

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 14, 2011

11 3:32 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JOHN J. FLANAGAN, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

4 I ask all present to please rise
5 and repeat the Pledge of Allegiance.

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

8 ACTING PRESIDENT FLANAGAN:
9 Today's invocation will be offered by the
10 Reverend Peter G. Young, from Mother Teresa
11 Community.

12 REVEREND YOUNG: Thank you,
13 Senator. Let us pray.

14 O God, the builder of all things,
15 You have placed on us the obligation of toil.
16 Grant that the work that we begin today on
17 this Monday may serve to better our lives in
18 New York State and, through Your goodness,
19 contribute to the spread of the call of Your
20 people.

21 As Senators, we report on this day
22 of the session bell that calls us to hear one
23 another for the benefit of Your New York State
24 constituents. This invocation calls us to be
25 true to our best work effort and to be what we

1 might become as a legislative leader. We need
2 to heed the call of our own hearts with
3 compassion and equity.

4 Amen.

5 ACTING PRESIDENT FLANAGAN: The
6 reading of the Journal.

7 THE SECRETARY: In Senate,
8 Sunday, March 13th, the Senate met pursuant to
9 adjournment. The Journal of Saturday,
10 March 12th, was read and approved. On motion,
11 Senate adjourned.

12 ACTING PRESIDENT FLANAGAN:
13 Without objection, the Journal stands approved
14 as read.

15 Presentation of petitions.

16 Messages from the Assembly.

17 Messages from the Governor.

18 Reports of standing committees.

19 Reports of select committees.

20 Communications and reports from
21 state officers.

22 Motions and resolutions.

23 Senator Breslin.

24 SENATOR BRESLIN: On behalf of
25 Senator Dilan, I move that the following bill,

1 Number 1352A, be discharged from its
2 respective committee and be recommitted with
3 instructions to strike the enacting clause.

4 ACTING PRESIDENT FLANAGAN: So
5 ordered.

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

8 ACTING PRESIDENT FLANAGAN:
9 Senator Libous.

10 SENATOR LIBOUS: Mr. President
11 and my colleagues, could I ask that we now
12 take a moment and observe silence as a mark of
13 respect for a 21-year-old sailor, Mychael
14 Anthony Flint, a member of Senator Betty
15 Little's district, who was killed while
16 attending training in California.

17 If I could ask members to stand and
18 take a moment of silence, please, for this
19 courageous individual who was protecting our
20 country.

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

23 (Whereupon, the assemblage
24 respected a moment of silence.)

25 ACTING PRESIDENT FLANAGAN:

1 Senator Little.

2 SENATOR LITTLE: Thank you,
3 Mr. President. And thank you to all of my
4 colleagues who are joining me today as we
5 recognize the loss of life and the service of
6 EOCN Mychael Anthony Flint.

7 Mychael is from Fort Ann, New York.
8 He had enlisted in the Navy in 2009. He was a
9 member of the Seabee Construction Battalion,
10 which is the Navy equivalent of the U.S. Corps
11 of Engineers. Mychael was stationed in
12 San Diego and was on a training mission at
13 Camp Pendleton.

14 We recognize all of the men and
15 women who are committed to serve our country,
16 and we thank them for their service. We have
17 to understand that these men and women are
18 ready to serve in peace or in war. And as the
19 mother of an active-duty Navy son who has been
20 in the Navy for 20 years, I recall many times
21 that my son would talk about someone who was
22 killed, a good friend who was killed in a
23 helicopter accident, another friend who was
24 killed in the crash of two Super Hornets
25 flying in California.

1 We need to also recognize and thank
2 our men and women who are killed, who give
3 their lives. First of all, they spend their
4 time and energy training so that they will be
5 prepared to go into combat. But unfortunately
6 there are accidents, and many of them have
7 lost their lives.

8 Mychael is a 2008 graduate of
9 Fort Ann High School. He was a member of the
10 2006 Class D Soccer Champions. He is survived
11 by his parents, Amy and Bob Pecue -- Bob is
12 actually a New York State correction officer,
13 and they live in Fort Ann -- and he also has a
14 sister, Kaitlyn. And on September 2nd of
15 2010, just a little over six months ago, he
16 married Heather Plude-Flint.

17 Let us all extend our sympathy to
18 the family but join in recognizing him for his
19 service to our country and appreciate his loss
20 of life.

21 Thank you very much.

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

24 Senator Libous.

25 SENATOR LIBOUS: Thank you,

1 Mr. President.

2 At this time I'd like to hand up
3 the following committee assignments and ask
4 that they be entered into the Journal, please.

5 ACTING PRESIDENT FLANAGAN: So
6 ordered.

7 Senator Libous.

8 SENATOR LIBOUS: Mr. President,
9 at this time there will be an immediate
10 meeting of the Rules Committee in Room 332.
11 And I will ask that the Senate stand at ease.

12 But when we come back, we have a
13 very, very important calendar today that deals
14 with a lot of veterans' issues for the men and
15 women who have served in the past and will
16 serve us in the future.

17 So could we stand at ease at this
18 moment.

19 ACTING PRESIDENT FLANAGAN:
20 Senator Libous, there will be an immediate
21 meeting of the Rules Committee in Room 332,
22 and the Senate will stand at ease.

23 (Whereupon, the Senate stood at
24 ease at 3:38 p.m.)

25 (Whereupon, the Senate reconvened

1 at 4:12 p.m.)

2 SENATOR LIBOUS: Mr. President.

3 ACTING PRESIDENT FLANAGAN:

4 Senator Libous.

5 SENATOR LIBOUS: Thank you,
6 Mr. President. Can we return to reports of
7 standing committees. I believe there is a
8 report of the Rules Committee at the desk.
9 May we have it read, please.

10 ACTING PRESIDENT FLANAGAN:

11 Reports of standing committees.

12 The Secretary will read.

13 THE SECRETARY: Senator Skelos,
14 from the Committee on Rules, reports the
15 following bills:

16 By Senator Bonacic, Senate Print
17 3331, Concurrent Resolution of the Senate and
18 Assembly proposing an amendment to Article 3
19 of the Constitution;

20 By Senator Griffo, Senate Print
21 3900, an act to amend the Military Law and the
22 Penal Law; and

23 By Senator Zeldin, Senate Print
24 3901, an act to amend the Military Law.

25 All bills ordered direct to third

1 reading.

2 SENATOR LIBOUS: Mr. President, I
3 move that we accept the report of the Rules
4 Committee.

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

8 (Response of "Aye.")

9 ACTING PRESIDENT FLANAGAN:
10 Opposed, nay.

11 (No response.)

12 ACTING PRESIDENT FLANAGAN: The
13 Rules report is accepted.

14 SENATOR LIBOUS: Can we have the
15 reading of the noncontroversial calendar,
16 please, Mr. President.

17 ACTING PRESIDENT FLANAGAN: The
18 Secretary will read.

19 THE SECRETARY: Calendar Number
20 11, by Senator Valesky, Senate Print 656, an
21 act to amend the Environmental Conservation
22 Law.

23 ACTING PRESIDENT FLANAGAN: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT FLANAGAN: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT FLANAGAN: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 31, by Senator Larkin, Senate Print 1728, an
10 act to amend the Penal Law.

11 ACTING PRESIDENT FLANAGAN: Read
12 the last section.

13 THE SECRETARY: Section 7. This
14 act shall take effect on the 180th day.

15 ACTING PRESIDENT FLANAGAN: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 58. Nays,
19 1. Senator Montgomery recorded in the
20 negative.

21 ACTING PRESIDENT FLANAGAN: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 37, by Senator Ball, Senate Print 2421, an act
25 to amend the Military Law and the Election

1 Law.

2 ACTING PRESIDENT FLANAGAN: Read
3 the last section.

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

6 ACTING PRESIDENT FLANAGAN: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT FLANAGAN:
10 Senator Breslin, to explain his vote.

11 SENATOR BRESLIN: Thank you,
12 Mr. President.

13 On this day where we celebrate
14 veterans and there are so many positive bills
15 on the calendar that are supportive of
16 veterans' rights, I intend to vote for S2421.
17 But I would suggest, when we're doing this, we
18 should consider the fact that we might be
19 setting a bad precedent, insofar as it has
20 always universally been accepted in our
21 country that the only ones who are eligible to
22 vote are those who are alive.

23 And it's an unfortunate situation
24 that someone voted and then passed away, but
25 we should be very wary of what we do when we

1 have legislation, legislation that allows
2 someone who's passed away to have a vote
3 accepted.

4 Thank you, Mr. President.

5 ACTING PRESIDENT FLANAGAN: Thank
6 you, Senator Breslin.

7 The Secretary will announce the
8 results.

9 THE SECRETARY: In relation to
10 Calendar Number 37, those recorded in the
11 negative are Senator Espaillat, Senator
12 Gianaris, Senator L. Krueger, Senator
13 Montgomery, Senator Perkins, Senator Rivera,
14 Senator Squadron and Senator Stavisky. Also
15 voting in the negative, Senator
16 Hassell-Thompson and Senator Parker.

17 ACTING PRESIDENT FLANAGAN:
18 Senator Larkin, to explain his vote.

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

21 You know, I'm shocked when I see
22 people voting against this today. You know,
23 every military unit -- if you've been with it,
24 you know -- has a voting officer. And one of
25 his responsibilities is to get those ballots

1 into their units so that these young men and
2 women of our armed services can vote.

3 There will be men in battle who
4 voted and sent their application back home,
5 and we just want to make sure that it's
6 counted. He gave his life, he or she gave
7 their life -- and we stand here today and say
8 we don't want to count them.

9 Well, I'll tell you, I'm ashamed of
10 you, each and every one of you. I've had the
11 terrible duty of writing home to a mother and
12 father and saying "I regret to inform you that
13 your son was killed this afternoon," 19 years
14 of age. And you are sitting here today and
15 saying we're not going to count it. What
16 about he voted and sent his ballot home? He
17 did everything that our country and our
18 government and our state said has to be done.

19 It's a terrible thing. But after
20 he did all of that, the enemy came upon them
21 and he was killed. But he wasn't killed
22 before he executed his absentee ballot. And
23 you want to take it away from him.

24 I defy any of you to be in combat
25 and tell the troops that are under your

1 command that "I don't want your ballot to
2 count." I'm ashamed of you, and you should be
3 ashamed of yourself.

4 I vote aye.

5 ACTING PRESIDENT FLANAGAN: The
6 Secretary will announce the results.

7 THE SECRETARY: Ayes, 49. Nays,
8 10.

9 ACTING PRESIDENT FLANAGAN: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 98, by Senator Saland, Senate Print 1431, an
13 act to amend the Military Law.

14 ACTING PRESIDENT FLANAGAN: Read
15 the last section.

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

18 ACTING PRESIDENT FLANAGAN: Call
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 59.

22 ACTING PRESIDENT FLANAGAN: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 99, by Senator Larkin, Senate Print 1504, an

1 act to amend the General Business Law.

2 ACTING PRESIDENT FLANAGAN: Read
3 the last section.

4 THE SECRETARY: Section 3. This
5 act shall take effect on the 180th day.

6 ACTING PRESIDENT FLANAGAN: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 59.

10 ACTING PRESIDENT FLANAGAN: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 141, by Senator Ball, Senate Print 2424A, an
14 act to amend the Executive Law.

15 ACTING PRESIDENT FLANAGAN: Read
16 the last section.

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

19 ACTING PRESIDENT FLANAGAN: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 59.

23 ACTING PRESIDENT FLANAGAN: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 146, by Senator Ball, Senate Print 3484, an
2 act to amend Chapter 268 of the Laws of 1996.

3 ACTING PRESIDENT FLANAGAN: Read
4 the last section.

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

7 ACTING PRESIDENT FLANAGAN: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT FLANAGAN:
11 Senator Ball, to explain his vote.

12 SENATOR BALL: I first would like
13 to thank Senator Larkin for those comments,
14 and all the veterans who are here today, and
15 those of you who have served.

16 This is the greatest nation that
17 this world has ever known. And the United
18 States military serves as the greatest force
19 for good and freedom. That flag that is on
20 the shoulders of the men and women who are
21 serving represents the brightest beacon of
22 hope in communities that many of us will never
23 visit, couldn't point out on a map, some of us
24 couldn't pronounce. But that American flag,
25 regardless of your political affiliation, has

1 fed more children, rebuilt more communities,
2 liberated more people, and allowed more people
3 to vote -- and it is nothing to be apologetic
4 for.

5 We stand on the shoulders and the
6 memories, the hearts, the blood, sweat and
7 tears of those who are willing to go and fight
8 and die. Regardless of whether you served in
9 protocol, like I did, where the toughest
10 combat I ever saw was a tough cocktail party
11 in Washington, D.C., or whether you served in
12 combat, like Senator Larkin, we all have one
13 thing in common. We've raised our right hand
14 and we were willing to fight and die for this
15 great nation.

16 I only hope that this chamber can
17 continue to serve as a fitting tribute to the
18 men and women who serve every day, the
19 3 percent, the 3 percent that live in ditches
20 and trenches and are amid combat and warfare
21 in situations that most of us could never
22 withstand, and who fight for that concept of
23 American democracy that we could only hope to
24 emulate.

25 I thank all of you for your votes

1 today. Let us continue good work for the good
2 people who make this country great.

3 ACTING PRESIDENT FLANAGAN:
4 Senator Ball to be recorded in the
5 affirmative.

6 The Secretary will announce the
7 results.

8 THE SECRETARY: Ayes, 59.

9 ACTING PRESIDENT FLANAGAN: The
10 bill is passed.

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

13 SENATOR LIBOUS: Mr. President, I
14 just want to note for the chamber that I
15 believe the three bills that Senator Ball
16 passed are his first legislation to pass the
17 Senate. Congratulations.

18 (Appause.)

19 ACTING PRESIDENT FLANAGAN:
20 Senator Libous.

21 SENATOR LIBOUS: Could we please
22 have the noncontroversial reading of the
23 supplemental calendar, please, right now.

24 ACTING PRESIDENT FLANAGAN: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 204, by Senator Bonacic, Senate Print 3331,
3 Concurrent Resolution of the Senate and
4 Assembly proposing an amendment to Article 3
5 of the Constitution.

6 SENATOR BRESLIN: Lay it aside.

7 ACTING PRESIDENT FLANAGAN: Lay
8 it aside.

9 THE SECRETARY: Calendar Number
10 205, by Senator Griffo, Senate Print 3900, an
11 act to amend the Military Law and the Penal
12 Law.

13 ACTING PRESIDENT FLANAGAN: Read
14 the last section.

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

17 ACTING PRESIDENT FLANAGAN: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT FLANAGAN:
21 Senator Griffo to explain his vote.

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

24 I appreciate the support of the
25 members of this chamber, because we know that

1 funeral ceremonies can be very stressful.
2 They're times of grief, very solemn
3 experiences. And I think today, as we come
4 together to celebrate the life of an
5 individual who has served our country in such
6 a noble fashion, it's so appropriate that we
7 ensure that their rights are preserved, that
8 they have a proper environment and a
9 respectful ceremony.

10 I want to extend my appreciation to
11 all the members of this body for their support
12 today. And also that we'll be able to provide
13 these families with information to allow them
14 to understand their rights.

15 So I thank you all for your support
16 today. I think this is very important as we
17 honor and respect our veterans and what they
18 have done on behalf of this great country. I
19 will be voting in the affirmative.

20 ACTING PRESIDENT FLANAGAN:
21 Senator Griffo to be recorded in the
22 affirmative.

23 The Secretary will announce the
24 results.

25 THE SECRETARY: Ayes, 59.

1 ACTING PRESIDENT FLANAGAN: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 206, by Senator Zeldin, Senate Print 3901, an
5 act to amend the Military Law.

6 ACTING PRESIDENT FLANAGAN: Read
7 the last section.

8 THE SECRETARY: Section 2. This
9 act shall take effect immediately.

10 ACTING PRESIDENT FLANAGAN: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT FLANAGAN:
14 Senator Zeldin to explain his vote.

15 SENATOR ZELDIN: It is an honor
16 to be able to bring this legislation to the
17 floor today. I represent a specialist named
18 Thomas Wilwerth. He was killed near Balad in
19 2006. He graduated from the same high school
20 that I did. And he was part of the
21 inspiration of bringing this legislation up to
22 the State Senate.

23 I'm proud to live in a county that
24 has imposed a limit on protests at military
25 funerals. I'm proud to live in a state that

1 now, through all of our actions, is taking the
2 initiative to limit those protests and
3 military funerals statewide. I disagreed with
4 the Westboro Baptist Church's decision in
5 their favor by the U.S. Supreme Court last
6 week. There was eight justices in favor, one
7 opposed. Judge Samuel Alito voted against it.

8 And, you know, there's a balance.
9 We have to protect the free speech rights of
10 even the Westboro Baptist Church. Yet at the
11 same time, we also have to protect our
12 military families as they mourn the loss of
13 their veterans that they unfortunately have
14 lost.

15 So I appreciate all of you that
16 support this measure today. It's an important
17 first step and a message that needs to get
18 sent throughout the entire country. Because
19 whether you live in New York or California, we
20 all need to be protecting our military
21 veterans and their families to provide dignity
22 and respect at that time of mourning.

23 I want to thank both Senator Jack
24 Martins as well as Bob Farley for all of their
25 hard work and support bringing this measure.

1 And I'll be voting in the affirmative.

2 Thank you, Mr. Chair.

3 ACTING PRESIDENT FLANAGAN:

4 Senator Zeldin to be recorded in the
5 affirmative.

6 The Secretary will announce the
7 results.

8 THE SECRETARY: Ayes, 59.

9 ACTING PRESIDENT FLANAGAN: The
10 bill is passed.

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

14 SENATOR LIBOUS: Thank you,
15 Mr. President. Can we go to the controversial
16 reading of the supplemental calendar.

17 ACTING PRESIDENT FLANAGAN: The
18 Secretary will read.

19 THE SECRETARY: Calendar Number
20 204, by Senator Bonacic, Senate Print 3331,
21 Concurrent Resolution of the Senate and
22 Assembly proposing an amendment to Article 3
23 of the Constitution.

24 ACTING PRESIDENT FLANAGAN:

25 Senator Valesky, why do you rise?

1 SENATOR VALESKY: Mr. President,
2 on Calendar Number 204, if I may speak.

3 First of all, I'd like to thank my
4 colleague and friend Senator Bonacic for
5 bringing this constitutional amendment before
6 us.

7 This issue is a critically
8 important issue that each and every one of us
9 have heard about over the last several years,
10 in particular last year during our election
11 campaign. The people of the State of New York
12 I think clearly understand the importance of
13 the ability for them to choose us as opposed
14 to us choosing them by way of redrawing our
15 district lines.

16 Senator Bonacic, you and I have
17 worked very closely over the years in terms of
18 bringing about true and real reform to this
19 State Senate. In fact, I remember only two
20 years ago when Senator Smith appointed you and
21 I to cochair a bipartisan task force on rules
22 reform here in the Senate. And we went around
23 the state holding hearings, taking testimony,
24 preparing what I continue to believe -- and I
25 think many of us do -- was the most

1 comprehensive series of rules reforms that has
2 ever been adopted here in the State Senate.

3 And we continue to be governed by the rules
4 that you and I wrote in a cooperative fashion.

5 So I'm very, very pleased that you
6 are taking the lead on this issue on behalf of
7 the Senate Majority and bringing this issue to
8 the floor of the Senate.

9 The issue of redrawing district
10 lines is critically important and one that we
11 will be participating in in the very near
12 future. But how we redraw our district lines,
13 how we go about that process is very, very
14 important.

15 Drawing district lines, for
16 example, that has as their population criteria
17 that include being as equal as practicable --
18 extremely important. That's in this
19 constitutional amendment. Language that
20 requires a district to be as compact as
21 possible, keeping communities in the State of
22 New York whole wherever possible -- critically
23 important.

24 Including language so that
25 districts not be drawn for the purpose of

1 diluting the voting strength of any language
2 or racial minority group -- critical to
3 redistricting reform.

4 Making sure that districts are not
5 drawn for the purpose of favoring any one
6 political party over another -- extremely
7 important. That language is in this
8 constitutional amendment as well.

9 This is all or would all be
10 accomplished through the establishment of a
11 nonpartisan independent redistricting
12 commission. Mr. President, I happen to have
13 legislation, Senate Bill 660, that would
14 accomplish all of these principles that are
15 imposed in this constitutional amendment. The
16 key difference is that my legislation, which
17 I've offered as an amendment, would accomplish
18 redistricting reform --

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

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

23 SENATOR LIBOUS: Did the Senator
24 just say he offered up an amendment on this
25 legislation?

1 ACTING PRESIDENT FLANAGAN: I
2 believe that's what Senator Valesky
3 represented.

4 SENATOR LIBOUS: Mr. President,
5 pursuant to Rule 6, Section 9C, unanimous
6 consent is required to make a motion to amend
7 a concurrent resolution to amend the
8 Constitution.

9 Is the Senator asking for unanimous
10 consent move to amend the resolution that is
11 before the house?

12 ACTING PRESIDENT FLANAGAN:
13 Senator Valesky, are you requesting unanimous
14 consent to make a motion to amend the
15 concurrent resolution before the house?

16 SENATOR VALESKY: Yes, I am,
17 Mr. President.

18 SENATOR LIBOUS: Mr. President, I
19 would say that that would be out of order at
20 this time.

21 ACTING PRESIDENT FLANAGAN: The
22 Senator -- I'm sorry, Senator Libous?

23 SENATOR LIBOUS: I said I believe
24 that is out of order at this time.

25 ACTING PRESIDENT FLANAGAN:

1 Senator Libous, your point is well --

2 SENATOR LIBOUS: Is there
3 unanimous consent to make this motion?

4 ACTING PRESIDENT FLANAGAN: There
5 is not unanimous consent, Senator Libous.
6 Your point is well-taken.

7 Senator Valesky, your amendment to
8 the concurrent resolution is a violation of
9 the rules, Rule 6, Section 9C.

10 SENATOR SQUADRON: Point of
11 order, Mr. President.

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

14 SENATOR SQUADRON: Mr. President,
15 we -- also there's a house amendment at the
16 desk presented by Senator Gianaris, I believe,
17 as well. And I just want to be clear that as
18 to the question of unanimous consent as to a
19 nonsponsor or so-called hostile amendment, we
20 do not believe that that's in fact a correct
21 reading of the rules.

22 So as to Senator Valesky, what he's
23 proposed, we're happy to have Senator Valesky
24 and the Majority work that out, but then we
25 will address the second nonsponsor amendment

1 in due course.

2 Thank you, Mr. President.

3 SENATOR LIBOUS: Mr. President,
4 what is -- I know the Senator stood for a
5 point of order. I want to note that while
6 Senator Valesky did not get unanimous consent,
7 he still has the floor speaking on the bill.

8 So I don't know if he has given up
9 the floor to Senator Squadron at this time.
10 And I'm not sure what his point of order is,
11 sir.

12 ACTING PRESIDENT FLANAGAN:
13 Senator Squadron rose on a point of order, but
14 whatever it was eluded me.

15 Senator Valesky has the floor, and
16 if he wishes to speak on the concurrent
17 resolution, he may continue to do so.

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

20 To conclude on the concurrent
21 resolution. Again, this amendment -- and if
22 there is ambiguity in the State Constitution,
23 we certainly should be amending the
24 Constitution to make sure that this issue is
25 resolved. The important thing is this is a

1 step in reform, in the direction of reform of
2 our redistricting process. And I appreciate
3 the fact that we'd have an opportunity to have
4 this conversation this afternoon.

5 Thank you, Mr. President.

6 ACTING PRESIDENT FLANAGAN: Is
7 there any other Senator wishing to be heard on
8 the resolution?

9 Call the roll. Oh, I'm sorry,
10 Senator Gianaris, I apologize. On the
11 resolution.

12 SENATOR GIANARIS: This is on
13 Senator Bonacic's resolution, correct?

14 ACTING PRESIDENT FLANAGAN: Yes.

15 SENATOR GIANARIS: Okay. Thank
16 you.

17 Would Senator Bonacic yield for a
18 question on the resolution?

19 ACTING PRESIDENT FLANAGAN:
20 Senator Bonacic, will you yield to a question?

21 SENATOR BONACIC: Absolutely.

22 ACTING PRESIDENT FLANAGAN:
23 Senator Gianaris.

24 SENATOR GIANARIS: Thank you,
25 Senator Bonacic.

1 My first question is as it relates
2 to this concurrent resolution, when would be
3 the earliest point in time when this would
4 have an impact on the state's redistricting
5 process?

6 SENATOR BONACIC: This resolution
7 would take place for the elections in 2022.
8 It would not affect any of the redistricting
9 for the vote in 2012.

10 SENATOR GIANARIS: Thank you,
11 Senator Bonacic.

12 And as it relates to the content of
13 the resolution, what is the permissible
14 population deviation between state legislative
15 districts that the concurrent resolution would
16 allow?

17 SENATOR BONACIC: With respect to
18 the state elections, it would be a deviation
19 of 5 percent. With respect to the
20 Congressional elections, it would be a
21 deviation of 1 percent.

22 SENATOR GIANARIS: And if the
23 Senator would continue to yield.

24 SENATOR BONACIC: I do.

25 SENATOR GIANARIS: As it relates

1 to the Congressional deviation, is the Senator
2 aware that federal standards as laid out by
3 the federal courts do not permit a 1 percent
4 deviation in the case of Congressional
5 districts?

6 SENATOR BONACIC: What I do know
7 is that the courts have held guidelines for
8 reapportionment both for Congressional and
9 state seats. And there's two principles that
10 we have to adhere to. The first is the equal
11 protection clause, one person, one vote, in
12 accordance with the 14th Amendment. And we
13 have to comply with the federal Voting Rights
14 Act. Those two are in play.

15 So whatever standards we do,
16 whether the Legislature draws the lines or
17 this independent commission draws the lines,
18 it is all subject to court review whether we
19 adhered to those two principles.

20 SENATOR GIANARIS: On the
21 resolution, Mr. President.

22 ACTING PRESIDENT FLANAGAN:
23 Senator Gianaris on the resolution.

24 SENATOR GIANARIS: I thank
25 Senator Bonacic for his yielding and for his

1 answering of my questions.

2 This is an issue that's received a
3 lot of attention in this body and throughout
4 this state, not only during this session but
5 during the course of the campaign season last
6 year. The concurrent resolution before us --
7 well, let me say this. As part of the
8 campaign season, many of us -- just about all
9 of this body -- promised to support an
10 independent redistricting process that would
11 have effect for the 2012 elections. I just
12 want to be clear that this concurrent
13 resolution does not satisfy that promise.

14 I think we can all agree, as the
15 sponsor indicated, that the soonest that this
16 concurrent resolution can have any effect
17 whatsoever in New York would be in the year
18 2022, which is not pursuant to the 2010
19 census, which is the promise that so many of
20 us have made and the promise that I made to my
21 constituents.

22 The content of the concurrent
23 resolution also does not deal with one of the
24 biggest abuses of the redistricting process,
25 which is manipulation of the population

1 deviation. It's currently set, for state
2 legislative seats, at 5 percent, plus or
3 minus. And what's happened both as it relates
4 to this house and the house on the other side
5 of the Capitol, where I previously served, is
6 that the party in power would manipulate that
7 deviation to its political benefit.

8 One of the great ways we can reform
9 the redistricting process and make it fair is
10 to lower that population deviation. It is
11 what Governor Cuomo has proposed in his
12 legislation, it is what I have proposed in
13 mine, it is what Senator Valesky has proposed
14 in his as well. It is what the advocates who
15 have worked so hard on this issue have called
16 for. And it is not contained in the
17 concurrent resolution before us today.

18 So for two reasons, two primary
19 reasons, I find the concurrent resolution
20 before us is something that I must oppose.
21 Number one, because it does not remedy the
22 abuse of the redistricting process which is
23 most commonly utilized, and that's the
24 population deviation, which allows some
25 districts to have 10 percent more residents

1 than others.

2 And also, importantly, it does
3 absolutely nothing to remedy the redistricting
4 process for next year's elections, which is
5 what so many in this state are asking for,
6 which would bring accountability to our state
7 Legislature in a way that it didn't exist in
8 the past.

9 I'm glad that the reelection rate
10 of so many of my colleagues who I enjoy
11 serving with is as high as it is. But I would
12 rather that that happen, I think the public
13 would rather that that happen as a result of
14 vigorous elections where they get to make the
15 choice of who their representative is going to
16 be, be it in the Assembly or in the Senate.

17 And unfortunately, competitive
18 elections are far too lacking in this state
19 and something that the public is asking us to
20 fix. Because with more accountable
21 representatives, the public has more of a say
22 at election time and the public can have
23 greater confidence in what goes on in the
24 State Capitol.

25 So, Mr. President, I thank you very

1 much for the time today. In a measured tone I
2 have addressed my colleagues as to the reasons
3 why I think this concurrent resolution is one
4 on which I am compelled to vote no, and I
5 encourage all of them to join me in voting
6 against today's resolution.

7 Thank you.

8 ACTING PRESIDENT FLANAGAN: Thank
9 you, Senator Gianaris.

10 Senator Oppenheimer.

11 SENATOR OPPENHEIMER: Thank you.
12 On the bill.

13 ACTING PRESIDENT FLANAGAN:
14 Senator Oppenheimer on the resolution.

15 SENATOR OPPENHEIMER: On the
16 resolution.

17 Well, I'm all for many more
18 competitive elections, maybe take the focus
19 off of me.

20 (Laughter.)

21 SENATOR OPPENHEIMER: And
22 actually I was a cosponsor of this bill,
23 because originally I thought maybe there were
24 two processes here. One would be take care of
25 something in our immediate future, and maybe

1 in the future take care of an amendment to our
2 constitution.

3 But I see that it's now -- now is
4 the time for immediate change and significant
5 reform, and in no way could that happen for
6 another 12 years. So I will be voting in the
7 negative.

8 And I have received additional
9 information, much of which has already been
10 covered by Senator Gianaris, from my friends
11 at the good-government groups, particularly --
12 as you know, I come from the League of Women
13 Voters, and I have received a report from
14 them, and it points up many things that I
15 think are additional information.

16 They particularly look at what they
17 see as the lack of sufficient independence, in
18 that there isn't enough space between we
19 legislators and the commission members. For
20 example, lobbyists can be appointed,
21 legislative staff can be appointed, relatives
22 can be appointed. I think we need more of a
23 separation, not less.

24 And the Cuomo bill and the Gianaris
25 bill both have an additional layer in there

1 which does separate the legislators from those
2 drawing the lines.

3 And I think in particular those two
4 bills I mentioned put in a requirement which
5 is very important, I think, on this side of
6 the aisle, which is the requirement to take
7 into account diversity and ethnicity and
8 geography and race. And that is not in the
9 bill before us.

10 I think another point that we can
11 say about the Cuomo and Gianaris bill that is
12 different from this bill before us is that the
13 deviation of 1 percent is much more likely to
14 result in a one-person-one-vote than the
15 deviation of 5 percent, where those with the
16 smaller numbers in the district actually
17 increase the power of that vote, that one
18 vote, whereas the larger districts decrease
19 the power of an individual's vote.

20 Also, the bill before us does not
21 have specific instances of how districts will
22 be compacted, how compact they will be,
23 another area of concern for our
24 good-government friends.

25 And lastly, another one that's of

1 course of great importance, I think, is that
2 there's no requirement for public hearings
3 throughout the state. And in the case of the
4 Cuomo bill, there's one set of hearings. In
5 the case of Senator Gianaris's bill, there are
6 two sets of hearings. The more the public
7 knows, the better off we are. And we know
8 that we have their support if they understand
9 what we're doing.

10 And so for those reasons, I will be
11 voting no in spite of being a sponsor of the
12 bill. Thank you.

13 ACTING PRESIDENT FLANAGAN: Thank
14 you, Senator Oppenheimer.

15 Senator Hassell-Thompson on the
16 resolution.

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

19 I rise to speak on the resolution
20 and say that those members who either were in
21 committee or were in Rules have already heard
22 what I'm going to say, but that doesn't
23 encompass the rest of us that did not get to
24 participate in either of those.

25 My concern about this bill -- and

1 let me just back up a minute and say to you,
2 Senator Bonacic, and say that now that I
3 recognize that clearly you are separating your
4 attempts in this bill going forward, as
5 opposed to a remedy for 2012, then I will
6 reserve the concerns that I had about that.

7 But I also heard you very clearly
8 say that this did not preclude any
9 participation in developing something for
10 2012. And I hope we can count on you when
11 something does come that will address that
12 issue.

13 But going forward, as we look at
14 your attempts to do a constitutional change,
15 there are some things that disturb me greatly.
16 As someone who represents one of the very few
17 districts that are covered under Section 5 of
18 the Voting Rights Act -- Bronx County, Queens
19 County, and New York County -- there are a
20 couple of things that are very disturbing.

21 Number one, downstate New York
22 has -- we keep using the word "compact," but
23 we confuse that with packing. And the way in
24 which we have gone forward continues to pack
25 people into our districts in a way that does

1 not give the benefit of one-person-one-vote.

2 The other thing that concerns me
3 greatly is that this bill seeks to repeal the
4 current law that bans prison-based
5 gerrymandering. And as somebody who worked
6 very, very hard to do that, I'm certainly not
7 prepared to vote for a bill that would
8 overturn that. I think that the way in which
9 prisoners have been counted in the prisons has
10 done injury to those districts from which they
11 are clearly represented.

12 The other thing that I'm concerned
13 about is that this bill does not ensure
14 adequate public understanding or participation
15 in the redistricting process. And part of it
16 I heard Senator Oppenheimer allude to, that
17 this bill does not contain the diversity that
18 would allow full participation based upon
19 gender, based upon geography, linguistics, as
20 well as ethnicity and race. And so for all of
21 those reasons and others, I could not possibly
22 support this bill.

23 The other thing is that if we want
24 to make this a great bill, the ban on drawing
25 lines -- and we want to talk about how do we

1 make this committee as truly independent as
2 possible, the way in which this bill allows
3 anybody, you know, including relatives of
4 elected officials to be participatory, and yet
5 they don't want elected officials to be
6 participatory, I don't see how in fact this
7 will give you the independence that you say
8 you seek.

9 I would like to, as I have in the
10 past, volunteer to work with you on this bill
11 to make it a better bill. If in fact we want
12 to truly do a constitutional amendment to
13 eliminate the existing reapportionment and
14 redistricting kind of wrangling that goes on
15 here, and so that the people of the State of
16 New York will get full and fair
17 participation -- but I don't think that this
18 bill will do this.

19 And I thank you very much.

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

22 Senator Espaillat on the
23 resolution.

24 SENATOR ESPAILLAT: Thank you,
25 Mr. President. On the resolution.

1 I want to commend Senator Bonacic
2 for his good work in trying to bring this
3 issue to our constitution.

4 However, I feel very strongly that
5 this is kicking the can down the road to the
6 next decade. And that in fact the voters of
7 New York State, the residents of New York
8 State have given us all a mandate to take care
9 of this once and for all in the next couple of
10 years. They want us to do away with the old
11 practices of backroom gerrymandering. They
12 want us to do away with the practices of
13 cracking and packing that have disenfranchised
14 communities of common interest for many, many
15 years.

16 So we feel that we should be up to
17 the task of preparing ourselves to do this in
18 the next two years. We must identify those
19 prisoners that benefited from doing away with
20 prison gerrymandering, identify where they
21 came from, and include them in the voting
22 rolls for the next upcoming elections. We
23 should not delay this process any further.

24 This resolution provides -- may
25 provide cover for many of us who may not want

1 to take a stand on an independent
2 redistricting commission and may want to say
3 that in fact they'd rather vote for a
4 constitutional amendment.

5 It is clear that, as I did, many of
6 us signed a pledge to do this swiftly and in a
7 transparent fashion, to do it this year and
8 next year. And I think the voters and the
9 residents of New York State want this to
10 happen now and not in the next decade. That
11 is why I will be voting in the negative.

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

14 Senator Bonacic to close.

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

17 First of all, I'd like to --

18 ACTING PRESIDENT FLANAGAN:
19 Excuse me, Senator Bonacic, I apologize.

20 Senator Perkins, I was unaware that
21 you wanted to speak.

22 Senator Perkins on the resolution.

23 SENATOR PERKINS: Thank you very
24 much. I'm going to be brief.

25 I just want to -- you know, I'm

1 concerned about the fact that this is a
2 diversion from what the public is expecting of
3 us to do right away, which is to redistrict in
4 a fair way the seats and to pass legislation
5 as quickly as possible. This puts off to
6 another decade that which the people want us
7 to take care of today.

8 It reminds me of the era when the
9 term "with all due deliberate speed" was used
10 as an opportunity for those to continue the
11 slow pace of integration, as opposed to move
12 forward as quickly as possible.

13 And whenever you get involved in
14 these voting rights and these election rights
15 issues, you have to take into consideration
16 the fact that there are protected districts
17 such as mine in Manhattan, one in Brooklyn,
18 Kings County and others.

19 And so I'm concerned that we're not
20 doing this as expeditiously as we should be
21 doing it, that in fact that it's a delay
22 tactic that is not providing the reform but,
23 quite the opposite, is against reform.

24 And I therefore am going to have to
25 vote no and encourage all my colleagues, for

1 the sake of civil rights, that we do not allow
2 this legislation to go forward and delay that
3 which we're supposed to be doing now.

4 ACTING PRESIDENT FLANAGAN: Thank
5 you, Senator Perkins.

6 Is there any other Senator wishing
7 to be heard?

8 Senator Bonacic to close.

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

11 First I'd like to thank my
12 colleagues for the kind words, especially
13 Senator Valesky, and the kind words from all
14 my colleagues.

15 Let me just make a couple of
16 observations. This constitutional amendment
17 that we're proposing, that I have proposed
18 since 1996 -- I have been consistent from 1996
19 to the present time. There was no legislation
20 or budget provision that dealt with census and
21 prisoners. It's not in my legislation,
22 because I started this in 2006.

23 This emanated from Senator
24 Dollinger before me. And I picked it up
25 because I thought it was pure, it was simple,

1 it was independent, it was bipartisan. And
2 it's as truthful as we can get when it comes
3 to drawing lines for redistricting.

4 And along the way of this
5 legislation as it was proposed, let me just
6 share with you some of the people who have
7 sponsored it which I'd like to thank, those
8 presently and in the past. Senator Ball.
9 Senator Grisanti. Senator Oppenheimer, who
10 sponsored this in 2009-2010. Senator Saland.
11 Senator Liz Krueger, who stood with me when I
12 say my lonely two years in 2007 and 2008 over
13 here, my only cosponsor on your side of the
14 aisle. Senator Golden. Former Senator Mary
15 Lou Rath. Senator Duane. Former Senator
16 Seymour Lachman, who has really shed some
17 light on Albany with his book. Our Senate
18 president from 2009-2010, Senator Malcolm
19 Smith. Our Senate majority conference leader
20 2009-2010, Senator John Sampson. Senator
21 Stavisky. And others.

22 So you know this is not a partisan
23 piece of legislation. We've all embraced it.
24 And when it comes to constitutional
25 amendments, we kept kicking the can down the

1 road because this started back close to 2000
2 and we didn't do it.

3 And when you say -- and I think
4 Senator Esplata [sic] has said -- and I might
5 not have pronounced that right, Senator, and I
6 apologize -- he indicated that we're kicking
7 the can down the road. You kick the can down
8 the road, when you use that expression, when
9 you don't provide a solution. This does
10 provide a solution. And the public strives
11 for an independent analysis.

12 Now I'm just going to comment a
13 little bit of some of the concerns that you've
14 raised. You've said that the courts require
15 ethnicity, minorities, gender -- and I agree
16 with all of that. But those standards have
17 been set when there's a federal review or a
18 state review by the judicial system. That's
19 going to happen anyway.

20 And this commission that we're
21 trying to establish to draw the lines, five
22 people, one appointed by each leader and the
23 other four pick the fifth. So there was
24 concerns about who would qualify for these
25 five. And that's something that we can do

1 together, working together, setting
2 qualifications for who would qualify, whether
3 they be a New York resident, how long you want
4 them to be a resident, you want to ban
5 lobbyists, you want to try to achieve
6 ethnicity. These are all legitimate areas
7 that we can prepare a law for as to have them
8 the most qualified and being independent and
9 trying to be fair. That we can do.

10 As for public hearings, in order
11 for this to pass, we have to do this again in
12 2013. We have a lot of time for public
13 hearings. And again, by statute, we can
14 require public hearings. But the ultimate
15 public hearing is the vote of the voters on
16 whether or not they embrace this
17 constitutional change.

18 So my intent in doing this was not
19 in any way to not address redistricting in
20 2012, because I've said up front we all have
21 to do that. But we are putting in place a
22 process and finally making decision on a
23 constitutional change once and for all for
24 reforms for future legislatures down the road,
25 where we don't have to get involved in all

1 this rhetoric and dancing.

2 And we need the constitutional
3 change because the Legislature says we are
4 delegating this authority to five people.
5 And, you know, if I could get five Solomons, I
6 wish we could. But I think it's a truthful
7 dialogue of the best independent process we
8 could have that's bipartisan.

9 And that's why I'm putting this
10 resolution forward -- in no way, in no way to
11 address the urgency and your concerns for
12 2012. Governor Cuomo I said right up front
13 this constitutional change does not do this.

14 And, you know, I'm not playing the
15 blame game, but let's face it. You had
16 opportunities -- meaning your side of the
17 aisle -- in 2009 and 2010 to do independent
18 redistricting, to do a constitutional change.
19 Because now, if we do it now, then we have the
20 change and it could have gone forward in 2012.

21 And when we do something by statute
22 and not by constitutional change, we get
23 nervous. Both sides get nervous. And I know
24 that whenever you get a chance, you want to
25 talk about the Governor's redistricting bill.

1 But I get a concern when we give a governor
2 four appointments, four appointments. Because
3 let me just change the dialogue. What happens
4 if Carl Paladino was governor? Would you be
5 concerned giving the governor four
6 appointments for this reapportionment,
7 redistricting committee? Sure you would. If
8 you had a governor that was not elected, like
9 we had four years ago, would you have a
10 concern about the legitimacy of independence
11 and bipartisanship? I think you would. So I
12 try to have an honest dialogue of the best way
13 to get there.

14 And then what really made everybody
15 nervous was remarks by your president pro tem
16 back in May where he said "When we are in the
17 majority, we will put the Republicans into
18 oblivion in terms of redistricting." Now, if
19 that doesn't get people nervous, nothing does.

20 So that's one of the reasons why
21 we've been going forward and giving everybody
22 an opportunity to avoid these things that have
23 happened in the past. And I've intentionally
24 made it prospectively so it resolves the
25 problem as we go out. But it certainly

1 doesn't kick the can down the road, because it
2 is a solution. It's real reform.

3 The New York City Bar Association
4 is on record that if you're going to do
5 redistricting, get it out of the hands of the
6 Legislature, do a constitutional amendment.
7 There are 10 states now in this country
8 looking on reforming redistricting,
9 constitutional amendments.

10 So the time is now. And, you know,
11 you can dance and say, well, you know, the
12 need is imminent, it's immediate for 2012.
13 But we're not delaying that process at all.
14 We're asking you to be a partner with us, like
15 all those Democrats were in sponsoring this
16 legislation throughout the years.

17 So this is an opportunity for
18 reform for all of us. And I ask you to
19 support the measure, and I thank you for your
20 consideration.

21 Thank you, Mr. President.

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

24 The Secretary will call the roll on
25 the concurrent resolution.

1 (The Secretary called the roll.)

2 SENATOR SQUADRON: Point of
3 order, Mr. President.

4 I believe this was a bill on the
5 controversial calendar. We need to ring the
6 bells before calling the vote, respectfully.

7 ACTING PRESIDENT FLANAGAN: The
8 Secretary will ring the bell.

9 Thank you, Senator Squadron.

10 Senator Libous, the bell has been
11 rung and the Secretary will call the roll
12 momentarily.

13 (Laughter.)

14 ACTING PRESIDENT FLANAGAN:
15 Senator Squadron, why do you rise?

16 SENATOR SQUADRON: Mr. President,
17 I request a slow roll. I was not sure if you
18 had forgotten to call the roll or not.

19 ACTING PRESIDENT FLANAGAN: When
20 we get to the roll call, Senator Squadron, I
21 will address your concern.

22 SENATOR SQUADRON: Thank you.

23 ACTING PRESIDENT FLANAGAN: The
24 Secretary will call the roll on the concurrent
25 resolution.

1 Senator Squadron.

2 SENATOR SQUADRON: Slow roll

3 call, please.

4 (Several Democratic members stood.)

5 ACTING PRESIDENT FLANAGAN: Thank

6 you, Senator Squadron.

7 The Secretary will call the roll

8 slowly on the concurrent resolution.

9 THE SECRETARY: Senator Adams,
10 excused.

11 Senator Addabbo.

12 SENATOR ADDABBO: No.

13 THE SECRETARY: Senator Alesi.

14 SENATOR ALESI: Yes.

15 THE SECRETARY: Senator Avella.

16 SENATOR AVELLA: No.

17 THE SECRETARY: Senator Ball.

18 SENATOR BALL: Yes.

19 THE SECRETARY: Senator Bonacic.

20 SENATOR BONACIC: Yes.

21 THE SECRETARY: Senator Breslin.

22 ACTING PRESIDENT FLANAGAN:

23 Senator Breslin, to explain his vote.

24 SENATOR BRESLIN: Thank you,

25 Mr. President.

1 I stand to say to Senator Bonacic
2 thank you for so much work that he's done.

3 But this is a bill that was
4 introduced last week, rushed through
5 Judiciary, rushed through Rules. At a time
6 when the Governor put a bill in that couldn't
7 really be dealt with because we had the budget
8 to worry about.

9 I only point that out because it
10 really points to a true diversion, as Senator
11 Perkins has said, Senator Hassell-Thompson has
12 said, and others have said. It's a diversion
13 that takes our focus away from proper
14 redistricting. Senator Bonacic's bill talks
15 about 11 years from now -- 11 years from now.
16 We have plenty of time for hearings, plenty of
17 time to talk about the racial factor in this
18 bill, about hearings, about the deviation. I
19 believe it should be 1 percent.

20 And for that reason and others, I
21 vote no. Thank you, Mr. President.

22 ACTING PRESIDENT FLANAGAN:
23 Senator Breslin to be recorded in the
24 negative.

25 THE SECRETARY: Senator Carlucci.

1 ACTING PRESIDENT FLANAGAN:

2 Senator Carlucci, to explain his vote.

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

5 I care deeply about independent
6 redistricting. I think it's extremely
7 important that we try to address it as soon as
8 possible so that we have it in place before
9 the next set of legislative races.

10 With that said, I think it's
11 important that we keep in mind just not the
12 next election but the next generation. And we
13 keep in mind that this is the closest that
14 this body has come to actually approving and
15 securing one man, one vote or one person, one
16 vote in the New York State Constitution.

17 So I don't want to let this
18 opportunity go by and allow us to wait another
19 10 years and then have this same discussion.

20 So, Mr. President, I'll be voting
21 in the affirmative. Thank you.

22 ACTING PRESIDENT FLANAGAN: Thank
23 you. Senator Carlucci to be recorded in the
24 affirmative.

25 THE SECRETARY: Senator

1 DeFrancisco.
2 SENATOR DeFRANCISCO: Aye.
3 THE SECRETARY: Senator Diaz.
4 SENATOR DIAZ: No.
5 THE SECRETARY: Senator Dilan.
6 SENATOR DILAN: No.
7 THE SECRETARY: Senator Duane.
8 SENATOR DUANE: No.
9 THE SECRETARY: Senator
10 Espaillat.
11 SENATOR ESPAILLAT: No.
12 THE SECRETARY: Senator Farley.
13 SENATOR FARLEY: Aye.
14 THE SECRETARY: Senator Flanagan.
15 SENATOR FLANAGAN: Yes.
16 THE SECRETARY: Senator
17 Fuschillo.
18 SENATOR FUSCHILLO: Yes.
19 THE SECRETARY: Senator Gallivan.
20 SENATOR GALLIVAN: Yes.
21 THE SECRETARY: Senator Gianaris.
22 SENATOR GIANARIS: No.
23 THE SECRETARY: Senator Golden.
24 SENATOR GOLDEN: Yes.
25 THE SECRETARY: Senator Griffo.

1 SENATOR GRIFFO: Yes.

2 THE SECRETARY: Senator Grisanti.

3 SENATOR GRISANTI: Yes.

4 THE SECRETARY: Senator Hannon.

5 SENATOR HANNON: Yes.

6 THE SECRETARY: Senator

7 Hassell-Thompson.

8 ACTING PRESIDENT FLANAGAN:

9 Senator Hassell-Thompson, to explain her vote.

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

12 I just would like, in explaining my
13 vote, to just say to Senator Bonacic that
14 while I appreciate the fact that many of these
15 you ascribe to the courts, if we have the
16 opportunity to do a good bill, why would we
17 wait for the courts to have to dictate what
18 should be in it? If we know what's right,
19 then we should ensure that we create a
20 committee that allows for diversity, we should
21 create a committee that allows for all of the
22 opportunities for fairness.

23 And I don't believe that this bill
24 does that, and so therefore I will continue to
25 vote no.

1 Thank you, Mr. President.

2 ACTING PRESIDENT FLANAGAN:

3 Senator Hassell-Thompson to be recorded in the
4 negative.

5 THE SECRETARY: Senator Huntley.

6 (No response.)

7 THE SECRETARY: Senator Johnson.

8 SENATOR JOHNSON: Aye.

9 THE SECRETARY: Senator Kennedy.

10 SENATOR KENNEDY: No.

11 THE SECRETARY: Senator Klein.

12 SENATOR KLEIN: Yes.

13 THE SECRETARY: Senator

14 L. Krueger.

15 ACTING PRESIDENT FLANAGAN:

16 Senator Liz Krueger to explain her vote.

17 SENATOR LIZ KRUEGER: Thank you,
18 Mr. President.

19 I also will be voting no on this
20 bill today. I appreciate Senator Bonacic's
21 long explanation of the bill. And he's
22 correct, there was a previous year where I did
23 cosponsor this bill. And I admit I didn't
24 read the bill carefully enough. I didn't
25 understand all of the ramifications of all of

1 the specific changes in this constitutional
2 amendment.

3 But I was able to learn what I
4 didn't like about this bill because the public
5 came to me to lay out the details of the
6 concerns they had with this bill. And so I
7 didn't sponsor this year.

8 But I think the important part is
9 we're now moving this bill through Judiciary,
10 Rules, to the floor for a vote in one day.
11 The Governor has -- even though we've all
12 heard this will have an impact, if ever
13 passed, on the next redistricting after 2021.
14 And yet we have a desperate need to do
15 something about independent redistricting this
16 year in a matter of months as far as the
17 process, and yet we can't get the Governor's
18 program bill through to a public hearing so we
19 could learn whether we would agree or disagree
20 with each other on that bill.

21 So I am voting no on this bill. I
22 will admit freely the more I learned the more
23 I realized that wasn't the right bill.

24 And I just wish, for the record,
25 that some all-powerful committee clerk

1 couldn't stop a public hearing on a Governor's
2 program bill that is very timely and needs to
3 be done or at least evaluated now.

4 So I'll be voting no,
5 Mr. President. Thank you.

6 ACTING PRESIDENT FLANAGAN:
7 Senator L. Krueger to be recorded in the
8 negative.

9 THE SECRETARY: Senator C.
10 Kruger.

11 SENATOR CARL KRUGER: No.

12 THE SECRETARY: Senator Lanza.

13 SENATOR LANZA: Aye.

14 THE SECRETARY: Senator Larkin.

15 ACTING PRESIDENT FLANAGAN:
16 Senator Larkin, to explain his vote.

17 SENATOR LARKIN: You know,
18 Mr. President, I'd like to go back a few
19 years -- '82, '92, 2002, I heard these same
20 comments. During the campaign of '08 I
21 remember my opponent saying one of the first
22 things we're going to do is we're going to
23 take that bill in '09 and we're going to have
24 reapportionment.

25 And I remember John Bonacic saying

1 at one of our meetings, you know, let's stop
2 kicking the can down the road, let's do it
3 right. Let's have a constitutional -- I heard
4 John saying that way back when.

5 Don't sit here today like "We want
6 a public hearing." What happened to your
7 voices of '08? We're going to do it. You had
8 the opportunity in '09, in '10. But as the
9 former president, Mr. Smith, said "We're going
10 kick them out to oblivion" -- well, the public
11 had a different view.

12 You will make all of those excuses:
13 You know, we should have public this, we
14 should have a public -- do you know, this week
15 I attended three parades. Not one person said
16 to me about redistricting. You know what they
17 said? "Can you find a job for me?" "When are
18 you going to lower the taxes?" "When are you
19 going to do your work?"

20 John Bonacic, you're to be
21 commended. Because when others were saying
22 "John, you're biting off too much," you said,
23 "My priority is the people I represent, not
24 the special interests." Thank you very much,
25 John.

1 I vote yes.

2 ACTING PRESIDENT FLANAGAN:

3 Senator Larkin to be recorded in the
4 affirmative.

5 THE SECRETARY: Senator LaValle.

6 SENATOR LaVALLE: Aye.

7 THE SECRETARY: Senator Libous.

8 SENATOR LIBOUS: Aye.

9 THE SECRETARY: Senator Little.

10 SENATOR LITTLE: Yes.

11 THE SECRETARY: Senator

12 Marcellino.

13 SENATOR MARCELLINO: Yes.

14 THE SECRETARY: Senator Martins.

15 SENATOR MARTINS: Yes.

16 THE SECRETARY: Senator Maziarz,
17 excused.

18 Senator McDonald.

19 SENATOR McDONALD: Yes.

20 THE SECRETARY: Senator

21 Montgomery.

22 SENATOR MONTGOMERY: No.

23 THE SECRETARY: Senator Nozzolio.

24 SENATOR NOZZOLIO: Aye.

25 THE SECRETARY: Senator O'Mara.

1 SENATOR O'MARA: Aye.
2 THE SECRETARY: Senator
3 Oppenheimer.
4 SENATOR OPPENHEIMER: No.
5 THE SECRETARY: Senator Parker.
6 SENATOR PARKER: Nay.
7 THE SECRETARY: Senator Peralta.
8 SENATOR PERALTA: No.
9 THE SECRETARY: Senator Perkins.
10 SENATOR PERKINS: No.
11 THE SECRETARY: Senator
12 Ranzenhofer.
13 SENATOR RANZENHOFER: Yes.
14 THE SECRETARY: Senator Ritchie.
15 SENATOR RITCHIE: Yes.
16 THE SECRETARY: Senator Rivera.
17 SENATOR RIVERA: Nay.
18 THE SECRETARY: Senator Robach.
19 SENATOR ROBACH: Aye.
20 THE SECRETARY: Senator Saland.
21 SENATOR SALAND: Aye.
22 THE SECRETARY: Senator Sampson.
23 (Senator Sampson recorded in the
24 negative.)
25 THE SECRETARY: Senator Savino.

1 ACTING PRESIDENT FLANAGAN:

2 Senator Savino, to explain her vote.

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

5 You know, I'm actually going to
6 vote for this resolution, Senator Bonacic.
7 But I don't think our work here is done. I
8 agree with you that we need to solve this
9 problem constitutionally for the next
10 legislative body. Hopefully some of us will
11 be here in 10 years. Some of us might not.

12 I also don't think our work is
13 done. I think we need to do nonpartisan
14 independent redistricting for the upcoming
15 census. I think it's important. Sixty people
16 in this body campaigned on that issue last
17 year. They either signed a pledge or they
18 signed onto a piece of legislation saying that
19 they believed in it.

20 But there are very few issues that
21 come before this body that has created such a
22 level of discomfort for people as this
23 particular issue. And if we all wanted to be
24 honest with ourselves and we wanted to be
25 honest with our voters, we would tell people

1 what we really think about independent
2 redistricting.

3 Senator Bonacic is right. He's
4 been pushing this bill for -- 12 years now?
5 Many of the members on this side of the aisle
6 cosponsored your bill before. We all
7 supported it when we were in charge, yet we
8 couldn't get it out of committee and we
9 couldn't bring it to the floor.

10 I don't think this is the perfect
11 solution. I still think that we need to do
12 independent redistricting for the upcoming
13 legislative terms. But I know one thing is
14 for sure. This may be the only chance in my
15 career that I will ever get to vote on a bill
16 that calls for independent nonpartisan
17 redistricting in the New York State Senate,
18 folks.

19 So for that reason, I'm going to
20 vote for this bill, because it may be my only
21 shot.

22 ACTING PRESIDENT FLANAGAN:
23 Senator Savino to be recorded in the
24 affirmative.

25 THE SECRETARY: Senator Serrano.

1 SENATOR SERRANO: No.

2 THE SECRETARY: Senator Seward.

3 SENATOR SEWARD: Yes.

4 THE SECRETARY: Senator Skelos.

5 (Senator Skelos recorded in the
6 affirmative.)

7 THE SECRETARY: Senator Smith.

8 SENATOR SMITH: No.

9 THE SECRETARY: Senator Squadron.

10 ACTING PRESIDENT FLANAGAN:

11 Senator Squadron, to explain his vote.

12 SENATOR SQUADRON: Thank you very
13 much, Mr. President.

14 And I too commend Senator Bonacic
15 for what I know has been years and years of
16 working on this issue and being supportive of
17 it, and his sincere belief that there is a
18 better way to do things. And my colleagues on
19 this side of the aisle who pointed out so many
20 of the reasons that I think this bill still
21 does need more work and is not fully there
22 yet.

23 But let's be very clear. This has
24 been a very good, genteel debate, and that's
25 appropriate for this house. Unlike last week,

1 which really wasn't. But there's a striking
2 similarity between last week's debate and this
3 week's debate. In neither case have we yet
4 dealt with the issue that 60 out of 62 of us
5 have pledged to deal with, which is
6 redistricting right now.

7 Let's be clear. This body has
8 still not taken up an issue that 60 out of 62
9 of us have pledged to take up. That's a very
10 important issue and I think a reason right now
11 why this bill of Senator Bonacic's that is
12 admirable and that I think is an important
13 piece of the puzzle shouldn't come first and
14 shouldn't come in this rushed way, it should
15 come in the appropriate time and the
16 appropriate course.

17 And what we need to do right now is
18 we need take up a bill that will solve the
19 problem for this coming year, which is what we
20 all pledged to do.

21 I'll be voting no, Mr. President.
22 Thank you.

23 ACTING PRESIDENT FLANAGAN:
24 Senator Squadron to be recorded in the
25 negative.

1 THE SECRETARY: Senator Stavisky.

2 SENATOR STAVISKY: To explain my
3 vote.

4 ACTING PRESIDENT FLANAGAN:
5 Senator Stavisky to explain her vote.

6 SENATOR STAVISKY: There are a
7 lot of things that are good with this bill,
8 but there are some technical corrections that
9 really have not been made. And it seems to me
10 that we are just passing off the problem for
11 another 10 or 11 years.

12 I hate to think that this might be
13 the only chance we have to vote on a
14 redistricting bill. That, to me, is a cynical
15 scenario is that we must reject. I suggest
16 that it's time to consider the Governor's
17 program bill. I vote no.

18 ACTING PRESIDENT FLANAGAN:
19 Senator Stavisky to be recorded in the
20 negative.

21 THE SECRETARY: Senator
22 Stewart-Cousins.

23 SENATOR STEWART-COUSINS: No.

24 THE SECRETARY: Senator Valesky.

25 ACTING PRESIDENT FLANAGAN:

1 Senator Valesky to explain his vote.

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

4 Mr. President, I'm disappointed
5 this afternoon. I'm disappointed in the no
6 votes by my colleagues here today. I'm
7 disappointed in the comments from
8 organizations outside of the Senate who
9 somehow believe that reform is not embodied in
10 this concurrent resolution that is before us
11 today.

12 We can go through line by line a
13 piece of legislation that comes before us
14 every day that we're here -- or, in this case,
15 a concurrent resolution. We can find a clause
16 in a bill that we might think might not go far
17 enough. We can find a sentence that we might
18 think might not quite fit in terms of our
19 definition of reform.

20 But in the final analysis it seems
21 to me that when we vote on this concurrent
22 resolution, or when we vote on anything that
23 comes before us in this State Senate, that we
24 take a step back and we ask ourselves one
25 simple question. In this case, that question

1 is: Would the State of New York and the
2 people of the State of New York be better
3 served by a redistricting process that is done
4 this way as opposed to the way we've been
5 doing it decade after decade after decade?

6 Mr. President, in my mind, there's
7 no comparison. This is a far superior way to
8 redraw district lines in the State of
9 New York. And for that reason I vote yes.

10 ACTING PRESIDENT FLANAGAN:
11 Senator Valesky to be recorded in the
12 affirmative.

13 THE SECRETARY: Senator Young.

14 SENATOR YOUNG: Yes.

15 THE SECRETARY: Senator Zeldin.

16 SENATOR ZELDIN: Yes.

17 ACTING PRESIDENT FLANAGAN: The
18 Secretary will call the absentees.

19 THE SECRETARY: Senator Huntley.

20 (No response.)

21 ACTING PRESIDENT FLANAGAN: The
22 Secretary will announce the results.

23 THE SECRETARY: Ayes, 35. Nays,
24 24.

25 ACTING PRESIDENT FLANAGAN: The

1 resolution is adopted.

2 Senator Libous, that completes the
3 controversial reading of the supplemental
4 calendar.

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

7 Mr. President, is there any further
8 business at the desk?

9 ACTING PRESIDENT FLANAGAN: No,
10 Senator Libous.

11 But I would respectfully ask that
12 the members just wait for one moment. Senator
13 Libous has something he'd like to ask. But
14 there is no further official business at the
15 desk.

16 SENATOR LIBOUS: We're going to
17 do a couple of things, Mr. President.

18 I believe, in consultation with
19 Senator Skelos, Senator Sampson would like to
20 hand up the following committee assignments
21 and note it in the Journal.

22 ACTING PRESIDENT FLANAGAN: So
23 ordered. To be filed in the Journal Clerk's
24 office.

25 SENATOR LIBOUS: Thank you,

1 Mr. President.

2 This weekend the people of Japan
3 experienced some very, very horrific
4 devastation, with not just one but several
5 earthquakes and other tremors that followed.
6 We pour our hearts out to the people of Japan
7 and certainly hope that the rescue efforts --
8 which is a humanitarian effort throughout the
9 entire world to help those who have survived
10 and certainly to help heal the pain of those
11 who have lost their homes, their worldly
12 possessions and their loved ones.

13 Mr. President, I would ask that
14 this body join me in a moment of silence for
15 those who unfortunately lost their lives
16 through this devastation, and that we have a
17 moment of silent prayer for those and the
18 leaders in Japan and certainly those around
19 the world who are helping this nation at this
20 time.

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

23 Obviously everyone has heeded your
24 call and has risen.

25 (Whereupon, the assemblage

1 respected a moment of silence.)

2 SENATOR LIBOUS: Mr. President,
3 there being no further business, I move that
4 the Senate adjourn until Tuesday, March 15th,
5 2011, at 1:30 p.m.

6 ACTING PRESIDENT FLANAGAN: On
7 motion, the Senate stands adjourned until
8 Tuesday, March 15th, at 1:30.

9 (Whereupon, at 5:22 p.m., the
10 Senate adjourned.)