say is I answered the question, and
22 there's nothing else I could add.

23 ACTING PRESIDENT YOUNG: Thank
24 you, Senator.

25 The debate is closed.

1 Senator Duane, you can explain your
2 vote, please. Okay?

3 SENATOR DUANE: I think --

4 ACTING PRESIDENT YOUNG: Senator
5 DeFrancisco was the last speaker.

6 SENATOR DUANE: He did say he was
7 open to any questions, Madam President.

8 ACTING PRESIDENT YOUNG: Senator,
9 could you please explain your vote, because we
10 are way over. We've been very, very -- giving
11 a lot of leeway.

12 SENATOR LIBOUS: Madam President,
13 point of order.

14 This is a resolution and we're --
15 listen. Madam President, we have gone way
16 over the time limit because I felt it was
17 important that everybody be heard. Way over
18 the time limit. No one got up to raise the
19 fact that one side or the other was speaking
20 too long.

21 Madam President, Senator Duane had
22 an opportunity to speak before, and he turned
23 it down. I will be a gentleman, Madam
24 President, and let Senator Duane close the
25 debate on this issue if he would be brief,

1 please.

2 SENATOR DUANE: Through you,
3 Madam President --

4 ACTING PRESIDENT YOUNG: Can you
5 be brief, Senator?

6 SENATOR DUANE: It was -- I
7 was -- I'm not really that interested in
8 closing the debate. We have someone to do
9 that. I will answer my own question -- I will
10 answer my questions as I assume they would
11 have been answered by the other side when I
12 cast my vote.

13 ACTING PRESIDENT YOUNG: Thank
14 you very much, Senator.

15 The debate is closed.

16 The question is on the resolution.
17 All those in favor signify by saying aye.

18 (Response of "Aye.")

19 ACTING PRESIDENT YOUNG: Opposed,
20 nay.

21 (Response of "Nay.")

22 ACTING PRESIDENT YOUNG: Senator
23 Duane, would you like to explain your vote?

24 SENATOR DUANE: Thank you, Madam
25 President.

1 SENATOR DeFRANCISCO: Point of
2 order.

3 ACTING PRESIDENT YOUNG: Senator
4 DeFrancisco.

5 SENATOR DeFRANCISCO: The rules
6 that have been adopted -- and even according
7 to the prior rules -- do not allow explanation
8 of votes on resolutions. The rules are clear.
9 And I would ask for a ruling of the chair.

10 SENATOR BRESLIN: Madam
11 President, point of order, please.

12 ACTING PRESIDENT YOUNG: Senator
13 Breslin.

14 SENATOR BRESLIN: Yes, Madam
15 President. I refer you to our rules -- that
16 would be 9.3(e), wherein it talks about that
17 you are allowed to provide an explanation of
18 your vote. Resolutions or motions are
19 included.

20 ACTING PRESIDENT YOUNG: Senator
21 DeFrancisco.

22 SENATOR DeFRANCISCO: That
23 section says the vote shall thereupon be taken
24 upon such bill, resolution, et cetera, but
25 without further debate -- without further

1 debate -- except that upon a roll call any
2 Senator may speak, not to exceed two minutes
3 in explanation.

4 That was not a roll call vote, that
5 was a voice vote.

6 SENATOR BRESLIN: We call for a
7 roll call vote.

8 SENATOR DeFRANCISCO: We've had
9 the vote, and the vote has been taken.

10 SENATOR LIBOUS: Madam President,
11 the vote has been taken. A roll call vote on
12 a resolution is not in order, is not in the
13 rules of this house. And I believe the
14 resolution was before the house, I believe a
15 vote was taken and the resolution passed. Is
16 that correct, Madam President?

17 SEVERAL SENATORS: No. No.

18 SENATOR BRESLIN: Madam
19 President --

20 SENATOR LIBOUS: What do you
21 mean, no? I've got all these critics?

22 Madam President, I believe half of
23 the house is out of order right now.

24 UNIDENTIFIED SENATOR: Which
25 half?

1 SENATOR MAZIARZ: A little less
2 than half.

3 ACTING PRESIDENT YOUNG: Senator
4 Libous, what I'd like to do, if it's okay, is
5 that I had told Senator Duane that he could
6 explain his vote. So I would like to make the
7 exception this time so that he can briefly
8 explain his vote, because I told him he could
9 do it, and then we'll proceed from there.

10 SENATOR LIBOUS: Madam President,
11 I would allow that with unanimous consent for
12 this one time only. Do we have unanimous
13 consent of the house? And it would be allowed
14 for this one time.

15 ACTING PRESIDENT YOUNG: Is there
16 any objection?

17 (No response.)

18 SENATOR LIBOUS: There appears to
19 have unanimous consent, Madam President, to
20 let Mr. Duane speak.

21 ACTING PRESIDENT YOUNG: Senator
22 Duane, you have two minutes to explain your
23 vote.

24 SENATOR DUANE: Thank you, Madam
25 President.

1 Sadly, it has become clear to me
2 that there really are no really shining
3 examples of either what happened over the past
4 two years or what is happening now. And my
5 hope is, my desire is, my wish and my belief
6 of what we should do is to make rules that
7 going forward in this house will provide for
8 fairness, transparency, and equality, and not
9 make rules based on the bad behavior of some
10 members over the past few years.

11 So with that, Madam President, I'm
12 going to vote no, but with the fervent desire
13 that we can take members at their word that
14 they actually are going to do more to improve
15 our rules. The people of New York State
16 deserve no less.

17 Thank you, Madam President.

18 SENATOR LIBOUS: Announce the
19 results.

20 ACTING PRESIDENT YOUNG: Thank
21 you, Senator Duane.

22 Senator Breslin.

23 SENATOR BRESLIN: I'd request a
24 show of hands, if I could, please.

25 ACTING PRESIDENT YOUNG: Very

1 good. The question is on the resolution.
2 Those in favor signify by raising their hands.

3 (Senators raised their hands.)

4 SENATOR BRESLIN: As before,
5 Madam President, I would request that we have
6 the names of those voting in the affirmative.

7 ACTING PRESIDENT YOUNG: The
8 Secretary will announce the results.

9 THE SECRETARY: In relation to
10 Resolution Number 338: Ayes, 36. Nays, 24.

11 Those recorded in the affirmative
12 on Resolution Number 338 are Senators Alesi,
13 Ball, Bonacic, DeFrancisco, Farley, Flanagan,
14 Fuschillo, Gallivan, Golden, Griffio, Grisanti,
15 Hannon, Johnson, Lanza, Larkin, LaValle,
16 Libous, Little, Marcellino, Martins, Maziarz,
17 McDonald, Nozzolio, O'Mara, Ranzenhofer,
18 Ritchie, Robach, Saland, Seward, Skelos,
19 Young, Zeldin, Carlucci, Klein, Savino and
20 Valesky.

21 ACTING PRESIDENT YOUNG: The
22 resolution is adopted.

23 Senator Libous.

24 SENATOR LIBOUS: Madam President,
25 is there any other business before the house?

1 I didn't say we adjourned yet. Is
2 there any other business before the house?
3 Madam President?

4 ACTING PRESIDENT YOUNG: There is
5 no other business.

6 SENATOR LIBOUS: Madam President,
7 I hand up the following committee assignment
8 from Senator Skelos and ask that it be filed
9 in the Journal.

10 And, Madam President, there being
11 no further business, the Senate will stand
12 adjourned -- could I have some order in the
13 house?

14 ACTING PRESIDENT YOUNG:
15 (Gaveling).

16 SENATOR LIBOUS: The Senate will
17 stand adjourned until noon tomorrow.

18 ACTING PRESIDENT YOUNG: So
19 ordered, Senator Libous.

20 On motion, the Senate stands
21 adjourned until Tuesday, February 1st, at
22 12:00 o'clock noon.

23 (Whereupon, at 8:20 p.m., the
24 Senate adjourned.)
25