NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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May 18, 2011

11:10 a.m.

REGULAR SESSION

SENATOR JOSEPH E. ROBACH, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT ROBACH: The Senate will come to order.

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

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

ACTING PRESIDENT ROBACH: Today our invocation will be done by the Reverend Peter G. Young, of Mother Teresa Community Church.

REVEREND YOUNG: Thank you.

Let us pray.

As New Yorkers, we saw the christening of the American flag, of the Stars and the Stripes that was first flown in battle at the defense of Fort Stanwix here in New York State, at Rome.

It's with great pride that we are able to serve as Senators in this patriotic tradition as the elected leaders to fulfill Your call, O God, of leadership to all of our citizens in New York State.

But again today we know that

there's pride in America, because we have known that the Apollo is again connected to our earth that You have created and to the universe that You have created. We know that You are again proud to know that that flag is flying there, as with all on earth and in the universe.

Amen.

ACTING PRESIDENT ROBACH: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 17th, the Senate met pursuant to adjournment. The Journal of Monday, May 16th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, there's a privileged resolution at the desk by Senator Skelos. May we please have the title read and move for its immediate adoption.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Senate resolution by Senator Skelos, providing for a Senate Select Committee on State-Native American Relations.

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

(Response of "Aye.")

ACTING PRESIDENT ROBACH: All those opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, there's a privileged resolution at the desk by

Senator Carlucci. At this time could we have the title read, and could you please call on Senator Carlucci before its adoption.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Carlucci, memorializing Governor Andrew M. Cuomo to proclaim May 18, 2011, as Haitian Unity Day in the State of New York.

ACTING PRESIDENT ROBACH: Senator Carlucci.

SENATOR CARLUCCI: Thank you, Mr. President.

It's an absolute honor to stand here today with so many residents from my community in Rockland County. Rockland County, we're very blessed and fortunate to have such a large Haitian population, and many of the residents are here today.

Today we celebrate Haitian Flag Day. With the many struggles that are going on in Haiti right now, Haiti has a long history of being leaders. They were one of the first free nations in the Western Hemisphere, and they

inspired a generation of Americans here to fight against slavery, inspiring the abolitionists and also leading Napoleon out of the Western Hemisphere and leading to the purchase of the Louisiana Purchase.

This has been so important. And as an earlier generation of Haitians were inspired by the Haitian flag, it's our hope that it will continue to inspire the people that are struggling today.

But we're so blessed in Rockland County because we have so many leaders, particularly from the Haitian community, that do so much for people that are struggling in our community right now. There's no question that right now we know that so many people are worried about keeping their home, about putting food on the table, about making sure that they can maintain their employment.

And the people that are here today, so many leaders like Denet Alexandre, Judge Christine Theodore who's here, and Willie and his wife, Mrs. Parison. We've got so many leaders that go above and beyond every day in not only serving the Haitian community but the entire

community of Rockland and beyond.

So it's my distinct pleasure to ask all of you to join me in asking the Governor to proclaim today Haitian Unity Day in the State of New York.

So with that, I thank all of you for joining me in that, and I want to thank all of our guests here today.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Carlucci.

Senator Smith on the resolution.

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

Let me first thank my colleague Senator Carlucci for his acknowledgment of Haitians and the plight that they have been through. Obviously many of us know it was January a year or so ago that a horrific moment happened in Haiti. And to this day, we still have much to be done in Haiti. Much work needs to be accomplished.

But I want to thank Senator Carlucci. Because if you understand, it was only yesterday that Secretary Napolitano has extended

the TPS status for Haitian-Americans. And obviously we all know that that temporary protective status is so important to so many of them. And it is a time we need them to recognize that we understand and we stand in solidarity for all of the challenges that have occurred in Haiti.

So I'm very proud to stand here to support this resolution. I thank Senator Carlucci for his leadership and his understanding of the plight and the support that is necessary for the community of Haiti.

And so with that, Mr. President, I'd like to stand here and join in this resolution today. It's a proud day for the Haitian community. Thank you for your presence here today.

ACTING PRESIDENT ROBACH: Thank you, Senator Smith.

Senator Parker.

SENATOR PARKER: Thank you, Mr. President. Again, let me add my voice to those who are proclaiming today Haitian Unity Day.

Actually, today let me actually

begin by congratulating Senator Carlucci for his leadership on this issue. Him and I are very much connected, not just because we're young and good-looking, but -- what you all laughing at?

(Laughter.)

SENATOR PARKER: But also because we represent in our respective districts the largest Haitian populations not just in the state but actually in the world outside of Haiti in terms of concentrations of residents.

Today is dix-huit mai, right, Haitian Flag Day. And it's actually celebrated as the day that the Haitian flag was created. So this is a great day in the history of the first free democracy in the Western Hemisphere. And so it's something that we should pay attention to. Anybody who comes from a free democracy got their freedom and their understanding of it from the Haitian people and what they were able to do.

And so we remember that. We honor that. We remember Boukman and Jean-Jacques Dessalines, and we remember Toussaint L'Ouverture and the many other countless people who gave their lives so that the people of Haiti could be free. And not even understanding at that time

how viral freedom would become in the Western Hemisphere.

And so we thank you. And so we know that you're not defined by the January 12th earthquake, but we recognize that and remember the lives lost there and use that as a standing point to rededicate ourselves to making sure that Haiti is the kind of democracy and the kind of republic that we'd like to see our country also become.

And so we look forward to continuing to work with you. And even though the folks here don't necessarily live in my district, I invite you down to come to Yoyo and eat and, you know, spend some time and to continue to celebrate this culture that's rich and historic and so important for all of us who care about freedom and democracy.

ACTING PRESIDENT ROBACH: Senator Hassell-Thompson.

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

I rise to congratulate Senator Carlucci as well on his acknowledgment of a people who have shown, in the face of adversity,

such bravery and courage.

I had the opportunity to work with Senator Carlucci and many of the families from his district during the crisis, and I must say that I was most proud of them and the way in which they ensured that those families that had lost their lives and who had lost everything had an opportunity to come to the United States and the work that they continue to do to help to rebuild Haiti. Haiti will be rebuilt, and in a stronger and a more sustainable way.

And I want to congratulate you today as you continue the heritage of Haiti and let you know that my voice goes with that of Senator Carlucci to continue to do the work here in the State Senate to assist in any way possible to make life better for you here in the United States.

I thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator.

If there are no other Senators wishing to be heard, the question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

Let me welcome all these fine folks here today for Haitian Flag Day and wish you continued success in your important work and in your mission. Thank you.

(Standing ovation.)

ACTING PRESIDENT ROBACH: Senator Libous.

SENATOR LIBOUS: Mr. President, I believe Senator Carlucci has opened this up to all members for cosponsorship. And as the house normally does, if you wish not to be on the resolution, to let the desk know. Otherwise, all members will be put on for cosponsorship.

Mr. President, we're going to go to a Rules Committee meeting in a moment. But could you please call on Senator Breslin first.

ACTING PRESIDENT ROBACH: Senator Breslin.

SENATOR BRESLIN: Thank you,

Mr. President.

On behalf of Senator Peralta, I move the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Number 964.

ACTING PRESIDENT ROBACH: So ordered.

SENATOR BRESLIN: Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time I will call an immediate meeting of the Rules Committee in Room 332, an immediate meeting of the Rules Committee in Room 332. The Senate will temporarily stand at ease.

ACTING PRESIDENT ROBACH: Immediate meeting of the Senate Rules Committee in Room 332, and we will momentarily stand at ease.

(Whereupon, the Senate stood at ease at 11:22 a.m.)

(Whereupon, the Senate reconvened at

11:37 a.m.)

ACTING PRESIDENT ROBACH: Senate will come to order, please. Thank you.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there's a report of the Rules Committee at the desk. Could we have it read at this time.

ACTING PRESIDENT ROBACH: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Skelos, from the Committee on Rules, reports the following bill direct to third reading.

By Senator Lanza, Senate Print 5353, an act to amend the Real Property Tax Law.

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

ACTING PRESIDENT ROBACH: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The report is accepted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, before we go on to the calendar, I believe -- at this time I would ask for -- can I have some order in the chamber?

ACTING PRESIDENT ROBACH: Can we get a little order in the chamber, please (gaveling). Thank you.

SENATOR LIBOUS: I would ask the body for unanimous consent at this time for Senator Hassell-Thompson to make a brief statement. I believe she has some visitors.

ACTING PRESIDENT ROBACH: Without objection, Senator Hassell-Thompson.

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

I rise to acknowledge three classrooms from my neighboring school in the City of Mount Vernon, the Grimes Elementary School. These are fifth-graders, classes 5A, 5BL, and 5W. They are here with their teachers, advisors, and some parents.

This morning we had a mock session and a vigorous debate on gun violence and the pros and cons. It would be somewhat surprising to this body to know that in that discussion there were good and vigorous arguments in favor of more gun control, but there were equally as many vigorous arguments against more gun control.

When we took a vote at the end of the session, it was interesting to know that 32 of the students voted in favor of more gun control, 30 students voted for no further gun control.

As we discussed it we talked about, extensively, responsibility and the behavior that must come with people who are licensed to carry weapons. But it was very interesting, someone wanted to change the Constitution. But by the mere fact that we voted 32 to 30 indicated why the Constitution probably will never be changed, because they represent the voice of the people as well.

And so it was an extraordinary session this morning. I appreciate the preparation and work that was done on behalf of the students and by their teachers in preparation

for today's session. And we can be proud that our country is still in good hands.

Thank you, Mr. President. Thank you, Grimes School.

ACTING PRESIDENT ROBACH: Thank you, Senator.

On behalf of Senator Hassell-Thompson and all of the Senate, we welcome you students from Mount Vernon, your teachers and parents, and extend to you the courtesies of the house of the Senate and hope you have a great visit. Thanks for joining us today.

(Applause.)

ACTING PRESIDENT ROBACH: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

And could we now take up the reading of the noncontroversial calendar.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 555, by Senator Gallivan, Senate Print 4828, an act to amend the Social Services Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 565, by Senator Seward, Senate Print 3859, an act changing the name of Georgetown-South Otselic to the Otselic Valley Central School District at Georgetown-South Otselic.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 578, by Senator Young, Senate Print 748, an act to amend the Labor Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 582, by Senator DeFrancisco, Senate Print 3182, an act to amend the State Finance Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill

is passed.

THE SECRETARY: Calendar Number 635, by Senator Libous, Senate Print 4206, an act to amend the General Municipal Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 643, by Senator Libous, Senate Print 4750, an act to amend the County Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

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

SENATOR LIBOUS: Thank you, Mr. President. I believe at this time we have the noncontroversial reading of Supplemental Calendar 43A, please.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Senator Lanza moves to discharge, from the Committee on Cities, Assembly Bill Number 7511 and substitute it for the identical Senate Bill Number 5353, Third Reading Calendar 791.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 791, substituted earlier today by Member of the Assembly Silver, Assembly Print Number 7511, an act to amend the Real Property Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time could we return to motions and resolutions and call on Senator Breslin.

ACTING PRESIDENT ROBACH: Motions and resolutions.

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

On behalf of Senator Smith, on page number 51 I offer the following amendments to Calendar Number 622, Senate Print Number 4455, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT ROBACH: The amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

SENATOR BRESLIN: Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Libous.

SENATOR LIBOUS: At this time we're just waiting temporarily for some housekeeping. But the business of the Senate is concluded. We'll adjourn momentarily. We're just waiting on some housekeeping.

ACTING PRESIDENT ROBACH: Okay. What does that mean?

SENATOR LIBOUS: Mr. President, that means the members can leave quietly. Quietly.

(Laughter.)

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT ROBACH: If we could just have a little bit of order, we're almost done here.

Senator Libous.

SENATOR LIBOUS: Mr. President, I wish to call up Senator Gallivan's bill, Print Number 2385, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT ROBACH: The

Secretary will read.

THE SECRETARY: Calendar Number 105, by Senator Gallivan, Senate Print 2385, an act to amend the Environmental Conservation Law.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT ROBACH: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR LIBOUS: Mr. President, I now offer up the following amendments.

ACTING PRESIDENT ROBACH: The amendments are received and adopted, Senator Libous.

SENATOR LIBOUS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT ROBACH: There is none, Senator Libous.

SENATOR LIBOUS: There being no further business before the Senate today, I move that we adjourn until Monday, May 23rd, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT ROBACH: On motion, the Senate stands adjourned until Monday, May 23rd, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:46 a.m., the Senate adjourned.)