NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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REGULAR SESSION

SENATOR JOSEPH E. ROBACH, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT ROBACH: The Senate will come to order.

I now ask everyone present to please join me in the Pledge of Allegiance.

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

ACTING PRESIDENT ROBACH: If we could now bow our heads as we have our invocation today by William Francis Murphy, the Bishop of the Diocese of Rockville Centre.

BISHOP MURPHY: Senator Robach, thank you so very much.

It's an honor and privilege for me to be here with you today representing the Catholic Bishops of New York State, who have been here visiting with many people from around our state, and our Catholic families, to speak with you and with others about the important work that you do.

And know that we pray for you every day. But today it's my high honor to be able to pray with you as you inaugurate this session of the State Senate.

I come from Rockville Centre, and

I'm the Catholic Bishop there. And as you all know, the State Senator is a good Greek Orthodox. And so I am wearing the cufflinks that the Ecumenical Patriarch, Bartholomew of Constantinople, gave to me, just to let you know how close I feel to my State Senator.

Let us pray.

Almighty and Eternal God, You have revealed Your glory to all the nations. God of power and might, wisdom and justice, through You laws are enacted for the common good of all.

Let the light of Your divine wisdom direct the deliberations of this State Senate, and especially, if I may, Lord, for my dear friend and Senator, Dean Skelos.

May all the members of this august Senate seek to frame laws that preserve peace, promote true happiness, and continue to bring this state the blessings of liberty and equality. May all the members of our State Senate enjoy Your powerful protection as they seek to discharge their duties with honesty and integrity.

We likewise commend to Your

unbounded goodness all the citizens of this Empire State.

May we persevere in building up unity and strive to realize that peace which is Your gift for the good of all and everyone. For we rejoice in Your protection and Your care, for You are one God and Lord, forever and ever. Amen.

ACTING PRESIDENT ROBACH: Thank you, Bishop Murphy.

And let me also recognize in the gallery His Excellency the Most Reverend Timothy Michael Dolan, Archbishop of the Diocese of New York.

(Applause.)

ACTING PRESIDENT ROBACH: And the Reverend Howard J. Hubbard, Bishop of the Roman Catholic Diocese here in Albany.

Thank you for joining us here today.

(Applause.)

ACTING PRESIDENT ROBACH: Reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate,

Monday, March 7, the Senate met pursuant to adjournment. The Journal of Sunday, March 6, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Senator DeFrancisco.

SENATOR DeFRANCISCO: There's a report of the Finance Committee at the desk dealing with four nominations. And I would request permission to have those nominations read.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Finance, reports the following nominations.

As the Commissioner of the New York State Department of Environmental Conservation, Joseph J. Martens, of Glenmont.

ACTING PRESIDENT ROBACH: Senator DeFrancisco.

SENATOR DeFRANCISCO: I stand to proudly move the nomination of Joseph J. Martens for the position of Commissioner of the New York State Department of Environmental Conservation.

He appeared before not only the Environmental Conservation Committee but the Finance Committee, was unanimously recommended before this full body. And having moved his nomination, I would ask the chair or the president to recognize Senator Grisanti, the chairman of the Committee on Environmental Conservation to second the nomination.

ACTING PRESIDENT ROBACH: To second the confirmation, Senator Grisanti.

SENATOR GRISANTI: Yes, thank you, Mr. President.

I stand today to put forward to my friends and colleagues the nomination of Joseph Martens as the next Commissioner of the New York State Department of Environmental Conservation.

I have met with Commissioner

Martens numerous times. He has gone through the EnCon Committee with overwhelming, unanimous support. He has an impressive resume, numerous achievements and accomplishments, and I believe he will enhance the department.

He understands the challenges that lie ahead, and I believe he will be open to making sure that the department is more business-friendly, that regulation enhance business, not deter it, and that permits will be issued on a fast track and an overall better efficiency will be seen in the department as a whole.

I believe Commissioner Martens will be a strong voice for the environmental stewardship and for the preservation and enhancement of New York's natural resources. As I said, he will be receptive to input on both sides of the aisle. I encourage you, if you have issues, to contact his offices.

And he has an understanding of the issues, and I have full confidence and I second the nomination.

And I also want to recognize he is

here with his wife, Katherine, and his three children, Marcelle, Julia and Liam.

Again, I second the nomination. Thank you.

ACTING PRESIDENT ROBACH: Thank you, Senator Grisanti.

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

I rise to second and praise the nomination of Joe Martens to become Commissioner of Environmental Conservation.

Anyone who observed the reactions to this nomination across this state would be truly unbelieving. From business interests, everybody praised the outstanding work that he's done in his past and were delighted with his nomination. From environmental groups, the same kinds of comments. And isn't that the true middle part, when everybody applauds a nomination.

And I look forward to Joe Martens being the most exceptional Commissioner of Environmental Conservation this state has ever known. And I wish him every success, and

hello to his family.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Breslin.

Senator Libous on the nomination.

SENATOR LIBOUS: Thank you, Mr. President. I rise to speak on the nomination of Joe Martens.

And Joe and I have had a number of conversations. He understands that, you know, in my district obviously the exploration of natural gas drilling is a huge issue, along with a number of counties in upstate New York. My constituents asked me at a number of sessions and meetings to make sure that I had conversations with Mr. Martens about how he viewed the department in moving forward.

And, Mr. President, I stand before you to say that I believe that Mr. Martens answered me in an honest and very sincere manner, and I believe that moving his nomination for commissioner is going to be very good for this state, its environmental policies. And I hope to have a long and very cordial working relationship with him, not

only on the permitting process of natural gas drilling hopefully someday in this state, but along with all of the other key environmental issues that are important to this state.

So I stand on this floor to give Mr. Martens my support and wish him the very best.

ACTING PRESIDENT ROBACH: Senator Little on the nomination.

SENATOR LITTLE: Thank you, Mr. President.

I would be remiss if I didn't stand and commend the Governor for his selection of Joe Martens for the Commissioner of Environmental Conservation. Joe has worked with the Olympic Regional Development Authority as chairman of that organization for a few years, has done a great job there, certainly knows the North Country.

But more impressive than anything is his belief that the environment and the economy can both be considerations when we're working on many of these issues and regulations.

So I look forward to working with

him, I congratulate him and his family, and know he will do a great job.

Thank you.

ACTING PRESIDENT ROBACH: Are there any other Senators wishing to be heard?

If there are none, the question is on the nomination of Joseph J. Martens as Commissioner of the New York State Department of Environmental Conservation. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: Joseph J. Martens is hereby confirmed as Commissioner of the New York State Department of Environmental Conservation.

Congratulations to you, your wife Kathy, and family.

(Applause.)

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: As Commissioner of the New York State Department of Taxation

and Finance, Thomas H. Mattox, of Rifton.

ACTING PRESIDENT ROBACH: Senator DeFrancisco.

SENATOR DeFRANCISCO: I again rise, to move the nomination of Thomas H. Mattox as Commissioner of the Department of Taxation and Finance.

Again, he appeared before the Investigations Committee and the Senate Finance Committee and was unanimously recommended to this full body.

And I would request that you recognize Senator Marcellino for a second.

ACTING PRESIDENT ROBACH: Senator Marcellino to second the nomination.

SENATOR MARCELLINO: Thank you, Mr. President. Thank you, Chairman DeFrancisco.

It's my pleasure to rise to second the nomination of Thomas H. Mattox to be Commissioner of the Department of Taxation. This is not an easy job to fill, and this is not an easy time to fill it. I don't envy you. I would urge the Governor to supply you with State Police protection so that you don't

have -- I'm just kidding.

The gentleman is well-qualified. He has a substantial background. He knows the issues, knows it well, speaks well, is in my mind a good person. I commend the Governor for this nomination and look forward to working with him to help make a very difficult job as easy as it could possibly be to better the interests of the citizens of the State of New York.

Congratulations.

Mr. President, I second this nomination.

ACTING PRESIDENT ROBACH: Thank you, Senator Marcellino.

Are there any other Senators wishing to be heard on the nomination?

If there are none, the question is on the nomination of Thomas H. Mattox as Commissioner of the New York State Department of Tax and Finance. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: All those opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: Mr. Mattox is hereby confirmed as Commissioner of Taxation and Finance.

Congratulations.

(Applause.)

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: As Commissioner of the New York State Department of Transportation, Joan M. McDonald, of the Bronx.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Joan M. McDonald as Commissioner of the Department of Transportation.

Again, the Transportation Department unanimously recommended her approval, as did the Finance Committee.

Actually, today was very boring. We should have more controversial candidates than ones that are so highly qualified that pass without much discussion. But I assume that may happen someday, but not today.

We're proud to have these highly qualified candidates. And I'd ask you to recognize Senator Fuschillo to second the nomination.

ACTING PRESIDENT GRIFFO: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you very much, Mr. President and Chairman DeFrancisco.

The Transportation Committee, as mentioned, did meet this morning. And it wasn't boring, because we had a candidate that was highly qualified. And she brings extensive experience in economic development and transportation to the State of New York, and we complimented her on her willingness to serve the people of New York State.

There are so many issues that are facing New York State with respect to transportation, and we brought some of them up. And we'd like the new commissioner, once she's confirmed today, to talk about and try to foster public/private partnerships.

But one of the issues we brought up, and I handed her a letter, is that we

never received the regional share as a distribution of the capital program. And that is critically important. And it was mentioned in the committee today, Mr. President, about some of the regions that are literally being shortchanged -- Region 5 was mentioned repeatedly, over and over, in the meeting today -- but all regions. And we need clarification on exactly what the regions are getting.

One of the things that I admired most about Joan McDonald was her statement today about how vital and critically important it is that we improve our infrastructure here in New York State to get our economy going. We need to get this state back on the right direction.

And I believe she is the most qualified individual to serve as the Commissioner of Transportation in the State of New York, and I happily second her nomination.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Robach.

SENATOR ROBACH: Yes,

Mr. President, let me too rise to cast my vote in the affirmative and applaud the Governor for this nomination.

Transportation is critically important anywhere in the state, especially in upstate New York. And I can attest to just last evening at 7 o'clock, I was on a conference call with the then Acting Commissioner, soon to be Commissioner, in order to work on a project, try to have some flexibility.

We're working together to make a big transportation work in our area that will not only be beneficial to transportation but to economic development and growth efforts of both Rochester Institute of Technology and the University of Rochester and of the traffic pattern. And luckily we have growth there, so it's growing.

But a testimony to the soon-to-be Commissioner, who even last night at 7 o'clock was still on the job working. And I applaud that greatly. We're in challenging times, so we appreciate that get-it-done work attitude that's been exhibited. And I'm happy to cast

my vote in the affirmative for this new commissioner.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Kennedy.

SENATOR KENNEDY: Thank you, Mr. President. I too want to stand in recognition and in affirmation of Ms. Joan McDonald on her appointment by the Governor as the Commissioner of the Department of Transportation.

I want to also echo and give my gratitude to the chair of the Transportation Committee, Senator Fuschillo, for allowing us to talk at length about some of the concerns across New York State.

We very much look forward to working with you, Commissioner-to-be McDonald, and especially as it pertains to the Western New York community and Region 5.

And just to touch on what's already been touched on before, without pontificating, Region 5 has lost out on hundreds of millions of dollars in economic development because of a human error that occurred in the past. We

as a committee, we as a Western New York delegation of Democrats and Republicans are looking forward to working with you, Commissioner McDonald, to rectify that human error with a human correction.

Thank you very much for the opportunity, and congratulations.

ACTING PRESIDENT GRIFFO: Senator Maziarz.

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

I just want to add my support for this nomination but also to caution, as my previous colleagues did, Senator Fuschillo and Senator Kennedy, about the error that was made with Region 5.

Obviously everybody wants more transportation dollars spent in their regions. But given the current formulas that are used, there was clearly an error made in Region 5. And, Commissioner, we welcome you to come out and to meet with our group of contractors, engineers, builders and talk to them about how we are going to correct this error and make it right for Region 5 and Western New York.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Ranzenhofer.

SENATOR RANZENHOFER: Thank you, Mr. President. I also want to rise and lend my support to this nomination.

I was very impressed with the people that spoke on her behalf today. We had a number of people both from the private sector and public sector that had worked with her over a number of years. And she appears to be very, very highly qualified.

But most importantly, I was impressed by the fact that she came to the meeting with pen and paper in hand, willing to listen and to make some notes of the concerns that we had. And the concerns that were expressed in committee -- and again, I thank you, Chairman Fuschillo, for allowing us the opportunity to address those concerns.

And again, just to briefly state them here on the floor, as was just mentioned by Senators Maziarz and Kennedy and was mentioned by Senator Young in committee today, along with myself, that the inequities of the

past need to be addressed.

And I was very impressed with the fact that she said that she was willing to take a look at that again, that she made some notes. She is aware of the historical error that has taken place. And I believe her to be a very fair-minded individual, look forward to having her out to Western New York to meet with our representatives there.

And again, I just want to second the nomination and lend my support to this very fine commissioner.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I too rise to second the nomination of Joan McDonald.

I've had the pleasure of knowing Joanie for a number of years, and she brings a unique aspect to this. Not only is she extremely qualified for the job, and the Governor made a very, very good appointment here, but she knows and understands the Legislature. And while certainly being the

Commissioner of the Department of Transportation has to do with a whole host of things, roads and bridges and all those important things, you also have to deal with 150 members of the Assembly and 62 members of the Senate as it pertains to roads, bridges, MTA issues and others.

She gets it, she understands it. And I think she will be an outstanding commissioner. At a time when this department is starving for leadership, Mr. President, I think she will be an outstanding commissioner. She will provide the leadership that is needed. I look forward to working with her.

I give you best wishes and Godspeed.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. First of all, I want to say that about it being boring, I was just kidding.

(Laughter.)

SENATOR DeFRANCISCO: I don't know if Senator Fuschillo took offense to that, but I was just kidding.

Secondly, since other than Senator Libous just about the entire Western New York delegation spoke, I just want you to know that Syracuse and Central New York is in the State of New York as well. And we would like parity and equity in Central New York as far as transportation issues.

And congratulations.

ACTING PRESIDENT GRIFFO: Senator Smith.

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

Let me, one, congratulate the Governor on a fine nominee. Commissioner McDonald, I think you've heard enough from my colleagues about the equitable distribution of the Department of Transportation. I would submit to you that if we want to ensure that the State of New York is one state, as so many of us know, high-speed rail will connect all of the state, from the south end of the state to the western part of the state.

So while I know you have an aggressive agenda on infrastructure and roads and bridges, let's keep in mind that the one

thumbprint that will last on this planet to move us into a new level of competitiveness is high-speed rail.

But I do congratulate you. Your expertise speaks for itself. And I'm quite sure the entire Legislature looks forward to working with you as well. Thank you and congratulations.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, this morning when we had the opportunity in Transportation to meet our new Commissioner of Transportation, it was really open-minded. I had the distinct pleasure of sitting in at meetings with her when she was property of Connecticut. And she made New York look foolish, because she was properly prepared to induce people to come to Connecticut while we were incapable of bringing people back to New York.

I was very impressed then because of her manner, her attitude. And as we were

talking, she was always taking notes. She did the same thing today.

We are very fortunate to have her come back to New York and help us lead an agency that needs a lot of leadership. Thank you very much, and welcome home.

ACTING PRESIDENT GRIFFO: Thank you, Senator Larkin.

Senator Perkins.

SENATOR PERKINS: Thank you very much. I'm going to be brief because I wanted to extend my congratulations and appreciation for the opportunity that we had to meet the new commissioner.

I note, for those of us from the city, I was very concerned about whether or not she understood where New York City was relative to the rest of the state, and especially where my district was in terms of the state. And she seems to be obviously very, very familiar with what's going on and committed to making sure that our needs are met.

And for those of us who are very proud of the advances we've made with respect

to minority and women business enterprises, she spoke very eloquently and supportively about the commitment to that particular part of the state's agenda.

So I'm glad to extend my congratulations and support and look forward to working with her.

Thank you very much.

ACTING PRESIDENT GRIFFO: Thank you, Senator Perkins.

Is there any other Senator wishing to be heard?

Seeing none, the question is on the nomination of Joan McDonald as Commissioner of the New York State Department of Transportation. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: Joan McDonald is hereby confirmed as Commissioner of the New York State Department of Transportation.

She is joined by friends in the gallery today. And we want to express our congratulations to Commissioner McDonald.

(Applause.)

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: As Commissioner of Parks, Recreation and Historic Preservation, Rose H. Harvey, of New York City.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I stand to move the nomination of Rose H. Harvey as Commissioner of the Office of Parks, Recreation and Historic Preservation.

Again, before the Tourism Committee there was a unanimous recommendation, as was the case in the Finance Committee. These were four outstanding nominations that the Governor presented to the Senate.

And I would ask that you please recognize Senator Little, chair of the Tourism Committee, for a second.

ACTING PRESIDENT GRIFFO: Thank

you, Senator DeFrancisco.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

The Tourism Committee, as Senator DeFrancisco spoke, met with Rose Harvey and, through discussion about the issues that we consider important in regard to Parks, Recreation and Historic Preservation, unanimously support the Governor's nomination to this office.

Rose Harvey brings an education in forestry and environmental studies as well as work on various board of directors and advisory boards all dealing with forestry, open space, and natural resources. She has a lifelong appreciation of natural resources and open space and has spent her career working in the development of parks. She has raised the funding, designed the parks -- particularly urban parks in New York City, Newark and Baltimore -- throughout her career and has received many awards for her work in doing so.

She also understands that New York State's situation right now is not in the

development of new parks but in the maintenance and keeping the accessibility of the parks that we have and providing good stewardship.

Most impressive in our discussions has been Rose Harvey's interest in working with public/private partnerships in the development of raising funds and interest so that things can be done in this area. And she has many ideas as to how, going forward, we can improve our parks, rehabilitate some areas that certainly need to have some rehabilitation and some work done on them.

And it's with a great deal of enthusiasm that I wholeheartedly second the nomination of Rose Harvey as the Commissioner of Parks, Recreation and Historic Preservation.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Little.

Senator Serrano on the nomination.

SENATOR SERRANO: Thank you, Mr. President.

I want to thank all of the members

here for voting to support this nomination. And I want to echo the words of the chair of the Parks Committee, Senator Betty Little: Yes, this is an outstanding nominee.

I had the good fortune of meeting with her yesterday and also listening to her speak today in committee. And she has such a strong grasp and such a full understanding of the importance of parks and how important they are for all of us here in the State of New York.

Last year we had what I believe and many agree was a wonderful situation where both sides of the aisle, regardless if we were Democrat or Republican, all worked together to ensure that state parks stayed open. We were facing some very devastating budget cuts.

The parks are a huge economic generator, but I think, more importantly, it's apparent that parks have a very transformative effect on people, on families, they give opportunity for people to have recreation. And they just add so much to the lives of New Yorkers. They very much are the crown jewel of the State of New York.

And I feel very excited about the ideas that Commissioner Harvey would put forth, and excited to work with her and under the leadership of Senator Little on the committee as we face the challenges that are ahead for us. But again, a wonderful selection, and I look forward to voting for her.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Serrano.

Senator Fuschillo.

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

Let me compliment Governor Cuomo once again for a well-qualified nominee. She impressed me greatly today when she talked being Jones Beach, which I represent. And I've always said that's the jewel of the parks system. And she's already been surfing at Jones Beach, which I think is wonderful.

And I just want to emphasize what Senator Marcellino had said in the Finance Committee, that it seems like the parks throughout this state are the first to go when

there's cuts and when there's deficits. And we know the economic impact to New York State by the visitors. And just in Jones Beach alone there's over 8 million visitors during the summer season. We know how critically important it is to the economy of New York State.

I want to emphasize what I said in the committee to Ms. Harvey. We can't afford any more cuts, especially in Jones Beach, as I stated, which is in my district.

I wish you well. You are well qualified. And you certainly have my support. Best of luck to you.

ACTING PRESIDENT GRIFFO: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I just wanted to thank not only Ms. Harvey but all of the other commissioners who have accepted the Governor's call to serve the state. These are not easy times. The economy is bad, the state's in deficit, we have economic problems, cuts are everywhere, everybody is pushing, everybody is trying

preserve and protect their own areas. So it's not easy. The tasks running the DEC, Taxation, Parks and the DOT will not be easy jobs.

So again, I remember the Governor saying earlier in the year that he was finding it difficult to get highly qualified people willing to take on these responsibilities because of the difficulty of the times and the difficulty it poses in serving in the public venue. People have a tendency to look at their government and throw brickbats. They throw rocks. You don't usually get a thank you for what you do. You generally get yelled at.

Well, let me thank you for your service, thank you for your courage and your willingness to put your lives on hold, as your families will soon find out that you will no longer be theirs, that they will have to share you with the people of the State of New York. And the members in this chamber and the other house will probably be demanding a lot of your time and attention and calling you to meetings and asking you for your help in solving local

problems.

I urge you never to forget the greater good that you're doing, and that is to serve the people of this great state. While these may be difficult times now, we will get through this. And we will get through this a lot quicker because of people like yourselves who are willing to serve.

So once again, thank you, and God bless you and Godspeed.

ACTING PRESIDENT GRIFFO: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I rise in support of this commissioner because, you know, last year -- and I've been here 35 years -- I never saw such an outpouring of support for an issue than the possible closure of the parks. The people of this state absolutely rose up and said that cannot happen. And every legislator of both parties and in both houses rose to defend our parks. You are in charge of an area that the people of New York State demand that we protect and keep open.

I also want to put in a plug for the Homes of Historical Preservation, which are very, very modest in the cost to keep them operating but are tremendous tourist providers for economic development. And I know that we have a commissioner here that is going to look out and monitor one of the areas that the people of this state absolutely insist be supported.

And I support you. Good luck.

ACTING PRESIDENT GRIFFO: Senator Gallivan.

SENATOR GALLIVAN: Thank you, Mr. President.

I also rise to support the nomination of Rose Harvey as Commissioner of Parks. We know the importance of the parks to our citizens across the state, from Jones Beach to the western end of the state where the district is that I represent. We have seen the problems over the years, particularly last year through this challenging budget year.

Rose Harvey certainly comes very well qualified. I was thoroughly impressed,

impressed with her eagerness, her background, her willingness to take this effort on, and her commitment to work with us to keep the parks open.

So to the new commissioner, I wish you the best of luck. I look forward to working with you to protect and preserve the assets of our state that are important to so many of the citizens.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, my colleague from Long Island, Carl, stole my thunder.

But, you know, today we're looking for people who want to accept the challenges the four of you have done here. And we're looking for you to give us guidance and help and help the Governor and help the people of the State of New York. And each and every one of you have something special to offer.

My newfound friend from DOT and my newfound friend from Parks and Rec, we have a

challenge, we have a tremendous challenge in this area. As has been said here before, last year there were parks going to be open, parks going to be closed, parks this, parks that. Nobody knew what was going on.

But with your talent and looking at your backgrounds, we're blessed. This is not an easy task to take on. There's no money you can just throw out there and make everybody happy with. You're going to make decisions that some of us will be saying, I thought she liked me or he liked me.

But what's most important is you said I accept this challenge, and I will show you that I'm capable of doing it. And based on what we heard from you today, we're blessed in the State of New York. And God bless you all.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard on the nomination?

Seeing none, the question is on the nomination of Rose H. Harvey as Commissioner of the Office of Parks, Recreation and Historic Preservation. All in favor signify

by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: Rose H. Harvey is hereby confirmed as Commissioner of the Office of Parks, Recreation and Historic Preservation.

(Applause.)

ACTING PRESIDENT GRIFFO: The commissioner is joined by her husband, Gaines. We wish her the best of luck in her new role.

Congratulations, Commissioner Harvey.

Senator Libous.

SENATOR LIBOUS: May we have motions and resolutions, Mr. President.

ACTING PRESIDENT GRIFFO: We're going to continue, and then we'll hit the motions and resolutions, Senator Libous. Was there anything else that you wanted us to address before that?

SENATOR LIBOUS: No.

ACTING PRESIDENT GRIFFO: Okay.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Seward, I move that the following bill be discharged from its respective committee and be recommitted with instructions to please strike the enacting clause on 2367.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time could we please adopt the Resolution Calendar, with the exception of Resolutions Number 722 and 749, please.

ACTING PRESIDENT GRIFFO: All in favor of adopting the Resolution Calendar, with the exception of Resolutions 722 and 749, indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed.

(No response.)

ACTING PRESIDENT GRIFFO: The Resolution Calendar is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there's a Resolution 722, by Senator Perkins, which is at the desk. He would like it read in its entirety. He would like to speak on the resolution and then have it immediately adopted.

ACTING PRESIDENT GRIFFO: Thank you, Senator Libous.

I would ask for order in the chamber.

And the Secretary shall read.

THE SECRETARY: Legislative Resolution 722, by Senator Perkins, recognizing March 8, 2011, as International Women's Day in the State of New York.

"WHEREAS, It is the sense of this Legislative Body to acknowledge and celebrate the women who have added strength, kindness,

compassion and inspiration to the people of the communities that make up this great Empire State; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to recognize Tuesday, March 8, 2011, as International Women's Day in the State of New York; and

"WHEREAS, March 8th of every year marks International Women's Day. It is a major day of global celebration for the economic, political and social achievements of women; and

"WHEREAS, Started as a political event, the holiday blended in the culture of many countries. In some celebrations, the day lost its political flavor and became simply an occasion for men to express their love to the women in their lives; and

"WHEREAS, However, in other nations, the political and human rights theme as designated by the United Nations runs strong, and political and social awareness of the struggles of women worldwide are brought

out and examined in a hopeful manner; and

"WHEREAS, Women of every economic, ethnic and religious background have made significant contributions that are reflected in our cultural, social, educational, industrial and economic diversity, and have contributed in many ways; and

"WHEREAS, New York State is home to countless women who are strong and vibrant individuals, and who have and continue to contribute to the advancement of our culture through their traditional and nontraditional roles in society; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to recognize March 8, 2011, as International Women's Day in the State of New York."

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: Thank you very much.

This is International Women's Day. On the 100th anniversary of International Women's Day, it is important to acknowledge both the accomplishments of women across the

globe as well as the struggles they continue to face.

While women have made great strides politically, socially, and economically, they have not yet achieved gender equality. Women in the United States are still struggling with domestic violence, maintaining their reproductive rights, breaking through the glass ceiling in the workplace, and eradicating gender stereotypes in general. Some of their female counterparts throughout the world have yet to gain basic human rights and are still treated as second-class citizens.

So as we pause for a moment today to recognize International Women's Day, it is my hope that we reflect on what more we can do to promote true gender equality.

Thank you very much. And I ask that the fellow members of the Senate join me in signing onto this resolution.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

With the invitation of the sponsor, all members will be listed on the resolution. If you choose not to, please notify the disk.

Senator Larkin.

SENATOR LARKIN: Mr. President, there's a Resolution Number 749 at the desk by Senator Farley. Will you please read it.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 749, by Senators Farley and McDonald, recognizing March 11, 2011, as Blue Friday.

"WHEREAS, The State of New York takes great pride in participating in significant dates of recognition; and

"WHEREAS, Albany Radio Station WGNA has teamed up with Blue Friday New York to recognize March 11, 2011, as 'Blue Friday' in honor of all law enforcement officers who have

given their lives in the line of duty, as well as all of those who still serve; and

"WHEREAS, Blue Friday New York is a nonprofit organization. Its mission is to help rebuild the lives of survivors of the law enforcement officers killed in the line of duty by serving as a clearinghouse for federal and state benefits, information, and resources that may be available to the surviving families; and

"WHEREAS, Each year between 140 and 160 officers are killed in the line of duty, and their families and coworkers are left to cope with the tragic loss; and

"WHEREAS, Blue Friday is a reminder to pay tribute to those in the law enforcement community who have made the ultimate sacrifice; and

"WHEREAS, On March 11, 2011, from 5:30 a.m. until 10:00 a.m., WGNA, DeNooyer Chevrolet, and Blue Friday New York will be taking a Donation for a Carnation, selling blue carnations and Blue Friday T-shirts at DeNooyer Chevrolet in Colonie and Pizzeria Uno in Wilton. Over 25 agencies will be

represented at the two locations, and all proceeds will go directly to Blue Friday New York; and

"WHEREAS, The State of New York is eternally grateful for the service of its brave men and women in law enforcement and applauds the efforts of Blue Friday New York to assist the families of those who have made the ultimate sacrifice; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to recognize March 11, 2011, as 'Blue Friday'; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to WGNA and Blue Friday New York."

ACTING PRESIDENT GRIFFO: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

You know, every year between 140 and 160 police officers are killed in the line of duty. This year they will be honored and remembered on March 11th -- that's this Friday -- as Blue Friday.

Radio station WGNA, which is the number-one station in this area, and Blue Friday of New York will be selling carnations and T-shirts on March 11th from 5:30 to 10:00 a.m. at DeNooyer Chevrolet and at Pizzeria Uno in Wilton. Proceeds from the sale go to Blue Friday New York, which provides invaluable assistance to the survivors of police officers killed in the line of duty.

And this operation is an annual situation. We have with us in the chamber here today, Mr. President, Selena Dutcher of Townsquare Media, marketing director from WGNA, and of course Pat Fox, who has been with us every year.

And I'd ask that you welcome them to the chamber, and I want to open up this resolution to everybody.

ACTING PRESIDENT GRIFFO: Thank you, Senator Farley.

We extend a warm welcome and thank you for being here with us today.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator

McDonald.

SENATOR McDONALD: Thank you, Mr. President.

I too want to express my gratitude to all those men and women in blue, police departments of all locations in our great state and our country who do what they do.

And I thank this great radio station for being part of that and pushing it so strongly.

Thank you.

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

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is carried.

Again, all members will be listed on the resolution. If you choose not to, please notify the desk.

Senator Larkin.

SENATOR LARKIN: Mr. President, there's a resolution at the desk from Senator Hannon. Please have the title read and move for an immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Hannon memorializing Governor Andrew M. Cuomo to proclaim March 6 through 12, 2011, as Patient Safety Awareness Week in the State of New York.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is carried.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

There's a privileged resolution at the desk by Senator Klein. Can we please have

its title read and then move its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Klein, paying tribute to City Island upon the occasion of hosting its Annual Women's Herstory Month Celebration and commemorating "The Anne Hutchinson Year."

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is carried.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time I want to hand up the following committee assignments and ask that such assignments be filed in the Journal.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Libous.

SENATOR LIBOUS: Mr. President, there will be an immediate meeting of the Finance Committee, followed by an immediate meeting of the Rules Committee in Room 332.

And I ask that the Senate stand at ease until those committee meetings conclude.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Senate Finance Committee, followed by an immediate meeting of the Senate Rules Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 4:01 p.m.)

(Whereupon, the Senate reconvened at 4:34 p.m.)

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Mr. President, do we have a report from the Rules Committee?

ACTING PRESIDENT FLANAGAN: We'll return to the reports of standing committees.

The Secretary shall read.

THE SECRETARY: Senator Skelos,

from the Committee on Rules, reports the following bill direct to third reading.

By Senator Maziarz, Senate Print 3164, an act to amend the Economic Development Law and the Public Authorities Law.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Move for its immediate adoption.

SENATOR BRESLIN: Senator Flanagan, please.

ACTING PRESIDENT FLANAGAN: Senator Breslin, why do you rise?

SENATOR BRESLIN: I rise under Senate Rule 7, subsection 2, to dispute the acceptance of the Rules report. I would like to be heard on that.

ACTING PRESIDENT FLANAGAN: Senator Breslin, the motion before the house is to accept the report of the Rules Committee. Do you wish to be heard on that motion?

SENATOR BRESLIN: That's correct.

ACTING PRESIDENT FLANAGAN: Senator Breslin.

SENATOR BRESLIN: Mr. President, we've just come from the Rules Committee, where I requested that a petition under Senate Rule 7, subsection 4(e) was presented. And that was a petition for a hearing on Bill 3419. All 11 Democrats from the Democratic Conference signed onto that, which called for a hearing on that bill within 14 days.

That petition was served upon, pursuant to the rules, on the clerk of the committee. When that petition goes to the Rules Committee, there can be a vote, and that vote --

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

ACTING PRESIDENT FLANAGAN: Point of order.

SENATOR LIBOUS: I don't believe that Senator --

SENATOR BRESLIN: Excuse me. I believe I have the floor.

ACTING PRESIDENT FLANAGAN: Senator Libous is rising properly on a point of order, Senator Breslin.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe that Senator Breslin is out of order. He is not speaking on the report of the Rules Committee, which is a bill that is a Governor's program bill, Power for Jobs. He is speaking on a procedure within a committee, and I believe that is not proper or in order on the floor at this time.

I don't need other members, Mr. President, coaching me along. I have the floor. And when a member has the floor, whether it's Senator Breslin or myself, we don't need to hear other members coaching us along.

ACTING PRESIDENT FLANAGAN: Senator Libous, you have risen, as I said, properly on a point of order, and your point of order is well-taken.

Senator Breslin, let me -- Senator Breslin, let me finish.

SENATOR BRESLIN: We are not arguing the Rules report itself. We are here procedurally.

ACTING PRESIDENT FLANAGAN:

Senator Breslin, I am speaking. I will get to you in a moment.

I'm speaking on Senator Libous's point of order, and I am stating that the point of order is well-taken. Because the consideration pursuant to Rule 2 involving the Committee on Rules says the reception and consideration of its report shall always be in order.

The Rules report that is before the house concerns one bill. It doesn't concern a petition, it doesn't concern anything other than the Power for Jobs bill that was passed out of the Rules Committee. Therefore, Senator Breslin, Senator Libous's point of order is well-taken. And your comments, should you wish to comment on the acceptance of the Rules report, should be constrained to the parameters of the Power for Jobs bill.

SENATOR BRESLIN: I appeal the ruling of the chair and ask to be heard on that ruling.

ACTING PRESIDENT FLANAGAN:

Senator Breslin to be heard on his appeal of

the ruling of the chair.

SENATOR BRESLIN: We're not disputing the bill itself. We are procedurally arguing the Rules report.

And under Senate Rule 7, subsection 2, specifically it says "The inception and consideration of its report" -- the Rules report -- "shall always be in order. Debate or its adoption shall not exceed one hour."

ACTING PRESIDENT FLANAGAN: Thank you, Senator Breslin. That is the rule I just cited on Committee on Rules.

SENATOR BRESLIN: And the bill comes later. It will come to the floor.

SENATOR HASSELL-THOMPSON: Mr. Chairman.

ACTING PRESIDENT FLANAGAN: Senator Breslin -- Senator Hassell-Thompson, why do you rise?

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

Is it not also true that once the meeting of the rules or any other committee is called to order and any subject that comes up before that committee is accepted and there is

a discussion, therefore that subject can in fact be considered as a part of the Rules Committee?

ACTING PRESIDENT FLANAGAN: Senator Hassell-Thompson, your point of order is not well-taken. We are discussing the acceptance of the Rules report that was reported out of the Rules Committee.

And I will go back to Senator Breslin to finish his point.

SENATOR HASSELL-THOMPSON: Point of order again, Mr. President. You stated that in the -- that the Rules Committee --

ACTING PRESIDENT FLANAGAN: Senator -- excuse me, Senator Hassell-Thompson. You rose -- are you speaking on Senator Breslin's point about appealing the ruling of the chair?

SENATOR HASSELL-THOMPSON: No, Mr. Chairman, I'm not. I asked for a point of order on the subject at hand, which is the Rules Committee. And you stated, Mr. Chair, that the only order of business in the Rules Committee was one bill. And I suggest that that is not correct, because once the --

SENATOR LIBOUS: I believe on the floor --

SENATOR HASSELL-THOMPSON: -- once the Rules --

SENATOR LIBOUS: -- is an appeal of --

ACTING PRESIDENT FLANAGAN: Excuse me, Senator Hassell-Thompson.

Senator Libous, why do you rise?

SENATOR LIBOUS: I believe that Senator Breslin has an appeal before the house on the motion, and we need to deal with that.

ACTING PRESIDENT FLANAGAN: Senator Hassell-Thompson, we will return to your point of order. Senator Breslin has a motion to appeal the ruling of the chair, and he wishes to be heard on that appeal.

Senator Breslin.

SENATOR BRESLIN: Mr. President, the bill will come before this house. There's no objection to that.

What we object to is the process and the procedure of the Rules Committee. And quite specifically, under the rules, it states that we are allowed to discuss that and debate

that here in this chamber.

ACTING PRESIDENT FLANAGAN: Senator Breslin, the points that you are raising have nothing to do with the Power for Jobs bill that was reported out of the Rules Committee.

You are raising points that were not properly before the Rules Committee. There was a petition that was not properly before the Rules Committee which was made very clear during the Rules Committee. The subject of the Rules report that we are discussing here relates to one bill concerning Power for Jobs.

We are on your appeal of the ruling of the chair. Do you wish to continue to be heard on that?

SENATOR BRESLIN: I will defer to --

SENATOR GIANARIS: I wish to speak on the appeal.

ACTING PRESIDENT FLANAGAN: Senator Gianaris on the appeal.

SENATOR GIANARIS: Thank you, Mr. President.

On the appeal of the ruling of the chair, I'm confounded by your determination that the Rules Committee, which produced the one-bill report, is therefore stifling the debate on this floor to that one bill, when the Rules Committee that produced the report produced that report in error.

There is a violation of Senate rules going on right now on this floor because a petition pursuant to Rule 7, Section 4 was presented to the committee properly, with the requisite number of signatures. The Rules Committee did not consider that petition, as required by the Senate rules, and the report that came out of that Rules Committee therefore is in error and we are on sound ground to challenge that report -- not because we're talking or not talking about the Power for Jobs bill, but because the report that produced it was done in complete contravention of the Senate rules.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, the report of the Rules Committee is properly before this house. The substance and the manner of that report is

consistent with what occurred in the committee.

The petition that you speak to that was presented to the committee was not properly presented to the committee and therefore is not part of the Rules report that came out of the committee. So the Rules report that is before this house right now is properly before the house, and it is limited to the one bill that was contained in that agenda.

Should you wish to speak to that, your points would be well-taken and in order. If you're speaking on appealing the ruling of the chair, you should limit your comments to the substance of the Rules report, which is the Power for Jobs bill.

SENATOR GIANARIS: But, Mr. President, I'm appealing the ruling of the chair that the debate should be limited to the Power for Jobs bill, and you cannot silence me on that issue by your ruling. I'm appealing your decision, and therefore I can speak to the reasons I'm appealing --

ACTING PRESIDENT FLANAGAN:

Senator Gianaris, we are now dealing with Senator Breslin's appealing of the ruling of the chair. Should you wish to pursue a separate appeal, then you can do so on a different occasion.

SENATOR GIANARIS: Mr. President, I am speaking on Senator Breslin's appealing of the ruling of the chair.

I believe the ruling of the chair is out of order. And I wish to speak on the fact that this is a continuation of a pattern of behavior we've seen from the Senate Majority -- and I for one do not intend to let it continue -- where there is delay, there is lack of sponsorship on proposals that are before the Senate.

This has become anything but a democratic institution. We are here to discuss a number of issues that the public asked us for, and the Senate Majority has continued to stifle the debate. That is what you're trying to do again right here on the Senate floor.

ACTING PRESIDENT FLANAGAN: Senator -- Senator --

SENATOR GIANARIS: I will not be silenced, Mr. President. I will not be silenced.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, I have the floor.

The points that you are raising are not germane to the Rules report. Should you wish to speak about those types of issues, you may do so outside of here. If you want to hold a press conference, do something to that effect, you are perfectly entitled to do that. But we are confining our components of this discussion to the germane aspects of the bill that came out of the Rules Committee.

SENATOR GIANARIS: But, Mr. President --

ACTING PRESIDENT FLANAGAN: If you wish to speak about procedure and sponsorship, that's a separate subject for a separate occasion.

SENATOR GIANARIS: Mr. President, it's my understanding that when I'm appealing your ruling I get to discuss the reasons why I'm appealing it. You can make your ruling, and we can vote on whether the house agrees or

disagrees with --

ACTING PRESIDENT FLANAGAN: To the extent that they are germane to the topic that's before the house.

SENATOR GIANARIS: Well, then I appeal your ruling as to whether it's germane.

ACTING PRESIDENT FLANAGAN: Well, then you're going to have to wait, because we're still on the appeal by Senator Breslin.

SENATOR GIANARIS: I'll be happy to wait my turn.

SENATOR SQUADRON: Mr. President --

ACTING PRESIDENT FLANAGAN: Call the roll.

SENATOR SQUADRON: Mr. President, on the appeal.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President.

On the appeal of the ruling of the chair that Senator Breslin put forward, let me ask you, as an understanding of your ruling before we vote on the appeal, what is the

purpose of a vote on whether or not to accept the report of the Rules Committee? If the purpose is, as you suggest, only to talk about the bill itself, is it simply an additional hour of debate on the bill itself? Or is it about something coming out of the Rules Committee, Mr. President?

ACTING PRESIDENT FLANAGAN: Senator Squadron, I would refer back to a rule that was cited by Senator Breslin in a separate section, and by me as well: Section 2, the Committee on Rules.

The adoption of the Rules report is always in order, and its reception and consideration is always in order. I am constrained by speaking to the Rules report that was delivered to the full Senate for its consideration. The issues that Senator Breslin is raising are not part of that Rules report. The petition that was presented to the Rules Committee was not properly before the Rules Committee and was so ruled.

So we are speaking to the sum and the substance of what came out of the Rules Committee, the report concerning Power for

Jobs. Should you wish to be heard on that, that would be germane to the argument before the house.

SENATOR SQUADRON: Mr. President, on your ruling, on the appeal of your ruling, which is where we are at the moment, citing the rule that is now bouncing back and forth around this chamber, the reception and consideration of its report shall always be in order. Debate on its adoption, debate on its adoption shall not exceed one hour.

Senator Breslin was bringing up a debate on its adoption based on the absolute flouting of the procedural rules of the Rules Committee, making this report completely flawed because there is an inability in the Rules Committee to debate a fundamental issue in this state that was in fact in order. Senator Breslin was bringing that up.

And the rule that you cite, again, the reception and consideration of the report -- which is what we're doing now, receiving it and considering it -- shall always be in order.

The adoption, debate on the

adoption shall not exceed one hour. That's all Senator Breslin was saying.

ACTING PRESIDENT FLANAGAN: Senator Squadron, you are 50 percent correct. You are correct that there is a legitimate debate on its adoption. But the adoption and its debate centers around what is contained in that Rules report, not what is not contained in that Rules report.

So if you would like to speak to that, if you are uncomfortable with what happened in the Rules Committee, I am constrained in ruling on what is in the Rules report by the parameters of that report and not any other extraneous factors.

We have before us the Rules report, which was one bill, was properly considered by the Rules Committee, and is now properly before this house.

SENATOR SQUADRON: Mr. President, just to make sure I understand you, you are saying that anything that is not in fact in the report may not be debated, so therefore all that can be debated is that which the Rules Committee approves?

This house in total, those members who are not on the Rules Committee have no place, no right to say this Rules Committee, with all of the powers that are imbued to it in this house -- often too many, including putting in a bill that no one can cosponsor -- all of those powers cannot be questioned by the members of this house?

If they are shut down in the Rules Committee, they will be shut down here on the floor because there is no room on this floor to debate the process by which Rules Committee bills jump through all of the hoops that are put in place to protect the people, to create transparency -- those do not matter at the point that the Rules Committee has adopted its report?

SENATOR LIBOUS: Excuse me, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Squadron, excuse me.

Senator Libous, why do you rise?

SENATOR LIBOUS: Thank you, Mr. President. And Senator Squadron, please bear with me.

I believe Senator Breslin has appealed the ruling of the chair. Now, we have often given members an opportunity to speak on the appeal. Senator Squadron is not speaking specifically to the appeal, he is talking about a procedure that didn't take place in a committee meeting.

So I would ask that he speak specifically to the appeal of the chair, which has to do with the appealing of the Rules report which is before us, and the Power for Jobs bill, which is the Governor's program bill. It has nothing to do with a lecture on how the committee system works here in the Senate or whether or not the clerk refused to accept the petition that never made it before the committee.

So we are on that appeal, and I would hope that we could stick to the appeal. I am all for the members of the other side of the aisle to express their views on Senator Breslin's appeal, not a lecture on how things should go through committee.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Libous. Your points are

well-taken.

Senator Squadron, please confine your comments to the bill that is contained in the Rules report that is before the house.

SENATOR SQUADRON: Well, Senator Libous -- and I may not have been clear enough, so thank you for pointing that out. I do strive to be as clear as I'm able to be.

Mr. President, the debate at the moment is in fact on the ruling that you made and whether it's in order or out of order, based on the fact that Senator Breslin was trying to discuss whether the report that the Majority would like to put before the house is properly being put before the house.

And so the discussion we were having was on the appeal of your ruling that if the words "Power for Jobs" do not define all the discussion around this report -- not the debate on the bill, around this report -- that it would be out of order. So -- and I believe we have a half hour on that motion.

So to continue, the report of the Rules Committee was out of order because the meeting that provided that report was not

properly run because it did not allow for the debate on a very important petition. That was improper. Senator Breslin would like to debate whether or not to adopt the report of the Rules Committee on that basis.

And you, Mr. President, ruled that debating the appropriate adoption of that report is out of order in this house, that instead, in a new and I believe novel reading --

ACTING PRESIDENT FLANAGAN: Senator Squadron -- Senator Squadron, I have indulged your comments, and I certainly respect your passion on the issue.

I have not said anything to that effect concerning the adoption of the Rules report. What I have said is that debate on the adoption of that Rules report is in order, consistent with what is contained in that Rules report. If there were 12 bills in that Rules report, every one of them would be germane for discussion, for consideration before this body. Things that are not contained in that report are not germane.

SENATOR SQUADRON: The Rules

report is produced by a meeting of the Rules Committee. Let me ask you this. If there was a meeting of the Rules Committee that was clearly -- that did not have a quorum, let's say, an improper meeting of the Rules Committee, and that report was brought before the house, would it be proper to debate whether that was in fact a meeting of the Rules Committee in talking about the adoption, or would you have to talk about the bills that were inappropriately placed on that Rules report, Mr. President?

ACTING PRESIDENT FLANAGAN: Senator Squadron, I am not going to deal in hypotheticals. I'm dealing with the facts that are before this house. And if you wish to speak any further on appealing the ruling of the chair, you're entitled to do so. I would caution that we are rapidly approaching a half an hour and we will be soon actually voting on the appeal advanced by Senator Breslin.

SENATOR SQUADRON: Well, Mr. President, I assume certainly that if there were an improper or fraudulent meeting

of the Rules Committee -- one, for example, where there wasn't a quorum, one where an important motion was quashed inappropriately without any discussion -- in any one of those cases that is exactly the reason that this house has the procedure where we have the ability to debate and to choose to adopt or not adopt a report of the Rules Committee.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT FLANAGAN: Excuse me. Senator Squadron, why do you rise?

(Laughter.)

SENATOR SQUADRON: I -- I'm debating the --

ACTING PRESIDENT FLANAGAN: Excuse me.

SENATOR LIBOUS: He has risen.

(Laughter.)

ACTING PRESIDENT FLANAGAN: Okay, I know why you rise.

Senator Libous, why do you rise?

SENATOR LIBOUS: Mr. President, I would suggest that we vote on the appeal of the chair. And then, Senator Squadron, then we would be on the motion and you can speak on

the motion. But it is time to vote on the appeal of the chair, and then Senator Squadron can speak to his points.

But we have an appeal before the house. We need to vote on that appeal, and then the motion will be before the house, the Rules report motion will be before the house, and then Senator Squadron and his colleagues can speak.

SENATOR SQUADRON: I appreciate the point made by Senator Libous. That is, there's a half-hour on each side of the --

ACTING PRESIDENT FLANAGAN: Senator Squadron, excuse me.

SENATOR SQUADRON: Yes.

ACTING PRESIDENT FLANAGAN: Senator Libous, your point of order is well-taken. All those in, excuse me, in favor of overruling the chair --

SENATOR SQUADRON: Mr. President, there's a 30-minute debate on each side of this appeal. We have not hit 30 minutes in favor of the appeal. And I'm debating the appeal.

ACTING PRESIDENT FLANAGAN:

Senator Squadron -- Senator Libous, bear with me for a moment --

SENATOR LIBOUS: Sure.

ACTING PRESIDENT FLANAGAN: -- if you wish to speak to the content of the Rules report and the substance of the Power for Jobs bill, fine.

If you're going to continue to speak in a non-germane fashion concerning other factors not properly before this house, we will move to an immediate vote on the appeal of the ruling of the chair.

SENATOR SQUADRON: Mr. President, under Rule 3, Section D, I am able to debate the appeal of the ruling of the chair for a half-hour on each side. I would argue that Senator Libous's comments as well as your own have been in terms of not rejecting the ruling of the chair. Senator Gianaris, Senator Breslin, Senator Hassell-Thompson and myself have spoken in favor of overruling the ruling of the chair.

And I do not believe we have reached a half-hour. I believe that is the point at which we can call for a vote on this.

ACTING PRESIDENT FLANAGAN: Senator Squadron, should you wish to continue to be heard on the appeal of the ruling of the chair, your comments must be germane to the content of the Rules report before the house. If you continue --

SENATOR SQUADRON: Under what authority, Mr. President, is the germane argument being made here?

ACTING PRESIDENT FLANAGAN: I'm sorry, Senator Squadron, I could not hear the last part of what you said.

SENATOR SQUADRON: Sorry. Under what authority are you muzzling this portion of the debate based --

SENATOR LIBOUS: Mr. President, point of order. Point of order.

SENATOR SQUADRON: -- based on it supposedly not being germane?

ACTING PRESIDENT FLANAGAN: Senator Squadron -- Senator Libous, why do you rise?

SENATOR LIBOUS: Thank you, Mr. President.

Senator Squadron, the President

ruled Senator Breslin's motion out of order. Senator Breslin then appealed the ruling of the chair. You are not debating his appeal of the ruling of the chair. We are to take the ruling of the chair appeal -- sir, if I may -- to a vote. Then you may stand when the motion is before the house whether or not to accept the Rules report.

Mr. President is not muzzling anyone. We are on a motion that Senator -- he appealed, your leader appealed the ruling of the chair. Therefore, we take that to a vote. Then, if it passes or doesn't pass, we will be on the motion itself as to whether or not to accept the Rules report. And I'm sure that the President would be more than happy to listen to your argument.

SENATOR SQUADRON: Mr. President, to be clear, we are, as Senator Libous says, and we are in full agreement -- there's one item on which we are in full agreement in this house at the moment, I believe, which is that we are currently debating the ruling of the chair. We are debating the appeal that Senator Breslin put forward on the ruling of

the chair.

The issue is that at the point at which we get to the debate on accepting or rejecting the report of the Rules Committee, at the point that we get there, we must have the ability to debate that issue in its full -- all of the topics related to that issue, not simply, as Mr. President seems to have suggested, the bill itself that's contained within that report.

So, Senator Libous, if by unanimous consent we can agree that such debate will go on under the rules, as it would, a half-hour on one side, a half-hour on the other, and that we can talk about any topics relating to the Rules report, we would be happy to move beyond this appeal, on unanimous consent, and move on to that debate.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Mr. President, I believe he's asking me a question. And the answer to that question is absolutely not, because the rules before the house say that the subject matter needs to be germane to what

is before the house.

The President just made it very clear. Before this house was the reading of the report from the Rules Committee in which a bill is on that report by Senator Maziarz. The bill is the Power for Jobs bill, which is being introduced by the Governor. Okay?

Your leadership stood up and objected to the reading of the Rules report. We then let your leadership speak on that. But what happened was he didn't speak about the Power for Jobs. He, like you, sir, began speaking about procedures outside of this chamber that have to do with rules and other things.

Right now we would be more than happy to give you an opportunity to speak on the objection of the ruling of the chair as it pertains to the Rules report as it pertains to the Power for Jobs. Mr. President is suggesting that anything else is not germane. And I think that's pretty clear. I don't know how anyone could not understand that.

SENATOR SQUADRON: Mr. President --

SENATOR HASSELL-THOMPSON: Point of order. Point of order, Mr. Chairman.

ACTING PRESIDENT FLANAGAN: Senator Hassell-Thompson, why do you rise?

SENATOR HASSELL-THOMPSON: I would like my point of order to go back to -- to support the contention of Senator Breslin that this report is out of order because it does not reflect the actions taken by the Rules Committee. One --

SENATOR LIBOUS: Mr. President. With all due respect -- may I, Senator? We can do what the Senator is requesting. No, Senator, we can do what you're requesting. But we have to vote on the appeal first.

SENATOR HASSELL-THOMPSON: No, no, no, this is the appeal. The appeal has to do with the fact that the report submitted to the desk is not complete. It does not --

SENATOR LIBOUS: That was ruled out of order by the chair.

SENATOR HASSELL-THOMPSON: It does -- Mr. Chairman --

ACTING PRESIDENT FLANAGAN: Senator -- excuse me. Senator

Hassell-Thompson --

SENATOR HASSELL-THOMPSON: Through you, Mr. Chairman.

ACTING PRESIDENT FLANAGAN: -- please go through the chair. Are you asking Senator Libous to yield?

SENATOR HASSELL-THOMPSON: No, I'm not asking Senator Libous to yield. What I'm asking Senator Libous to do is to hear --

ACTING PRESIDENT FLANAGAN: Excuse me, then. Senator Hassell-Thompson, Senator Libous was speaking.

Senator Libous.

SENATOR LIBOUS: I don't want to be redundant, Mr. President. And in all due respect to Senator Hassell-Thompson, if we could vote on Senator Breslin's appeal, then we could come back to the issues at hand that they want to discuss. There is a motion before the house --

SENATOR HASSELL-THOMPSON: -- he's cutting me off.

SENATOR LIBOUS: No, I'm not cutting --

SENATOR HASSELL-THOMPSON: Yes,

you are. I'm speaking --

ACTING PRESIDENT FLANAGAN: Senator -- excuse me. Senator Hassell-Thompson, please go through the chair.

SENATOR HASSELL-THOMPSON: A point of order, Mr. Chairman, takes precedence. You had given me the floor on a point of order.

I am trying to make the point that his appeal is appropriate because that which has been submitted to the desk as the sum total of the Rules Committee actions is incomplete. If in the Rules Committee, once it was called to order and Senator Breslin was called upon in that Rules Committee meeting, he was allowed to bring up a subject, if the subject -- however the result of that subject was taken, that was -- should have been a part of what is reported as a part of the Rules Committee.

Therefore, we are in contention that everything that comes before that Rules Committee, until such time as that Rules Committee has been adjourned, should be considered as part of the report that is given

to the desk. That is my appeal.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Hassell-Thompson.

Your point of order is not a point of order. You were actually being heard on the appealing of the ruling of the chair.

All those in favor of --

SENATOR SQUADRON: Mr. President, on the appeal.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Look, Mr. President, we are fairly far down the rabbit hole here. We are debating an appeal on a debate about the report of a committee that most people in this state have never heard of.

What we really should be doing -- and again, I would offer to Senator Libous and to my colleagues on both sides of the aisle, let's get unanimous consent that we're not going to have an absurdly limited debate on this Rules report. Let's get unanimous consent we're going to be talking on this Rules report in terms of the process of the

Rules Committee in terms of the ways in which we got this Rules report.

ACTING PRESIDENT FLANAGAN: Senator -- Senator Squadron --

SENATOR SQUADRON: Let's get unanimous consent --

ACTING PRESIDENT FLANAGAN: Senator Squadron --

SENATOR SQUADRON: -- let's have an open debate --

ACTING PRESIDENT FLANAGAN: Senator Squadron --

SENATOR SQUADRON: -- and once we have that open debate, we can then move on to very important matters on this bill.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Yes, Mr. President.

ACTING PRESIDENT FLANAGAN: Your points are no longer germane to the subject before the house. You are asking Senator Libous to consent to something that is hypothetical and is not properly before the house. We have a pending appeal of the ruling

of the chair.

SENATOR SQUADRON: Mr. President --

ACTING PRESIDENT FLANAGAN: That's what we're going to be acting on. We're not going to be jumping out ahead on anything involving unanimous consent. We're going to rule on the appeal of the ruling of the chair.

SENATOR SQUADRON: Mr. President, unanimous consent -- unanimous consent is always in order, Mr. President.

SENATOR HANNON: No, it isn't, not when there's a motion --

ACTING PRESIDENT FLANAGAN: We're going to take a vote on the appeal of the ruling of the chair.

All those in favor of overruling -- excuse me, supporting the ruling of the chair please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Those opposed?

(Response of "Nay.")

ACTING PRESIDENT FLANAGAN: The

ruling of the chair is sustained.

Senator Libous.

SENATOR BRESLIN: Point of order, Senator Flanagan --

ACTING PRESIDENT FLANAGAN: Senator Breslin.

SENATOR BRESLIN: Point of order.

Before the vote was taken, you were quite aware that I was standing here waiting to be heard. I'm the one who appealed the ruling.

And, you know, we can sit here and tell the world that I did not bring a petition, that I did not have a petition signed by 11 Democrats, that I did not request a hearing under the rules of the Rules Committee. And we can say that that's not part of this Rules report. And we can ignore the fact that there's redistricting before this state that's being ignored by this chair and by this body --

ACTING PRESIDENT FLANAGAN: Senator -- excuse me, Senator. Senator Breslin.

SENATOR BRESLIN: I believe I

have the floor.

ACTING PRESIDENT FLANAGAN: I -- Senator Breslin, you're making a point that I'm going to respond to. You're making an assertion that somehow I am precluding redistricting coming before this house. That is completely absurd.

And if you want to speak to the Rules report, and I -- Senator Breslin, I have great respect for you not only as a member but as the floor leader. If in some fashion I cut you off from debate, accept my apology. Should you wish to be the final speaker on the appeal of the ruling of the chair, so be it.

Senator Breslin.

SENATOR BRESLIN: Yes, the final speaker on this appeal. And as I was saying --

ACTING PRESIDENT FLANAGAN: That's what I just said, right.

SENATOR BRESLIN: On this appeal.

ACTING PRESIDENT FLANAGAN: On this appeal.

SENATOR BRESLIN: And that petition was properly brought. It's not part

of this Rules report. We can't say it doesn't exist. We can't say that that's not part of the process of the Rules report that can be debated.

ACTING PRESIDENT FLANAGAN: Senator Breslin, excuse me. The matters to which you are speaking were not properly before the Rules Committee. They are not contained in the Rules report that is before this house. Should you wish to speak to the content of that Rules report, your comments would be germane and in order.

If you wish to continue to go down the path of speaking about matters that were not properly before the Rules Committee, I will rule you out of order and continue to say that your comments are non-germane.

SENATOR BRESLIN: I think I will rest my case. I think to the public and the State of New York it's quite obvious what's happened here. You have silenced us.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Can we move to

accept the Rules report?

SENATOR GIANARIS: Mr. President -- Mr. President --

ACTING PRESIDENT FLANAGAN: Senator Gianaris.

SENATOR GIANARIS: Move to appeal the previous ruling of the chair as to the germaneness of my previous conversation.

There was a ruling from the chair when I previously spoke that my discussion was not germane. I move to appeal that ruling. I would like to be heard on the appeal.

ACTING PRESIDENT FLANAGAN: Senator Gianaris.

SENATOR GIANARIS: Thank you, Mr. President.

SENATOR LIBOUS: Mr. President --

SENATOR GIANARIS: We are dealing --

ACTING PRESIDENT FLANAGAN: Excuse me --

SENATOR GIANARIS: I'm sorry, I believe I have the floor, Senator.

SENATOR LIBOUS: Point of order. Point of order.

ACTING PRESIDENT FLANAGAN:

Senator Libous is rising on a point of order.

SENATOR LIBOUS: I am somewhat confused as to what Senator Gianaris has before the house.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris, would you be kind enough to explain exactly what you are appealing?

SENATOR GIANARIS: Yes, Mr. President. When I previously was having a discussion on this floor, the chair made a ruling that my discussion was not germane to the appeal of Senator Breslin. So I am now issuing my own appeal as to your ruling as to the germaneness of my conversation.

SENATOR LIBOUS: Mr. President, I believe I can help Senator Gianaris. I believe he can speak on the motion before the house, which is whether or not to accept the Rules Committee report. He does not have to have his own appeal.

The motion is before the house whether or not to accept the Rules report. And, Mr. President, the Senator could speak on that motion as it is before the house. He

does not have -- I don't know what he's appealing. There's nothing to appeal.

SENATOR GIANARIS: Well, Mr. President, Mr. President -- the President -- Mr. President, through you, you had indicated to me previously that I would have the time to appeal your ruling as to the germaneness of my discussion and have the opportunity to be heard on it previously.

I'm asking for consistency from the chair as to your previous assurance to me. I am currently appealing your previous decision as to germaneness, and I wish to be heard on it.

ACTING PRESIDENT FLANAGAN: Senator Gianaris --

SENATOR GIANARIS: Thank you --

ACTING PRESIDENT FLANAGAN: -- absent -- no, I'm not done.

Senator Gianaris, I believe that what you are attempting to appeal is exactly what we just spent well over half an hour discussing with Senator Libous.

SENATOR GIANARIS: No, sir. No, sir, Mr. President, it is not.

ACTING PRESIDENT FLANAGAN: Then perhaps you can more clearly state how you differentiate yourself from Senator Breslin.

SENATOR GIANARIS: I am appealing your decision to limit the topic of conversation of that debate. That is what I am appealing.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, you are out of order. This is exactly what we just ruled on and took a vote on.

SENATOR GIANARIS: I'm appealing that ruling, Mr. President, that I'm out of order. At some point I am allowed to speak to disagree with the ruling of the chair.

ACTING PRESIDENT FLANAGAN: And you have so spoken, Senator Gianaris.

SENATOR GIANARIS: No, I have not. You have limited my ability to speak on that issue.

ACTING PRESIDENT FLANAGAN: We have already --

SENATOR GIANARIS: You have -- you forced me to sit down --

ACTING PRESIDENT FLANAGAN:

Senator Gianaris --

SENATOR LIBOUS: Point of order. I believe there's a dilatory motion before the house, and I would say that he is -- Mr. Gianaris is out of order and we need to go to the motion.

SENATOR GIANARIS: -- why that everyone on that side of the aisle thinks I'm out of order. I am appealing that determination, and I wish to speak on it.

SENATOR LIZ KRUEGER: Point of order.

ACTING PRESIDENT FLANAGAN: Senator -- Senator Gianaris. I have already ruled, and a vote has already been taken on an appeal of the ruling of the -- Senator Gianaris, I indulged you to hear your comments. Give me the same courtesy.

SENATOR GIANARIS: Yes, sir.

ACTING PRESIDENT FLANAGAN: The President, whether you like the decision or not, has made a ruling. There's been an appeal. There's been a discussion, and there's been a vote taken.

Your appeal or your argument is

exactly the same that has been advanced by Senator Breslin.

SENATOR GIANARIS: With respect --

ACTING PRESIDENT FLANAGAN: Therefore, I am ruling you out of order.

And if you wish to speak on the motion to accept the Rules report, your comments will be in order.

SENATOR GIANARIS: With respect -- with respect, Mr. President, I am not speaking on the same subject of the previous appeal. I am not speaking about the appeal Senator Breslin made. I am speaking about the chair's ruling as to what we can discuss as it pertains to that appeal. That is a wholly separate issue.

You, at your own suggestion, had me sit down previously with the assurance that I would have the opportunity to issue my own appeal and have that discussion in due time. I waited patiently. The -- there was a -- the appeal was concluded. And I now have issued my separate appeal as you directed me to do.

Now you're telling me that I can't

speak on the exact issue you asked me to wait to speak on. How is that fair, Mr. Chair?

ACTING PRESIDENT FLANAGAN:

Senator Gianaris, I am being consistent. We had a motion before the house, there was an appeal of the ruling of the chair, and there was debate and a vote was taken. We are now on a motion to accept the Rules report.

Senator Gianaris, let me finish. You are absolutely right, I did say that if you had an appeal that you would like to make on the ruling of the chair, that you could make it at the appropriate time.

However, you have now gotten up and enlightened me as to what the context of that appeal was, and it is 100 percent consistent with what Senator Breslin advocated. And therefore I have listened to what you have to say, and I'm making a rule that you are out of order and what we should be properly discussing before the house is the acceptance of the Rules report.

SENATOR GIANARIS: Then with respect, Mr. President, I would like to move to appeal your order that I am out of order.

ACTING PRESIDENT FLANAGAN:

You've already appealed that, and it's already been ruled on --

SENATOR GIANARIS: I have not. You have just told me my appeal was the same as Senator Breslin's. He did not appeal your ruling that I was out of order. He was appealing your ruling as it pertained to the Rules report. I am appealing your order that I am out of order in having this discussion.

And I'm entitled to speak on that, Mr. President. No matter how many times you try and stop me, I'm entitled to speak on that on this floor as part of the governmental process.

I'm an elected member of this body, Mr. President. I demand to be heard. That is why I've been sent here. And no matter how many times you rule me out of order, the rules permit me to appeal that ruling and discuss it.

ACTING PRESIDENT FLANAGAN:

Senator Gianaris, I realize that you, along with the other 61 members, are duly elected members of this body.

I believe that what you've brought before the house right now is a dilatory motion, which is inconsistent with the rules of this house, and I am going to tell you that we are going to move on to the motion as to the acceptance of the Rules report.

Senator Libous.

SENATOR GIANARIS: Mr. President, I would like to appeal the ruling you just made. At some point I'm entitled to speak in objection to a ruling of the chair. And you cannot continue to stop me from doing that.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, you are out of order.

SENATOR GIANARIS: I would like to appeal the ruling that I'm out of order.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR GIANARIS: Mr. President, I would like to point out that in fact the Rules Committee and the report it produced is no different than the legal doctrine of fruit from the poisonous tree. There was a poisoned Rules Committee meeting --

ACTING PRESIDENT FLANAGAN:

Senator Gianaris --

SENATOR GIANARIS: -- that produced a report that did not consider --

ACTING PRESIDENT FLANAGAN: -- you are out of order.

SENATOR GIANARIS: I will not allow you to rule me out of order if you do not let me speak on it --

ACTING PRESIDENT FLANAGAN: Senator -- Senator Gianaris.

SENATOR GIANARIS: -- Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, with all due respect, you don't have to like what I'm saying. I'm standing here in the capacity of the President. I've made a ruling. We've had an appeal, we've had a debate, we've had a vote, and I've just expressed that your motion is a dilatory motion and that we should be debating --

SENATOR GIANARIS: [Directed across the aisle] Afraid to talk about it, Senator?

ACTING PRESIDENT FLANAGAN:

Senator Gianaris, excuse me --

SENATOR GIANARIS: -- [inaudible] --

ACTING PRESIDENT FLANAGAN: No, Senator Gianaris --

SENATOR GIANARIS: -- [inaudible] --

SENATOR LIBOUS: Joe, Joe, sit down --

SENATOR GIANARIS: -- on the floor of the Senate --

ACTING PRESIDENT FLANAGAN: Senator Gianaris, I have the floor.

SENATOR ADAMS: Point of order. Point of order, Mr. President. Point of order --

ACTING PRESIDENT FLANAGAN: Senator Adams -- Senator Adams, excuse me. Senator Adams --

SENATOR ADAMS: -- disrespectful to our colleague. That's unfair and that's wrong. He had the floor. He was speaking. He should have the right to speak, just as --

ACTING PRESIDENT FLANAGAN: Senator Adams --

SENATOR ADAMS: -- right to speak.

ACTING PRESIDENT FLANAGAN: Senator Adams, I was the one who was speaking.

Civility in discourse is going to help everybody out. I will listen to you, Senator Gianaris. I will listen to Senator Breslin. Certainly I will listen to Senator Libous and all of our colleagues.

I am telling you that your comments are out of order. You don't have to like what I'm saying, but that's the ruling before the house. And I believe that we should be debating the acceptance of the Rules report.

SENATOR GIANARIS: As a point of order about civility, because I agree with you, I would like to point out I've heard numerous times in my two months here that we should be civil towards one other. And I have been hearing disparaging comments personally about me coming from the other side of that floor. I'd like the President to please ask for civility on the floor.

SENATOR LIBOUS: Mr. President. Mr. President --

SENATOR GIANARIS: A simple request. I'm not even getting into --

ACTING PRESIDENT FLANAGAN: Senator Gianaris, that is a fair request that would go back and forth between both parties.

SENATOR GIANARIS: Thank you.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Mr. President, you've ruled this a dilatory motion. That means that Senator Gianaris no longer has the floor.

But I would recommend, Mr. President, that when we go back on the reading of the Rules report, if Senator Gianaris would like to have the floor, I would ask that you call on him at that point so that he can make his point.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Libous.

SENATOR GIANARIS: Mr. President --

SENATOR LIBOUS: Are we now --

SENATOR GIANARIS: -- Rules report?

SENATOR LIBOUS: Are we now, Mr. -- are we now on the adoption of the Rules committee report?

ACTING PRESIDENT FLANAGAN: Yes.

SENATOR LIBOUS: Thank you, Mr. President.

SENATOR LIZ KRUEGER: Point of order. Point of order, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Krueger.

SENATOR LIZ KRUEGER: There's been a lot of going back and forth. I need a clarification, please, from you, from the chair.

Senator Gianaris, I heard him be ruled non-germane earlier. And you said we would get to that. I believe that the person transcribing here could read what she has been typing, which would verify that in fact you said we would get back to the germaneness of the point.

I'm just trying get a clarification from you, Mr. President. I have heard colleagues say that activities that took place in the Rules Committee -- which was on TV, and

I was there -- where Senator Breslin attempted to bring a petition to allow a public hearing on redistricting did in fact take place. I don't think it's a debate. There were many colleagues, both sides of the aisle.

In committee, the chair rejected the petition but never explained why or the basis for it. There have been any number of attempts here today to get facts put into the record about what took place in the Rules Committee. And we're simply trying to establish where would you challenge a faulty process in the Rules Committee. I believe that is what Senator Breslin was trying to address, Senator Squadron, and now Senator Gianaris.

So I am asking you as the chair, since you seem to be overruling every appeal, where would the people of New York go to get an answer about when you try to apply the rules of the Senate to petition for a public hearing on any bill? This was an important bill on redistricting. Where would you go to get that resolved if, as we saw tonight, the committee chair, I believe, violated the rules

of the Senate Rules Committee. Then, when they brought their Rules report to the floor, it excluded that information.

And now I am watching a debate go back and forth as to whether it's germane to even raise on the floor when you would go through that process and have a fair hearing about what the rules of the Senate Rules Committee are.

Help me understand this, please.

ACTING PRESIDENT FLANAGAN: Senator Krueger, I don't think I'm in a position, nor anyone who stands up here, to be issuing points of clarification. And I'm certainly not going to engage in hypothetical discussions about where one should be going to seek appropriate redress, whether it's at the ballot box or at a press conference or at a public hearing.

I'm going to state this politely for the last time. The Rules report that is before the house contains legislation that was passed by the Rules Committee. That's -- Senator Breslin, let me finish, please. That is the sum and substance of what is before

this body for its consideration. Senator Breslin had raised that -- no, Senator Breslin, I will get to you, I promise.

Senator Breslin had raised certain points and appealed a ruling of the chair. Senator Gianaris at one point had gotten up, and I asked him to wait since I felt at the time that he was issuing a separate effort to appeal the ruling of the chair. We had a debate, we had a discussion, we took a vote and the ruling of the chair was sustained.

Senator Gianaris then got up and raised points that I believed, in my capacity standing here, were exactly the same as Senator Breslin's. Now, he may -- doesn't have to like that ruling. You asked me to tell you what we did. That is, I believe, what we did. I'm not going to get into points of clarification or hypotheticals, as I said.

What we have before us is the acceptance of the Rules report.

SENATOR LIZ KRUEGER: Thank you. Again, I don't think it was a clarification.

And I do believe my colleagues are right to appeal the decisions of the chair.

Because if we can't fundamentally get an answer from the President Pro Tem of the Senate how we as elected Senators would be able to challenge what we believe is an incomplete and faulty Rules Committee report on the floor of the Senate, I'm sorry, it is not satisfactory to say "I don't have an answer." And it's not hypothetical, because many of us were in that room. It was on TV. We televise and tape our committee rules.

So you can say it's not in the Rules report being submitted to you as the President Pro Tem. But I can tell you there were a lot of people in the Rules Committee, and we watched exactly what happened. And there was more than one issue brought up in that Rules Committee, and it was the right to have a vote for a public hearing on redistricting. So I think the record does reflect that, and history reflects that.

And so I am sorry that the President Pro Tem does not actually have any ability to explain how the rules of the Senate would be in fact applied, because I think it's an important issue for us to deal with.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Krueger.

Senator Libous.

Oh, excuse me. Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President. I would just procedurally like a hand count on the appeal. A show of hands.

ACTING PRESIDENT FLANAGAN: The appeal is not -- the vote's been taken. We're well beyond that, Senator Breslin.

SENATOR BRESLIN: I think it's part of our general accepted procedure that we have a show of hands.

ACTING PRESIDENT FLANAGAN: I'm sorry, Senator Breslin, would you repeat --

SENATOR BRESLIN: There's been no announcement of the results at all. I've been getting up and up, trying to get your attention.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: The vote has been taken. Can we accept the Rules report,

please? It's been taken.
ACTING PRESIDENT FLANAGAN: All those in favor of --
SENATOR SQUADRON: [Inaudible].
ACTING PRESIDENT FLANAGAN: -- accepting the Rules report signify by saying aye.
(Response of "Aye.")
SENATOR SQUADRON: [Inaudible.]
ACTING PRESIDENT FLANAGAN: Opposed?
SENATOR SQUADRON: -- the Rules report, Mr. President.
SENATOR LIBOUS: No, no. No, we're on the vote.
SENATOR SQUADRON: [Inaudible.]
ACTING PRESIDENT FLANAGAN: Senator Libous, the Rules report is accepted.
SENATOR LIBOUS: Thank you. Thank you.
SENATOR SQUADRON: [Inaudible.]
SENATOR LIBOUS: Mr. President --
SENATOR SQUADRON: -- to Senator Gianaris --
SENATOR LIBOUS: Mr. President --

SENATOR SQUADRON: Senator Krueger stood up on a point of order just before that, and that's where we are. We had a half-hour on each side, it's up to an hour now, to debate the report of the Rules Committee. Very clearly.

SENATOR LIBOUS: Mr. President --

SENATOR SQUADRON: And I would ask that rather than continue down this rabbit hole we now have a discussion --

SENATOR LIBOUS: If Senator Squadron would take a deep breath --

SENATOR SQUADRON: -- about whether a petition for a hearing is in order. This idea that we're not going to talk about the petition to talk about the redistricting bill on this floor just isn't right.

ACTING PRESIDENT FLANAGAN: Senator Squadron -- Senator Squadron -- Senator Squadron --

SENATOR SQUADRON: -- Mr. President.

SENATOR HASSELL-THOMPSON: Point of order, Mr. President.

SENATOR SQUADRON: How much more

debate do we need?

ACTING PRESIDENT FLANAGAN: Senator Squadron --

SENATOR SQUADRON: Yes, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Hassell-Thompson, please wait a moment. I have recognized Senator Libous.

Senator Libous.

SENATOR LIBOUS: Mr. President --

ACTING PRESIDENT FLANAGAN: Senator Hassell-Thompson, I will get to you in a moment.

SENATOR LIBOUS: Mr. President, how much time is left in debate on the -- accepting the --

ACTING PRESIDENT FLANAGAN: We are well beyond the 30 minutes, Senator Libous. Probably closer to 50 minutes at this point.

SENATOR SQUADRON: -- accepting the Rules report? I don't believe we've debated that issue without interference, frankly, from --

SENATOR LIBOUS: Mr. President --

ACTING PRESIDENT FLANAGAN:

Senator Squadron -- Senator Squadron --

SENATOR SQUADRON: -- for two good minutes.

ACTING PRESIDENT FLANAGAN:

(Gaveling.)

SENATOR SQUADRON: Mr. President, can I please make my point.

ACTING PRESIDENT FLANAGAN:

Senator Squadron. Senator Libous has the floor. I will recognize you after I recognize Senator Hassell-Thompson. If you continue to do that, we cannot continue our business in an appropriate fashion.

SENATOR ADAMS: Point of order, Mr. President.

Whenever Senator Libous stands up, you take the floor away from Senator Squadron, Hassell-Thompson. Just because he stands up, we shouldn't just disrespect other members. They were standing. Senator Thompson was speaking. So any time he stands up, he dictates what the chair is going to do, what the President is going to do.

How is this done? Is he the chair

or you're the chair? I don't know. How is it done? If Senator Thompson is speaking, she should be allowed to speak. Just because he stands, we can't disrespect the other members.

ACTING PRESIDENT FLANAGAN: Senator Adams, I had recognized Senator Libous. I made it clear that I would recognize Senator Hassell-Thompson. Senator Squadron was impeding my ability to do so because he was not properly recognized.

Senator Hassell-Thompson, do you wish to be heard?

SENATOR HASSELL-THOMPSON: Yes, thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Why do you rise, Senator Hassell-Thompson?

SENATOR HASSELL-THOMPSON: I rise, Mr. President, because I believe that the vote that we took had to do with overruling the chair but it had nothing to do with closing down the debate. Therefore, Senator Squadron's request for a hand count when we vote is not out of order.

ACTING PRESIDENT FLANAGAN: Senator Squadron did not make a request for a

hand count. Senator Breslin did, on a vote that was taken approximately 15 minutes ago, and we had moved past that.

SENATOR HASSELL-THOMPSON: That was on -- but that wasn't the process, Mr. Chairman, by which Senator Libous said that we were in this process. I think that we've been here a long time, but not too long to keep track of where we are.

The vote that was taken was on whether or not we supported the chair's ruling. We have not voted yet. Yet Senator Libous called for a vote on the Rules Committee. We're suggesting that when that vote is taken, that it be done by a hand vote. That was the request.

And in case that wasn't clear, I am making that request. And I will ask for other members to stand with me if I need to, to support that vote, Mr. Chairman.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Hassell-Thompson.

Senator Libous.

SENATOR GIANARIS: Mr. President, point of order. What -- how can you --

ACTING PRESIDENT FLANAGAN: Senator Gianaris, excuse me. I just recognized Senator Libous.

SENATOR GIANARIS: I would like to make a point of order before you take the vote without giving me a chance to make my point of order.

SENATOR LIBOUS: Mr. President --

ACTING PRESIDENT FLANAGAN: I'm recognizing Senator Libous, Senator Gianaris. I'm not taking a vote.

SENATOR GIANARIS: This is a point of order. Mr. President, that is always in order.

ACTING PRESIDENT FLANAGAN: I realize it's always in order. But Senator Libous has the floor.

He has sat down. What is your point of order?

SENATOR GIANARIS: My point of order, Mr. President, is to inquire whether you have or have not announced the results on the previous appeal of Senator Breslin. I know that the debate on that was shut down several minutes ago, but the results were

never announced. And I believe it's in order for a member to request a hand count, since the results were not announced. And we could read the transcript back if --

ACTING PRESIDENT FLANAGAN: Senator Gianaris, I'm very comfortable that you are quite adept at listening. And I made it very clear, after having taken a vote, ayes and nays, that the chair had been sustained. If you didn't hear that, then I apologize. But the chair had been sustained, and we moved on.

And we've moved on now to the point where we have also taken a vote on the acceptance of the Rules report, which has passed as well.

SENATOR ADAMS: Point of order, Mr. President.

I'm requesting a readback, please, because I didn't hear you state that. Can we please have the stenographer read back when you stated that?

SENATOR LIBOUS: I'm sorry, Mr. President, I didn't hear that.

SENATOR ADAMS: I'm requesting a

readback. He stated that he announced the results. I didn't hear him announce the results. Can we have a readback from the stenographer, please.

ACTING PRESIDENT FLANAGAN: Senator Adams, this is the New York State Senate. It is not a court of law. I don't believe that we have engaged in readbacks before.

I'm standing before you having pretty working knowledge of what I said myself, and I'm very confident that I was clear, very clear that the chair had been sustained after a vote was taken. And subsequent to that, that another vote was taken to accept the Rules report, which was accepted by a voice vote, the ayes having the vote.

SENATOR ADAMS: Okay, I understand this is not a court of law. I'm clear on that. However, the mere fact that we've never had a readback before, are you stating that's against the rules of this chamber, to call for a readback? I just want to get clarification on that.

ACTING PRESIDENT FLANAGAN: Yes.

Senator Libous.

SENATOR GIANARIS: Mr. President -- Mr. President, point of order. Even if you announced the results, which I certainly didn't hear, but even if you did announce the results, there are empty seats in this chamber. I believe a showing of hands is appropriate to document and to verify your judgment as to the vote of this chamber on the appeal.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, the vote has been taken. The ayes had it. The vote -- we've now had two separate votes on the appeal of the ruling of the chair and on the acceptance of the Rules report. Your point of order is not timely --

SENATOR SQUADRON: Mr. President, we have not had a vote on this.

ACTING PRESIDENT FLANAGAN: Senator Squadron, I have the floor.

SENATOR SQUADRON: Mr. President, point of order. Point of order, Mr. President. Point of order.

ACTING PRESIDENT FLANAGAN:

Senator Squadron, I'm trying to answer Senator Gianaris.

SENATOR SQUADRON: I have a brief point of order, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Libous.

SENATOR SQUADRON: I -- I'm not sure that Senator Libous was standing.

ACTING PRESIDENT FLANAGAN: I'm not -- I'm not recog -- let me finish my points. We have had two separate votes.

SENATOR SQUADRON: Point of order, Mr. President.

ACTING PRESIDENT FLANAGAN:

Senator Squadron, you will be recognized after I have made my comments and after I go to Senator Gianaris for his comments, because he was up before you.

We have had two separate votes. An appeal of the ruling of the chair on a motion by Senator Breslin, the ayes had the vote on that. That vote was taken approximately 20 minutes ago. That vote was in order and the chair was sustained. Not too long ago we

had a vote on the acceptance of the Rules report by a voice vote --

SENATOR GIANARIS: Mr. President.

ACTING PRESIDENT FLANAGAN: -- and that vote was carried as well. The Rules report has been accepted.

SENATOR GIANARIS: Mr. President, with all due respect, I defy anyone in this chamber to suggest that there was a second voice vote called. I only called out once, and I didn't hear anyone else call. I didn't even hear the vote called.

I would like to speak on the Rules report, Mr. President.

THE PARLIAMENTARIAN: It's already been passed.

ACTING PRESIDENT FLANAGAN: The Rules --

SENATOR GIANARIS: No, it has not already been passed. There has not been a single vote cast. Nor was a vote called for. You cannot now pass reports without even taking a vote. And I know you want to stop the debate, but you can't do it without even voting.

ACTING PRESIDENT FLANAGAN: Senator Gianaris -- Senator Gianaris, I'm not trying to stop any debate. What I'm trying to do is properly enforce the rules of this house. And I've tried to do so in a diligent fashion.

Senator Libous -- we had moved to accept the Rules report. There was a voice vote taken. Perhaps you didn't hear it, but there was a voice vote taken.

SENATOR SQUADRON: Mr. President --

SENATOR GIANARIS: There was not --

SENATOR SQUADRON: Mr. President, I have a point of order. A standing point of order is always in order. Can I please make my point, Mr. President.

ACTING PRESIDENT FLANAGAN: I am having a discussion with Senator Gianaris.

SENATOR SQUADRON: Yes, Mr. President. I have a point of order relative to a statement that you keep making that sounds disturbingly to me like a ruling of the chair that is --

SENATOR LIBOUS: --
Mr. President, and accepted by the chair.
ACTING PRESIDENT FLANAGAN:
Senator Libous, I'm sorry?
SENATOR LIBOUS: A point of order is only accepted by -- recognized by the chair, Mr. President.
SENATOR SQUADRON: So -- so -- so I should understand that the chair is rejecting repeatedly my point of order on something as important as to whether the members of this house voted on an issue or not.
ACTING PRESIDENT FLANAGAN: No, Senator. Senator Squadron --
SENATOR SQUADRON: I am to understand that the chair is rejecting that conversation.
ACTING PRESIDENT FLANAGAN: No, Senator Squadron. What I am doing, I have ruled you out of order because you were being dilatory and being disrespectful to your own colleagues by continuing to interrupt them, which hampers their ability to make their points. While I may not agree with all of

their points, they are entitled to make them in a timely and appropriate fashion. Your continued rising has affected the ability to do so.

I have made a ruling, a voice vote has been taken, and the ayes have the vote. The Rules report is properly before the house.

SENATOR GIANARIS: Mr. President, I believe I do still have the floor on my point of order.

ACTING PRESIDENT FLANAGAN: Senator Gianaris.

SENATOR GIANARIS: I would like to appeal the ruling you just made that there was a second vote.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, that is --

SENATOR GIANARIS: Folks, folks, there was no vote. We can't start moving things through the Senate without taking a vote. This is absurd.

SENATOR LIBOUS: Whoa, order.

ACTING PRESIDENT FLANAGAN: (Gaveling.)

SENATOR LIBOUS: Mr. President,

can we have some order in the house, please.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: I believe I had the floor, Mr. President.

ACTING PRESIDENT FLANAGAN: Yes, you did.

SENATOR LIBOUS: And I'd like to --

SENATOR GIANARIS: What about my point of order, Mr. President?

SENATOR LIBOUS: Does Senator Gianaris have the floor? If he does, I will let him speak. Mr. President, does he have the floor on his point of order?

What is your point of order?

ACTING PRESIDENT FLANAGAN: Senator Gianaris.

SENATOR GIANARIS: Thank you, Mr. President. I would like to move to appeal your ruling that there was a second vote to accept the Rules report. And I would like to be heard on that appeal.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, the ruling -- what you are

seeking in terms of a ruling is a fact. A voice vote has been taken already, and the Rules report has been accepted.

SENATOR GIANARIS: But you characterized it as a ruling yourself not less -- not more than a minute ago. You said the chair has ruled that there was a vote. I'm appealing that ruling.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: I think, if everybody would just bear with me, we'll get through this. Let me offer a suggestion, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Let me suggest that the vote was -- because it was taken by voice vote on the appeal of the ruling of the chair. We did tell Senator Gianaris that he could make some comments. I would say that we're on the reading of the Rules report. But let Senator Gianaris speak, if it's okay with you. Then we will go to the vote. And if you

want to vote by hands on the Rules report, that's not a problem.

Is there any objection? Could we have unanimous consent to move in that direction and have Senator Gianaris be the last speaker for that side of the aisle on this issue?

ACTING PRESIDENT FLANAGAN: Senator Libous -- shh, shh -- are you asking to move for reconsideration on a vote that has previously been cast?

SENATOR LIBOUS: On the voice vote on accepting the Rules report, yes, I am.

ACTING PRESIDENT FLANAGAN: Senator Libous, your motion is in order.

All those in favor of accepting Senator Libous's motion for reconsideration on a vote which has previously passed, the acceptance of the Rules report, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT FLANAGAN: The

ayes have it.

SENATOR LIBOUS: Mr. President --

ACTING PRESIDENT FLANAGAN: Now, Senator Libous.

SENATOR LIBOUS: I believe Senator Gianaris wanted to speak on the Rules report. If that -- that is certainly in order at this time.

ACTING PRESIDENT FLANAGAN: Senator Gianaris.

SENATOR GIANARIS: Thank you, Mr. President, on the Rules report. And I'd like to thank Senator Libous as well.

SENATOR DeFRANCISCO: Point of order.

ACTING PRESIDENT FLANAGAN: Excuse me --

SENATOR DeFRANCISCO: On that last vote, could we have a hand ruling? I want to see if Senator Adams actually voted no, asking Senator Gianaris not to speak.

(Laughter.)

ACTING PRESIDENT FLANAGAN: Senator Gianaris, you have the floor.

SENATOR GIANARIS: Thank you,

Mr. President. I do want to thank Senator Libous as well for his consideration.

On the Rules report. We have before us a Rules report that has one bill on it. It is a Governor's program bill. At the Rules Committee which produced that report, there was a petition for a hearing on a second Governor's bill which related to independent redistricting.

The Rules Committee did not vote on that bill. The Rules Committee did not consider -- on that petition, rather. The Rules Committee did not consider that petition as required by the rules of the Senate. And yet we have before us a Rules report that came out of that Rules Committee which was conducted in contravention of the Senate rules.

As I began to say earlier, there's a legal doctrine called the fruit of the poisonous tree which says that what comes out of something that was conducted improperly or against the rules or illegally cannot be considered on its own because everything that it came from was improper.

The Rules Committee that produced the report before us was conducted improperly. It was in direct violation of Rule 7 of the Senate rules. We had more than one-third of the members petition for a hearing on the Governor's program bill to establish a fair and independent redistricting process that the Senate Majority has tried to bottle up since the moment it was introduced. They have not allowed a single sponsor on it. They've tried to limit debate on this floor tonight as to the fact that the Rules Committee didn't even allow the petition to come up for a discussion.

And now we have a Rules report, lo and behold, that was produced that has a bill on it that many of us will support -- myself included -- but does not reflect the Rules Committee abiding by the rules of the Senate, which would require a petition on the Governor's bill on independent redistricting.

Why the Senate Majority has spent so much time in the last two months trying to avoid even a public discussion of independent redistricting I think is, plain and simple, a

direct result of the fact that each and every one of them promised to support that bill, or something very similar to it, and from the Wednesday after Election Day to today it's been one step after another to avoid discussion, avoid it coming up for a vote, avoid letting people sponsor it, avoid it as if it never existed.

It seems to me like the Senate Majority would be happy to take that bill, my redistricting bill, any other redistricting bill that would go into effect for next year's reapportionment and throw it in the round file and never hear from it again and hope it goes away.

And we hear about there's other issues, you know, like the budget -- which is obviously a critically important issue for this state. But there's no reason we can't deal with both issues at the same time.

I've heard discussion that it's not timely, it's not until next year. It may not be until next year, but we have to set up a process this year that would have the time to function and be in place to produce an

independent redistricting process for next year.

We have become a laughingstock as it relates to our districts. There are contests to name the shapes of our districts, that's how bad it's gotten, because we're picking who's going to vote for us rather than letting the voters pick who represents them.

And this Rules report that we're discussing tonight is just another example -- and perhaps the most egregious, from what I've seen on the floor tonight. Although I do appreciate and respect Senator Libous allowing me to speak on the Rules report. I hope that's a sign that as we go forward there will continue to be a robust public discussion on this issue and not a continuation of what we had seen previously.

The fact is reapportionment happens once every 10 years. It's happening next year. And solutions that kick the can down the road 10 years later will not satisfy the public, they will not satisfy the advocates that have been pushing for this, and they certainly will not satisfy me.

We have before us a Rules report that we debated these rules for quite some time when they were adopted. I remember that discussion. And many of us were not happy they were adopted, but here they are. And they were adopted with the proper amount of votes after an appropriate vote.

And now these rules that the Senate Majority adopted, over our objections -- which is the way it works -- are now being defied by the very Senate Majority that adopted them. If you didn't like the fact that we could petition for a hearing on a bill, you shouldn't have included it in Rule 7 of the Senate rules.

But the fact is that that rule is there. And we abided by the rules that we all voted against. And we presented the petition pursuant to the rules that were drafted by the Majority. That petition was ignored. And then the Rules Committee produced --

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous, why do you rise?

SENATOR LIBOUS: In all due

respect to Senator Gianaris, is his discussion germane to the Power for Jobs bill before us on the Rules Committee? We're talking about petitioning the Rules Committee, and Power for Jobs I believe is on the Rules Committee report.

ACTING PRESIDENT FLANAGAN: Senator Libous, your comments are well-taken.

Senator Gianaris, I appreciate your measured tone. I would respectfully request that you seek very much in earnest to keep your comments to the bill and the report that is before the house. There will be plenty of opportunities, and I'm sure that you are quite adept at seeking those opportunities and advancing them outside of this chamber to discuss issues that are not before the house today.

SENATOR GIANARIS: Mr. President, is that a ruling that my discussion is not germane to the Rules report?

ACTING PRESIDENT FLANAGAN: It's a polite suggestion that your comments are straying from the contents of the report in the matter before the house, and that it would

be a prudent exercise for you to focus far more on Senator Maziarz's bill, which has to do about energy policy and economic development for the State of New York.

SENATOR GIANARIS: With respect, Mr. President, I disagree with your suggestion. Because as I stated, it's my belief that the report that the Rules Committee produced was in contravention of the Senate rules and therefore the report itself is not a valid report.

And as part of that discussion, Mr. President -- this is what we've been struggling with, or I have tonight -- as part of that discussion I need to be able to make the point of why the Rules Committee acted improperly to justify why I think the Rules report itself is not properly before the house.

ACTING PRESIDENT FLANAGAN: Senator Gianaris, I would again remind you that I think it would be a wise investment of your time and this collective body's time to constrain your comments to the Rules report.

If you want to comment about

something relating to procedure, I would do that also in a measured tone. The subjects that you're raising for legislative consideration have absolutely nothing to do with procedure. Should you wish to change the procedure, you are well aware of how you might do that outside of this body.

But if you want to speak to the procedural aspects of how the committee operates, I think it would be relatively fair for you to do so. But if you want to talk to legislation that is not part of that committee, I would suggest that your comments would be out of order.

SENATOR GIANARIS: Well, Mr. President, in a measured tone, I respectfully disagree.

But I think we're beating a dead horse at this point, so I would call for a vote on the Rules report.

ACTING PRESIDENT FLANAGAN: All those in favor of accepting the Rules report signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: And a

show of hands, please.

(Members raised their hands.)

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: I just want to make sure that there's clarification that we are now voting on the acceptance of the Rules report, which has one bill, Senator Maziarz's bill, which is the Governor's program bill, and anybody who votes nay would be against putting that bill on the floor. Is that correct?

ACTING PRESIDENT FLANAGAN: Yes.

SENATOR LIBOUS: Thank you, Mr. President.

SENATOR GIANARIS: Point of order. Point of order. Point of order, Mr. President. Senator Libous just said we are --

ACTING PRESIDENT FLANAGAN: Excuse me, Senator Gianaris.

SENATOR GIANARIS: I'm sorry.

ACTING PRESIDENT FLANAGAN: I'm going to invoke chivalry here. We had one of your female colleagues, Senator Montgomery,

rise before you.

Senator Montgomery, you wish to be heard?

SENATOR MONTGOMERY: Yes, thank you. Yes, I want to explain my vote. To absolutely reject the premise put forward by --

ACTING PRESIDENT FLANAGAN: Excuse me, Senator Montgomery.

SENATOR MONTGOMERY: You don't have me on the microphone, do you? Oh, yes, you have me.

ACTING PRESIDENT FLANAGAN: No, your microphone is on. But I --

SENATOR MONTGOMERY: I want to explain my vote. Is that -- may I do that now? Are we voting now?

ACTING PRESIDENT FLANAGAN: Excuse me, Senator Montgomery --

SENATOR MONTGOMERY: Are we voting now? I would like to explain my vote.

ACTING PRESIDENT FLANAGAN: Yes, and I'm trying to get to that point.

Respectfully explaining your vote on a motion is not in order.

SENATOR MONTGOMERY: Well, I would like to speak on the motion. Can I do that?

ACTING PRESIDENT FLANAGAN: We are on a vote, Senator Montgomery. So time for debate on the motion --

SENATOR MONTGOMERY: I would like to speak on whatever is before the house. Is that all right?

(Laughter.)

SENATOR MONTGOMERY: Whatever you call it.

SENATOR LIBOUS: Excuse me, Mr. President. Mr. President --

SENATOR MONTGOMERY: You have your hands up. You're voting. I want to speak on -- aren't we voting? Is that what we're doing?

SENATOR LIBOUS: I want to help you, Senator --

SENATOR MONTGOMERY: Oh, thank you. Okay.

SENATOR LIBOUS: -- I do.

I believe Senator Montgomery did stand up before the actual vote was taking

place. So if she wants to make her comments on this, fine. Otherwise the rules are fairly clear that there's no speaking on a motion. We can show our hands.

Senator Montgomery -- if the chair is acceptable, she did stand before we actually did the show of hands. Otherwise, the rules are pretty clear on this issue. So, Mr. President, I would defer to you.

ACTING PRESIDENT FLANAGAN: Yes. I would -- Senator Adams, I would remind you that this is a perfect example of why I take my lead sometimes from Senator Libous, because he's able to correct me when I'm not seeing things that I should be seeing.

Senator Montgomery, I would ask that you be --

SENATOR MONTGOMERY: Brief.

ACTING PRESIDENT FLANAGAN: -- brief in your comments in explaining your feelings about what we're acting on right now.

SENATOR MONTGOMERY: Okay. Thank you very much.

Mr. President, as you know, I'm a member of the Rules Committee. And I was in

the Rules Committee meeting. There was a petition brought or attempted to be brought vis-a-vis the rules that we now operate under in our chamber and within all committees. I thought we were within our right to use that as a means of having a voice in the proceedings in the chamber and in our house, and we were summarily rejected by the chair of the committee. And furthermore, you are now saying to us that we -- it was as if nothing happened in the committee meeting.

So my question to you is if we have -- if there is -- has been such an action taken within our body among ourselves that is clearly outside of the rules, who do we go to in order to address a grievance when that happens? And I would just like for you to tell me where we go from here in terms of appropriately addressing this grievance, since we've been summarily ruled out of order that we can't speak on it on the floor.

So where do we go with it? Who is in charge of making sure that the rules by which we do business in our house are actually followed by all of us equally and fairly?

ACTING PRESIDENT FLANAGAN: Senator Montgomery, I appreciate your comments. That's a rhetorical question.

Announce the results.

THE SECRETARY: Ayes, 36. Nays, 23.

ACTING PRESIDENT FLANAGAN: The report is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we now go to the noncontroversial calendar, please.

ACTING PRESIDENT FLANAGAN: After that, Senator Libous, I'm not sure we have one.

(Laughter.)

ACTING PRESIDENT FLANAGAN: Yes. Senator Libous, we will move to a reading of the noncontroversial portion of the calendar.

THE SECRETARY: Calendar Number 35, by Member of the Assembly Hevesi, Assembly Print Number 261, an act to amend the Public Authorities Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 36, by Member of the Assembly Cahill, Assembly Print Number 3656A, an act to amend the Public Service Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 92, by Senator Little, Senate Print 2485, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT FLANAGAN: The bill is passed.

Senator Libous, that completes the noncontroversial reading of the calendar.

SENATOR LIBOUS: Thank you, Mr. President. Could we go to the supplemental calendar, please, for the noncontroversial reading.

ACTING PRESIDENT FLANAGAN: The Secretary will read the noncontroversial reading of the supplemental calendar.

THE SECRETARY: Calendar Number 164, by Senator Maziarz, Senate Print 3164, an act to amend the Economic Development Law and the Public Authorities Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 20. This act shall take effect immediately.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FLANAGAN: Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Thank you very much, Mr. President. To explain my vote. I was actually going to get up and joke around and say lay the bill aside for the day, but I thought after we've been through all of this, we have to continue.

I just want to say that this bill permanentizes the Power for Jobs program. As we all know, this program has been renewed on an annual basis since 1997. It's been a real detriment to companies that want to locate here in New York, that want to invest in New York that want to hire people in New York, because of the uncertainty.

This bill gives those companies seven years of certainty. It permanentizes this program, allows them to reapply after a seven-year period.

Governor Cuomo has submitted this as his second program bill. He's talked to me personally about it on several occasions, about the importance that he placed upon this bill.

I do want to thank my ranking Democratic member, Senator Parker, who is a cosponsor of this legislation. Because Senator Parker, of course, who represents a district in New York City, myself, from upstate, many of my colleagues -- Senator Gallivan, Senator Ritchie, Senator Grisanti, Senator Libous, Senator Griffo, and Senator Kennedy, all of whom have cosponsored this, it shows the wide-ranging support that we have on this particular piece of legislation.

Mr. President, I vote in the affirmative. Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Maziarz.

Senator Griffo, to explain his vote.

SENATOR GRIFFO: Thank you, Mr. President.

I can't tell you how refreshing it

is to be able to talk about an economic issue, something that really has a tremendous impact across every region of this state and across every segment of our society.

I want to thank Senator Maziarz for his leadership, and all the members of the committee; to Governor Cuomo, for making this an important program bill so early in this session. Because this is a program that is so important in revitalizing our economy, particularly the manufacturing sector.

This bill is going to be so important, as Senator Maziarz said, because it will provide certainty. Benefits were good, but the uncertainty was problematic. This bill now gives this permanency to the program. We all know that utility costs are a factor that hinder businesses in this state, and that's why this effort is so important today.

So I know that this program will be more reliable. It will increase the capacity for employers to grow their businesses. And it's a vast improvement over its popular predecessor.

ACTING PRESIDENT FLANAGAN:

Excuse me, Senator Griffo.

Just if we could have a little quiet so that the member -- there are a number of members who wish to explain their votes. Please extend to them the same courtesy that you would like to receive in return.

Senator Griffo.

SENATOR GRIFFO: Thank you, Mr. President.

So with that in mind, I am wholeheartedly in support of this bill and I'm hopeful that we're going to reach a consensus and deliver this bill into law this year.

Thank you, Mr. President. I vote aye.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Griffo.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I am also glad to stand to support this bill and to vote for this bill and to congratulate all the many Senators who were involved in finally getting Power for Jobs resolved.

For the record, on behalf of the over 320,000 constituents of my district who sent me here to vote up or down on bills like this, if we had fair, independent, non-gerrymandered redistricting, all of us would have approximately the same number of constituents to be voting yes or no on bills on behalf of.

So tonight I'm glad to join my upstate colleagues in supporting this bill. But sometimes my constituents aren't sure they get the same count in this house.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Liz Krueger.

Senator Hassell-Thompson, to explain her vote.

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

I would like the record to reflect that the vote that was taken and how I voted did not reflect the fact that I did not support this energy bill and the importance to the State of New York, but rather that my vote was taken as an objection to the process.

Thank you, Mr. Chair.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Hassell-Thompson.

Senator Fuschillo, to explain his vote.

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

I want to just compliment my colleague Senator George Maziarz, who has worked diligently on this issue for many, many years. And it's critically important for the economic revitalization of New York State and Long Island.

Our priority in this conference has been putting people back to work. This is another step in the right direction in putting New York State in the right direction. I'll be voting in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Fuschillo.

Senator Zeldin, to explain his vote.

SENATOR ZELDIN: I also rise in the affirmative. I commend Senator Maziarz

for his leadership with this particular issue.

Electric rates for businesses in New York are twice as high as they are in other states. On Long Island we have 35 companies that currently benefit from being part of the current Power for Jobs program, while there are new companies that may be able to benefit from this new Recharge New York.

This bill has a wide range of support on Long Island, including the Long Island Association, Association for a Better Long Island, the Hauppauge Industrial Association, Long Island Forum for Technology, the Long Island Builders Institute, Long Island Contractors Association and Nassau Council of Chambers of Commerce, the Long Island Metro Business Action, and the Long Island Software and Technology Network.

Thank you, Senator Maziarz, for your leadership, and I proudly stand in the affirmative to support him in this effort.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Zeldin.

I would again just ask that we have some order in the house.

Senator Stavisky, to explain her vote.

SENATOR STAVISKY: Yes. Mr. President, I have the feeling that I only voted for half of the Rules report, and I don't know whether our votes can be constituted as a fractional vote. But nevertheless, I'm delighted to support this bill whichever way and whatever percentage you want to give to the Rules report.

Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Stavisky.

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT FLANAGAN: The bill is passed.

Senator LaValle.

SENATOR LaVALLE: Mr. President, I think Senator Hassell-Thompson has an announcement.

ACTING PRESIDENT FLANAGAN: Senator Hassell-Thompson.

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

There will be an immediate meeting of the Democratic Conference in the Democratic Conference Room immediately following session.

ACTING PRESIDENT FLANAGAN: Senator LaValle.

SENATOR LaVALLE: Is there any other business at this desk?

ACTING PRESIDENT FLANAGAN: No, there is not, Senator LaValle.

SENATOR LaVALLE: There being no further business, I move we adjourn until Wednesday, March the 9th, at 3:00 p.m.

ACTING PRESIDENT FLANAGAN: On motion, the Senate stands adjourned until Wednesday, March 9th, at 3:00 p.m.

(Whereupon, at 5:56 p.m., the Senate adjourned.)