

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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7
8 ALBANY, NEW YORK

9 January 23, 2013

10 3:48 p.m.

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13
14 REGULAR SESSION

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18 SENATOR DAVID J. VALESKY, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

4 I ask everyone present to please
5 rise and recite with me the Pledge of
6 Allegiance.

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

9 ACTING PRESIDENT VALESKY: With us
10 today is Father Peter G. Young, of Mother Teresa
11 Community in Albany, to offer an invocation.

12 Father.

13 REVEREND YOUNG: Thank you.

14 Let us pray.

15 As we gather on this very cold day,
16 we welcome Your blessings from You, O God.

17 We celebrate with our members by
18 their willingness to serve our Empire State with
19 their dedication of public service for our
20 citizens. May our Senators enjoy good health
21 for their very, very challenging
22 responsibilities.

23 Amen.

24 ACTING PRESIDENT VALESKY: Reading
25 of the Journal.

1 The Secretary will read.

2 THE SECRETARY: In Senate,
3 Tuesday, January 22nd, the Senate met pursuant
4 to adjournment. The Journal of Monday,
5 January 21st, was read and approved. On motion,
6 Senate adjourned.

7 ACTING PRESIDENT VALESKY: Without
8 objection, the Journal stands approved as read.

9 Presentation of petitions.

10 Messages from the Assembly.

11 Messages from the Governor.

12 Reports of standing committees.

13 Reports of select committees.

14 Communications and reports from
15 state officers.

16 Motions and resolutions.

17 Senator Libous.

18 SENATOR LIBOUS: Mr. President, I
19 believe Senator Gianaris has a motion.

20 ACTING PRESIDENT VALESKY: Senator
21 Gianaris.

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

24 On behalf of Senator Stavisky, I
25 move that the following bill be discharged from

1 its respective committee and be recommitted with
2 instructions to strike the enacting clause:

3 Senate Number 648.

4 ACTING PRESIDENT VALESKY: So
5 ordered.

6 Senator Libous.

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

9 I move that the following bill be
10 discharged from its respective committee and be
11 recommitted with instructions to strike the
12 enacting clause. And that would be Senate Print
13 1908, by Senator Libous.

14 ACTING PRESIDENT VALESKY: So
15 ordered.

16 Senator Libous.

17 SENATOR LIBOUS: Thank you.
18 Mr. President, at this time could you call on
19 Leader Stewart-Cousins for the purpose of a
20 welcoming announcement.

21 ACTING PRESIDENT VALESKY: Senator
22 Stewart-Cousins.

23 SENATOR STEWART-COUSINS: Thank
24 you, Mr. President. And thank you,
25 Senator Libous.

1 It is my pleasure to introduce the
2 newest member of the Democratic Conference,
3 Senator CeCe Tkaczyk.

4 Senator, please rise.

5 (Standing ovation.)

6 ACTING PRESIDENT VALESKY: Senator
7 Libous.

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

10 With unanimous consent, I'd like to
11 recognize Senator Espaillat to address the body,
12 please.

13 ACTING PRESIDENT VALESKY: Senator
14 Espaillat, with unanimous consent, you are
15 authorized to speak.

16 SENATOR ESPAILLAT: Thank you,
17 Mr. President. Thank you for acknowledging me.

18 We have us with us today a
19 distinguished group of visitors who have made it
20 their business and a tradition to come before the
21 State Legislature for the last 16 years to
22 celebrate Juan Pablo Duarte Day.

23 Juan Pablo Duarte is the founding
24 member, the founding father of the Dominican
25 Republic. And we are celebrating this year his

1 bicentennial, 200 years of his birth, on the 26th
2 of this month. So we have a resolution before us
3 today honoring his legacy.

4 And we have with us today, present
5 here, the Honorable Consul General of the
6 Dominican Republic, Felix Antonio Martinez, who's
7 with us today, and also the President of the
8 Instituto Duarteano, Mr. Caesar Romero, who's
9 also with us today.

10 And in the galleries we have a great
11 delegation made up of Teresa Cuevas, Angela
12 Castillo, Lupe Fañas, Victor Compres, Pedro Pablo
13 Zorilla, Xiomara Payano, Felix Grant, Rudys
14 Vidal, Silvia Acosta, and a former and founding
15 member of the Instituto Duarteano, Mr. Julio
16 Cesar Rodriguez.

17 So we're here celebrating 200 years
18 of Juan Pablo Duarte's birth, and we ask all of
19 you to join in this endeavor and extend the
20 courtesies of this house.

21 Thank you, Mr. President.

22 ACTING PRESIDENT VALESKY: Thank
23 you, Senator Espallat.

24 We certainly welcome our
25 distinguished guests from the Dominican Republic

1 and hope that you enjoy your stay here in
2 Albany. Thank you for joining us.

3 (Applause.)

4 ACTING PRESIDENT VALESKY: Senator
5 Rivera.

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

8 I also rise to welcome {in
9 Spanish}. I am Puerto Rican, as most folks know
10 here, but my good colleague Adriano Espaillat
11 refers to me as "El Boricua a plátano." Now, for
12 those that are Spanishly challenged, that just
13 means "the plantained Puerto Rican," since it is
14 a friendly way that we refer to our Dominican
15 brothers and sisters, as platános.

16 So I wanted to welcome them to our
17 house and say that I have many Dominican
18 constituents in my district. I look forward,
19 every time that this time of the year comes
20 around, to see you up here. And I see you every
21 day in my district. So {in Spanish}.

22 Thank you so much, Mr. President.

23 ACTING PRESIDENT VALESKY: Thank
24 you, Senator Rivera.

25 Senator Diaz.

1 SENATOR DIAZ: Thank you,
2 Mr. President.

3 I also join Senator Espaillat in
4 welcoming the Honorable Felix Antonio Martinez,
5 the General Consul of the Dominican Republic in
6 New York, and our guests in the balcony. They're
7 all good friends and people that we represent and
8 have been very helpful to me and my son Ruben
9 Diaz, Jr., in our careers.

10 And even though Senator Gustavo said
11 that he's the Boricua plátano, I don't know what
12 that means. Because I'm supposed to be the
13 Boricua plátano. So this is because I'm the only
14 Boricua that goes {singing in Spanish}. I'm the
15 only one.

16 (Laughter.)

17 SENATOR DIAZ: So to all of you and
18 to you, Honorable Consul, thank you. I'm honored
19 to welcome you here and join my colleague Adriano
20 Espaillat. Thank you.

21 Thank you, Mr. President.

22 ACTING PRESIDENT VALESKY: Thank
23 you, Senator Diaz.

24 Senator Dilan.

25 SENATOR DILAN: Yes, I just rise to

1 also join the chorus of my colleagues in
2 welcoming our Dominican brothers and sisters here
3 to our chamber.

4 I do want to say that when we do
5 visit their homeland, they're very gracious
6 hosts. So for that, we want to thank you and
7 welcome you here to the New York State Senate.

8 ACTING PRESIDENT VALESKY: Thank
9 you, Senator Dilan.

10 Senator Libous.

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

13 There's a privileged resolution at
14 the desk by Senator Stewart-Cousins. It's
15 Resolution Number 249. Could we please have it
16 read in its entirety and then move for its
17 immediate adoption. And I'm sure there are a
18 number of members in the chamber that would like
19 to speak on it.

20 ACTING PRESIDENT VALESKY: The
21 Secretary will read the resolution in its
22 entirety.

23 THE SECRETARY: Legislative
24 Resolution Number 249, by Senator
25 Stewart-Cousins, memorializing the 84th Birthday

1 of the Reverend Martin Luther King, Jr., and his
2 tremendous contributions to civil rights in
3 American society on the 27th Anniversary of the
4 national holiday that honors his birth and
5 achievements.

6 "WHEREAS, Today we celebrate the
7 life and extraordinary achievements of one of our
8 nation's most beloved and influential leaders,
9 Dr. Martin Luther King, Jr., and the 27th
10 Anniversary of the holiday that honors his birth
11 and achievements; and

12 "WHEREAS, Martin Luther King, Jr.,
13 was born on Tuesday, January 15, 1929, at his
14 family home in Atlanta, Georgia, and was the
15 first son and second child born to the Reverend
16 Martin Luther King, Sr., and Alberta Williams
17 King; and

18 "WHEREAS, Martin Luther King, Jr.,
19 began his education at the Yonge Street
20 Elementary School in Atlanta, Georgia, attended
21 the Atlanta University Laboratory School and
22 Booker T. Washington High School, and was
23 admitted to Morehouse College at the age of 15;
24 and

25 "WHEREAS, At the age of 19, Martin

1 Luther King, Jr., graduated from Morehouse
2 College with a Bachelor of Arts degree in
3 sociology, and three years later in 1951 was
4 awarded a Bachelor of Divinity degree from Crozer
5 Theological Seminary in Chester, Pennsylvania,
6 where he also studied at the University of
7 Pennsylvania and won several awards for most
8 outstanding student, among which was the Crozer
9 fellowship for graduate study at a university of
10 his choice; and

11 "WHEREAS, In 1951, at the age of 22,
12 Martin Luther King, Jr., began doctoral studies
13 in systematic theology at Boston University, and
14 also studied at Harvard University, and at the
15 age of 26 was awarded a Doctor of Philosophy
16 degree from Boston University in 1955; and

17 "WHEREAS, During his studies at
18 Boston and Harvard Universities, Dr. King married
19 the former Coretta Scott of Marion, Alabama, in
20 1953; and

21 "WHEREAS, Dr. King entered the
22 Christian ministry and was ordained in February
23 of 1948 at the age of 19 at Ebenezer Baptist
24 Church, Atlanta, Georgia, and became pastor of
25 the Dexter Avenue Baptist Church of Montgomery,

1 Alabama, from September of 1954 to November of
2 1959, when he resigned to move home to Atlanta;
3 and

4 "WHEREAS, Dr. King was elected
5 president of the Montgomery Improvement
6 Association, the organization which was
7 responsible for the successful Montgomery Bus
8 Boycott, which began in 1955 and lasted 381 days;
9 and

10 "WHEREAS, Dr. King was incarcerated
11 many times for his participation in civil rights
12 activities, was a founder of the Southern
13 Christian Leadership Conference, which he led
14 from 1957 to 1968, and was the leader of the 1963
15 March on Washington for Civil Rights, which is
16 one of the largest peaceful demonstrations in
17 American history and is a defining moment in this
18 nation's civil rights movement; and

19 "WHEREAS, Dr. King was honored
20 countless times for his leadership of the United
21 States Civil Rights Movement, including his
22 selection by TIME Magazine as Most Outstanding
23 Personality of 1957 and Man of the Year of 1963,
24 and his selection by LINK Magazine of India, the
25 home of Mahatma Gandhi, as one of the sixteen

1 world leaders who had contributed the most to the
2 advancement of freedom during 1959; and

3 "WHEREAS, Dr. King's receipt in 1964
4 of the Nobel Peace Prize, at the age of 35, made
5 him the youngest recipient of that prestigious
6 award, and one of only three black Americans who
7 have received that award, along with Dr. Ralph
8 Bunche and President Barack Obama, whose journey
9 to become President owes no small debt to the
10 journey Dr. King and the millions of Americans
11 who walked hand in hand with him undertook to end
12 segregation and remind Americans of the great
13 moral underpinnings of our federal Constitution,
14 which provides that we are all created equal and
15 of the incredible power of the American ideal
16 that we all deserve to live in a free and just
17 society; and

18 "WHEREAS, Dr. King was murdered in
19 Memphis, Tennessee, on April 4, 1968, by James
20 Earl Ray, and was mourned by millions of
21 Americans of all ages, races, creeds and colors
22 on the national day of mourning declared by
23 President Lyndon Johnson; and

24 "WHEREAS, Dr. King's birthday was
25 made into a national holiday in 1986, was first

1 celebrated in all fifty states in the year 2000,
2 and is the only federal holiday to honor a
3 private American citizen; and

4 "WHEREAS, Dr. King stands in a long
5 line of great American leaders and represents
6 the historical culmination and living embodiment
7 of a spirit of united purpose, rooted in black
8 African culture and the American Dream; and

9 "WHEREAS, Dr. King taught us that
10 through nonviolence, courage displaces fear; love
11 transforms hate; acceptance dissipates
12 prejudice; and mutual regard cancels resentment;
13 and

14 "WHEREAS, Dr. King manifestly
15 contributed to the cause of America's freedom;
16 his commitment to human dignity is visibly
17 mirrored in the spiritual, economic and political
18 dimensions of the civil rights movement; now,
19 therefore, be it

20 "RESOLVED, That this Legislative
21 Body pause in its deliberations to honor the life
22 of the Reverend Dr. Martin Luther King, Jr.,
23 whose untimely death robbed America of his
24 leadership at too early a date, and whose deeds
25 and words transformed America and live in our

1 homes, schools and public institutions to this
2 day, continuing to inspire the millions of
3 Americans whose lives of purpose and achievement
4 might not have been possible but for Dr. King's
5 leadership and the examples set by the millions
6 of Americans who joined him in one of the great
7 moral crusades of the 20th century; and be it
8 further

9 "RESOLVED, That this Legislative
10 Body calls upon its members and all New Yorkers
11 to observe the day of Dr. King's birth as a day
12 of service to our family, friends, neighbors and
13 those less fortunate than ourselves, and to moral
14 causes greater than ourselves, and to the great
15 State of New York, in keeping with the ideals of
16 the national Martin Luther King Day of Service,
17 which was started by former U.S. Senator from
18 Pennsylvania Harris Wofford and Congressman John
19 Lewis from Atlanta, Georgia, who co-authored the
20 King Holiday and Service Act, signed into law by
21 President Bill Clinton in 1994; and be it further

22 "RESOLVED, That copies of this
23 resolution, suitably engrossed, be transmitted to
24 the family of Dr. King and to the King Center in
25 Atlanta."

1 ACTING PRESIDENT VALESKY: Senator
2 Stewart-Cousins on the resolution.

3 SENATOR STEWART-COUSINS: Thank
4 you, Mr. President.

5 I am just listening to this, as many
6 of us did, remembering what Dr. King meant and
7 still means to us. It is really important that
8 we go beyond this day, beyond the date of his
9 actual birth, the 15th, and reaffirm what
10 Dr. King stands for and stood for.

11 I, like almost a million people,
12 traveled to the inauguration over this past
13 weekend. And being part of the history of
14 watching President Obama take his oath of office
15 for the second time was really more
16 extraordinary, on some levels, than even the
17 first time. The first time we all embraced the
18 history and the fact that America and only
19 America could produce an African-American
20 president. But this time I think we were
21 reminded how vigilant all of us must be in order
22 to work towards and maintain the dream.

23 And when we talk about the dream,
24 we're not talking about "dream," because the
25 manifestation of the strides that not only

1 African-Americans have made but every ethnic
2 group has made as a result of Dr. King's efforts
3 was embodied in this inauguration. And it was
4 embodied in the fact that if we are not vigilant,
5 we could very easily forget.

6 We could forget that discrimination
7 was a way of life only in the 1960s. We can
8 forget that people were not able to sit at lunch
9 counters. We can forget that voting was
10 something that one had to pay a poll tax for --
11 if you were allowed to register. And this was in
12 our lifetimes. We can forget that people weren't
13 allowed housing opportunities. And we can forget
14 that education was something that was not an
15 entitlement.

16 And now that we have the opportunity
17 not only to remember, we can look forward and
18 understand that we still have so much to do -- to
19 level the playing field, to create educational
20 opportunities, to make sure that people are given
21 economic opportunities. So that we can provide
22 not only the best of Dr. King's dream, which
23 again this inaugural weekend took substance, and
24 it reminded us that it's not in its substance,
25 but there is still an opportunity for us to help

1 our dreamers, to help folks who, but for what
2 happens in these chambers and other chambers,
3 would not be part of a level playing field which
4 indeed is America.

5 So I know that so many of my
6 colleagues will speak on Dr. King and so many of
7 us will talk about what Dr. King's dream has
8 meant to us and what the manifestation of it
9 means and what our future means if we indeed
10 understand that yes, we are equal. Yes, as the
11 President brought that back to mind, from
12 Seneca Falls to Selma to Stonewall, we are equal,
13 and everything we do here to advance that makes
14 America the dream for the entire world.

15 Thank you, Mr. President.

16 ACTING PRESIDENT VALESKY: Thank
17 you, Senator.

18 Senator Larkin.

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

21 Thank you, Andrea.

22 You know, I've spoke on this
23 gentleman for a number of years. My first
24 encounter with Dr. King was in 1965. One morning
25 I got called in by my boss, a three-star general,

1 and he said: "You ever been to Alabama?" I said
2 "No." And he said, "Well, you're going in about
3 two hours." I said, "Well, I've got to go
4 pack." He said, "Don't worry, your wife is
5 delivering stuff to the office."

6 I got an airplane, I flew down to
7 Maxwell Air Force Base, and I met the National
8 Guard commander, a full colonel. And I said,
9 "Colonel, these are orders from the President of
10 the United States. They want Governor Wallace to
11 activate the National Guard of Alabama to assist
12 in providing security on the march from Selma to
13 Montgomery."

14 Some of you probably never heard the
15 words that he said to me. My ears were shocked
16 that some full colonel would talk to a major that
17 deliberate.

18 Wallace came out, and Wallace said:
19 "Tell the President to go to hell." I said, "I
20 won't tell him that, but I'll tell him." At
21 midnight I was back there, and I ordered them to
22 active duty. And he took the paper and tore it
23 up.

24 But what bothered me was there was
25 no respect for the President, there was no

1 respect for Dr. King. There was one individual
2 in this time, all the others were talking about
3 what they were doing. I'd never met King.

4 The following Friday I was back in
5 Alabama, and I was in Selma. And we were talking
6 to people, groups, what we can do to make sure.
7 I must tell you that I had some Army colonels
8 that were brought to Alabama that weekend, and
9 they said: "I'll never speak to you again. Do
10 you know I could not be promoted if something
11 goes wrong?" I said "How about you, how about
12 me?"

13 But Sunday morning Dr. Abernathy
14 sent for me and said, "Dr. King would like to
15 talk to you for a few minutes." So there was a
16 crowd, maybe 1500. But Dr. King said: "You have
17 a thankless job, and I will pray for you that
18 everything goes okay. But Dr. Abernathy will be
19 your in-between."

20 Don't forget we had all of the big
21 deals from the Justice Department and this
22 department and that department. When they found
23 out they were going to have to walk, they didn't
24 know what to do.

25 But I'll never forget

1 Dr. Abernathy. He was as loyal to Dr. King --
2 where a lot of other people were doing it for me,
3 me, me.

4 But the amazing thing I remember
5 about Dr. King was he said, "This is not about
6 me. This is for something of our future."

7 You know, an Army officer, you're
8 not going to get in the middle of this here, you
9 know. He said "What do you think about the
10 Voting Right Acts?" And I said, "I think
11 everybody in America should be able to vote."
12 Not because of the termination of the pigment,
13 their skin, but because they're Americans.

14 Something that never is talked about
15 here, a former United States Senator from
16 California, a Republican by the name of Bill
17 Knowland, flew into Maxwell, wanted to find out
18 what we thought. And he spoke to the colonels
19 and the generals. And by the way, he come by to
20 me and said, "If you were in the United States
21 Senate, how would you vote on the Voting Rights
22 Act?" I said, "I would vote yes, because this is
23 America." We've had Americans killed in World
24 War Two, we've had them in the Civil War, we've
25 had them in Korea, in Vietnam and the Mideast.

1 And that blood runs the same as everybody else's.

2 For the next four days from that
3 Sunday, the march was on. There was one little
4 incident. Some of you might have heard the
5 news -- I know you weren't there, you're too
6 young, Michael. Bull Connor come out there. And
7 I went up to him and I said, "My name is Major
8 Larkin." And he said, "Oh, you're one of those
9 Army brats that are here?"

10 I said, "You know, you're just a
11 chief of police. And I'm telling you if you step
12 on that bridge and you put those hoses on, I'll
13 throw your" -- excuse my language, ladies and
14 gentlemen -- "I'll throw your ass in jail for a
15 long, long time."

16 Behind me was a six-foot-four
17 African-American FBI man. And he looked at
18 Connor and said, "You know, I haven't thrown a
19 chief in jail for a long time. I need some
20 practice." We never saw Connor again, never.

21 That march went off. The last day
22 of that march, there were 25,000 people in it.
23 Sure, there were a lot of people excited and
24 scared. Was I nervous? Yes. Don't forget, I
25 was looking to be a colonel in another two

1 weeks. But the amount of people. And, you know,
2 if you had to be there and see all the rednecks
3 on the side cursing at us and all -- we had a
4 mission. The Commander in Chief said "We'll do
5 it."

6 On the night before we entered into
7 Montgomery, Dr. King summoned three or four of
8 us. And he said, "I will remember you in my
9 prayers the rest of my life. This has been a
10 success."

11 And it was, until Thursday night.
12 We told everybody "You must go back this street,
13 you cannot go back that street." A lady by the
14 name of Viola Liuzzo, United Auto Workers, took
15 her group down that way. She was told by the
16 police "You can't do it." She was buried a week
17 later. She was killed that night.

18 And we found out when we got back to
19 D.C., we got the message. And Ramsey Clark, who
20 was the Attorney General at the time, said "We've
21 got to turn and go back." I said, "This aircraft
22 isn't going back." Our mission was to do what we
23 did.

24 Later, there was a letter from
25 Dr. King to my boss -- not the President, but my

1 boss, General Cotton. It said: "I thank
2 everybody participating in this here."

3 You know, I learned more. I
4 remember what Senator Knowland said. And if you
5 will recall history -- most of you were too young
6 to be there, Diane -- in June '65 we passed --
7 not we, they. I was still on the active duty --
8 the Voting Rights Act. And one of the biggest
9 obstacles to the Voting Rights Act was a Senator
10 from Tennessee, Mr. Gore, Al Gore's father. He
11 tried to stop it.

12 But if you think what was done in
13 those days, it was really a treasure. I felt
14 good that we'd accomplished something. We'd
15 worked together, both sides. The number of
16 African-American troops doing this mission, we
17 made sure there were plenty so everybody in
18 Alabama could see that this wasn't a white drive,
19 because we wanted people to be there.

20 In April of 1968, I was a retired
21 young Army colonel and a message came that I was
22 going to be recalled to active duty and that
23 Dr. King had been killed in support of the
24 sanitation strike in Memphis, Tennessee. I want
25 to tell you -- {choking up}. Excuse me, I'm

1 sorry. I got on that plane to go to Detroit
2 because the riots were starting. And I thought,
3 this man, he didn't make you mad -- you weren't
4 here then, right -- he didn't make you mad, he
5 was doing something.

6 I'm Irish. How many Irish rebels
7 were in this country and fought for issues that
8 belonged to Irishmen? Breslin was in one of
9 those fights.

10 But in reality, it was a tough day.
11 Cyrus Vance was the Secretary of the Army, and he
12 called the people he wanted. And that's the
13 father of Vance, the district attorney in
14 New York City.

15 You know, but what bothers me
16 today -- Dr. King spoke eloquently. I never saw,
17 when I'd watched him on TV, him reading notes.
18 And never did you read so, Andrea. But what I
19 worry about is we are not doing our job in our
20 schools.

21 I went to a school this past week,
22 and they were talking about essays and that. I
23 challenged them: "What are you doing to support
24 what Dr. King did for you?" "Oh, I don't know.
25 What should I do?" And what about the teachers?

1 I was disappointed.

2 If we plan on a day every year in
3 honor of Dr. King, we should, as a state and a
4 nation, go and look at his principles. What did
5 he speak about? What did he want to do? He
6 talked about someday, in his dream, everybody
7 will be alike.

8 I have two young grandchildren that
9 have different pigments than I do. I have three
10 grandchildren that were born in Korea. And I'm
11 proud of them. But when we look at somebody and
12 say, Well, they're black, they're Spanish,
13 they're that there -- if you've ever been in
14 combat and somebody calls you and says they've
15 been wounded, when you see that blood come out,
16 it doesn't come out pink, it doesn't come out
17 black. It comes out red. And that blood from
18 that person is just as sincere as yours is.

19 But if we're not going to stand up
20 and say we're going to ask youngsters, we're
21 going to ask teachers, we're going to ask
22 business: Let's concentrate on what he said and
23 what he stood for -- if we don't, we all should
24 just say we don't need the day.

25 I ask you, go back to your

1 districts, plan something for next year,
2 something that the young people who never met
3 Dr. King, who don't really understand it, and
4 have them understand what he stood for and what
5 he was there for.

6 Three minutes in my life and a few
7 minutes at the end, and I still say if we abided
8 by his principles, a lot of the incidents that we
9 have in our cities across the state, a lot of our
10 criminal activities and weapons -- he didn't talk
11 about that. He talked about us working
12 together.

13 I ask you to join all of us in doing
14 something next year that Dr. King will look down
15 from heaven and say: You have answered my
16 prayers.

17 Thank you all.

18 ACTING PRESIDENT VALESKY: Thank
19 you, Senator.

20 Senator Parker.

21 SENATOR PARKER: Thank you,
22 Mr. President. On the resolution.

23 Thank you, Senator Stewart-Cousins,
24 for bringing this resolution to the floor. And
25 certainly thank you, Colonel Larkin, for your

1 service both to this great country but also to
2 the civil rights movement.

3 Dr. King has been a role model of
4 mine I guess since I was very, very small. And
5 most years when I have spoken on this I have
6 tried to make the same point that our leader has
7 made, which is that Dr. King is much more than a
8 dream, that in fact the work that he did was
9 really about constructive engagement and direct
10 constructive engagement.

11 And people like to talk about the
12 dream because that's polite, and people don't
13 want to talk about, you know, him being arrested
14 and the kind of persecution that he and many of
15 the members of the Southern Christian Leadership
16 Conference took in standing up for
17 African-Americans.

18 But the work of Dr. King was much
19 bigger than just African-American civil rights,
20 far bigger. And in fact today we have a new
21 Senator just elected, and part of what happened
22 in that process of us counting and recounting
23 those votes was brought about exactly because of
24 the work that Dr. King was able to do.

25 We heard during the inauguration

1 speech of our 47th President a reference of
2 Seneca to Selma to Stonewall, talking about how
3 important all of these struggles have been in
4 terms of making this country what it is today.

5 Dr. King was not just an exemplar
6 for African-Americans throughout this country in
7 fighting for public accommodation, but if you
8 read the works of Cesar Chavez what you find is
9 in California, amongst immigrant farmworkers, he
10 was in fact one of the exemplars they looked to
11 for the kind of leadership that needed to be
12 done. And in fact he's quoted as saying that the
13 words and the works of Dr. King leaped up out of
14 the pages for them.

15 That when we look at the struggle of
16 women and we talk about, you know, what happened
17 in this great state in terms of, you know, men
18 that don't understand -- and this is going to be,
19 I think, an important transition for us as we
20 talk about reproductive health rights this year,
21 as we talk about equal pay for women. We need to
22 do minimum wage, but we also need to do equal pay
23 for women in this state.

24 We have to remember -- and we're
25 going to pass Senator Savino's bill on that

1 hopefully soon. But we have to remember that the
2 women's movement began here in this state. And
3 so when you hear the President talking about
4 Seneca Falls, he's talking about New York State.
5 And we must again be at the lead. And Dr. King
6 has continued to be a leader in this work.

7 So if we're going to talk about
8 Dr. King, we have to talk about him in fullness.
9 In 1966, Dr. King got the Margaret Sanger Award.
10 Right? Some of you who don't know Margaret
11 Sanger, she's from Brooklyn, the founder of
12 Planned Parenthood. Right? And really for his
13 work, his dedication to women's rights and
14 women's particularly reproductive health rights.
15 And so we see Dr. King making his mark there
16 amongst women.

17 And of course he's made his mark
18 amongst the gay rights movement. And in fact you
19 will see that much of the work that's being done
20 now in gay rights is directly modeled on Dr. King
21 and the kind of model that he put forward in
22 terms of protesting. Nonviolent engagement has
23 been a direct association to that kind of work.

24 And so Dr. King's work really is
25 prevalent everywhere -- with the antiwar

1 movement, the poor people's movement, the
2 farmworkers movement, the immigrant rights
3 movement, the women's movement.

4 And now hopefully we will take this
5 time today to do what Dr. King said, which is
6 understand, Mr. President, the urgency of now,
7 and not to wait and kick the can down the road to
8 do the great things that we know we can do as
9 New Yorkers and as members of this body.

10 And so I'm asking you to join with
11 me today as we not just commemorate the life and
12 the legacy of the Dr. Martin Luther King but
13 rededicate ourselves to his mission, to his work,
14 and understanding the urgency of now.

15 Thank you.

16 ACTING PRESIDENT VALESKY: Thank
17 you, Senator.

18 Senator Diaz.

19 SENATOR DIAZ: Thank you,
20 Mr. President. On the resolution.

21 I also join Senator Stewart-Cousins
22 and congratulate her for bringing this resolution
23 to the floor.

24 I was very moved, Mr. President,
25 very, very moved with the words of

1 Senator Larkin. He almost cried, I think he
2 cried. And he asked a question. Senator Larkin,
3 Mr. President, asked a question: What are we
4 going to do, what are we doing with what
5 Dr. Martin Luther King taught us? That's what he
6 asked. Beautiful speech. But then he asked,
7 What are we going to do with what Dr. Martin
8 Luther King taught us?

9 Well, Senator Larkin, I'll tell you
10 what we're going to do. Or I'll tell you what
11 you should do.

12 Senator Larkin and ladies and
13 gentlemen, Dr. Martin Luther King fought very
14 hard to take us out of the back seat and to put
15 us in the front seat. In this chamber, we got 33
16 Democratic Senators elected. And they shouldn't
17 have taken us back to the rear seat.

18 So I think, Senator Larkin, the
19 question should be asked to this chamber, not to
20 send us to our districts to ask our people what
21 we're going to do. You know, this chamber, right
22 here, what are we going to do -- or what are you
23 doing with what Dr. Martin Luther King taught us
24 and all the fights that he had, that he had to
25 take us from the back room in the bus? You here

1 in this chamber are making a mockery out of
2 that.

3 So I suggest that if we are going to
4 honor Dr. Martin Luther King's fight, struggle --
5 that he even gave his life for it -- we should
6 start here and be real and acknowledge that the
7 people of the State of New York elected 33
8 Democratic Senators and gave us the mandate to be
9 in the majority, not in the back seat.

10 I have also to say that -- every
11 year I say it to the new ones -- when I was
12 18 years old in 1960, I joined the Army in
13 Puerto Rico, the United States Army of America.
14 I joined that in Bayamón, Puerto Rico, my
15 hometown. And then they sent me in 1960, they
16 sent me with a bunch of other Puerto Rican
17 soldiers, all whites, I being the only black,
18 they sent me to Columbia, to Fort Jackson in
19 Columbia, South Carolina. Eighteen years old,
20 1960. Puerto Rican, black, with broken English
21 and kinky hair.

22 If you think that you know what
23 racism is, if you think even -- there are colored
24 people, African-American people here in New York
25 that they don't even know what I went through and

1 they will never go through what I went through,
2 even though they fight against racism. I was the
3 only black in that barrack. And I learned there
4 what to be called nigger, what to be called very
5 Puerto Rican, and what to be called giving all
6 the dirty words to do.

7 So now in Columbia, South Carolina,
8 after the struggle of Martin Luther King, now you
9 could have people moving, even black people being
10 elected to office. Well, I was there in 1960 and
11 I know what I know. Nobody -- I didn't read it
12 in any books. I was there and I lived it. And I
13 came out of that.

14 I went there proudly wearing the
15 uniform of the United States Army, I went to a
16 bar with my friends. The way they told me
17 "Whatever you're looking for, we haven't got
18 it." I had to leave the place. My friends stood
19 there, even Puerto Rican like me, white, they
20 stood in that bar. And they told me "You have to
21 leave," and I had to leave.

22 And I know what it is to be alone
23 even with people that call themselves your
24 friends. Martin Luther King went through all of
25 that, and he fought for us.

1 And now I want to end by saying that
2 today we have a new Senator, Cecilia Tkaczyk.
3 And I have to criticize my conference. My
4 Democratic conference, I have to criticize them.
5 Because in the time that we are honoring Martin
6 Luther King, I don't even know why
7 Cecilia Tkaczyk was sworn in without the
8 Republican side.

9 I think that was -- that's
10 shameful. And I think that we should have never
11 allowed Cecilia Tkaczyk to be sworn in without
12 every member of the Senate, for us only Democrats
13 to be here swearing in Cecilia Tkaczyk.

14 And then we're going to stand here
15 now honoring Dr. Martin Luther King? Please,
16 give me a break.

17 Thank you, Mr. President.

18 ACTING PRESIDENT VALESKY: Senator
19 Savino.

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

22 First I want to thank
23 Senator Stewart-Cousins for bringing the
24 resolution to the floor.

25 This is the ninth year that I've

1 been a member of the New York State Senate and
2 the ninth time I've spoken on a resolution
3 honoring Dr. Martin Luther King. And, you know,
4 I always look forward to this resolution no
5 matter who's the sponsor of it, because we get to
6 hear the experiences of Senator Larkin. And we
7 get to hear Senator Diaz talk about what it was
8 like when he was young and experienced
9 discrimination, something I will never ever
10 really feel. And I think it's important that we
11 share those stories to remind us.

12 Dr. King is important to many of us
13 for many different reasons. I always like to
14 stand and speak on Dr. King because of his
15 commitment to that other movement -- he was a
16 movement person -- and that was the labor
17 movement.

18 Senator Larkin, when you spoke to
19 some of those kids the other day, I guarantee you
20 none of them knew what he was doing in Memphis,
21 Tennessee, the day he was killed. They don't
22 know that he went down there to lead a strike of
23 striking sanitation workers. Who to this day the
24 City of Memphis still does not acknowledge and
25 does not treat them with the respect and dignity

1 that they deserved. And they were not striking
2 for money. They were striking to be treated with
3 dignity and respect. In fact, their signs were
4 very simple. They said "I am a man."

5 Dr. King understood how important
6 the ability of workers to band together for
7 mutual aid and protection to demand dignity in
8 the workplace, how important that constitutional
9 right was.

10 And so today, as Senator Larkin
11 said, what are we doing to honor Dr. King's
12 legacy? Well, let's look at where we've come
13 since 1968, when the rate of organized workers in
14 this country was somewhere around 30 percent, and
15 in some sectors even higher. We are now at about
16 7 percent across the country. Highest in the
17 public sector, very low in the private sector.

18 In the past two years we've seen a
19 number of state legislatures introduce and pass
20 right-to-work statutes stripping workers of the
21 right to belong to their unions, to have a real
22 say in their work life, to be able to demand
23 dignity and respect. So if we're worrying about
24 are we living up to his legacy, on this one we
25 are not.

1 But I am proud to say that here in
2 New York State we have not fallen for that.
3 We've had to tighten our belts sometimes and some
4 of you, you know, have had to take some hard
5 votes. But we have not treated our workers or
6 organized workers the way other states are. And
7 we should be proud of that.

8 Dr. King would be proud of that.
9 But he would not be proud of the fate of
10 organized workers or workers in general in this
11 country. And until we live up to his commitment,
12 we won't be honoring his legacy the right way.

13 So I hope next year when we bring
14 this resolution to the floor again and we share
15 these moments that we're able to report that one
16 of the things that was so important to Dr. King,
17 the fate of organized workers and the labor
18 movement, is in a much better place than it is on
19 this anniversary.

20 Thank you, Mr. President.

21 ACTING PRESIDENT VALESKY: Thank
22 you, Senator.

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

25 (Response of "Aye.")

1 ACTING PRESIDENT VALESKY: Opposed,
2 nay.

3 (No response.)

4 ACTING PRESIDENT VALESKY: The
5 resolution is adopted.

6 Senator Libous.

7 SENATOR LIBOUS: Mr. President, I
8 believe that Senator Stewart-Cousins would like
9 to open up the resolution for sponsorship.

10 And I would ask that the desk put
11 every member on the resolution. And if there's a
12 member who for whatever reason wishes not to be
13 on, that they should just let the desk know that
14 at some point in time today. Okay?

15 ACTING PRESIDENT VALESKY: Thank
16 you, Senator. The resolution is open for
17 cosponsorship. Anyone not wishing to be a
18 cosponsor should notify the desk.

19 Senator Libous.

20 SENATOR LIBOUS: At this time,
21 Mr. President, there will be an immediate meeting
22 of the Rules Committee in Room 332, an immediate
23 meeting of the Rules Committee in Room 332.

24 ACTING PRESIDENT VALESKY: There is
25 an immediate meeting of the Rules Committee in

1 Room 332. The Senate will stand at ease pending
2 the report of the Rules Committee.

3 (Whereupon, the Senate stood at ease
4 at 4:33 p.m.)

5 (Whereupon, the Senate reconvened at
6 4:45 p.m.)

7 ACTING PRESIDENT VALESKY: Senator
8 Libous.

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

11 May we please return to reports of
12 standing committees. I believe there's a report
13 of the Rules Committee at the desk, and I would
14 ask that it be read at this time.

15 ACTING PRESIDENT VALESKY: Reports
16 of standing committees.

17 The Secretary will read.

18 THE SECRETARY: Senator Skelos,
19 from the Committee on Rules, reports the
20 following bills direct to third reading:

21 Senate Print 2133, by Senator
22 Martins, an act to amend the Alcoholic Beverage
23 Control Law;

24 And Senate 2320, by Senator Golden,
25 an act to amend the Real Property Tax Law.

1 Both bills reported direct to third
2 reading.

3 ACTING PRESIDENT VALESKY: Senator
4 Libous.

5 SENATOR LIBOUS: Mr. President, I
6 move to accept the report of the Rules Committee.

7 ACTING PRESIDENT VALESKY: All in
8 favor of accepting the report of the
9 Rules Committee signify by saying aye.

10 (Response of "Aye.")

11 ACTING PRESIDENT VALESKY: Opposed,
12 nay.

13 (No response.)

14 ACTING PRESIDENT VALESKY: The
15 Rules Committee report is accepted.

16 Senator Libous.

17 SENATOR LIBOUS: Mr. President, at
18 this time could we read the noncontroversial
19 calendar. We'll read the active list for today.

20 ACTING PRESIDENT VALESKY: The
21 Secretary will proceed with the noncontroversial
22 reading of today's calendar.

23 THE SECRETARY: On page 4, Senator
24 Skelos moves to discharge, from the Committee on
25 Rules, Assembly Bill Number 2086 and substitute

1 it for the identical Senate Bill Number 2107,
2 Third Reading Calendar 2.

3 ACTING PRESIDENT VALESKY:
4 Substitution ordered.

5 The Secretary will read.

6 THE SECRETARY: Calendar Number 2,
7 by Member of the Assembly Silver, Assembly Print
8 2086, Concurrent Resolution of the Senate and
9 Assembly proposing an amendment to Article 3 of
10 the Constitution.

11 SENATOR GIANARIS: Lay it aside.

12 ACTING PRESIDENT VALESKY: The
13 concurrent resolution is laid aside.

14 Senator Libous.

15 SENATOR LIBOUS: Mr. President,
16 could we take up the noncontroversial reading of
17 Supplemental Calendar Number 3A at this time.

18 ACTING PRESIDENT VALESKY: The
19 Secretary will proceed with the noncontroversial
20 reading of Supplemental Calendar 3A.

21 THE SECRETARY: In relation to
22 Calendar Number 3, Senator Martins moves to
23 discharge, from the Committee on Rules, Assembly
24 Bill Number 1075 and substitute it for the
25 identical Senate Bill Number 2133, Third Reading

1 Calendar 3.

2 ACTING PRESIDENT VALESKY:

3 Substitution ordered.

4 The Secretary will read.

5 THE SECRETARY: Calendar Number 3,
6 by Member of the Assembly Heastie, Assembly Print
7 1075, an act to amend the Alcoholic Beverage
8 Control Law.

9 ACTING PRESIDENT VALESKY: Read the
10 last section.

11 THE SECRETARY: Section 2. This
12 act shall take effect on the same date and in the
13 same manner as a chapter of the Laws of 2012.

14 ACTING PRESIDENT VALESKY: Call the
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT VALESKY: The
18 Secretary will announce the results.

19 THE SECRETARY: Ayes, 62. Nays,
20 1. Senator Diaz recorded in the negative.

21 ACTING PRESIDENT VALESKY: The bill
22 is passed.

23 The Secretary will continue to read.

24 THE SECRETARY: Calendar Number 4,
25 by Senator Golden, Senate Print 2320, an act to

1 amend the Real Property Tax Law.

2 SENATOR GIANARIS: Lay it aside.

3 ACTING PRESIDENT VALESKY: The bill
4 is laid aside.

5 Senator Libous, that completes the
6 noncontroversial reading of the supplemental
7 calendar.

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

10 Now could we go back to the active
11 list and do the controversial reading of Senate
12 Calendar Number 2.

13 ACTING PRESIDENT VALESKY: The
14 Secretary will ring the bells.

15 SENATOR LIBOUS: Mr. President,
16 let's start whatever debate would be on the bill,
17 and we can still ring the bells so the members
18 will come to the chamber. And put the bill
19 before the house, please.

20 ACTING PRESIDENT VALESKY: The
21 bells are ringing, and the Secretary will place
22 the concurrent resolution before the Senate on
23 the controversial calendar.

24 THE SECRETARY: Calendar Number 2,
25 by Member of the Assembly Silver, Assembly Print

1 Number 2086, Concurrent Resolution of the Senate
2 and Assembly.

3 ACTING PRESIDENT VALESKY: Senator
4 Gianaris.

5 SENATOR GIANARIS: Mr. President,
6 would the sponsor or a designated Senator answer
7 a few questions?

8 ACTING PRESIDENT VALESKY: Senator
9 Nozzolio.

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

12 Senator Skelos and Senator Klein are
13 the prime sponsors of this legislation, but I'll
14 be addressing any questions of Senator Gianaris
15 or members of this house.

16 ACTING PRESIDENT VALESKY: Senator
17 Gianaris.

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

20 Would the sponsor explain to us why
21 it is in this resolution that there are different
22 vote totals required to pass a piece of
23 legislation out of this chamber depending on
24 which party is in control of the chamber?

25 SENATOR NOZZOLIO: Mr. President

1 and my colleagues, just for everyone's
2 edification, the measure before us is a
3 constitutional amendment that requires passage of
4 two consecutively elected Legislatures. The
5 Legislature elected in 2011-2012 engaged in first
6 passage. This now is before this house for
7 second passage. It has already passed the
8 New York State Assembly. And in order for it to
9 be on the ballot for consideration by the public
10 this year, it needs to be enacted before the end
11 of this month.

12 That the portion of the measure that
13 Senator Gianaris is referring to requires a
14 standard for the execution of the process, a
15 standard that changes when one party controls the
16 Senate, the Assembly and the Governor's office.
17 The intention of the drafters was to ensure,
18 Mr. President and my colleagues, that there
19 wouldn't be rode roughshod over the interests of
20 the minority party, whatever that minority party
21 may be. And in order to protect the sentiments
22 of the minority party, that this standard would
23 be risen if there was complete control by one
24 party of both branches of the Legislature and the
25 Governor.

1 SENATOR GIANARIS: Would Senator
2 Nozzolio continue to yield.

3 ACTING PRESIDENT VALESKY: Senator
4 Nozzolio?

5 SENATOR NOZZOLIO: Mr. President,
6 I'd be happy to yield.

7 ACTING PRESIDENT VALESKY: The
8 Senator yields.

9 SENATOR GIANARIS: The answer just
10 given is a noble goal, but my question is why is
11 that protection for the minority party only
12 provided in one circumstance, when one party is
13 in the minority as opposed to the other? Why are
14 not both parties afforded that protection?

15 SENATOR NOZZOLIO: The example,
16 Mr. President, in response to the Senator's
17 question, is that there are conferences
18 established and that the leadership of those
19 conferences is delegated and delineated in both
20 the Assembly and the Senate by having a
21 majority leader and minority leader. That's the
22 delineation made in this legislation.

23 SENATOR GIANARIS: Would
24 Mr. Nozzolio continue to yield, Mr. President.

25 ACTING PRESIDENT VALESKY: Senator,

1 do you continue to yield?

2 SENATOR NOZZOLIO: Yes,
3 Mr. President.

4 ACTING PRESIDENT VALESKY: The
5 Senator yields.

6 SENATOR GIANARIS: I understand
7 that each house has a majority leader and
8 minority leader.

9 But my question is, why is a
10 different vote total required to pass a
11 redistricting bill when a particular party is in
12 the minority? Why is it not a blanket two-thirds
13 vote, which is what this provides in a certain
14 circumstance, why is not a two-thirds vote
15 required to pass a redistricting bill, period,
16 end of story, regardless as to which party is in
17 the majority or minority?

18 Because this legislation says if a
19 particular party -- and practically speaking,
20 it's the Republican Party -- is in the majority,
21 a simple majority vote is needed; if the
22 Democrats are in the majority, a two-thirds vote
23 is needed.

24 SENATOR NOZZOLIO: Mr. President,
25 the question is a very fair one. I think the

1 answer is that this is a logical extension of
2 what is established here. And when one party
3 controls, the protections of the minority in
4 effect can be run over roughshod by a vote. And
5 that this vote is to set a different standard.

6 For instance, in the Assembly now
7 where the Republicans have, I believe, less than
8 a third of the chamber as representatives, this
9 measure would require the standard to be set
10 higher for the passage and final enactment -- and
11 I really should say enactment, slash, acceptance
12 of the commission's report. That this measure
13 delegates to a commission the responsibility to
14 draft legislation, legislation that would create
15 Congressional, State Senate and State Assembly
16 districts.

17 This legislation, under the
18 constitutional amendment, could not be amended by
19 the Legislature. There would be no opportunity
20 by the Legislature whatsoever to amend. It would
21 be either an up vote or a down vote, a yes or a
22 no.

23 And to have a minority in effect
24 protection by having, when one party does control
25 all branches, that this does have a check and a

1 balance, an attempt at establishing that check
2 and balance in this process.

3 SENATOR GIANARIS: Would Senator
4 Nozzolio continue to yield, Mr. President.

5 ACTING PRESIDENT VALESKY: Senator
6 Nozzolio, do you yield?

7 SENATOR NOZZOLIO: Yes,
8 Mr. President.

9 ACTING PRESIDENT VALESKY: The
10 Senator yields.

11 SENATOR GIANARIS: Thank you. I
12 heard that last answer. And I guess my question
13 to Senator Nozzolio is, does he believe that
14 because we had a divided Legislature last year,
15 with Democrats in control of the Assembly and
16 Republicans in control of the Senate, that the
17 interests of the minority party in the Senate at
18 the time were not run roughshod by the
19 redistricting process?

20 SENATOR NOZZOLIO: Mr. President, I
21 believe that this measure is a measure to
22 establish an independent redistricting process
23 and establish that independence as much as
24 possible within the frameworks of the
25 Constitution and the authority granted to the

1 commission and the responsibility of the
2 Legislature to accept or reject the commission's
3 report.

4 We say, when the delegation
5 establishes a one-party rule -- Governor, Senate,
6 Assembly -- the chances of there being unanimity
7 is also an opportunity for that one party to
8 destroy whatever fairness there is in the
9 process.

10 Senator Gianaris references last
11 year. If I recall, Mr. President, there was a
12 Governor who was a Democrat, there was a New York
13 State Assembly that had Democrat control, and
14 there was a majority of Republicans in the
15 New York State Senate. That created a balance, a
16 balance that was I believe not shown in the prior
17 two years before that, when the Senate was
18 controlled by the Democrats, the Assembly was
19 controlled by the Democrats, and the Governor was
20 controlled by the Democrats.

21 This effort, this constitutional
22 amendment, is an effort to provide a balance, a
23 check and a counterweight when there is a
24 one-party domination of state government.

25 SENATOR GIANARIS: Will Senator

1 Nozzolio continue to yield, Mr. President?

2 ACTING PRESIDENT VALESKY: Senator

3 Nozzolio, do you continue to yield?

4 SENATOR NOZZOLIO: Yes,

5 Mr. President.

6 ACTING PRESIDENT VALESKY: The

7 Senator yields.

8 SENATOR GIANARIS: Did Senator

9 Nozzolio believe that Democratic control of the
10 Assembly in any way inhibited the Republican
11 majority's desire and ability to do whatever it
12 wanted with the Senate lines last year?

13 SENATOR NOZZOLIO: Mr. President,
14 I'm not schooled in being a guest on talk shows,
15 being a pundit, being a speculator, being a
16 Democratic or Republican analyst. That question
17 requires a political analysis that I am not
18 qualified to make.

19 SENATOR GIANARIS: Would the
20 sponsor continue to yield?

21 ACTING PRESIDENT VALESKY: Senator,
22 do you yield?

23 SENATOR NOZZOLIO: Yes,

24 Mr. President.

25 ACTING PRESIDENT VALESKY: The

1 Senator yields.

2 SENATOR GIANARIS: Senator Nozzolio
3 may not be skilled in any of those things, but he
4 is skilled at gerrymandering, and he proved that
5 last year very effectively.

6 (Audience response.)

7 SENATOR GIANARIS: Oh, please.

8 (Laughter; inaudible comments.)

9 SENATOR GIANARIS: My question to
10 Senator Nozzolio is --

11 SENATOR NOZZOLIO: I'm sorry, I
12 have trouble hearing Senator Gianaris. Did he
13 say that this was an action that he may have or
14 may not have heard when he walked out of the
15 chamber last year when this measure was debated
16 before this Legislature? Is that what Senator
17 Gianaris said? I couldn't hear.

18 (Laughter.)

19 SENATOR GIANARIS: Mr. President,
20 that is not what I was insinuating. In fact, I
21 walked against the lines. I walked out on this
22 abomination of a constitutional amendment that
23 we're voting on for the second time today.

24 But let me continue, if Senator
25 Nozzolio would continue to yield.

1 SENATOR NOZZOLIO: Mr. President,
2 I'll continue to yield to a serious debate and
3 serious questions. It appears on the edge of
4 seriousness by the proponent of these questions
5 at this point. Let's see what the question is
6 before I decide to yield further.

7 ACTING PRESIDENT VALESKY: Senator
8 Gianaris.

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

11 The resolution before us outlines
12 different scenarios depending on the political
13 affiliation of the Speaker of the Assembly and
14 the Temporary President of the Senate. My
15 question to Senator Nozzolio is, how is the
16 political affiliation of the Temporary President
17 of the Senate determined? Is it by with which
18 conference they choose to sit, by which lines
19 they choose to run on in November, or some other
20 factor?

21 SENATOR NOZZOLIO: Mr. President, I
22 barely knew the answer this year. I certainly
23 can't speculate. The laws are there, the
24 structure is there. The year that this would be
25 in effect is 2020. And that's -- the formula is

1 here. The answer can only be answered in 2020.

2 ACTING PRESIDENT VALESKY: Senator
3 Gianaris.

4 SENATOR GIANARIS: Would Senator
5 Nozzolio continue to yield?

6 ACTING PRESIDENT VALESKY: Senator
7 Nozzolio, do you continue to yield?

8 SENATOR NOZZOLIO: Yes,
9 Mr. President.

10 ACTING PRESIDENT VALESKY: The
11 Senator yields.

12 SENATOR GIANARIS: If in 2020 we
13 are faced with a structural situation in the
14 Senate exactly identical to that which we have
15 today, how would the political affiliation of the
16 Temporary President of the Senate be determined?
17 It's not a crazy hypothetical; we're living under
18 it today.

19 SENATOR NOZZOLIO: Mr. President,
20 that is a question of law that would be answered
21 by the attorneys and the courts at that time.

22 SENATOR GIANARIS: Would Senator
23 Nozzolio continue to yield?

24 ACTING PRESIDENT VALESKY: Senator,
25 do you continue to yield?

1 SENATOR NOZZOLIO: Yes,
2 Mr. President.

3 ACTING PRESIDENT VALESKY: The
4 Senator yields.

5 SENATOR GIANARIS: Is Senator
6 Nozzolio's suggestion that we would undoubtedly
7 end up in a confusing and lengthy court
8 proceeding if we are facing the same situation in
9 2020 that we face today?

10 SENATOR NOZZOLIO: Mr. President, I
11 think it's similar to the situation that
12 Senator Gianaris mentioned when there was a
13 question of who would be the next Lieutenant
14 Governor. That he was a big proponent, if I
15 recall. That was a question that was ultimately
16 decided by the New York State Court of Appeals.
17 And that certainly is a question I think similar
18 in nature to this one.

19 SENATOR GIANARIS: Would the
20 Senator continue to yield.

21 ACTING PRESIDENT VALESKY: Senator,
22 do you continue to yield?

23 SENATOR NOZZOLIO: Yes,
24 Mr. President.

25 ACTING PRESIDENT VALESKY: The

1 Senator yields.

2 SENATOR GIANARIS: Would Senator
3 Nozzolio answer if we had a situation similar to
4 today, where the Temporary President position
5 alternates literally on a day-to-day basis, would
6 the vote required on the floor of this chamber
7 depend on what day we were taking the vote?

8 SENATOR NOZZOLIO: Again,
9 Mr. President, I stand by my previous answer.

10 Again, it's part of the structure of
11 this house and the determinations as to how --
12 and, for that matter, the structure of the
13 Assembly. These hypotheticals could occur in
14 either house at either time.

15 That I believe we can only gauge
16 what the law is today and what the structure is
17 under current rule and current legislative law
18 that establishes the organization of the Senate
19 and the Assembly.

20 ACTING PRESIDENT VALESKY: Senator
21 Gianaris.

22 SENATOR GIANARIS: Would the
23 Senator continue to yield, Mr. President.

24 ACTING PRESIDENT VALESKY: Senator,
25 do you yield?

1 SENATOR NOZZOLIO: Yes,
2 Mr. President.

3 ACTING PRESIDENT VALESKY: The
4 Senator yields.

5 SENATOR GIANARIS: I suspect I may
6 get the same answer, but I just want to ask the
7 question for the record.

8 Also in this resolution is a
9 provision that the redistricting commission
10 itself will require different votes depending on
11 the party affiliation of the Temporary
12 President. And I guess my question is, would the
13 commission itself require a different vote total
14 depending on which day they take the vote if we
15 have an alternating president scenario?

16 SENATOR NOZZOLIO: Mr. President,
17 again, it's a speculative question that only can
18 be answered, at the very least, eight years from
19 now. And that it's something that certainly the
20 Legislature at that time will have to deal with.

21 But the essence -- and I think we're
22 losing the essence on this track. The essence of
23 this legislation is to have the Legislature
24 empower a commission, a commission that would
25 produce a product, a product that could not be

1 amended by the Legislature regardless of who the
2 Temporary President was, a product that in effect
3 would have to be voted on in a procedure that
4 would hopefully protect, as a check and balance,
5 the rights of the minority party in this
6 Legislature.

7 SENATOR GIANARIS: Would the
8 Senator continue to yield, Mr. President.

9 ACTING PRESIDENT VALESKY: Senator
10 Nozzolio, do you yield?

11 SENATOR NOZZOLIO: Yes,
12 Mr. President.

13 ACTING PRESIDENT VALESKY: The
14 Senator continues to yield.

15 SENATOR GIANARIS: Could Senator
16 Nozzolio explain to us whether he considers the
17 commission that would be established by this
18 resolution independent?

19 SENATOR NOZZOLIO: Mr. President,
20 this commission is established within the
21 boundaries that the Legislature has under the
22 New York State Constitution, Article 3,
23 Section 1. The delegation of -- that describes
24 the legislative powers and authorities of this
25 body and the New York State Assembly.

1 That this grant of authority is to a
2 commission to produce a product, a product that
3 could not be amended by the Legislature, a
4 product that would have a higher standard of
5 support necessary if one party was in complete
6 control of the legislative process and the
7 Governor's office.

8 And that this measure provides the
9 opportunity for a commission to do its work,
10 requires the work to be done and, under this
11 provision, under full compliance with the Voting
12 Rights Act and all other provisions of law
13 governing redistricting. It requires a product
14 to be produced, a series of hearings to be
15 conducted. It requires the public to have
16 significant input into the process.

17 And it does not allow the
18 Legislature -- and I need to emphasize this --
19 the constitutional amendment forbids the
20 Legislature from amending this product that's
21 ultimately produced by the commission.

22 SENATOR GIANARIS: Would the
23 Senator continue to yield.

24 ACTING PRESIDENT VALESKY: Senator
25 Nozzolio, do you yield?

1 SENATOR NOZZOLIO: Yes,
2 Mr. President.

3 ACTING PRESIDENT VALESKY: The
4 Senator yields.

5 SENATOR GIANARIS: I heard Senator
6 Nozzolio twice indicate that the Legislature
7 cannot amend the product. Isn't it in fact the
8 case that if the Legislature rejects the product
9 of the commission once, it can amend the
10 subsequent product as often as it likes?

11 SENATOR NOZZOLIO: Thank you for
12 raising that, Senator. Yes.

13 I said it could not amend; I meant
14 on the first two passages. On the third
15 enactment, there could be amendments under this
16 provision. But again, it would be the third
17 time -- not the first time, not the second time,
18 but the third time in order to get ultimately a
19 product produced.

20 SENATOR GIANARIS: Would the
21 Senator continue to yield, Mr. President.

22 ACTING PRESIDENT VALESKY: Senator
23 Nozzolio?

24 SENATOR NOZZOLIO: Yes,
25 Mr. President.

1 ACTING PRESIDENT VALESKY: The
2 Senator yields.

3 SENATOR GIANARIS: So just to
4 clarify, then, would Senator Nozzolio agree that
5 the Legislature in fact has the final say and
6 there is a process through this amendment, if
7 enacted, where the Legislature can simply follow
8 the exact process that was followed last year and
9 ignore the recommendations of the commission?

10 SENATOR NOZZOLIO: Mr. President,
11 I'd like to point out to my good friend and my
12 colleagues that this measure is much akin to the
13 judicial selection commission that was delegated
14 authority by legislatures in the past, basically
15 telling the governor of this state that: Your
16 selections as appointees to positions in the
17 judiciary should be screened and developed and
18 proffered to the governor by the commission,
19 where the governor would have the opportunity to
20 say yes or no in nominating those individuals to
21 a particular judgeship appointment.

22 This is very similar, in that the
23 Legislature, under this constitutional provision,
24 provides an opportunity, creates a commission,
25 says to the commission: You develop the product,

1 here are the guidelines. At the end of the day,
2 we need to endorse that commission proposal.

3 If there cannot be agreement, if the
4 Governor vetoes the provision twice, that that
5 third time the Legislature would be acting. But
6 not until that time.

7 SENATOR GIANARIS: Would the
8 Senator continue to yield?

9 ACTING PRESIDENT VALESKY: Senator
10 Nozzolio?

11 SENATOR NOZZOLIO: Yes,
12 Mr. President.

13 ACTING PRESIDENT VALESKY: The
14 Senator yields.

15 SENATOR GIANARIS: I want to give
16 Senator Nozzolio an opportunity to -- I think he
17 misspoke. My reading of the resolution indicates
18 that the Legislature has the ability to amend the
19 second plan presented. It does not have to go
20 through a third round before the Legislature can
21 present its amendments. I believe that's on
22 page 3 of the resolution.

23 SENATOR NOZZOLIO: Mr. President,
24 if that's a question -- Mr. President, would you
25 ask Senator Gianaris to again reference the

1 provision he's discussing?

2 SENATOR GIANARIS: I'd be happy to,
3 Mr. President. It's on page 3, lines 11 through
4 17. It indicates that if either house shall fail
5 to approve the second plan, each house shall
6 introduce such legislation with any amendments it
7 deems necessary. It's the second plan that could
8 be amended. It doesn't have to go to a third
9 one.

10 SENATOR NOZZOLIO: Mr. President,
11 under this provision, that Plan 1 would have been
12 provided by the redistricting commission and
13 failed. Plan 2 would have had to come before the
14 redistricting commission, and it would have to
15 fail as well.

16 That this would provide an
17 opportunity for that plan to be amended. But it
18 really would be the third time that a plan would
19 be before the body for consideration.

20 SENATOR GIANARIS: Would the
21 Senator continue to yield, Mr. President.

22 ACTING PRESIDENT VALESKY: Senator
23 Nozzolio?

24 SENATOR NOZZOLIO: Yes,
25 Mr. President.

1 ACTING PRESIDENT VALESKY: The
2 Senator yields.

3 SENATOR GIANARIS: With respect, I
4 just want to clarify this point because I think
5 it's an important one. As I read the language of
6 the resolution, it's my understanding that the
7 Legislature would have to take -- if the
8 Legislature was intent on passing its own plan
9 and not what the commission recommended, it would
10 have to vote against one plan, the first plan.
11 On the second plan it merely says if the house
12 fails to approve it. Which means it could take
13 no action whatsoever, which would constitute a
14 failure to approve the legislation, and then
15 amend it and pass whatever the Legislature
16 wished.

17 SENATOR NOZZOLIO: I believe,
18 Mr. President, that the intent of this resolution
19 is to have the Legislature act and vote on such a
20 plan.

21 SENATOR GIANARIS: Would the
22 Senator continue to yield, Mr. President?

23 ACTING PRESIDENT VALESKY: Senator
24 Nozzolio.

25 SENATOR NOZZOLIO: Yes,

1 Mr. President.

2 ACTING PRESIDENT VALESKY: The
3 Senator yields.

4 SENATOR GIANARIS: How would the
5 process set up by this resolution in any way, in
6 any way differ from the process we witnessed last
7 year, with one exception, and that is that this
8 commission will produce a plan that can be
9 completely ignored by the Legislature? Aren't we
10 in fact dealing with the establishment of an
11 advisory commission that simply leaves the power
12 in the Legislature to do whatever it chooses at
13 the end of that process?

14 SENATOR NOZZOLIO: Mr. President, I
15 believe that this measure is establishing an
16 independent process, a process that is requiring
17 individuals to put together a product, a product
18 that must be voted on by the Legislature. And
19 those votes are consequences that I believe the
20 questioner, in making the question, is
21 discounting. That there will be an enormous
22 amount of citizen input, an enormous amount of
23 effort, an enormous amount of process that the
24 public will have an opportunity to engage in.

25 For the Legislature then to -- as

1 well as the Governor -- to ignore that process in
2 any way I believe certainly would be contrary to
3 the public interest.

4 The divisible grant of authority,
5 though, that -- I think the next question that
6 Senator Gianaris may be contemplating -- is one
7 that he raised in committee, a question about,
8 Well, why not simply make it so that the
9 Legislature would never had have an opportunity
10 to vote on the process? A question that is not
11 illogical, but it is also not within the
12 constitutional framework of our State
13 Constitution as it's currently presented.

14 And it would further erode any type
15 of legislative authority to simply pick and
16 choose what individual grants of authority the
17 Legislature will make.

18 It is Article 3, Section 1, which
19 I'll repeat grants an indivisible grant of
20 authority by the people of this state to the
21 Legislature. Having that grant of authority
22 obliterated obliterates Article 3, Section 1, and
23 a pick-and-choose-type approach for the ultimate
24 decision, being the people of this state through
25 their Legislature, would be contrary.

1 In other words, the people of this
2 state, speaking through their legislators, will
3 ultimately decide this ultimate law or this
4 ultimate plan as well as others. And that for
5 the Legislature to -- it can't pick and choose
6 its opportunity to grant articles of authority or
7 divisions of authority on an issue-by-issue
8 basis.

9 SENATOR GIANARIS: Would the
10 Senator continue to yield, Mr. President?

11 ACTING PRESIDENT VALESKY: Senator
12 Nozzolio?

13 SENATOR NOZZOLIO: Yes,
14 Mr. President.

15 ACTING PRESIDENT VALESKY: The
16 Senator yields.

17 SENATOR GIANARIS: Is the Senator
18 aware that we are discussing amending the
19 constitution and therefore we are not bound by
20 any current provisions of the constitution by
21 what we're proposing? So in other words, the
22 fact that the current constitution gives the
23 legislature the final say does not mean that we
24 cannot propose removing that authority from the
25 legislature in a constitutional amendment.

1 SENATOR NOZZOLIO: Mr. President, I
2 think that takes a very narrow tunnel view of
3 what a constitutional amendment does. Under
4 Senator Gianaris's logic, then you could change
5 the state constitution or any constitution -- our
6 national constitution -- in one way with total
7 disregard for the other provisions of that
8 constitution. I don't think that's something
9 that the original drafters of either the state or
10 federal constitution would support.

11 That certainly the courts would not
12 want an individual grant of some sort to be
13 contrary to another constitutional provision.
14 That would be certainly ripe for challenge. It
15 would be an issue that would be fought in the
16 courts for years. And it's something that I
17 think certainly would not result in the type of
18 process that this bill contemplates.

19 SENATOR GIANARIS: Would the
20 Senator continue to yield.

21 ACTING PRESIDENT VALESKY: Senator
22 Nozzolio?

23 SENATOR NOZZOLIO: Yes,
24 Mr. President.

25 ACTING PRESIDENT VALESKY: The

1 Senator yields.

2 SENATOR GIANARIS: Is the Senator
3 aware that in March of 2011 he and all of his
4 colleagues on that side of the aisle voted for a
5 constitutional amendment that would in fact strip
6 the Legislature of complete authority over
7 redistricting? And I wonder why his opinion has
8 changed on that issue from that day to today.

9 SENATOR NOZZOLIO: I'm not familiar
10 with the measure that Senator Gianaris is
11 referring to. But whatever it was, that will no
12 more stand the constitutional test than the other
13 legislation that Senator Gianaris is referring
14 to.

15 I think that the point, Senator, is
16 this. That regardless of what votes were taken
17 by any members of this Legislature on any other
18 issue, the issue before us is one that we're
19 dealing with now. The issue before us is the one
20 you and I are addressing. And the measure before
21 us I believe is irrelevant to that discussion of
22 other legislation.

23 I should parenthetically ask, did
24 that legislation pass both houses and is it
25 before us for discussion today? I think the

1 answer to that, Mr. President, would be no.

2 SENATOR GIANARIS: Would the
3 Senator continue to yield, Mr. President.

4 ACTING PRESIDENT VALESKY: Senator
5 Nozzolio, do you continue to yield?

6 SENATOR NOZZOLIO: Be glad to,
7 Mr. President.

8 ACTING PRESIDENT VALESKY: The
9 Senator continues to yield.

10 SENATOR GIANARIS: For the
11 Senator's and everyone's edification, it was a
12 Senator Bonacic bill, S3331 in the last session,
13 that was voted upon.

14 But no, it did not pass the
15 Assembly, it is not before us today. I was
16 merely asking because your explanation of the
17 current resolution before us would seem to
18 indicate that you would oppose an effort like
19 that that you apparently voted for.

20 But let's move on from that. I want
21 to go back for a moment to the question of the
22 supermajority vote requirement in certain
23 instances.

24 I heard Senator Nozzolio say that it
25 is the will of the voters, through their

1 representatives, that will determine whether
2 these plans get enacted or whether this amendment
3 is adopted ultimately. But my question is, why
4 does this resolution not trust the will of the
5 voters in determining the composition of the two
6 houses so that the same vote requirements would
7 apply under any circumstances?

8 I was perhaps not as articulate as I
9 could have been. Let me try and rephrase that.

10 Why are the supporters of this
11 resolution concerned that the will of the voters
12 might enable the same party to control both
13 houses and, through their will, enact a plan like
14 every other bill we pass that requires the same
15 vote total regardless of which party is in
16 charge?

17 SENATOR NOZZOLIO: Mr. President, I
18 think the will of the voters certainly will be
19 heard by the enactment of this constitutional
20 amendment. That's the ultimate will of the
21 voters.

22 My friend the distinguished Deputy
23 Minority Leader talks about a hypothetical and
24 somehow suggests that we have the will of the
25 people of the state collectively voiced through

1 the actions of the Legislature.

2 The point is this, that the citizens
3 of this state will have the opportunity to decide
4 whether this is a provision that makes sense,
5 that will be balanced, will provide a check and
6 balance.

7 And I think that the hypothetical
8 raised by Senator Gianaris is just too convoluted
9 to matter to individual citizens, in the sense
10 that they'll have their ultimate say in voting
11 for this amendment or not. And that will speak
12 louder than any action by this legislative body.

13 SENATOR GIANARIS: Would the
14 Senator continue to yield, Mr. President?

15 ACTING PRESIDENT VALESKY: Senator
16 Nozzolio.

17 SENATOR NOZZOLIO: Yes,
18 Mr. President.

19 SENATOR GIANARIS: I'll begin by
20 noting for the record that the quote, unquote,
21 convoluted hypothetical I referenced is the world
22 in which we're living in today. So I appreciate
23 that you're calling it convoluted. I agree.

24 But let me ask whether you are
25 familiar with at any point in New York State's

1 history that our constitution required different
2 vote totals depending on which party had control
3 of this body. Has that ever happened before?

4 SENATOR NOZZOLIO: I am not
5 familiar with any constitutional provision.
6 Although certainly I am with a measure that this
7 body enacted fewer than two years ago
8 establishing the new code of ethics for the State
9 of New York and the legislatures and legislative
10 members.

11 SENATOR GIANARIS: Would the
12 Senator continue to yield, Mr. President.

13 ACTING PRESIDENT VALESKY: Senator
14 Nozzolio?

15 SENATOR NOZZOLIO: Yes,
16 Mr. President.

17 ACTING PRESIDENT VALESKY: The
18 Senator yields.

19 SENATOR GIANARIS: Of course the
20 difference in those two is one is a statute that
21 can be changed more easily than a constitutional
22 amendment.

23 But I guess I'll ask the question
24 more broadly. Is the Senator aware of any
25 example in the history of the United States of

1 America where the constitution of any state or
2 the charter of any locality ever, ever required
3 different vote totals depending on party
4 advantage in a legislative body? Ever.

5 SENATOR NOZZOLIO: Mr. President, I
6 certainly don't have the answer for
7 Senator Gianaris. But I take his question very
8 seriously, and I'll go home and do my homework
9 this evening. It will probably take me all night
10 to check every state legislative constitution as
11 well as -- we might as well not limit it just to
12 the United States, we can do all the countries of
13 the world.

14 And I certainly will look forward to
15 reporting to Senator Gianaris if I have been able
16 to find any such provision.

17 SENATOR GIANARIS: Mr. President,
18 on the bill.

19 ACTING PRESIDENT VALESKY: Senator
20 Gianaris on the concurrent resolution.

21 SENATOR GIANARIS: Concurrent
22 resolution, thank you.

23 Let me thank Senator Nozzolio for
24 answering my questions and yielding.

25 The reason Senator Nozzolio was

1 unable to answer that last question is because
2 this is unprecedented. The idea that we would
3 enshrine in the constitution of our state that a
4 particular party needs more votes than another
5 particular party to pass legislation is
6 outrageous in the extreme.

7 We embarked on this effort to
8 establish an independent process, many of us
9 did -- some in the galleries with us today --
10 with the idea that we would be doing something
11 good, not that we would make things worse.

12 And in fact we're being presented
13 with a resolution today that would take an
14 extremely bad process and make it horrendous.
15 The Legislature would continue to have the final
16 say. Not a darn thing different would have to
17 happen other than we would have to reject this
18 commission's proposal one time and then go right
19 back to what happened last year.

20 Worse, we might require extra votes
21 if the Democrats are in charge of the Senate than
22 if Republicans are in charge. Let me repeat
23 that. We are attempting to put into the
24 constitution a process by which, if one party
25 wins an election, they require fewer votes than

1 if another party wins the election. In our
2 state's governing document. If we do something
3 like this, we are defaming the State Constitution
4 today.

5 The Legislature would continue to
6 have the final say, which is the one criteria
7 that all of us said we supported. And the entire
8 Republican majority voted for just such a
9 proposal by Senator Bonacic. It would be
10 establishing a commission that would mirror the
11 setup at the Board of Elections, which is
12 traditionally mired in gridlock because it has an
13 equal number of appointees by both parties, even
14 to the point of having co-directors, one from
15 each party.

16 It doesn't take a genius to figure
17 out what would happen. The reality is either the
18 majority would continue to control and the
19 Legislature would pass a plan just like it wanted
20 to, this commission would be deadlocked five-five
21 and nothing would come out of it, once again
22 kicking it back to the Legislature to continue
23 the process we've had in place for decades.
24 There would be no addressing of the issue of
25 reducing the population deviation. Questions

1 about whether the change to prisoner population
2 allocation would still be in effect.

3 And a situation where, if we have a
4 structure of the Senate like we have today, where
5 no one is able to answer what would happen. If
6 this was in effect right now and this was a
7 redistricting year, no one can tell us how this
8 would even go. Would it depend on the day which
9 party had the temporary presidency? Would the
10 independent commission have to wait for the right
11 moment to call a vote, depending on which party
12 was in charge, to make sure they only needed a
13 simple majority instead of a two-thirds
14 majority? What if they were in a late-night
15 meeting and at the stroke of midnight there's a
16 new temporary president, because all of a sudden
17 the votes have to change again?

18 And I don't mean to make light of
19 the current situation in this body. It exists
20 for a number of reasons that are not relevant to
21 this resolution. I'm merely pointing out the
22 lunacy of requiring different vote totals
23 depending on party advantage.

24 And yet here we are, so-called
25 reformers talking about how this is a good thing,

1 others holding the line, and all of us having to
2 make a decision whether we want to take one of
3 the most maligned redistricting processes in the
4 country and actually take a vote to make it
5 worse. Because that's what we're doing today.

6 I encourage all my colleagues to
7 vote no on this. If it passes, I encourage the
8 people of this state to reject it in November and
9 give us another crack to do this right.

10 Thank you, Mr. President.

11 ACTING PRESIDENT VALESKY: Thank
12 you, Senator.

13 Senator Bonacic.

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

16 I want to thank Senator Nozzolio for
17 clarifying this complicated process.

18 I want to talk what redistricting
19 means to me. I want to share some thoughts with
20 you. Under the constitution, the legislature has
21 the power to decide the redistricting process.
22 And why is that important to us? Because, for
23 our political existence, we want to make sure
24 that the district that is drawn every 10 years is
25 fair.

1 Now, if you're a member of the
2 minority party, you want to make sure that you're
3 not squeezed in such a way that it's harder for
4 you to get elected. And if you're in the
5 majority party, you want to make sure that your
6 chances are good to get elected. A political
7 process which the constitution empowers you to
8 have. Okay?

9 Every 10 years, when you're in the
10 minority party, you say that the majority is
11 going to stack the deck to hurt us, to hurt the
12 minority. You have good government groups saying
13 it's not fair, you have the media saying it's not
14 fair. And we go through this process every
15 10 years.

16 So what we tried do in the Senate
17 was make it simple and make it fair. But it's
18 going to take courage. Because it was going to
19 take a delegation, an authorization to an
20 independent body to take it away from every
21 elected official and let them draw the lines.
22 Okay?

23 Now, Senator Gianaris has referred
24 to my bill three times in this discussion with
25 Senator Nozzolio. And what we tried to do in

1 2009 was to create a commission of five. Okay?
2 Two from the majority leader, two from the
3 speaker, and those four would decide the fifth.
4 They draw the lines, and we live with it. It's
5 over, very simple. Okay?

6 At that time Governor Cuomo, the
7 attorney general, gave a legal opinion, he had no
8 problems with the bill in terms of saying not a
9 good idea.

10 We asked, when the Democrats were in
11 power in 2009 and 2010, please run with this,
12 because for years you've been talking about
13 wanting independent redistricting. It doesn't
14 get any more simpler than that.

15 When you were in the majority --
16 Assembly, Senate, Democratic governor -- you did
17 not touch it. You ran away from it. You did
18 nothing. Even though there was the chatter of
19 wanting independent districting when you were in
20 the minority. So a lot of this discussion today
21 is kind of hypocritical.

22 Let me continue. In 2012 we took
23 that bill, where you wouldn't touch it, and we
24 passed it in the Senate. And that vote was
25 35-24. Finally, this house acted on the purest

1 of independent districting: Let those five do
2 it, we're out of it. We couldn't get the
3 Assembly to move on it. They didn't want to do
4 independent redistricting.

5 This was the only product last year
6 that we could do with a bipartisan census with
7 the Assembly and the Senate. Again, we're
8 striving for independent redistricting. And as I
9 understand this bill, this commission of 10, if
10 we reject it, it goes back to them, if we reject
11 it a second time, we draw it. We're back to
12 where we always were.

13 And Senator Gianaris, when he speaks
14 of is this going to meet the constitutional
15 muster, it remains to be seen. But that can be
16 said of anything we do in redistricting, because
17 we have to adhere to the 14th Amendment, we have
18 to adhere to the federal Voting Rights Act to
19 make sure we don't disenfranchise any minorities,
20 any voters in any Senate district. So we always
21 have to cut the constitutional mustard and meet
22 those two standards.

23 And Senator Gianaris talked about
24 this third thing of a different count for
25 whosever in power, which is a distraction.

1 So I commend Senator Nozzolio and
2 Senator Skelos for doing the best they can with
3 the other house to get a plan forward that tries
4 to do independent districting. I vote aye on the
5 resolution.

6 Thank you, Mr. President.

7 ACTING PRESIDENT VALESKY: Thank
8 you, Senator.

9 Senator Krueger.

10 SENATOR KRUEGER: Thank you,
11 Mr. President. On the bill.

12 ACTING PRESIDENT VALESKY: Senator
13 Krueger on the concurrent resolution.

14 SENATOR KRUEGER: So I just heard
15 my colleague say this is simple and it's
16 independent. But I listened to the debate
17 between my colleagues Senator Gianaris and
18 Senator Nozzolio, and clearly it's anything but
19 simple.

20 I've also read endless analysis
21 since a year ago on this constitutional
22 amendment. And you know, it gets pretty bad
23 grades from the actual independent people out
24 there.

25 Professor Gerald Benjamin in his

1 analysis rated it F on observance of the
2 integrity of the state's regions. He graded it F
3 on decisions on districting should fall to the
4 state high court if the commission is not
5 constituted or fails to act in a timely way. He
6 graded it F on the criteria to be used,
7 established in the constitution for redistricting
8 in order of priority. He graded it F on
9 commission decisions on districts --

10 ACTING PRESIDENT VALESKY: Excuse
11 me, Senator Krueger.

12 Senator DeFrancisco, why do you
13 rise?

14 SENATOR DeFRANCISCO: I'm wondering
15 if Senator Krueger would yield to a question.

16 ACTING PRESIDENT VALESKY: Senator
17 Krueger, do you yield to Senator DeFrancisco?

18 SENATOR KRUEGER: I will in just
19 one minute, if that's okay with the Senator.
20 Thank you.

21 I'm going on with Professor
22 Benjamin's analysis. He starts to move up after
23 he grades it F on the criteria to be established
24 in the state constitution for redistricting in
25 order of priority, grades it an F on the

1 commission decisions on districts being final
2 when filed with the Secretary of State. We then
3 get up to Ds on a series of proposals, finally up
4 to a grade of C. And we actually get to a B and
5 an A on a couple of minor issues at the end.

6 But a recognized independent
7 authority on the constitution and on the
8 districting process in New York has given it
9 terrible grades.

10 I will happily defer to Senator
11 DeFrancisco for questions and then get back to
12 talking on the bill, if I might, Mr. President.

13 ACTING PRESIDENT VALESKY: Senator
14 DeFrancisco.

15 SENATOR DeFRANCISCO: Yes, I would
16 just have this question.

17 Senator Krueger, how would you grade
18 the Democrat majority in 2009 and 2010 on their
19 redistricting efforts?

20 SENATOR KRUEGER: Through you,
21 Mr. President, the Senate Republicans controlled
22 this house for almost 70 years straight. They
23 never addressed the fairness of districting in
24 any of the 10-year periods during those
25 approximately 70 years.

1 We did control the house for
2 approximately one of those two years until a
3 Republican-led coup threw us all into chaos. And
4 I will agree during that short period of time we
5 did not get redistricting done.

6 So I will agree both parties in this
7 house have been guilty of failing to get
8 independent redistricting done in the history of
9 this house. That, in my opinion, does not
10 justify moving forward with a bad constitutional
11 amendment when in fact we have no immediate
12 deadlines, we have no redistricting schedule to
13 go forward for nearly another decade. And we
14 really have the time, both of us in this house,
15 both houses, to get this right.

16 When you're going to amend the
17 constitution of the state, I believe you need to
18 make sure you get it right before you change the
19 constitution.

20 ACTING PRESIDENT VALESKY: Senator
21 DeFrancisco.

22 SENATOR DeFRANCISCO: Would Senator
23 Krueger yield to another question?

24 ACTING PRESIDENT VALESKY: Senator
25 Krueger, do you yield?

1 SENATOR KRUEGER: Happily,
2 Mr. President.

3 ACTING PRESIDENT VALESKY: Senator
4 Krueger yields.

5 SENATOR DeFRANCISCO: Senator
6 Krueger, I know you didn't get it done and the
7 Republicans didn't get it done. But during the
8 years 2009-2010, can you tell me what bills were
9 introduced for redistricting by the majority, who
10 would have controlled redistricting if they had
11 kept the majority? What bills were introduced?

12 SENATOR KRUEGER: One moment, I'll
13 check with counsel, please.

14 Reminding me, Mr. President, that at
15 that time you, Senator Valesky, carried a bill
16 for independent redistricting that in fact
17 Senator Gianaris, who was then an Assemblymember,
18 carried in the Assembly.

19 SENATOR DeFRANCISCO: And would she
20 yield to one last question?

21 ACTING PRESIDENT VALESKY: Senator
22 Krueger, do you continue to yield?

23 SENATOR KRUEGER: Yes,
24 Mr. President.

25 SENATOR DeFRANCISCO: Can you tell

1 me when in 2009 and 2010 Senator Valesky's bill
2 came to the floor for a vote?

3 SENATOR KRUEGER: Mr. President,
4 may I ask you if you can answer that question?

5 (Laughter.)

6 SENATOR DeFRANCISCO: I can answer
7 it. It didn't come to the floor.

8 ACTING PRESIDENT VALESKY: Thank
9 you, Senator.

10 Senator Krueger, I believe you'd
11 like to continue to speak on the concurrent
12 resolution.

13 SENATOR KRUEGER: Thank you.

14 And I understand there was a hearing
15 on that bill, but that did not come to the floor.

16 ACTING PRESIDENT VALESKY: Excuse
17 me, Senator Krueger.

18 SENATOR KRUEGER: Certainly.

19 ACTING PRESIDENT VALESKY: Senator
20 Nozzolio, why do you rise?

21 SENATOR NOZZOLIO: Mr. President,
22 will Senator Krueger yield?

23 ACTING PRESIDENT VALESKY: Senator
24 Krueger, do you yield to Senator Nozzolio?

25 SENATOR KRUEGER: Sure, I'm happy

1 to yield to Senator Nozzolio.

2 ACTING PRESIDENT VALESKY: The
3 Senator yields.

4 SENATOR NOZZOLIO: Mr. President,
5 through you. Senator Krueger, as she's quoting
6 some --

7 SENATOR KRUEGER: Professor Gerald
8 Benjamin.

9 SENATOR NOZZOLIO: -- professor, is
10 she familiar with Citizens Union?

11 SENATOR KRUEGER: I am familiar
12 with Citizens Union, yes.

13 SENATOR NOZZOLIO: Mr. President,
14 would Senator Krueger agree that Citizens Union
15 has been at the forefront of reform of state
16 government throughout its history?

17 SENATOR KRUEGER: No, not at every
18 given point in history. In fact, Citizens Union
19 in fact I would argue was wrong on the support of
20 the gerrymandering of the districts last year.
21 And I believe they're wrong in their support of
22 the constitutional amendment today.

23 SENATOR NOZZOLIO: Mr. President, I
24 guess that is an answer to my next question,
25 whether Senator Krueger is aware that

1 Citizens Union has supported this constitutional
2 amendment, it has supported this measure,
3 supported your bill and supported this measure as
4 it's come before us.

5 SENATOR KRUEGER: Yes, I am quite
6 aware of that. And as I pointed out, I believe
7 they're wrong here today on this issue.

8 Does Senator Nozzolio have more
9 questions?

10 ACTING PRESIDENT VALESKY: I don't
11 believe so. You may continue on the concurrent
12 resolution.

13 SENATOR KRUEGER: Thank you so
14 much, Senator Valesky.

15 Again, for me, we could do better.
16 We have time to do better. Again, and in
17 fairness, unlike the deadlines we faced in 2009
18 through 2012, where there was imminent decisions
19 to be made around redistricting, in 2013 there
20 are not. And there is plenty of time for this
21 state to get a constitutional amendment correct
22 before we submit it, before we do second passage
23 and we submit it.

24 As we already heard during the
25 earlier debate, there are some truly fundamental

1 flaws in this constitutional amendment. It uses
2 the constitution to give political parties a
3 legal and express stranglehold on redistricting.
4 It sets up an even number on the commission --
5 which is likely to foster gridlock, as we have
6 seen in this house -- in order to allow the
7 Legislature to take over from the commission. It
8 memorializes and requires a patronage-driven
9 system for redistricting and puts that into the
10 Constitution of the State of New York.

11 It leaves confusing and
12 unconstitutional provisions of the current
13 constitution in place, as we heard earlier in the
14 discussions. In fact, I was quite surprised that
15 the answers to some of Senator Gianaris's
16 questions was, Well, if that occurs, then we'll
17 have to take it to the courts.

18 Should we really pass a
19 constitutional amendment where actually we're
20 admitting on the floor of the Senate that a bunch
21 of this stuff might have to go to the courts for
22 an answer before we even put it into our
23 constitution? I think that should be reason
24 enough to pull ourselves back and figure out how
25 we get this right enough that we don't think it's

1 going to end up in the courts once it's attempted
2 to be implemented.

3 It doesn't expressly prohibit
4 gerrymandering. I actually thought that was one
5 of the fundamental assignments in working towards
6 independent redistricting. Last year we were
7 accused of passing legislation that created the
8 most gerrymandered districts in the Senate's
9 history. Do we really want to change our
10 constitution and not expressly prohibit
11 gerrymandering?

12 It doesn't even establish a set
13 number of Senate districts or clarify how the
14 number is to be determined. Now, we've all gone
15 back and forth in court several times around that
16 one. You would think we would try to fix that
17 going forward.

18 And it does encourage the
19 malapportionment between districts and regions.

20 It might be hard to argue you could
21 have a perfect process or even a perfect proposed
22 amendment to the constitution. But this one
23 doesn't pass the smell test. And it's so
24 complicated that I really worry about how we're
25 going to explain it to voters in a referendum,

1 what level of detail is going to be offered in
2 the ballot to voters to decide on this.

3 We are having trouble answering the
4 questions here in the Senate. We are saying,
5 Well, that might have to go court. Is that the
6 kind of constitutional amendment we should be
7 rushing forward where again, technically, we are
8 not on a deadline at this point in history?

9 I will be voting no, Mr. President.
10 Thank you very much.

11 ACTING PRESIDENT VALESKY: Thank
12 you, Senator.

13 Senator Dilan.

14 SENATOR DILAN: Yes,
15 Mr. President. Would Senator Nozzolio yield to
16 some questions?

17 ACTING PRESIDENT VALESKY: Senator
18 Nozzolio, do you yield to Senator Dilan?

19 SENATOR NOZZOLIO: I'd be happy to
20 yield to Senator Dilan.

21 ACTING PRESIDENT VALESKY: The
22 Senator yields.

23 SENATOR DILAN: Thank you,
24 Mr. President. Through you.

25 I have several questions, and some

1 of them I really will be asking for the purposes
2 of clarification.

3 For Senator Nozzolio, this
4 resolution is silent on what will happen to the
5 current structure that we have known as LATFOR,
6 the legislative task force. If this resolution
7 is accepted by the voters, what will happen to
8 LATFOR?

9 SENATOR NOZZOLIO: Mr. President,
10 there had been no harder worker in this
11 legislative body than Senator Dilan, as I had the
12 experience of attending well over 23 hearings
13 across the state with him.

14 And that his question dealing with
15 the structure of LATFOR, Senator, as I understand
16 the constitutional amendment, LATFOR would
17 continue as a technical group, a technical body
18 within the New York -- the constitutional
19 amendment does not eliminate LATFOR's structure,
20 a structure that's designed to, as Senator Dilan
21 well knows, to get census data, to get the
22 appropriate census tracts mapped, to do the
23 technical mapping. But LATFOR would not exist
24 for the purposes of producing the product of
25 legislative Congressional districts.

1 SENATOR DILAN: Would the Senator
2 continue to yield?

3 ACTING PRESIDENT VALESKY: Senator,
4 do you yield?

5 SENATOR NOZZOLIO: Yes,
6 Mr. President.

7 ACTING PRESIDENT VALESKY: The
8 Senator yields.

9 SENATOR DILAN: Senator Nozzolio,
10 who would be in control of LATFOR or the
11 technical assistance unit? Would it be under the
12 Senate or would the independent commission, would
13 that transfer over to them?

14 SENATOR NOZZOLIO: The commission
15 itself, Mr. President, would control the work of
16 the technical body called LATFOR or some other
17 name as it's developed.

18 The intention is not for LATFOR,
19 which had -- Senator Dilan was a member, I was a
20 member in this last cycle. There were also two
21 citizen members, members of the Assembly. That
22 legislative structure would be out the window.
23 It would be a directed commission, members chosen
24 under the terms of this amendment.

25 But the technical aspects of

1 LATFOR -- the computers, whatever technology is
2 available, the consolidation of that or
3 collection of that -- are not eliminated by this
4 provision. It would be up to the commission
5 members to decide what type of technical
6 structure they needed to have going forward.

7 And I hope this answers Senator
8 Dilan's question sufficiently, that the structure
9 would be chosen by the commission, be named by
10 the commission, would be utilized by the
11 commission, and would be in effect the technical
12 arm of the commission.

13 ACTING PRESIDENT VALESKY: Senator
14 Dilan.

15 SENATOR DILAN: I'd like to
16 continue with the questions.

17 SENATOR NOZZOLIO: Yes,
18 Mr. President.

19 ACTING PRESIDENT VALESKY: Senator
20 Nozzolio continues to yield.

21 SENATOR DILAN: But I would like to
22 see if I can get a simple answer in terms of
23 would LATFOR still be under the control of the
24 majority leader of this house and the majority
25 leader of the State Assembly, or would they be

1 working directly for the independent commission?

2 SENATOR NOZZOLIO: It's my
3 understanding, Mr. President, that the commission
4 would control the technical arm, whether it's
5 called LATFOR or something else, not the
6 legislative body. It would be controlled by the
7 commission, the members of the commission, but it
8 would not be controlled by the Legislature per se
9 under this provision.

10 SENATOR DILAN: Would he continue
11 to answer questions?

12 ACTING PRESIDENT VALESKY: Senator
13 Nozzolio, will you continue?

14 SENATOR NOZZOLIO: Yes,
15 Mr. President.

16 ACTING PRESIDENT VALESKY: The
17 Senator yields.

18 SENATOR DILAN: I will attempt to
19 ask the same question, maybe in a different
20 form.

21 When this body or when the
22 Legislature allocates money for the purposes of
23 redistricting in the future, will there then be
24 only one budget that will be controlled by the
25 independent commission? Will they be doing all

1 the hiring of the technical unit?

2 SENATOR NOZZOLIO: I refer
3 Senator Dilan to the resolution that requires the
4 appointment of the commission and the powers and
5 duties of the commission.

6 And the technical aspects in drawing
7 Senate districts, Assembly districts, and
8 Congressional districts are under the total
9 responsibility of this independent commission.
10 Not of LATFOR, not of any variation of it. It
11 would be the commission members who would make
12 that decision. They would make that decision
13 once they are chosen and convened.

14 ACTING PRESIDENT VALESKY: Senator
15 Dilan.

16 SENATOR DILAN: Will he continue
17 with questions?

18 ACTING PRESIDENT VALESKY: Senator
19 Nozzolio?

20 SENATOR NOZZOLIO: Yes,
21 Mr. President.

22 ACTING PRESIDENT VALESKY: The
23 Senator yields.

24 SENATOR DILAN: So then my
25 understanding, Senator, is that there will only

1 be one allocation for the purposes of
2 redistricting, with only one staff for that
3 purpose, not two separate staffs at all. Or the
4 technical units will not be controlled by the
5 respective houses, is that what you're saying?

6 SENATOR NOZZOLIO: It's my
7 understanding, Senator, that this constitutional
8 amendment establishes an independent body of
9 members and that independent body of members,
10 nonlegislators -- totally nonlegislators -- would
11 have the authority under this constitutional
12 amendment to establish in effect a technical
13 staff. And that technical staff would be the
14 body that would draw the lines that would be
15 proffered to the Legislature and the Governor for
16 final consideration.

17 SENATOR DILAN: So I take that to
18 mean that there will only be one staff.

19 On a different issue, would the
20 Senator continue to yield?

21 ACTING PRESIDENT VALESKY: Senator
22 Nozzolio, do you continue to yield?

23 SENATOR NOZZOLIO: Yes,
24 Mr. President.

25 ACTING PRESIDENT VALESKY: The

1 Senator yields.

2 SENATOR DILAN: This resolution is
3 also silent on the prisoner reallocation law of
4 2010. What will become of that law? Would that
5 be affected at all by this resolution?

6 SENATOR NOZZOLIO: Mr. President,
7 the law that Senator Dilan refers to, as with any
8 other law, would have to be -- and every other
9 law -- would have to be complied with by the
10 drafters of the commission, the commission
11 itself. And ultimately the final legislative and
12 congressional lines that are drawn would have to
13 comply with every aspect of the law in effect at
14 the time that they are drafted.

15 That should this law continue by the
16 legislature that Senator Dilan refers to, and
17 that's the allocation for state legislative
18 district lines only -- not congressional lines,
19 but state legislative lines only -- that it
20 requires the state to take the prisoners and
21 count them at their last known address. That
22 law, if it exists in 2020-2021, that it would
23 have to be followed.

24 SENATOR DILAN: Thank you.

25 On the bill.

1 ACTING PRESIDENT VALESKY: Senator
2 Dilan on the concurrent resolution.

3 SENATOR DILAN: Mr. President, I
4 would just like to indicate that I will be voting
5 no on this resolution today because I believe
6 that it does little to reform the way legislative
7 districts will be drawn in the State of
8 New York.

9 I believe that it still leaves the
10 final say as to the outcome of the districts in
11 the hands of the respective houses and their
12 respective leaders.

13 Also, I believe that it adds an
14 additional layer of bureaucracy, I think further
15 confusing this process.

16 And also this resolution, last year
17 or this year, did not have one single hearing.
18 We did -- Senator Nozzolio and I did go out
19 through the state to about 23 hearings on
20 redistricting, but at no time did the public have
21 one word to say on this resolution.

22 So based on that, I will be voting
23 no.

24 ACTING PRESIDENT VALESKY: Thank
25 you, Senator.

1 Seeing no other Senators who wish to
2 be heard on the resolution, the debate is
3 closed. The Secretary will ring the bells. I
4 ask all Senators to proceed to the chamber so
5 that we may continue with the roll call.

6 (The Secretary rang the bells.)

7 ACTING PRESIDENT VALESKY: The
8 Secretary will call the roll on the concurrent
9 resolution.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT VALESKY: Senator
12 Hassell-Thompson to explain her vote.

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

15 Of the several hearings that
16 transpired around the State of New York on the
17 redistricting, I -- outside of the committee --
18 probably attended the most of them, because it
19 was important to me to hear something of such
20 monumental importance to communities of color,
21 how this Legislature was going to end up drawing
22 these lines.

23 My first concern came when the lines
24 somehow did not reflect what I heard the public
25 say that they wanted to have happen.

1 The second concern I addressed was
2 when we began to talk about suddenly an
3 independent commission, and yet that commission
4 is not reflected in the language of this bill.
5 It may appear to be to some people.

6 I was not one of those who signed
7 onto the independent commission. And I didn't
8 because one of the things that I understand is
9 that there's no such thing as independent. If
10 you are a human, you're going to have your own
11 biases in one direction or another. And I also
12 did not believe that we should take power away
13 from the Legislature and give it to an
14 independent body.

15 But I did hope that in our process
16 that we would come up with a design that was fair
17 and appropriate. There is nothing fair or
18 appropriate about what you're asking us to put
19 before the public as a constitutional amendment.
20 And so therefore I will be voting no.

21 And I have read and listened to all
22 of the analysis that everybody has made about
23 this bill, and the majority of people that I
24 respect, whose opinions I respect, say that this
25 is not the way our constitution should reflect

1 the way in which we select a redistricting
2 pattern that is fair and appropriate to allow the
3 people of the State of New York to vote their
4 conscience.

5 Thank you, Mr. President. I will be
6 voting no.

7 ACTING PRESIDENT VALESKY: Senator
8 Hassell-Thompson to be recorded in the negative.

9 I would just remind all Senators
10 that we do have a two-minute time limit on vote
11 explanation.

12 Senator Gipson to explain his vote.

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

15 I'm happy to be here as a newly
16 elected State Senator. I was not here back in
17 2009, which was referenced many times today. I
18 signed no pledge. I watched from a distance as a
19 candidate to see how this body would go about
20 drawing up fair and independent redistricting. I
21 testified at the LATFOR hearings and spoke out on
22 behalf of the need for a more fair process.

23 I have to say today, standing here
24 in this chamber as a newly elected State Senator,
25 it's disappointing. And it's even more

1 disappointing that on a day where we are
2 commemorating a great leader who stood for
3 fairness and justice for all and equality for
4 all, that we are today looking at a bill that is
5 neither fair nor just nor independent in any way,
6 shape or form.

7 And I have listened to many good
8 public advocacy groups say that they believe that
9 this is the best we can do. I've listened to
10 many Senators on the floor today say that they
11 believe this is the best that we can do. And as
12 a newly elected Senator, I have to say that if
13 this is the best that we can do, it is indeed a
14 sad, sad day in the State of New York.

15 I will be voting no. Thank you.

16 ACTING PRESIDENT VALESKY: Senator
17 Gipson to be recorded in the negative.

18 Senator Stavisky to explain her
19 vote.

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

22 I too testified at the LATFOR
23 hearing. And I very carefully read the
24 constitutional amendment. It says that there is
25 an establishment of an independent redistricting

1 commission. This doesn't do it. The title is
2 great; the text is not.

3 And we have nine years to get it
4 right. There's no reason why we have to submit
5 this to the voters. It is not a nonpartisan
6 redistricting commission bill.

7 Secondly, Abraham Lincoln had a
8 great quote. He said: "How many legs does a dog
9 have if you call the tail a leg?" And the answer
10 is "Calling a tail a leg doesn't make it a leg."

11 And calling this a nonpartisan
12 redistricting commission constitutional amendment
13 doesn't make it so. I vote no.

14 ACTING PRESIDENT VALESKY: Senator
15 Stavisky to be recorded in the negative.

16 Senator Tkaczyk to explain her vote.

17 SENATOR TKACZYK: It is ironic that
18 my first day in the Senate chamber I am voting on
19 a bill of this nature that creates an independent
20 commission. It's ironic because I was elected to
21 a seat that was gerrymandered and added in the
22 last redistricting process to favor one political
23 party.

24 This legislation is not fair. It
25 disenfranchises the voters. We can do better.

1 We must do better. I am voting no.

2 ACTING PRESIDENT VALESKY: Senator
3 Tkaczyk to be recorded in the negative.

4 Senator DeFrancisco to explain his
5 vote.

6 SENATOR DeFRANCISCO: Yes, I just
7 wanted to explain my vote.

8 When I was listening to
9 Senator Gianaris talking about how if one party
10 is in control there needs to be more votes or
11 less votes or whatever the votes are, this is
12 party-neutral in the sense that if in 2020
13 there's a Republican Governor and a Republican
14 Senate and a Republican Assembly -- although it
15 may seem unusual to expect that -- the fact of
16 the matter is that it protects the other party,
17 the Democratic Party, by this balance. And
18 that's what Senator Nozzolio was saying.

19 And I just want to clarify that,
20 because it sounded as if for Democrats the bill
21 said one thing and Republicans another. It
22 depends on the circumstances at the time.

23 Secondly, the reason I asked the
24 questions of Senator Krueger, it's impossible,
25 despite all the flowery language, to take

1 politics out of politics. When the Democrats
2 were in control, it wasn't because they wanted to
3 study it more, they wanted the authority to be
4 able to draw the lines. And anybody disputes
5 that, I will debate that. When the Republicans
6 are in control, they want to draw the lines.
7 "They" meaning the majority party.

8 So the point of the matter is that
9 you can't take politics out of politics.

10 Although this is not a perfect bill,
11 it at least puts something in between so that
12 there's public discourse, there's public
13 pressure, I believe there's more transparency.

14 And I think it's a better procedure
15 than we have now, and I'm going to vote aye.

16 ACTING PRESIDENT VALESKY: Senator
17 DeFrancisco to be recorded in the affirmative.

18 Senator Espallat to explain his
19 vote.

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

22 Last year was a very contentious
23 year because redistricting was at the table. And
24 traditionally, you know, redistricting has been a
25 process where legislators choose their

1 constituents as opposed to constituents choosing
2 who represents them. So this was a very
3 conflicting and adversarial process.

4 And I took a pledge last year that I
5 would support independent redistricting and an
6 independent redistricting commission. As a
7 result of that pledge, we worked very hard to ask
8 the Governor to include independent redistricting
9 in the budget. We failed in that endeavor. When
10 the efforts came to this floor, you know, we were
11 also very disappointed that there wasn't a real
12 transparent and bipartisan effort or model put
13 before us, so we walked out of this chamber.

14 It is customary in the State
15 Legislature that we don't always get exactly what
16 we want. In fact, this process pushes us to
17 reach consensus. And very often when everybody
18 is upset, probably you have a good bill that has
19 been approved by the Legislature.

20 So I took a pledge that I would
21 support an independent redistricting commission.
22 It may not be necessarily exactly the one I like,
23 but I think it's a step in the right direction.

24 And very often we make the grave
25 mistake of undermining the intelligence of our

1 voters. I think at the end of the day this
2 question will come before all the voters of
3 New York State. And I think that they are very
4 smart. They will be able to tell and say whether
5 this is a good initiative or a bad initiative.

6 But for us to be in silos here
7 second-guessing the independence or the smartness
8 of our New York State residents that we represent
9 I think is a grave mistake.

10 I think with all its issues and all
11 its problems -- and one of the issues that I have
12 with it was that in the other house I had
13 sponsored the prison gerrymandering bill, and I
14 wanted to make sure that it did not impact
15 dramatically on prison gerrymandering. That I
16 believe very strongly that prisoners should be
17 counted where they live and not where they're
18 incarcerated.

19 There are legal opinions about it
20 that say that this doesn't hamper that effort.
21 So --

22 ACTING PRESIDENT VALESKY: Senator
23 Espaillat, how do you vote?

24 SENATOR ESPAILLAT: I will be
25 voting in the affirmative on this issue,

1 Mr. President. I think that the voters that I
2 represent and the rest of the New Yorkers are
3 smart enough to know if we send them a good bill
4 or a bad bill at that. Thank you.

5 ACTING PRESIDENT VALESKY: Senator
6 Espaillat to be recorded in the affirmative.

7 Senator Squadron to explain his
8 vote.

9 SENATOR SQUADRON: Mr. President,
10 I'd like to thank Senator DeFrancisco for being
11 honest about the motives behind this bill. It is
12 ensconcing in the constitution a process worse
13 than the one we've had. And in fact, it looks
14 like it has the votes to pass today.

15 The people of the State of New York
16 on Election Day have the opportunity to vote it
17 down, leaving us with a statute that would be the
18 best process we've had for redistricting in this
19 state's history, and I hope that's what we'll be
20 doing.

21 I vote no, Mr. President.

22 ACTING PRESIDENT VALESKY: Senator
23 Squadron to be recorded in the negative.

24 The Secretary will announce the
25 results.

1 THE SECRETARY: In relation to
2 Calendar Number 2, those recorded in the negative
3 are Senators Breslin, Dilan, Gianaris, Gipson,
4 Hassell-Thompson, Krueger, Latimer, Montgomery,
5 Parker, Peralta, Perkins, Rivera, Sampson,
6 Sanders, Serrano, Squadron, Stavisky,
7 Stewart-Cousins and Tkaczyk. Also Senator Diaz.

8 Ayes, 43. Nays, 20.

9 ACTING PRESIDENT VALESKY: The
10 concurrent resolution is adopted.

11 Senator Libous, that concludes the
12 controversial reading of the calendar.

13 SENATOR LIBOUS: Of that calendar,
14 Mr. President.

15 ACTING PRESIDENT VALESKY: Of that
16 calendar.

17 SENATOR LIBOUS: Now if we could go
18 to Calendar 3A and take up the controversial
19 reading of that calendar, please.

20 ACTING PRESIDENT VALESKY: The
21 Secretary will proceed with the controversial
22 reading of Supplemental Calendar 3A.

23 THE SECRETARY: Calendar Number 4,
24 by Senator Golden, Senate Print 2320, an act to
25 amend the Real Property Tax Law.

1 SENATOR KRUEGER: Explanation.

2 ACTING PRESIDENT VALESKY: Senator
3 Golden, an explanation has been requested.

4 SENATOR GOLDEN: Yes, it's the
5 normal bill that we do every several years to
6 give our condos and coops the tax abatements that
7 they get and that they require.

8 This bill expired last year. This
9 would allow that to go back to 12/31/11, and we
10 would start from there, allowing for our condos,
11 our coops and our rental to get their tax
12 abatements. It would also go and allow for the
13 J-51 benefits to be available for the conversion
14 of commercial to condos and coops.

15 It would also allow for the 421-a to
16 be allowed for several properties in Manhattan.
17 And it would also allow for the benefits of 421-a
18 and the FAR of 15 districts to be converted from
19 commercial properties into residential use. It
20 would also allow the abatement again to go back,
21 the assessment to go back to June 30th of 2012,
22 and it would extend the provisions for
23 abatement.

24 It would also allow for those
25 individuals that have three condos, it would

1 limit the amount of condos that they could own to
2 get this abatement. You'd have to be a primary
3 resident, and you would be allowed to get for
4 your primary residence as well as two other
5 dwelling units.

6 It would also allow for the loft
7 unit to protect the renters in those loft units.
8 It would also reduce the minimum space required
9 to qualify for a loft apartment. And it would
10 reduce the percent rent increase allowed coming
11 into compliance with the fire and safety
12 standards.

13 It would also allow for the
14 corporations, the domestic corporations to apply
15 against their local PIT for a benefit.

16 That's basically it. It allows for
17 our taxes for condos and coops and assessments to
18 go into place.

19 ACTING PRESIDENT VALESKY: Senator
20 Krueger.

21 SENATOR KRUEGER: Through you,
22 Mr. President, if the sponsor would please yield
23 for some questions.

24 ACTING PRESIDENT VALESKY: Senator
25 Golden, do you yield?

1 SENATOR GOLDEN: I do.

2 ACTING PRESIDENT VALESKY: The
3 Senator yields.

4 SENATOR KRUEGER: So the Senator
5 started his explanation by saying this is the
6 bill we do in previous years, and then he listed
7 off that this bill impacts abatements of property
8 tax for coop/condos, the 421-a program, the J-51
9 program, Loft Law, and also S corporation
10 property tax law.

11 Have we done all of this together as
12 one giant bill in previous years?

13 SENATOR GOLDEN: We have done that
14 in the past. We've done portions of the bills in
15 previous years. And this is again, it's a bill
16 that's agreed to with HPD and OMB, the Mayor's
17 office, the Assembly, the Senate and the
18 Governor.

19 SENATOR KRUEGER: Through you,
20 Mr. President, if the sponsor would continue to
21 yield.

22 ACTING PRESIDENT VALESKY: Senator
23 Golden, do you yield?

24 SENATOR GOLDEN: I do.

25 ACTING PRESIDENT VALESKY: The

1 Senator yields.

2 SENATOR KRUEGER: So my
3 understanding is in this bill it would allow J-51
4 to be available, which is a tax -- there's
5 abatements and exemptions within J-51. But it
6 would allow J-51 to be available for coop-condo
7 conversions that are not government or
8 assisted -- legally government-defined affordable
9 housing.

10 Why would the state or the city --
11 because I agree, the city is supporting this
12 bill -- go out of their way to incentivize
13 converting scarce rental apartments into most
14 unlikely unaffordable coop/condos, when in fact
15 the city's own recommendations have been to
16 remove nongovernment-assisted coop/condos from
17 the J-51 program? So why are we doing that in
18 this bill today?

19 SENATOR GOLDEN: Through you,
20 Mr. President, I believe all of these properties
21 except for one are 80/20: 80 affordable, 20
22 low-income. The one property has agreed with the
23 city in an MOU or in the process of an MOU to do
24 \$9 million in additional low-income housing.
25 That is the only property that I'm aware of that

1 is not directly working with the 80/20 on that
2 given address.

3 SENATOR KRUEGER: Through you,
4 Mr. President, if the sponsor would continue to
5 yield.

6 ACTING PRESIDENT VALESKY: Senator
7 Golden, do you continue to yield?

8 SENATOR KRUEGER: Or let me just
9 clarify. I believe the Senator was confusing two
10 different sections of the bill. His answer was
11 in response to the 421-a section of the bill, and
12 I was going to get to that but I hadn't gotten to
13 421-a yet.

14 So again, to J-51, there's not
15 specific buildings that this applies to. It's a
16 potentially universally available tax reduction.

17 SENATOR GOLDEN: You're absolutely
18 right. And it does go forward, all properties
19 will be 80/20.

20 SENATOR KRUEGER: Through you,
21 Mr. President. Again, I'm certainly happy to let
22 the sponsor double-check, but I don't believe
23 80/20 applies to the J-51 section of this bill
24 but rather to the 421-a.

25 SENATOR GOLDEN: Yes, I stand

1 corrected. It is the condos and coops that will
2 need substantial government assistance.

3 SENATOR KRUEGER: Through you,
4 Mr. President, if the sponsor would continue to
5 yield.

6 ACTING PRESIDENT VALESKY: Senator
7 Golden, do you continue to yield?

8 SENATOR GOLDEN: I do.

9 ACTING PRESIDENT VALESKY: The
10 sponsor yields.

11 SENATOR KRUEGER: Again, just
12 sticking with the J-51 section of the law, not
13 421-a and not condo-coop abatement. Which in
14 fact -- I appreciate this bill is very
15 complicated, and in fact one of the concerns is
16 that some people, including people in real
17 estate, would confuse what's allowed simply as a
18 property tax abatement under the formula for
19 coop/condos, would confuse what's allowed in
20 421-a and then what's allowed going forward in
21 J-51.

22 So again, my concern right now with
23 this question is since the city's own historical
24 recommendation is to remove non-government-
25 assisted coops and condos from the J-51 program,

1 because what the system has allowed to take place
2 is the loss of affordable rental units
3 transferred into coop-condo -- and actually we've
4 seen a reduction in affordable rental units under
5 a fairly expensive tax exception and abatement
6 program known as J-51.

7 So I'm wondering why in this bill
8 we're not going forward with the city's previous
9 recommendations to limit it only to buildings
10 that are quote, unquote, government-assisted
11 affordable buildings.

12 SENATOR GOLDEN: I believe,
13 Mr. President, it would create a disincentive for
14 those to continue to renovate their buildings and
15 to be able to accomplish that and to keep our
16 housing stock as we now have it here in the City
17 of New York.

18 SENATOR KRUEGER: Through you,
19 Mr. President, if the sponsor would continue to
20 yield.

21 ACTING PRESIDENT VALESKY: Senator
22 Golden.

23 SENATOR GOLDEN: I do.

24 ACTING PRESIDENT VALESKY: The
25 sponsor yields.

1 SENATOR KRUEGER: So there was a
2 time in history where one needed to incentivize
3 certain types of development or redevelopment.
4 But in fact the J-51 program -- and there's some
5 terrific new data on this through the Community
6 Service Society reports, that in fact most of
7 these benefits have been going to some of the
8 most expensive areas of the five boroughs.

9 In fact, my district is
10 disproportionately taking advantage of J-51. And
11 unfortunately my district is not defined as
12 affordable housing at this point in time.

13 So again, since it was created to
14 attract investment to certain areas of New York
15 City, then amended at a time when luxury housing
16 was concentrated in Manhattan below Harlem,
17 that's not the case anymore.

18 So why do we continue to want as a
19 state to subsidize luxury developments in areas
20 of Manhattan that in fact have been gentrifying
21 rapidly? Why would that be good public policy
22 for the state?

23 SENATOR GOLDEN: Through you,
24 Mr. President, we still have a need for
25 low-market housing. This incentive allows for

1 rent-stabilized units in this particular
2 abatement. And it works.

3 And if we take a look at the housing
4 stock in the city, we need more housing, not just
5 in the City of New York but in the outer
6 boroughs. Not just J-51, but 421-a, so that we
7 can continue to create economic development we
8 need, to create the jobs we need, and to be able
9 to create the low-income housing that we need to
10 be able to afford for people to come and live and
11 stay in our beautiful city.

12 We have one million more people
13 living in our city over the past ten years, and
14 it's growing. And we need to be able to have
15 that affordable housing.

16 SENATOR KRUEGER: Through you,
17 Mr. President, if the sponsor would continue to
18 yield.

19 ACTING PRESIDENT VALESKY: Senator
20 Golden, do you continue to yield?

21 SENATOR GOLDEN: Yes.

22 SENATOR KRUEGER: Thank you.

23 Well, I certainly agree with the
24 sponsor's last statement. We need to ensure
25 there is more affordable housing, particularly in

1 areas of the city that aren't in fact, one could
2 argue, overdeveloped.

3 The problem is this J-51 program
4 will only ensure more overdevelopment in
5 high-cost areas and not accomplish the sponsor's
6 goal -- which, by the way, is my goal -- of more
7 investment in affordable housing throughout the
8 City of New York.

9 And in fact the J-51 program has
10 proven to be one of the most expensive programs
11 the city runs for housing. It's actually second
12 only to the 421-a program. 421-a construction
13 benefits in I believe it's 2011, 421-a
14 construction cost the city \$912 million. And
15 J-51 improvement tax benefits cost the city
16 \$257 million.

17 The problem is how much of that
18 really goes towards actual affordable housing.
19 So perhaps I could ask the sponsor, do you know
20 how much of the J-51 investment over pick a
21 recent year actually goes for affordable
22 housing?

23 SENATOR GOLDEN: This bill, Senator
24 Krueger, is if anything revenue-neutral, if not a
25 plus for the city.

1 And all of the economic development
2 that is created by this, and the jobs that we
3 create and the people that we put to work and the
4 housing that we create, 421-a gives us that
5 opportunity, and we should spread that across the
6 boroughs. We should actually go in and try to
7 change that 421-a so that we could allow for more
8 housing to be built under 421-a.

9 In Manhattan, 421-a is being built,
10 and I think it should continue to be built.

11 SENATOR KRUEGER: Through you,
12 Mr. President, if the sponsor would continue to
13 yield.

14 ACTING PRESIDENT VALESKY: Senator
15 Golden.

16 SENATOR GOLDEN: I do.

17 ACTING PRESIDENT VALESKY: The
18 sponsor yields.

19 SENATOR KRUEGER: Thank you.

20 Again, for the record, J-51 is not a
21 revenue-neutral program. There is a section of
22 this bill that is defined as revenue-neutral, and
23 that's the S corporation section where the city
24 memo actually clarifies that they believe that to
25 be revenue-neutral.

1 I don't think anyone actually argues
2 J-51 or 421-a is revenue-neutral, but each of
3 them in their own structure can be of a value and
4 good.

5 So let's jump to, if I might, the
6 421-a section of the bill. This is not a change
7 in the overall 421-a law but rather a section
8 specific to five buildings only in Manhattan.
9 Could the sponsor please explain why we would
10 give a pretty enormous tax benefit to five
11 selected buildings in Manhattan? I'm not sure if
12 any of them are defined as affordable.

13 SENATOR GOLDEN: Through you,
14 Mr. President, these properties that are being
15 discussed by Senator Krueger were negotiated with
16 HPD, they were negotiated with OMB and the City
17 of New York. I'll gladly get any other
18 information she'd like to have on them, but
19 that's all the information I have on it.

20 SENATOR KRUEGER: Through you,
21 Mr. President, if the sponsor would continue to
22 yield.

23 ACTING PRESIDENT VALESKY: Senator
24 Golden.

25 SENATOR GOLDEN: I do.

1 ACTING PRESIDENT VALESKY: The
2 sponsor yields.

3 SENATOR KRUEGER: Thank you.

4 You know what, I appreciate the
5 sponsor's answers to my questions. I'm going to
6 speak on the bill.

7 ACTING PRESIDENT VALESKY: Senator
8 Krueger to speak on the legislation.

9 SENATOR KRUEGER: Thank you.

10 So this is a complicated bill, as we
11 can see even through our short interactions --
12 confusion over which section means what. I
13 actually have strong support for several sections
14 of the bill. There's a section specific to
15 Loft Law. I believe it would mostly impact lofts
16 in Brooklyn, and I know that they are really
17 desperate for a change that will secure and
18 assure that people living in lofts that are
19 attempting transition to certified legal status
20 are able to do so. I'm delighted to be in
21 support of that section of the bill.

22 The straight tax abatement on
23 coop/condos isn't identical to what we've done in
24 prior years. It in fact is progress in that it
25 is more progressive in how it applies to

1 abatements for coops and condos. And it in fact
2 does away with allowing nonresidents of New York
3 City who are owners of real estate for investment
4 purposes, it cuts them out of the abatement
5 because basically they're not living in the home,
6 they are using it as a business investment.

7 And that is an improvement, even
8 though I would still challenge the City of
9 New York to completely revise and reevaluate how
10 they do both their assessments and their
11 valuations of real estate throughout the five
12 boroughs, because there are great frustrations.

13 But I'll accept that because that
14 section of law sunsetted, there is enormous
15 pressure on any of us from the City of New York
16 to make sure we address that abatement.

17 There's the S corporation
18 subsection, which again the City of New York
19 assures us is a budget-neutral action by them.

20 There's the J-51, which personally I
21 would rather us allow to continue to be sunsetted
22 unless we actually come forward with a rational
23 approach to how the City of New York decides who
24 is being exempted from taxes, who is being abated
25 taxes.

1 The original purpose of J-51 was to
2 assure that there was efforts to keep communities
3 affordable, preserve housing as affordable,
4 encourage investment while guaranteeing that
5 those units would remain affordable for residents
6 of the City of New York.

7 My frustration is that that program
8 has proved to be a constantly rising cost where
9 fewer and fewer of the units that are winning the
10 reduction in taxes are actually affordable.

11 And in fact we are seeing throughout
12 sections of the City of New York gentrification
13 with the use of tax exemptions and abatements
14 that translate into people being priced out of
15 their own communities and their own neighborhoods
16 with nowhere else to go, destabilizing the
17 communities and the neighborhoods that they've
18 worked so hard to live in, raise their families
19 in, were hoping to age in. And they find
20 themselves priced out of their neighborhoods
21 specifically because of a program that no longer
22 fits the needs of the City of New York.

23 And then on the 421-a, one could go
24 on forever -- we have in this house before -- on
25 the pluses and minuses of different models of

1 421-a. But this bill has just a special section
2 of allowing five named buildings to come into the
3 421-a program when they aren't eligible under
4 existing law.

5 Well, that certainly piqued my
6 interest. Why are these five buildings being
7 allowed into a program they wouldn't otherwise be
8 eligible for? Were they specifically going to be
9 large units of affordable housing, the purpose of
10 421-a? No, it turns out not.

11 Were they going to be distributed in
12 the boroughs and the areas where we're talking
13 about needing to try to ensure the building of
14 affordable housing? No, they're not. They're
15 actually all in Manhattan.

16 Are they buildings that might not be
17 built if not for 421-a? No, actually several of
18 them are almost finished. And in fact one,
19 One57, had the crane that almost fell down during
20 Storm Sandy at the very top of the building,
21 which was almost completely built, which has been
22 presold and is nicknamed the Billionaire Building
23 because apparently you have to be a billionaire
24 to afford the apartments in there.

25 One of them used as an example in a

1 recent news story was a \$90 million,
2 13,554-square-foot penthouse. And with 421-a
3 exemption allowed in this bill, their taxes per
4 year would be \$20,000. If they were not rolled
5 into this legislation, their taxes would be
6 \$230,000.

7 I don't think that's what any of us
8 were talking about when we endorsed the expansion
9 and extension of property tax exemptions that the
10 City of New York gives out.

11 I have a dilemma, for myself,
12 because this bill, as I said, has some important
13 things in it, but it's also a perfect example of
14 what goes wrong in the wheeling-dealing of the
15 backrooms of Albany. You get some important
16 things people need under affordable housing
17 thrown in with some items that were clearly
18 negotiated special-interest deals.

19 I'm going to end up voting yes on
20 this bill, Mr. President, but very unhappily.
21 Very unhappily because I understand some of the
22 issues that need to be addressed -- yes, feel
23 free to be angry at me -- but also urging my
24 colleagues on both sides of the aisle to
25 recognize this isn't really how you're supposed

1 to do it up here.

2 And in fact when we came to chambers
3 tonight, this was a one-house bill. And I am
4 hoping my colleagues in the Assembly choose to
5 change --

6 ACTING PRESIDENT VALESKY: Can we
7 have some order, please.

8 Senator Krueger.

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

11 I hope my colleagues in the Assembly
12 choose to challenge the special-interest backroom
13 dealing in this bill and will bring multiple
14 bills to the floor, which we would then take up
15 on this floor, and that at some point in the
16 future in this chamber I will be able to
17 comfortably vote yes on the good sections of this
18 bill and vote no on the badly thought out
19 sections of this bill.

20 Thank you, Mr. President.

21 ACTING PRESIDENT VALESKY: Thank
22 you, Senator.

23 Senator Diaz.

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

1 Senator Krueger, I just love you. I
2 love you so much. You know, I love you keeping
3 me one hour talking bad about a bill and at the
4 end saying "I'm voting yes." I love you. I love
5 you.

6 (Laughter.)

7 SENATOR DIAZ: Mr. President and
8 ladies and gentlemen, once in a while I write a
9 column called "What You Should Know," my way to
10 inform my constituents and the voters of New York
11 of what's going on.

12 Today, I wrote one. And I call it,
13 based on the Roman Empire old saying, I entitled
14 it today "Caesar's wife should not only be pure
15 but should also have the appearance of purity."

16 And by voting for this bill, we
17 might be sending an appearance of impurity,
18 because this bill only benefits the rich. It is
19 a multi-million program of rent exemption and
20 abatement for landlords who renovate their
21 buildings.

22 This piece of legislation, ladies
23 and gentlemen, does nothing to protect and
24 strengthen tenant protection. So tenants in the
25 City of New York will not be protected with this

1 bill. On the contrary, they might be put in
2 danger.

3 It is just a tax benefit to
4 developers producing luxury buildings. This
5 bill, ladies and gentlemen -- and I'm so sorry
6 that Liz Krueger voted for it -- this bill does
7 nothing to prevent landlords from
8 double-dipping. That's a word that -- a nice
9 word, double-dipping. Meaning that a lot of them
10 are receiving a J-51 tax credit from the
11 government and at the same time will be
12 increasing the tenants' rent based on a major
13 capital improvement.

14 So this bill will allow landlords to
15 get money from the government for the renovation
16 based on J-51 and at the same time will allow
17 landlords to increase tenants' rents based on
18 something called major capital improvement for
19 the same renovation.

20 And this bill will extend 421-a tax
21 benefits to the owners of 15 specific plots in
22 Midtown and downtown Manhattan which are now
23 being developed as luxury condominiums and office
24 buildings. Fifteen of them.

25 And according to the New York

1 Tenants and Neighbors Coalition, according to the
2 New York Tenants and Neighbors Coalition, it
3 seems that only five specific developer companies
4 will benefit from this piece of legislation.

5 Number one, Extell Development Company, Extell
6 Development Company, for their billionaire tower,
7 One57. Silverstein Properties, the owner of the
8 World Trade Center. Thor Equities, the company
9 behind the controversial Coney Island
10 redevelopment for 516-520 Fifth Avenue.

11 Number four, Steinhardt Management, who wants to
12 develop two former Stock Exchange buildings in
13 Lower Manhattan. Number five, Shoreham {ph}
14 Association, Incorporated, who plans to build a
15 30-story glass tower over the site of the
16 original New York Times building.

17 Ladies and gentlemen, these
18 developments do nothing to address the New York
19 City ongoing affordable housing crisis.

20 Therefore, to vote for this bill we might be
21 sending a message, an impure message, that we're
22 only working for the landlords and against the
23 tenants and the regular people in New York City.

24 So again, you can read my "What You
25 Should Know" on my website. It's free, you don't

1 have to pay anything. And today, I'm quoting,
2 Liz Krueger, Caesar's wife not only shall be pure
3 but should have the appearance of purity.

4 I'm voting no with all my heart,
5 with all my strength. And I ask all my
6 colleagues to reject this piece of legislation,
7 especially an irony, and guided to the rich, not
8 to the poor.

9 Thank you.

10 ACTING PRESIDENT VALESKY: Thank
11 you, Senator.

12 Senator Stavisky.

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

15 We have a lot of coops and condos in
16 Queens County. And these are not rich people,
17 these are middle class, the basis really of our
18 city. We've had a problem with coop tax
19 abatements since 1996. And in fact it stems from
20 the way that coops and condos are classified.

21 Coops and condos are classified the
22 same way as rental properties, when in effect
23 they're really more like one- and two- and
24 three-family homes. And in fact the New York
25 City Independent Budget Office, the IBO, issued a

1 report in January describing in great detail the
2 issue involving the assessments and coops and
3 condos.

4 This bill really addresses the needs
5 of the middle-class coops and condos throughout
6 the city. It is a progressive form of a tax
7 abatement which expired in June of last year. It
8 addresses these inequalities, inequities in the
9 bill. It's a sliding scale of abatements based
10 upon assessments. And it benefits the people who
11 actually live there, the owner-occupied coops.

12 So I think this is an extremely
13 important bill. It's essential for the middle
14 class. I've spoken to many, many people about
15 this legislation, about the needs of casino and
16 condos. They are truly more like single-family
17 homes. They're not profit-making. They're
18 struggling to pay their insurance and their
19 heating oil bills and so forth. This bill
20 addresses many of those needs.

21 Would we prefer separate legislation
22 dealing with J-51 and 421-a? Of course. But
23 that is not what we have before us. We have this
24 bill before us, and it benefits many people
25 living in Queens County.

1 And I urge a positive vote on this
2 bill. Thank you.

3 ACTING PRESIDENT VALESKY: Thank
4 you, Senator.

5 Senator Young.

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

8 First of all, I'd like to take this
9 opportunity to commend Senator Golden for his
10 leadership in this issue. As was pointed out,
11 this was a bill that was negotiated at the end of
12 the last session last year that took a lot of
13 time and effort between the Assembly, the Senate,
14 the City of New York. And so I want to thank
15 you, Senator Golden, for taking this up.

16 I also want to thank Senator Krueger
17 for her support of this legislation.

18 And I did want to point out
19 something, though. The J-51 piece has been an
20 important law since about 1955. That's when it
21 was first implemented. And really the reason it
22 was put in is to encourage landlords to make
23 upgrades to their apartments. At that time many
24 people were living in substandard situations, the
25 old cold-water flats and so on, so they needed

1 upgraded heating systems, they needed to put in
2 hot water in those flats. And that's really why
3 J-51 was started.

4 Now, it expired on December 31st of
5 2011. But really this is a important tool. And
6 it's an important tool because it's an ability
7 for owners to be able to afford to upgrade their
8 buildings. And when they upgrade their
9 buildings, what that means is that we are helping
10 tenants, we are helping people who live in those
11 apartments because their living conditions are
12 provided. And I don't think we should lose sight
13 of that fact that this helps the tenants, this
14 improves their quality of life. So I just want
15 to point that out.

16 But again, I want to thank the
17 people who are voting for this. This is a very
18 important piece of legislation. Again, thank
19 you, Senator Krueger, for your support. Thank
20 you, Senator Golden, for your leadership.

21 ACTING PRESIDENT VALESKY: Thank
22 you, Senator.

23 Seeing no other Senators who wish to
24 be heard, the debate is closed.

25 The Secretary will ring the bells.

1 SENATOR LIBOUS: Mr. President.

2 ACTING PRESIDENT VALESKY: Senator
3 Libous.

4 SENATOR LIBOUS: Would you remind
5 members they have to be in their chairs to vote.
6 I don't know why they're leaving the chamber.

7 ACTING PRESIDENT VALESKY: Nor do
8 I, Senator Libous.

9 SENATOR LIBOUS: Thank you.
10 We want to get members in the
11 chamber. And as soon as we get them in here, we
12 can get them out of here.

13 ACTING PRESIDENT VALESKY: All
14 Senators are asked to come to the chamber
15 immediately so that we may call the roll.

16 (The Secretary rang the bells.)

17 ACTING PRESIDENT VALESKY: Read the
18 last section.

19 THE SECRETARY: Section 27. This
20 act shall take effect immediately.

21 ACTING PRESIDENT VALESKY: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT VALESKY: Announce
25 the results.

1 THE SECRETARY: In relation to
2 Calendar Number 4, those recorded in the negative
3 are Senators Diaz, Espaillat, Gipson, Perkins,
4 Rivera, Serrano and Tkaczyk.

5 Ayes, 56. Nays, 7.

6 ACTING PRESIDENT VALESKY: The bill
7 is passed.

8 Senator Libous, that completes the
9 controversial reading of the supplemental
10 calendar.

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

13 Mr. President, in consultation with
14 Senator Stewart-Cousins, Senator Klein,
15 Senator Skelos, we now hand up the following
16 minority committee assignments and ask that the
17 assignments be filed in the Journal, please.

18 ACTING PRESIDENT VALESKY: So
19 ordered.

20 Senator Libous.

21 SENATOR LIBOUS: Is there any
22 further business at the deck?

23 ACTING PRESIDENT VALESKY: The desk
24 is clear.

25 SENATOR LIBOUS: There being no

1 further business, I move that the Senate adjourn
2 until Thursday, January 24th, at 11:00 a.m.

3 ACTING PRESIDENT VALESKY: On
4 motion, the Senate stands adjourned until
5 Thursday, January 24th at 11:00 a.m.

6 (Whereupon, at 6:43 p.m., the Senate
7 adjourned.)

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