

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 8, 2011

11 3:12 p.m.

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14 REGULAR SESSION

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18 SENATOR JOSEPH E. ROBACH, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

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

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

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

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

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

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

25 I come from Rockville Centre, and

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

7 Let us pray.

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

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

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

25 We likewise commend to Your

1 unbounded goodness all the citizens of this
2 Empire State.

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

9 ACTING PRESIDENT ROBACH: Thank
10 you, Bishop Murphy.

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

15 (Applause.)

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

19 Thank you for joining us here
20 today.

21 (Applause.)

22 ACTING PRESIDENT ROBACH: Reading
23 of the Journal.

24 The Secretary will read.

25 THE SECRETARY: In Senate,

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

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

8 Presentation of petitions.

9 Messages from the Assembly.

10 Messages from the Governor.

11 Reports of standing committees.

12 Senator DeFrancisco.

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

18 ACTING PRESIDENT ROBACH: The
19 Secretary will read.

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

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

1 ACTING PRESIDENT ROBACH: Senator
2 DeFrancisco.

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

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

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

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

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

25 I have met with Commissioner

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

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

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

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

25 And I also want to recognize he is

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

3 Again, I second the nomination.
4 Thank you.

5 ACTING PRESIDENT ROBACH: Thank
6 you, Senator Grisanti.

7 Senator Breslin.

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

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

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

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

1 hello to his family.

2 Thank you, Mr. President.

3 ACTING PRESIDENT ROBACH: Thank
4 you, Senator Breslin.

5 Senator Libous on the nomination.

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

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

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

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

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

8 ACTING PRESIDENT ROBACH: Senator
9 Little on the nomination.

10 SENATOR LITTLE: Thank you,
11 Mr. President.

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

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

25 So I look forward to working with

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

3 Thank you.

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

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

11 (Response of "Aye.")

12 ACTING PRESIDENT ROBACH:
13 Opposed, nay.

14 (No response.)

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

19 Congratulations to you, your wife
20 Kathy, and family.

21 (Applause.)

22 ACTING PRESIDENT ROBACH: The
23 Secretary will read.

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

1 and Finance, Thomas H. Mattox, of Rifton.

2 ACTING PRESIDENT ROBACH: Senator
3 DeFrancisco.

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

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

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

14 ACTING PRESIDENT ROBACH: Senator
15 Marcellino to second the nomination.

16 SENATOR MARCELLINO: Thank you,
17 Mr. President. Thank you, Chairman
18 DeFrancisco.

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

1 have -- I'm just kidding.

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

11 Congratulations.

12 Mr. President, I second this
13 nomination.

14 ACTING PRESIDENT ROBACH: Thank
15 you, Senator Marcellino.

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

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

23 (Response of "Aye.")

24 ACTING PRESIDENT ROBACH: All
25 those opposed, nay.

1 (No response.)

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

5 Congratulations.

6 (Applause.)

7 ACTING PRESIDENT GRIFFO: The
8 Secretary will read.

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

13 ACTING PRESIDENT GRIFFO: Senator
14 DeFrancisco.

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

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

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

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

5 ACTING PRESIDENT GRIFFO: Senator
6 Fuschillo.

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

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

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

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

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

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

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

22 Thank you, Mr. President.

23 ACTING PRESIDENT GRIFFO: Senator
24 Robach.

25 SENATOR ROBACH: Yes,

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

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

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

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

1 my vote in the affirmative for this new
2 commissioner.

3 Thank you.

4 ACTING PRESIDENT GRIFFO: Senator
5 Kennedy.

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

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

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

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

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

6 Thank you very much for the
7 opportunity, and congratulations.

8 ACTING PRESIDENT GRIFFO: Senator
9 Maziarz.

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

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

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

1 Thank you, Mr. President.

2 ACTING PRESIDENT GRIFFO: Senator
3 Ranzenhofer.

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

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

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

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

1 past need to be addressed.

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

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

13 Thank you.

14 ACTING PRESIDENT GRIFFO: Senator
15 Libous.

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

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

1 Commissioner of the Department of
2 Transportation has to do with a whole host of
3 things, roads and bridges and all those
4 important things, you also have to deal with
5 150 members of the Assembly and 62 members of
6 the Senate as it pertains to roads, bridges,
7 MTA issues and others.

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

15 I give you best wishes and
16 Godspeed.

17 ACTING PRESIDENT GRIFFO: Senator
18 DeFrancisco.

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

22 (Laughter.)

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

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

8 And congratulations.

9 ACTING PRESIDENT GRIFFO: Senator
10 Smith.

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

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

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

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

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

9 Thank you, Mr. President.

10 ACTING PRESIDENT GRIFFO: Senator
11 Larkin.

12 SENATOR LARKIN: Thank you,
13 Mr. President.

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

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

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

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

7 ACTING PRESIDENT GRIFFO: Thank
8 you, Senator Larkin.

9 Senator Perkins.

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

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

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

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

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

8 Thank you very much.

9 ACTING PRESIDENT GRIFFO: Thank
10 you, Senator Perkins.

11 Is there any other Senator wishing
12 to be heard?

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

18 (Response of "Aye.")

19 ACTING PRESIDENT GRIFFO:
20 Opposed?

21 (No response.)

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

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

4 (Applause.)

5 ACTING PRESIDENT GRIFFO: The
6 Secretary will read.

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

11 ACTING PRESIDENT GRIFFO: Senator
12 DeFrancisco.

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

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

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

25 ACTING PRESIDENT GRIFFO: Thank

1 you, Senator DeFrancisco.

2 Senator Little.

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

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

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

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

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

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

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

19 Thank you.

20 ACTING PRESIDENT GRIFFO: Thank
21 you, Senator Little.

22 Senator Serrano on the nomination.

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

25 I want to thank all of the members

1 here for voting to support this nomination.

2 And I want to echo the words of the chair of
3 the Parks Committee, Senator Betty Little:

4 Yes, this is an outstanding nominee.

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

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

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

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

9 Thank you.

10 ACTING PRESIDENT GRIFFO: Thank
11 you, Senator Serrano.

12 Senator Fuschillo.

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

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

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

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

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

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

15 ACTING PRESIDENT GRIFFO: Senator
16 Marcellino.

17 SENATOR MARCELLINO: Thank you,
18 Mr. President.

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

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

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

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

1 problems.

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

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

11 ACTING PRESIDENT GRIFFO: Senator
12 Farley.

13 SENATOR FARLEY: Thank you,
14 Mr. President.

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

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

10 And I support you. Good luck.

11 ACTING PRESIDENT GRIFFO: Senator
12 Gallivan.

13 SENATOR GALLIVAN: Thank you,
14 Mr. President.

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

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

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

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

10 Thank you, Mr. President.

11 ACTING PRESIDENT GRIFFO: Senator
12 Larkin.

13 SENATOR LARKIN: Thank you,
14 Mr. President.

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

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

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

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

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

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

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

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

1 by saying aye.

2 (Response of "Aye.")

3 ACTING PRESIDENT GRIFFO:

4 Opposed?

5 (No response.)

6 ACTING PRESIDENT GRIFFO: Rose H.

7 Harvey is hereby confirmed as Commissioner of
8 the Office of Parks, Recreation and Historic
9 Preservation.

10 (Applause.)

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

14 Congratulations, Commissioner
15 Harvey.

16 Senator Libous.

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

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

24 SENATOR LIBOUS: No.

25 ACTING PRESIDENT GRIFFO: Okay.

1 Reports of select committees.

2 Communications and reports from
3 state officers.

4 Motions and resolutions.

5 Senator Libous.

6 SENATOR LIBOUS: Thank you,
7 Mr. President.

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

13 ACTING PRESIDENT GRIFFO: So
14 ordered.

15 Senator Libous.

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

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

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

25 (Response of "Aye.")

1 ACTING PRESIDENT GRIFFO:

2 Opposed.

3 (No response.)

4 ACTING PRESIDENT GRIFFO: The
5 Resolution Calendar is adopted.

6 Senator Libous.

7 SENATOR LIBOUS: Thank you,
8 Mr. President.

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

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

16 I would ask for order in the
17 chamber.

18 And the Secretary shall read.

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

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

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

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

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

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

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

1 out and examined in a hopeful manner; and

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

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

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

18 ACTING PRESIDENT GRIFFO: Senator
19 Perkins.

20 SENATOR PERKINS: Thank you very
21 much.

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

1 globe as well as the struggles they continue
2 to face.

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

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

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

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

25 (Response of "Aye.")

1 ACTING PRESIDENT GRIFFO:

2 Opposed?

3 (No response.)

4 ACTING PRESIDENT GRIFFO: The
5 resolution is adopted.

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

9 Senator Larkin.

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

13 ACTING PRESIDENT GRIFFO: The
14 Secretary will read.

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

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

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

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

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

11 "WHEREAS, Each year between 140 and
12 160 officers are killed in the line of duty,
13 and their families and coworkers are left to
14 cope with the tragic loss; and

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

19 "WHEREAS, On March 11, 2011, from
20 5:30 a.m. until 10:00 a.m., WGNA, DeNooyer
21 Chevrolet, and Blue Friday New York will be
22 taking a Donation for a Carnation, selling
23 blue carnations and Blue Friday T-shirts at
24 DeNooyer Chevrolet in Colonie and Pizzeria Uno
25 in Wilton. Over 25 agencies will be

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

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

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

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

17 ACTING PRESIDENT GRIFFO: Senator
18 Farley.

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

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

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

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

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

20 ACTING PRESIDENT GRIFFO: Thank
21 you, Senator Farley.

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

24 (Applause.)

25 ACTING PRESIDENT GRIFFO: Senator

1 McDonald.

2 SENATOR McDONALD: Thank you,
3 Mr. President.

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

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

11 Thank you.

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

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

16 (Response of "Aye.")

17 ACTING PRESIDENT GRIFFO:
18 Opposed?

19 (No response.)

20 ACTING PRESIDENT GRIFFO: The
21 resolution is carried.

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

25 Senator Larkin.

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

5 ACTING PRESIDENT GRIFFO: The
6 Secretary will read.

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

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

15 (Response of "Aye.")

16 ACTING PRESIDENT GRIFFO:
17 Opposed?

18 (No response.)

19 ACTING PRESIDENT GRIFFO: The
20 resolution is carried.

21 Senator Libous.

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

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

1 its title read and then move its immediate
2 adoption.

3 ACTING PRESIDENT GRIFFO: The
4 Secretary will read.

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

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

13 (Response of "Aye.")

14 ACTING PRESIDENT GRIFFO:
15 Opposed?

16 (No response.)

17 ACTING PRESIDENT GRIFFO: The
18 resolution is carried.

19 Senator Libous.

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

24 ACTING PRESIDENT GRIFFO: So
25 ordered.

1 Senator Libous.

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

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

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

13 The Senate stands at ease.

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

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

18 ACTING PRESIDENT FLANAGAN:
19 Senator Libous.

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

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

24 The Secretary shall read.

25 THE SECRETARY: Senator Skelos,

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

3 By Senator Maziarz, Senate Print
4 3164, an act to amend the Economic Development
5 Law and the Public Authorities Law.

6 ACTING PRESIDENT FLANAGAN:
7 Senator Libous.

8 SENATOR LIBOUS: Move for its
9 immediate adoption.

10 SENATOR BRESLIN: Senator
11 Flanagan, please.

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

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

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

23 SENATOR BRESLIN: That's correct.

24 ACTING PRESIDENT FLANAGAN:
25 Senator Breslin.

1 SENATOR BRESLIN: Mr. President,
2 we've just come from the Rules Committee,
3 where I requested that a petition under Senate
4 Rule 7, subsection 4(e) was presented. And
5 that was a petition for a hearing on
6 Bill 3419. All 11 Democrats from the
7 Democratic Conference signed onto that, which
8 called for a hearing on that bill within
9 14 days.

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

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

17 ACTING PRESIDENT FLANAGAN: Point
18 of order.

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

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

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

1 Senator Libous.

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

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

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

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

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

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

1 ACTING PRESIDENT FLANAGAN:

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

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

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

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

24 ACTING PRESIDENT FLANAGAN:

25 Senator Breslin to be heard on his appeal of

1 the ruling of the chair.

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

5 And under Senate Rule 7, subsection
6 2, specifically it says "The inception and
7 consideration of its report" -- the Rules
8 report -- "shall always be in order. Debate
9 or its adoption shall not exceed one hour."

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

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

15 SENATOR HASSELL-THOMPSON: Mr.
16 Chairman.

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

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

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

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

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

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

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

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

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

1 SENATOR LIBOUS: I believe on the
2 floor --

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

5 SENATOR LIBOUS: -- is an appeal
6 of --

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

9 Senator Libous, why do you rise?

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

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

18 Senator Breslin.

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

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

1 that here in this chamber.

2 ACTING PRESIDENT FLANAGAN:

3 Senator Breslin, the points that you are
4 raising have nothing to do with the Power for
5 Jobs bill that was reported out of the Rules
6 Committee.

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

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

18 SENATOR BRESLIN: I will defer
19 to --

20 SENATOR GIANARIS: I wish to
21 speak on the appeal.

22 ACTING PRESIDENT FLANAGAN:

23 Senator Gianaris on the appeal.

24 SENATOR GIANARIS: Thank you,
25 Mr. President.

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

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

22 ACTING PRESIDENT FLANAGAN:

23 Senator Gianaris, the report of the Rules
24 Committee is properly before this house. The
25 substance and the manner of that report is

1 consistent with what occurred in the
2 committee.

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

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

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

25 ACTING PRESIDENT FLANAGAN:

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

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

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

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

24 ACTING PRESIDENT FLANAGAN:
25 Senator -- Senator --

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

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

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

15 SENATOR GIANARIS: But,
16 Mr. President --

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

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

1 disagrees with --

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

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

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

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

12 SENATOR SQUADRON: Mr.
13 President --

14 ACTING PRESIDENT FLANAGAN: Call
15 the roll.

16 SENATOR SQUADRON: Mr. President,
17 on the appeal.

18 ACTING PRESIDENT FLANAGAN:
19 Senator Squadron.

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

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

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

8 ACTING PRESIDENT FLANAGAN:

9 Senator Squadron, I would refer back to a rule
10 that was cited by Senator Breslin in a
11 separate section, and by me as well: Section
12 2, the Committee on Rules.

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

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

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

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

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

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

25 The adoption, debate on the

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

3 ACTING PRESIDENT FLANAGAN:

4 Senator Squadron, you are 50 percent correct.
5 You are correct that there is a legitimate
6 debate on its adoption. But the adoption and
7 its debate centers around what is contained in
8 that Rules report, not what is not contained
9 in that Rules report.

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

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

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

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

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

18 SENATOR LIBOUS: Excuse me,
19 Mr. President.

20 ACTING PRESIDENT FLANAGAN:
21 Senator Squadron, excuse me.

22 Senator Libous, why do you rise?

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

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

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

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

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

1 well-taken.

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

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

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

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

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

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

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

11 ACTING PRESIDENT FLANAGAN:

12 Senator Squadron -- Senator Squadron, I have
13 indulged your comments, and I certainly
14 respect your passion on the issue.

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

25 SENATOR SQUADRON: The Rules

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

13 ACTING PRESIDENT FLANAGAN:

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

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

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

9 SENATOR LIBOUS: Mr. President.

10 ACTING PRESIDENT FLANAGAN:

11 Excuse me. Senator Squadron, why do you rise?

12 (Laughter.)

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

15 ACTING PRESIDENT FLANAGAN:

16 Excuse me.

17 SENATOR LIBOUS: He has risen.

18 (Laughter.)

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

21 Senator Libous, why do you rise?

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

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

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

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

13 ACTING PRESIDENT FLANAGAN:
14 Senator Squadron, excuse me.

15 SENATOR SQUADRON: Yes.

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

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

25 ACTING PRESIDENT FLANAGAN:

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

3 SENATOR LIBOUS: Sure.

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

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

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

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

1 ACTING PRESIDENT FLANAGAN:

2 Senator Squadron, should you wish to continue
3 to be heard on the appeal of the ruling of the
4 chair, your comments must be germane to the
5 content of the Rules report before the house.
6 If you continue --

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

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

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

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

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

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

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

25 Senator Squadron, the President

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

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

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

1 the chair.

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

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

19 ACTING PRESIDENT FLANAGAN:
20 Senator Libous.

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

1 is before the house.

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

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

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

24 SENATOR SQUADRON: Mr.
25 President --

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

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

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

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

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

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

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

24 ACTING PRESIDENT FLANAGAN:
25 Senator -- excuse me. Senator

1 Hassell-Thompson --

2 SENATOR HASSELL-THOMPSON:

3 Through you, Mr. Chairman.

4 ACTING PRESIDENT FLANAGAN: --

5 please go through the chair. Are you asking

6 Senator Libous to yield?

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

10 ACTING PRESIDENT FLANAGAN:

11 Excuse me, then. Senator Hassell-Thompson,
12 Senator Libous was speaking.

13 Senator Libous.

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

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

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

25 SENATOR HASSELL-THOMPSON: Yes,

1 you are. I'm speaking --

2 ACTING PRESIDENT FLANAGAN:

3 Senator -- excuse me. Senator
4 Hassell-Thompson, please go through the chair.

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

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

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

1 to the desk. That is my appeal.

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

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

7 All those in favor of --

8 SENATOR SQUADRON: Mr. President,
9 on the appeal.

10 ACTING PRESIDENT FLANAGAN:
11 Senator Squadron.

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

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

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

3 ACTING PRESIDENT FLANAGAN:

4 Senator -- Senator Squadron --

5 SENATOR SQUADRON: Let's get
6 unanimous consent --

7 ACTING PRESIDENT FLANAGAN:

8 Senator Squadron --

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

11 ACTING PRESIDENT FLANAGAN:

12 Senator Squadron --

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

16 ACTING PRESIDENT FLANAGAN:

17 Senator Squadron.

18 SENATOR SQUADRON: Yes,
19 Mr. President.

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

1 of the chair.

2 SENATOR SQUADRON: Mr.

3 President --

4 ACTING PRESIDENT FLANAGAN:

5 That's what we're going to be acting on.

6 We're not going to be jumping out ahead on
7 anything involving unanimous consent. We're
8 going to rule on the appeal of the ruling of
9 the chair.

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

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

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

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

21 (Response of "Aye.")

22 ACTING PRESIDENT FLANAGAN: Those
23 opposed?

24 (Response of "Nay.")

25 ACTING PRESIDENT FLANAGAN: The

1 ruling of the chair is sustained.

2 Senator Libous.

3 SENATOR BRESLIN: Point of order,
4 Senator Flanagan --

5 ACTING PRESIDENT FLANAGAN:
6 Senator Breslin.

7 SENATOR BRESLIN: Point of order.
8 Before the vote was taken, you were
9 quite aware that I was standing here waiting
10 to be heard. I'm the one who appealed the
11 ruling.

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

22 ACTING PRESIDENT FLANAGAN:
23 Senator -- excuse me, Senator. Senator
24 Breslin.

25 SENATOR BRESLIN: I believe I

1 have the floor.

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

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

15 Senator Breslin.

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

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

21 SENATOR BRESLIN: On this appeal.

22 ACTING PRESIDENT FLANAGAN: On
23 this appeal.

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

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

5 ACTING PRESIDENT FLANAGAN:

6 Senator Breslin, excuse me. The matters to
7 which you are speaking were not properly
8 before the Rules Committee. They are not
9 contained in the Rules report that is before
10 this house. Should you wish to speak to the
11 content of that Rules report, your comments
12 would be germane and in order.

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

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

22 SENATOR LIBOUS: Mr. President.

23 ACTING PRESIDENT FLANAGAN:

24 Senator Libous.

25 SENATOR LIBOUS: Can we move to

1 accept the Rules report?

2 SENATOR GIANARIS: Mr.

3 President -- Mr. President --

4 ACTING PRESIDENT FLANAGAN:

5 Senator Gianaris.

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

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

13 ACTING PRESIDENT FLANAGAN:

14 Senator Gianaris.

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

17 SENATOR LIBOUS: Mr. President --

18 SENATOR GIANARIS: We are
19 dealing --

20 ACTING PRESIDENT FLANAGAN:

21 Excuse me --

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

24 SENATOR LIBOUS: Point of order.
25 Point of order.

1 ACTING PRESIDENT FLANAGAN:

2 Senator Libous is rising on a point of order.

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

6 ACTING PRESIDENT FLANAGAN:
7 Senator Gianaris, would you be kind enough to
8 explain exactly what you are appealing?

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

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

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

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

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

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

15 ACTING PRESIDENT FLANAGAN:
16 Senator Gianaris --

17 SENATOR GIANARIS: Thank you --

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

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

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

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

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

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

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

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

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

21 ACTING PRESIDENT FLANAGAN: We
22 have already --

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

25 ACTING PRESIDENT FLANAGAN:

1 Senator Gianaris --

2 SENATOR LIBOUS: Point of order.

3 I believe there's a dilatory motion before the
4 house, and I would say that he is --

5 Mr. Gianaris is out of order and we need to go
6 to the motion.

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

11 SENATOR LIZ KRUEGER: Point of
12 order.

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

19 SENATOR GIANARIS: Yes, sir.

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

25 Your appeal or your argument is

1 exactly the same that has been advanced by
2 Senator Breslin.

3 SENATOR GIANARIS: With
4 respect --

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

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

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

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

25 Now you're telling me that I can't

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

3 ACTING PRESIDENT FLANAGAN:

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

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

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

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

1 ACTING PRESIDENT FLANAGAN:

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

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

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

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

22 ACTING PRESIDENT FLANAGAN:

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

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

7 Senator Libous.

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

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

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

17 ACTING PRESIDENT FLANAGAN:
18 Senator Libous.

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

25 ACTING PRESIDENT FLANAGAN:

1 Senator Gianaris --

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

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

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

9 ACTING PRESIDENT FLANAGAN:
10 Senator -- Senator Gianaris.

11 SENATOR GIANARIS: -- Mr.
12 President.

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

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

25 ACTING PRESIDENT FLANAGAN:

1 Senator Gianaris, excuse me --

2 SENATOR GIANARIS: -- [inaudible]

3 --

4 ACTING PRESIDENT FLANAGAN: No,

5 Senator Gianaris --

6 SENATOR GIANARIS: -- [inaudible]

7 --

8 SENATOR LIBOUS: Joe, Joe, sit

9 down --

10 SENATOR GIANARIS: -- on the

11 floor of the Senate --

12 ACTING PRESIDENT FLANAGAN:

13 Senator Gianaris, I have the floor.

14 SENATOR ADAMS: Point of order.

15 Point of order, Mr. President. Point of

16 order --

17 ACTING PRESIDENT FLANAGAN:

18 Senator Adams -- Senator Adams, excuse me.

19 Senator Adams --

20 SENATOR ADAMS: -- disrespectful

21 to our colleague. That's unfair and that's

22 wrong. He had the floor. He was speaking.

23 He should have the right to speak, just as --

24 ACTING PRESIDENT FLANAGAN:

25 Senator Adams --

1 SENATOR ADAMS: -- right to
2 speak.

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

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

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

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

24 SENATOR LIBOUS: Mr. President.
25 Mr. President --

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

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

6 SENATOR GIANARIS: Thank you.

7 ACTING PRESIDENT FLANAGAN:
8 Senator Libous.

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

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

19 ACTING PRESIDENT FLANAGAN: Thank
20 you, Senator Libous.

21 SENATOR GIANARIS: Mr. President
22 --

23 SENATOR LIBOUS: Are we now --

24 SENATOR GIANARIS: -- Rules
25 report?

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

4 ACTING PRESIDENT FLANAGAN: Yes.

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

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

9 ACTING PRESIDENT FLANAGAN:
10 Senator Krueger.

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

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

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

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

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

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

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

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

10 Help me understand this, please.

11 ACTING PRESIDENT FLANAGAN:

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

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

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

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

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

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

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

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

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

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

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

1 Thank you, Mr. President.

2 ACTING PRESIDENT FLANAGAN: Thank
3 you, Senator Krueger.

4 Senator Libous.

5 Oh, excuse me. Senator Breslin.

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

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

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

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

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

21 SENATOR LIBOUS: Mr. President.

22 ACTING PRESIDENT FLANAGAN:
23 Senator Libous.

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

1 please? It's been taken.

2 ACTING PRESIDENT FLANAGAN: All
3 those in favor of --

4 SENATOR SQUADRON: [Inaudible].

5 ACTING PRESIDENT FLANAGAN: --
6 accepting the Rules report signify by saying
7 aye.

8 (Response of "Aye.")

9 SENATOR SQUADRON: [Inaudible.]

10 ACTING PRESIDENT FLANAGAN:
11 Opposed?

12 SENATOR SQUADRON: -- the Rules
13 report, Mr. President.

14 SENATOR LIBOUS: No, no. No,
15 we're on the vote.

16 SENATOR SQUADRON: [Inaudible.]

17 ACTING PRESIDENT FLANAGAN:
18 Senator Libous, the Rules report is accepted.

19 SENATOR LIBOUS: Thank you.

20 Thank you.

21 SENATOR SQUADRON: [Inaudible.]

22 SENATOR LIBOUS: Mr. President --

23 SENATOR SQUADRON: -- to Senator
24 Gianaris --

25 SENATOR LIBOUS: Mr. President --

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

7 SENATOR LIBOUS: Mr. President --

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

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

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

18 ACTING PRESIDENT FLANAGAN:
19 Senator Squadron -- Senator Squadron --
20 Senator Squadron --

21 SENATOR SQUADRON: -- Mr.
22 President.

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

25 SENATOR SQUADRON: How much more

1 debate do we need?

2 ACTING PRESIDENT FLANAGAN:

3 Senator Squadron --

4 SENATOR SQUADRON: Yes,

5 Mr. President.

6 ACTING PRESIDENT FLANAGAN:

7 Senator Hassell-Thompson, please wait a

8 moment. I have recognized Senator Libous.

9 Senator Libous.

10 SENATOR LIBOUS: Mr. President --

11 ACTING PRESIDENT FLANAGAN:

12 Senator Hassell-Thompson, I will get to you in

13 a moment.

14 SENATOR LIBOUS: Mr. President,

15 how much time is left in debate on the --

16 accepting the --

17 ACTING PRESIDENT FLANAGAN: We

18 are well beyond the 30 minutes, Senator

19 Libous. Probably closer to 50 minutes at this

20 point.

21 SENATOR SQUADRON: -- accepting

22 the Rules report? I don't believe we've

23 debated that issue without interference,

24 frankly, from --

25 SENATOR LIBOUS: Mr. President --

1 ACTING PRESIDENT FLANAGAN:

2 Senator Squadron -- Senator Squadron --

3 SENATOR SQUADRON: -- for two
4 good minutes.

5 ACTING PRESIDENT FLANAGAN:

6 (Gaveling.)

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

9 ACTING PRESIDENT FLANAGAN:

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

15 SENATOR ADAMS: Point of order,
16 Mr. President.

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

25 How is this done? Is he the chair

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

5 ACTING PRESIDENT FLANAGAN:

6 Senator Adams, I had recognized Senator
7 Libous. I made it clear that I would
8 recognize Senator Hassell-Thompson. Senator
9 Squadron was impeding my ability to do so
10 because he was not properly recognized.

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

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

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

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

24 ACTING PRESIDENT FLANAGAN:

25 Senator Squadron did not make a request for a

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

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

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

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

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

23 Senator Libous.

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

1 ACTING PRESIDENT FLANAGAN:

2 Senator Gianaris, excuse me. I just
3 recognized Senator Libous.

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

8 SENATOR LIBOUS: Mr. President --

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

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

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

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

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

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

5 ACTING PRESIDENT FLANAGAN:

6 Senator Gianaris, I'm very comfortable that
7 you are quite adept at listening. And I made
8 it very clear, after having taken a vote, ayes
9 and nays, that the chair had been sustained.
10 If you didn't hear that, then I apologize.
11 But the chair had been sustained, and we moved
12 on.

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

17 SENATOR ADAMS: Point of order,
18 Mr. President.

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

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

25 SENATOR ADAMS: I'm requesting a

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

5 ACTING PRESIDENT FLANAGAN:

6 Senator Adams, this is the New York State
7 Senate. It is not a court of law. I don't
8 believe that we have engaged in readbacks
9 before.

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

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

1 ACTING PRESIDENT FLANAGAN: Yes.

2 Senator Libous.

3 SENATOR GIANARIS: Mr.

4 President -- Mr. President, point of order.

5 Even if you announced the results, which I

6 certainly didn't hear, but even if you did

7 announce the results, there are empty seats in

8 this chamber. I believe a showing of hands is

9 appropriate to document and to verify your

10 judgment as to the vote of this chamber on the

11 appeal.

12 ACTING PRESIDENT FLANAGAN:

13 Senator Gianaris, the vote has been taken.

14 The ayes had it. The vote -- we've now had

15 two separate votes on the appeal of the ruling

16 of the chair and on the acceptance of the

17 Rules report. Your point of order is not

18 timely --

19 SENATOR SQUADRON: Mr. President,

20 we have not had a vote on this.

21 ACTING PRESIDENT FLANAGAN:

22 Senator Squadron, I have the floor.

23 SENATOR SQUADRON: Mr. President,

24 point of order. Point of order,

25 Mr. President. Point of order.

1 ACTING PRESIDENT FLANAGAN:
2 Senator Squadron, I'm trying to answer Senator
3 Gianaris.

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

6 ACTING PRESIDENT FLANAGAN:
7 Senator Libous.

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

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

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

15 ACTING PRESIDENT FLANAGAN:
16 Senator Squadron, you will be recognized after
17 I have made my comments and after I go to
18 Senator Gianaris for his comments, because he
19 was up before you.

20 We have had two separate votes. An
21 appeal of the ruling of the chair on a motion
22 by Senator Breslin, the ayes had the vote on
23 that. That vote was taken approximately
24 20 minutes ago. That vote was in order and
25 the chair was sustained. Not too long ago we

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

3 SENATOR GIANARIS: Mr. President.

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

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

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

15 THE PARLIAMENTARIAN: It's
16 already been passed.

17 ACTING PRESIDENT FLANAGAN: The
18 Rules --

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

1 ACTING PRESIDENT FLANAGAN:

2 Senator Gianaris -- Senator Gianaris, I'm not
3 trying to stop any debate. What I'm trying to
4 do is properly enforce the rules of this
5 house. And I've tried to do so in a diligent
6 fashion.

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

11 SENATOR SQUADRON: Mr.
12 President --

13 SENATOR GIANARIS: There was
14 not --

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

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

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

1 SENATOR LIBOUS: --

2 Mr. President, and accepted by the chair.

3 ACTING PRESIDENT FLANAGAN:

4 Senator Libous, I'm sorry?

5 SENATOR LIBOUS: A point of order
6 is only accepted by -- recognized by the
7 chair, Mr. President.

8 SENATOR SQUADRON: So -- so -- so
9 I should understand that the chair is
10 rejecting repeatedly my point of order on
11 something as important as to whether the
12 members of this house voted on an issue or
13 not.

14 ACTING PRESIDENT FLANAGAN: No,
15 Senator. Senator Squadron --

16 SENATOR SQUADRON: I am to
17 understand that the chair is rejecting that
18 conversation.

19 ACTING PRESIDENT FLANAGAN: No,
20 Senator Squadron. What I am doing, I have
21 ruled you out of order because you were being
22 dilatory and being disrespectful to your own
23 colleagues by continuing to interrupt them,
24 which hampers their ability to make their
25 points. While I may not agree with all of

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

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

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

11 ACTING PRESIDENT FLANAGAN:
12 Senator Gianaris.

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

16 ACTING PRESIDENT FLANAGAN:
17 Senator Gianaris, that is --

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

22 SENATOR LIBOUS: Whoa, order.

23 ACTING PRESIDENT FLANAGAN:
24 (Gaveling.)

25 SENATOR LIBOUS: Mr. President,

1 can we have some order in the house, please.

2 ACTING PRESIDENT FLANAGAN:

3 Senator Libous.

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

6 ACTING PRESIDENT FLANAGAN: Yes,
7 you did.

8 SENATOR LIBOUS: And I'd like
9 to --

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

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

16 What is your point of order?

17 ACTING PRESIDENT FLANAGAN:

18 Senator Gianaris.

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

24 ACTING PRESIDENT FLANAGAN:

25 Senator Gianaris, the ruling -- what you are

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

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

9 SENATOR LIBOUS: Mr. President.

10 ACTING PRESIDENT FLANAGAN:
11 Senator Libous.

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

16 ACTING PRESIDENT FLANAGAN:
17 Senator Libous.

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

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

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

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

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

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

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

21 (Response of "Aye.")

22 ACTING PRESIDENT FLANAGAN: Those
23 opposed, nay.

24 (Response of "Nay.")

25 ACTING PRESIDENT FLANAGAN: The

1 ayes have it.

2 SENATOR LIBOUS: Mr. President --

3 ACTING PRESIDENT FLANAGAN: Now,
4 Senator Libous.

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

9 ACTING PRESIDENT FLANAGAN:
10 Senator Gianaris.

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

14 SENATOR DeFRANCISCO: Point of
15 order.

16 ACTING PRESIDENT FLANAGAN:
17 Excuse me --

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

22 (Laughter.)

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

25 SENATOR GIANARIS: Thank you,

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

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

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

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

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

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

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

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

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

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

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

1 independent redistricting process for next
2 year.

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

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

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

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

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

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

22 SENATOR LIBOUS: Mr. President.

23 ACTING PRESIDENT FLANAGAN:

24 Senator Libous, why do you rise?

25 SENATOR LIBOUS: In all due

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

7 ACTING PRESIDENT FLANAGAN:

8 Senator Libous, your comments are well-taken.

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

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

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

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

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

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

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

25 If you want to comment about

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

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

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

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

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

24 (Response of "Aye.")

25 ACTING PRESIDENT FLANAGAN: And a

1 show of hands, please.

2 (Members raised their hands.)

3 ACTING PRESIDENT FLANAGAN:

4 Senator Libous.

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

13 ACTING PRESIDENT FLANAGAN: Yes.

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

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

20 ACTING PRESIDENT FLANAGAN:

21 Excuse me, Senator Gianaris.

22 SENATOR GIANARIS: I'm sorry.

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

1 rise before you.

2 Senator Montgomery, you wish to be
3 heard?

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

8 ACTING PRESIDENT FLANAGAN:
9 Excuse me, Senator Montgomery.

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

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

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

18 ACTING PRESIDENT FLANAGAN:
19 Excuse me, Senator Montgomery --

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

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

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

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

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

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

10 (Laughter.)

11 SENATOR MONTGOMERY: Whatever you
12 call it.

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

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

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

21 SENATOR MONTGOMERY: Oh, thank
22 you. Okay.

23 SENATOR LIBOUS: -- I do.

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

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

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

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

16 Senator Montgomery, I would ask
17 that you be --

18 SENATOR MONTGOMERY: Brief.

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

22 SENATOR MONTGOMERY: Okay. Thank
23 you very much.

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

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

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

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

1 ACTING PRESIDENT FLANAGAN:
2 Senator Montgomery, I appreciate your
3 comments. That's a rhetorical question.
4 Announce the results.
5 THE SECRETARY: Ayes, 36. Nays,
6 23.
7 ACTING PRESIDENT FLANAGAN: The
8 report is accepted.
9 Senator Libous.
10 SENATOR LIBOUS: Mr. President,
11 can we now go to the noncontroversial
12 calendar, please.
13 ACTING PRESIDENT FLANAGAN: After
14 that, Senator Libous, I'm not sure we have
15 one.
16 (Laughter.)
17 ACTING PRESIDENT FLANAGAN: Yes.
18 Senator Libous, we will move to a reading of
19 the noncontroversial portion of the calendar.
20 THE SECRETARY: Calendar Number
21 35, by Member of the Assembly Hevesi, Assembly
22 Print Number 261, an act to amend the Public
23 Authorities Law.
24 ACTING PRESIDENT FLANAGAN: Read
25 the last section.

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

3 ACTING PRESIDENT FLANAGAN: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 62.

7 ACTING PRESIDENT FLANAGAN: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 36, by Member of the Assembly Cahill, Assembly
11 Print Number 3656A, an act to amend the Public
12 Service Law.

13 ACTING PRESIDENT FLANAGAN: Read
14 the last section.

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

17 ACTING PRESIDENT FLANAGAN: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 62.

21 ACTING PRESIDENT FLANAGAN: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 92, by Senator Little, Senate Print 2485, an
25 act to amend the Agriculture and Markets Law.

1 ACTING PRESIDENT FLANAGAN: Read
2 the last section.

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

5 ACTING PRESIDENT FLANAGAN: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 62.

9 ACTING PRESIDENT FLANAGAN: The
10 bill is passed.

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

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

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

20 THE SECRETARY: Calendar Number
21 164, by Senator Maziarz, Senate Print 3164, an
22 act to amend the Economic Development Law and
23 the Public Authorities Law.

24 ACTING PRESIDENT FLANAGAN: Read
25 the last section.

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

3 ACTING PRESIDENT FLANAGAN: Call
4 the roll.

5 (The Secretary called the roll.)

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

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

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

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

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

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

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

19 ACTING PRESIDENT FLANAGAN: Thank
20 you, Senator Maziarz.

21 Senator Griffo, to explain his
22 vote.

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

25 I can't tell you how refreshing it

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

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

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

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

25 ACTING PRESIDENT FLANAGAN:

1 Excuse me, Senator Griffo.

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

7 Senator Griffo.

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

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

14 Thank you, Mr. President. I vote
15 aye.

16 ACTING PRESIDENT FLANAGAN: Thank
17 you, Senator Griffo.

18 Senator Liz Krueger.

19 SENATOR LIZ KRUEGER: Thank you,
20 Mr. President.

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

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

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

13 Thank you, Mr. President.

14 ACTING PRESIDENT FLANAGAN: Thank
15 you, Senator Liz Krueger.

16 Senator Hassell-Thompson, to
17 explain her vote.

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

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

1 Thank you, Mr. Chair.

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

4 Senator Fuschillo, to explain his
5 vote.

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

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

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

19 Thank you, Mr. President.

20 ACTING PRESIDENT FLANAGAN: Thank
21 you, Senator Fuschillo.

22 Senator Zeldin, to explain his
23 vote.

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

1 for his leadership with this particular issue.

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

9 This bill has a wide range of
10 support on Long Island, including the Long
11 Island Association, Association for a Better
12 Long Island, the Hauppauge Industrial
13 Association, Long Island Forum for Technology,
14 the Long Island Builders Institute, Long
15 Island Contractors Association and Nassau
16 Council of Chambers of Commerce, the Long
17 Island Metro Business Action, and the Long
18 Island Software and Technology Network.

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

22 ACTING PRESIDENT FLANAGAN: Thank
23 you, Senator Zeldin.

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

1 Senator Stavisky, to explain her
2 vote.

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

11 Thank you.

12 ACTING PRESIDENT FLANAGAN: Thank
13 you, Senator Stavisky.

14 Announce the results.

15 THE SECRETARY: Ayes, 62.

16 ACTING PRESIDENT FLANAGAN: The
17 bill is passed.

18 Senator LaValle.

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

22 ACTING PRESIDENT FLANAGAN:
23 Senator Hassell-Thompson.

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

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

4 ACTING PRESIDENT FLANAGAN:
5 Senator LaValle.

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

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

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

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

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