

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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7
8 ALBANY, NEW YORK

9 April 24, 2013

10 11:18 a.m.

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12
13 REGULAR SESSION

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16
17 SENATOR DAVID J. VALESKY, Acting President

18 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 to please rise and
5 recite with me the Pledge of Allegiance.

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

8 ACTING PRESIDENT VALESKY: The
9 invocation this morning will be given by Colonel
10 Barbara Sherer, United States Military Academy
11 Chaplain at West Point.

12 CHAPLAIN SHERER: Let us pray.

13 Great Lord, I thank You for the men
14 and women gathered in this historic chamber
15 whose lives are dedicated to public service.
16 May their work not be in service of self, but
17 for the greater public good. Bless them as they
18 seek to care for families in hard economic
19 times, for service members who are deployed in
20 harm's way, and for military veterans who have
21 sacrifice so much.

22 I thank You especially this day for
23 their support for the United States Military
24 Academy at West Point as we raise a new
25 generation of leaders, not just for the military

1 but for our country.

2 During this time of national budget
3 challenges, Lord, grant wisdom to the Governor,
4 the Senate and Assembly leaders, that the
5 Empire State might model cooperative
6 problem-solving for our nation.

7 Give us strength, Lord, to choose
8 the harder right instead of the easier wrong as
9 we follow the path that You've set before us.

10 All of this I ask and pray in Your
11 great name. Amen.

12 ACTING PRESIDENT VALESKY: Reading
13 of the Journal.

14 The Secretary will read.

15 THE SECRETARY: In Senate,
16 Tuesday, April 23rd, the Senate met pursuant to
17 adjournment. The Journal of Monday, April 22nd,
18 was read and approved. On motion, Senate
19 adjourned.

20 ACTING PRESIDENT VALESKY: Without
21 objection, the Journal stands approved as read.

22 Presentation of petitions.

23 Messages from the Assembly.

24 The Secretary will read.

25 THE SECRETARY: On page 23,

1 Senator Fuschillo moves to discharge, from the
2 Committee on Judiciary, Assembly Bill Number 197
3 and substitute it for the identical Senate Bill
4 Number 2610, Third Reading Calendar Number 298.

5 ACTING PRESIDENT VALESKY:
6 Substitution ordered.

7 THE SECRETARY: On page 23,
8 Senator Zeldin moves to discharge, from the
9 Committee on Judiciary, Assembly Bill Number 195
10 and substitute it for the identical Senate Bill
11 Number 2735, Third Reading Calendar 299.

12 ACTING PRESIDENT VALESKY:
13 Substitution ordered.

14 THE SECRETARY: On page 25,
15 Senator Libous moves to discharge, from the
16 Committee on Higher Education, Assembly Bill
17 Number 814 and substitute it for the identical
18 Senate Bill Number 4121, Third Reading Calendar
19 322.

20 ACTING PRESIDENT VALESKY:
21 Substitution ordered.

22 THE SECRETARY: On page 26,
23 Senator Martins moves to discharge, from the
24 Committee on Judiciary, Assembly Bill Number
25 1051 and substitute it for the identical Senate

1 Bill Number 2155, Third Reading Calendar 325.

2 ACTING PRESIDENT VALESKY:

3 Substitution ordered.

4 THE SECRETARY: And on page 27,
5 Senator Ritchie moves to discharge, from the
6 Committee on Local Government, Assembly Bill
7 Number 1091 and substitute it for the identical
8 Senate Bill Number 4197, Third Reading Calendar
9 333.

10 ACTING PRESIDENT VALESKY:

11 Substitution ordered.

12 Messages from the Governor.

13 Reports of standing committees.

14 Reports of select committees.

15 Communications and reports from
16 state officers.

17 Motions and resolutions.

18 Senator Libous.

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

21 On behalf of Senator Marcellino, on
22 page 14 I offer the following amendments to
23 Calendar Number 79, Senate Print 1516, and ask
24 that said print retain its place on the
25 Third Reading Calendar.

1 ACTING PRESIDENT VALESKY: So
2 ordered.

3 SENATOR LIBOUS: Mr. President, I
4 believe there's a privileged resolution by
5 Senator Larkin at the desk, Number 1372. I ask
6 that the resolution be read in its entirety, and
7 if you would then please call on Senator Larkin.

8 ACTING PRESIDENT VALESKY: The
9 Secretary will read.

10 THE SECRETARY: Legislative
11 Resolution Number 1372, by Senator Larkin,
12 memorializing Governor Andrew M. Cuomo to
13 proclaim April 24, 2013, as West Point Day in
14 New York State.

15 "WHEREAS, This Legislative Body is
16 justly proud to celebrate the establishment of
17 the United States Military Academy at West Point
18 and to call upon Governor Andrew M. Cuomo to
19 proclaim April 24, 2013, as West Point Day in the
20 State of New York; and

21 "WHEREAS, By an act of Congress, on
22 March 16, 1802, the United States Military
23 Academy was established within the borders of
24 New York State, on the banks of the Hudson River;
25 and

1 "WHEREAS, The Academy and its
2 graduates are an integral part of the proud
3 history of this state and nation; and

4 "WHEREAS, The leadership and
5 sacrifices of the members of the Long Gray Line
6 have helped this country withstand countless
7 threats to our cherished democratic way of life;
8 and

9 "WHEREAS, The alumni have excelled
10 not only on the battlefield but in many fields of
11 endeavor; and

12 "WHEREAS, The Academy continues to
13 provide our country with able and dedicated
14 future leaders; and

15 "WHEREAS, Its scenic campus is a
16 mecca each year for thousands of visitors from
17 across our state, continent and other countries;
18 and

19 "WHEREAS, The United States Military
20 Academy is in the forefront of our state's
21 outstanding institutions of higher learning; and

22 "WHEREAS, Sixty-one years ago, the
23 late James T. McNamara, then a member of the
24 New York State Assembly, and a member of the
25 Academy's Class of 1939, was the author of the

1 State Legislature's first 'West Point Day'
2 resolution; and

3 "WHEREAS, For decades, our nation
4 has enjoyed the legacy of freedom, and the United
5 States Military Academy at West Point has played
6 a vitally significant role in the maintenance of
7 peace and freedom; and

8 "WHEREAS, The members of this
9 Legislative Body are proud to commemorate this
10 event, marking April 24, 2013, as West Point Day
11 in New York State; now, therefore, be it

12 "RESOLVED, That this Legislative
13 Body pause in its deliberations to celebrate the
14 establishment of the United States Military
15 Academy at West Point and to memorialize Governor
16 Andrew M. Cuomo to proclaim April 24, 2013, as
17 West Point Day in New York State; and be it
18 further

19 "RESOLVED, That a copy of this
20 resolution, suitably engrossed, be transmitted
21 to the Honorable Andrew M. Cuomo, Governor of the
22 State of New York."

23 ACTING PRESIDENT VALESKY: Senator
24 Larkin on the resolution.

25 SENATOR LARKIN: Thank you,

1 Mr. President.

2 You know, when you look at these
3 young cadets -- John Flanagan's looking up there
4 and saying "I could do that."

5 (Laughter.)

6 SENATOR LARKIN: But you know,
7 we're proud to have you here today. It's
8 something special. And before we go another
9 inch, I want to introduce this body to the future
10 leaders of the world: the Long Gray Line.

11 First of all, we have with us the
12 academic dean, a personal friend. He's standing
13 up, General Trainor. General Trainor has a
14 nephew who's here, and a younger brother -- but
15 he says he's the older brother -- who's also a
16 grad. Thank you, General Trainor.

17 We have with us our chaplain,
18 Chaplain Colonel Sherer. We have the TAC officer
19 for the Academy, Master Sergeant Frame.

20 Now, our First Captain, Brandon
21 Whittington. And he has the job of overseeing
22 4,000 cadets.

23 We have Captain Tyler Sinisgalli.
24 Not too bad for the Island; right?

25 John Asbach.

1 Jason Lopez.

2 Oh, Grisanti wants everybody to know
3 that you're part of Grand Island. I remember
4 before Grisanti was born.

5 Brian Trainor. Welcome from a
6 tradition of the United States Military Academy.
7 You, your father, and your uncle and your aunts
8 are to be very proud. You're our positive.
9 Thank you.

10 James Long, from Erie County. Mike
11 Ranzenhofer was with you. Mike got a cut in his
12 tooth and it went into his jaw, and I don't want
13 to hear about the rest of it. But he came here
14 and he's going to meet with you back home, am I
15 correct? Thank you.

16 Elizabeth Judd, from Manhattan. So,
17 you know, when someone says the city doesn't care
18 about the armed forces, what do you say, Senator?

19 And you know, it's a strange thing,
20 and General Trainor and I were talking about
21 it -- there is a full Colonel Judd at the
22 Academy. Being a plebe, you don't really hang
23 around with full colonels, though.

24 Jordan Lee, from Queens.

25 Brian Callahan.

1 Thomas McGuinness.

2 Boy, I'm going to try this one. If
3 I fail, don't get it with me. Samir
4 Abdelkhalek. Not bad, right?

5 (Laughter.)

6 SENATOR LARKIN: Josh Lobdell.

7 We have with us the West Point
8 Society: Barry Hartman -- Barry is the Class of
9 '64 -- and our own local, Michael Breslin.
10 Where's Mike? Thank you, Michael, for coming.
11 Mike's the Class of '61, right, Mike? I got it
12 right for a change?

13 And you know, there's a young lady
14 that comes down and administers to the cadets.
15 She provides everything from the Hudson Valley,
16 the North Country, for young cadets and their
17 families. Dina, please stand. Great lady,
18 ladies and gentlemen.

19 And then we have Colonel Trainor.
20 Colonel Trainor was the Class of '81. And you
21 already met his son Brian.

22 And Peter Goebel. Pete, you're the
23 Class of '81, right, also? A lot of bright guys
24 in that class.

25 Gene Martin, Class of '88.

1 Mike O'Toole, Class of '90.

2 I could have been the Class of '52,
3 but I figured that six months in OCS was a little
4 bit easier.

5 What about our cadets? You look at
6 from 1802, and you find out what's happened to
7 this great Academy and its men.

8 You know, this country wouldn't be
9 where it's at without our armed forces. Someone
10 says, well, they're only a cadet. They're a
11 cadet today, but years down the road they will
12 show you a record, a record of leadership,
13 honesty, and integrity.

14 I live right outside of the
15 Academy. I have season tickets to everything.
16 Why? Because I respect you and for everything
17 you stand for. As all of my colleagues here
18 today, the first thing they said the other day
19 was, Do I have one? Do I have a cadet? Do I
20 have a cadet?

21 I said, you know, you can have them
22 all, we'll just all go down to West Point and
23 we'll have lunch with them. Bring your
24 pocketbook; there's no free lunches anymore.

25 (Laughter.)

1 SENATOR LARKIN: But just think
2 about what you do for us. Could I ask personally
3 the firsties to stand up? This is the graduating
4 class next month. Within a short time, they'll
5 be in battle.

6 Thank you for your service to our
7 country, and God bless you.

8 (Standing ovation.)

9 SENATOR LARKIN: You know, the
10 trials and tribulations that you firsties have
11 gone through. Firsties, by the way, are seniors
12 in your college of your acknowledgment.

13 Patty Ritchie was saying to me, "You
14 know, I met some cadets when I first got here.
15 They've already been to Afghanistan and they're
16 now back at my district, Fort Drum." And she
17 watches over you.

18 I want to tell you, when they were
19 doing sequester, she found out that they were
20 going to cut out benefits for families, and she
21 didn't waste a moment. She started getting right
22 on the phone because she said, "These are the
23 proud, and we must protect and provide." Thank
24 you very much, Senator.

25 You know, some of you are engineers,

1 some are pilots. But no matter where you go, you
2 will be part of an organization. You will be a
3 leader of troops. The troops that are going to
4 be entrusted to you are our children, our
5 grandchildren, our nieces, our nephews. And
6 we're looking to you to make sure that whatever
7 happens in battle, you do the best to protect
8 them. Because that's what you've learned in the
9 past four years.

10 Being a member of the armed forces,
11 in my opinion, is something that every American
12 should go through. I think it's a pride to be
13 part of this country's leadership.

14 I want to tell you that I am very
15 proud of you. I had the privilege of serving for
16 23½ years, and I never met somebody in the
17 Long Gray Line that I was ashamed of. I served
18 with pride. I was a peon second lieutenant and I
19 was a colonel. No matter what their section was,
20 I always knew that they were doing what was right
21 for America, not for them as an individual.

22 I've seen some assignments that
23 people have had -- away from their families,
24 unexpected lost time. But I never saw one member
25 of the Long Gray Line complain, bitch and moan

1 about his assignment. Because he knew when he
2 took that oath on R-Day, he or she pledged to do
3 what was right and to be remembered always as a
4 member of the Long Gray Line.

5 May God bless each and every one of
6 you, and I salute you.

7 Thank you.

8 (Extended applause.)

9 ACTING PRESIDENT VALESKY: Thank
10 you, Senator Larkin.

11 Senator Skelos on the resolution.

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

14 Senator Colonel Larkin has made the
15 introductions, and we welcome all of you to our
16 State Senate. Your State Senate.

17 We're extremely proud of every
18 single one of you, and we look forward to this
19 date absolutely every year. And as Senator
20 Larkin has indicated, we've met so many people
21 that have served their country. Many young
22 people, when they came before this body, have
23 potentially -- have probably lost their lives,
24 have been injured protecting this country. And
25 that's something we are all very proud of.

1 West Point is the most cherished
2 institution, in my opinion, in New York State.
3 And it's just not the brick and mortar, it's the
4 men and women who have gone through West Point
5 and made it the great institution that it is,
6 serving the greatest country in the world.

7 I don't know if you've met
8 Colonel Larkin in the past, but this gentleman
9 has dedicated his life, has dedicated his life to
10 public service. World War II, Korea. I'm not
11 sure about Vietnam.

12 SENATOR LARKIN: I was in the
13 states.

14 SENATOR SKELOS: He was in the
15 States.

16 SENATOR LARKIN: Protecting the
17 home front.

18 SENATOR SKELOS: But protecting our
19 country, leading men and women. And now in the
20 Senate, local government, Assembly prior to that,
21 he has dedicated himself to representing his
22 constituents but also doing what's right for all
23 the people of the State of New York.

24 He's a role model, not just for us
25 in this chamber, but his life story should be a

1 role model for all of you. Sitting right there
2 someday, when most of us are gone from the
3 chamber, there will be another Colonel Bill
4 Larkin who has served his country, perhaps in
5 Afghanistan, Iraq, or other parts of the world,
6 and will make a determination that they too love
7 public service and being able to help those
8 within their communities, as we all try to do.

9 So on behalf of the entire Senate --
10 Republicans, Democrats, conservatives,
11 liberals -- we say thank you to all of you.

12 As I said at the beginning, this
13 truly is a special day for all of us because we
14 reflect upon the service that you are providing,
15 we reflect upon really what's important in our
16 lives as representatives, and that's to do what's
17 right by our constituents and this state. And we
18 just in a very proud way say thank you to you for
19 the service that you will be performing.

20 And Colonel Larkin, we thank you for
21 the service that you continue to perform.

22 Thank you.

23 (Standing ovation.)

24 ACTING PRESIDENT VALESKY: Thank
25 you, Senator Skelos.

1 Senator Klein on the resolution.

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

4 This is always truly a great day,
5 because I think every opportunity we have to
6 acknowledge our country's bravest men and women
7 is one that of course I cherish.

8 And I know Senator Skelos gave much
9 accolades to Colonel Senator Larkin, but I think
10 I have to repeat some of those as well.

11 I know this is about West Point.
12 This is honoring our future leaders. But I think
13 we're very privileged in this legislative body to
14 have someone of the caliber of Senator Larkin.

15 I don't think a day goes by where
16 he's not advocating for love of country, where
17 he's not advocating for our veterans. He has so
18 many accomplishments when it comes to this
19 area -- the Purple Heart medal, which he lobbied
20 for so long, which really took on a national
21 model as well.

22 He's someone I think who teaches us
23 very important lessons, that the freedoms that we
24 enjoy today, we owe those freedoms to America's
25 veterans.

1 It was once said -- and I think this
2 sort of epitomizes what Senator Larkin does every
3 day -- and it was said by Abraham Lincoln, that
4 the coinage used to purchase our freedoms was the
5 life and limbs of America's veterans.

6 Well, that still holds true today.
7 And I think all of our great military leaders
8 somehow found their way through West Point.

9 And when I look out among these
10 future leaders -- corporate executives, future
11 military leaders, and yes, maybe even some future
12 presidents -- I think we're still in a very, very
13 enviable position because we still have
14 individuals like yourselves willing to sacrifice
15 yourself, sacrifice your futures, and really
16 dedicate yourselves to our military.

17 I thank you for that. And I think
18 not only New York State, but I think America
19 really owes each and every one of you a debt of
20 gratitude. Thank you.

21 (Applause.)

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

24 Senator Stewart-Cousins on the
25 resolution.

1 SENATOR STEWART-COUSINS: Thank
2 you. Thank you, Mr. President.

3 It is really one of the highlights,
4 frankly, of our session days to welcome these
5 wonderful cadets and to really applaud you for
6 being absolutely the finest, the bravest, the
7 brightest and the most conscious of what it is
8 not only you can do in the present but, despite
9 the fact that you don't know what the future
10 holds, you're willing to go forth bravely and
11 really make an example of what America is.

12 Looking at you in all of your
13 diversity is really, really heartening to me.
14 And looking at you is knowing that you will be
15 not only, again, outstanding where you are, but
16 you will continue to bring pride to all of us.
17 It is a really great day.

18 And I would be remiss if I did not
19 also add to my comments the accolades for Colonel
20 Senator -- today you're Colonel Senator. Other
21 days you're Senator Colonel. But today, because
22 of what you bring to us each year, you are
23 Colonel Senator.

24 And of course you heard what
25 Senator Skelos and Senator Klein said about the

1 colonel and how he really keeps us all honest and
2 really brings, brings the heart of why we are
3 here to us every day. He finds an example of
4 including everyone. He always gives tips and
5 hints as to how you can enhance your relationship
6 with our outstanding military men and women.

7 And not only of course did he serve
8 in World War II and Korea -- and when you said
9 you served stateside, he reminds us that what he
10 did was create that path of freedom for the
11 African-American community and others going
12 forward when he was commissioned to make sure
13 that the marchers could march on that Bloody
14 Sunday, when he was commissioned to make sure
15 that Dr. King's endeavors to bring freedom and
16 equality not only to America but to, you know,
17 set that example for the world, were not at all
18 thwarted. Because he knew that his service was
19 everywhere and anywhere, and he knew how to
20 protect the highest values of our democracy.

21 We thank you, Colonel, for being who
22 you are.

23 And again, thank you wonderful men
24 and women for serving us so valiantly.

25 Thank you.

1 (Applause.)

2 ACTING PRESIDENT VALESKY: Thank
3 you, Senator Stewart-Cousins.

4 Senator DeFrancisco on the
5 resolution.

6 SENATOR DeFRANCISCO: Thank you.

7 As an Air Force veteran, I
8 especially appreciate this day in recognizing the
9 military service of specifically all of you from
10 West Point.

11 There was a time at the end of the
12 Vietnam War when the military was not looked at
13 so favorably by the general public. It wasn't
14 the military's fault, but they weren't looked at
15 too favorably. And the servicemen that came back
16 from Vietnam were not greeted with thank-yous,
17 they were greeted with derision and they were
18 greeted unfavorably.

19 But it's totally different today,
20 thank God. And I am telling you -- I'm not going
21 to repeat everything that everybody else said --
22 Senator Larkin bleeds for the military. And as
23 so long he's here, as long as he's here, you are
24 never going to be not thought of highly, you are
25 going to be given the congratulations and the

1 proud tribute that you truly deserve.

2 I'm visiting West Point with some
3 friends in September. And I mentioned it to
4 Senator Larkin. Within 24 hours, everything was
5 arranged. Everything was arranged. He's just
6 unbelievable.

7 Number two, I have a cadet here,
8 Brian Callahan. And I'm proud of him. His
9 father lives right around from the corner from
10 me, and I never knew it. There he is. He's a
11 little too tall for me --

12 (Laughter.)

13 SENATOR DeFRANCISCO: -- but he's
14 a great young man.

15 Interestingly, Brian's father is a
16 lawyer. I've been involved with cases that he's
17 been involved with, I've known him forever. And
18 his mother, Kathleen Joy, ran against me.

19 (Laughter.)

20 SENATOR DeFRANCISCO: Can you
21 imagine that? And he still got into West Point.
22 I just don't understand it.

23 (Laughter.)

24 SENATOR DeFRANCISCO: She's a
25 member of the city council and a fine

1 representative. She's my representative on the
2 city council.

3 So this business does cross party
4 lines, what we're doing here today.

5 And lastly, what I really want to
6 point out here is the best part of you being
7 here, is it helps restore faith in the next
8 generation. I don't know how many times I get
9 the feeling that this country seems to be going
10 in the wrong direction.

11 So many times I get the feeling that
12 people aren't looking for how they can help
13 society, how they can help each other, but
14 looking for what they can receive from
15 government. There's a legitimate role for
16 government. We've got to provide what others
17 cannot provide, and we've got to provide for
18 those who can't. But we're now getting to the
19 point where everybody believes they're entitled
20 to something.

21 All of you worked hard to get into
22 West Point. Now, think about that. To get into
23 West Point, to have a military career and to put
24 yourselves in harm's way. You worked to get into
25 West Point. If we had that same attitude and

1 your determination and your spirit was shared by
2 the rest of our next generation, this country
3 would be great and much greater than it's ever
4 been.

5 So thank you for being here. Thank
6 you for the reminder to everybody that the future
7 is bright, we've got great leaders, and we thank
8 West Point for that. Thank you very much.

9 (Applause.)

10 ACTING PRESIDENT VALESKY: Thank
11 you, Senator DeFrancisco.

12 Senator Sanders on the resolution.

13 SENATOR SANDERS: Mr. President,
14 on the resolution.

15 It's been pointed out that Colonel
16 Larkin was in Korea, was in World War II -- I
17 almost messed up there. He probably was in
18 Vietnam and can't tell the rest of us the story,
19 the statute of limitations is probably still
20 going on. So I want to thank you for helping
21 bring us together.

22 It is not often when a Marine has to
23 rise for the Army, but on this day we will stand
24 and say that West Point has given us some of the
25 greatest leaders that this world has ever seen.

1 West Point has led in just about every
2 battlefield that there is.

3 But I especially want to thank you
4 not simply for your service in Afghanistan or
5 Iraq, but closer to home. The National Guard
6 actually came to the Rockaways and was helping
7 out during the disaster in the Rockaways. So we
8 from the Rockaways are very grateful that you
9 guys actually showed leadership even there.

10 General Trainor was kind enough to
11 alert me to the fact that the Marines came to the
12 Rockaways too, and we did a naval landing. We
13 won't talk about how accurate that naval landing
14 was, but that's a different story. So I'm
15 grateful for those things.

16 I know this. I know that as long as
17 America produces cadets like Cadet Sergeant
18 Jordan Lee, we will go to bed and wake up to the
19 freedom that we know. I commend you and your
20 fellow cadets for ensuring that America goes
21 forward for another generation. Thank you very
22 much.

23 And I again thank all of the great
24 people -- Colonel Larkin, starting with you --
25 that saw fit that we bring in some of the

1 greatest of America's youth before us today.

2 Thank you very much.

3 (Applause.)

4 SENATOR LIBOUS: Mr. President.

5 ACTING PRESIDENT VALESKY: Senator
6 Libous.

7 SENATOR LIBOUS: Could I suggest at
8 this time, since the cadets have to be at the
9 Assembly chamber at noon, and we'd like to have
10 Brigadier General Trainor address the body, I'd
11 like to take up the resolution. And then I'd
12 like to invite the Brigadier General up to
13 address us.

14 And then if members want to speak,
15 they can speak after the resolution has passed.

16 ACTING PRESIDENT VALESKY:
17 Certainly.

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

20 (Response of "Aye.")

21 ACTING PRESIDENT VALESKY: Opposed,
22 nay.

23 (No response.)

24 ACTING PRESIDENT VALESKY: The
25 resolution is adopted.

1 Senator Libous.

2 SENATOR LIBOUS: Mr. President, at
3 this time I would like unanimous consent for
4 Brigadier General Trainor to address the body
5 this morning.

6 ACTING PRESIDENT VALESKY: At this
7 time Brigadier General Trainor will address the
8 New York State Senate.

9 BRIGADIER GENERAL TRAINOR: Good
10 morning.

11 I just want to say, on behalf of
12 everyone at the United States Military Academy,
13 thank you. Thank you not just for your warm
14 welcome and for today's recognition, but for your
15 unwavering support day in and day out as we
16 accomplish our goal of preparing these young
17 cadets as future officers and leaders of
18 character for our Army and our nation.

19 I would like to offer a special
20 thanks to Colonel Senator Bill Larkin, a veteran
21 of World War II and Korea, who is such a great
22 friend of West Point.

23 The great State of New York is a
24 wonderful partner, and its help is invaluable as
25 West Point continues to develop the best and

1 brightest young men and women to serve our
2 nation. The resilience that the people of
3 New York displayed after the events of
4 September 11th, like the resilience the people of
5 Boston are showing today, are great examples to
6 demonstrate to our cadets the power of the
7 American people.

8 We are forever grateful for the
9 opportunity to prepare your sons and daughters.
10 West Point was a strategic location in the
11 founding of our country, and it remains a
12 strategic part of our nation today because we
13 educate, train and inspire outstanding future
14 officers due to your steadfast commitment and
15 support and that of the American people.

16 Thank you again, and Go Army.

17 (Standing ovation.)

18 ACTING PRESIDENT VALESKY: Senator
19 Libous.

20 SENATOR LIBOUS: Mr. President,
21 other members want to continue to address the
22 cadets, but in a short period of time they will
23 have to get up and leave to go to the Assembly.
24 But I just thought it was proper for the
25 Brigadier General to address the body.

1 So if there are other members who
2 are on the list and you want to go through that
3 with unanimous consent with my colleague
4 Senator Gianaris, I would proceed.

5 ACTING PRESIDENT VALESKY: Senator
6 Ball on the resolution.

7 SENATOR BALL: I know that that --
8 as a former Academy graduate, I know that that is
9 my cue to be quick, which I will be quick and be
10 seated.

11 I want to thank Senator Larkin as
12 well, and I know that I speak for everybody who's
13 familiar with Senator Larkin that there is no
14 greater advocate who personally goes to each and
15 every member to make sure there are veterans and
16 certainly his beloved academy is absolutely taken
17 care of.

18 I do want to take somewhat of a
19 count to the "Go Army" comment. It was
20 personally upsetting. On November 3rd, a few
21 days before my election, when I pushed the
22 campaign schedule to go to watch my alma mater,
23 the Air Force Academy, get the tar kicked out of
24 them on November 3rd -- and I just want to say
25 you played a hell of game. Please never do it

1 again.

2 (Laughter.)

3 SENATOR BALL: And, you know, I
4 just got back from my 10-year reunion, and I just
5 want to talk to each and every one of you -- and
6 Cadet Lopez, who's from my district -- you know,
7 you have amazing opportunities ahead of you. And
8 the world is your oyster. I'm not going to tell
9 you how great West Point is. Every time I go out
10 to drinks with many of the alma mater, you guys
11 tell me enough. Okay? You know it.

12 Suck every minute and every moment
13 of life that you can. Because the saying at my
14 institution was that the best view of the Academy
15 is in the rear-view mirror after you graduate.

16 I know it can get dark and gray and
17 it can seem like you have to take 275 pounds
18 every day and put it into a 50-pound bag. Enjoy
19 it, because you're going to miss it.

20 And the honor that you have of
21 leading men and women from all across this
22 country who have moms and dads, families that
23 love them dearly, there's no greater honor.

24 And I ask one thing, that you
25 consider, once that uniform comes off -- and

1 there are combat vets -- Lee Zeldin, who's here,
2 combat vet; Senator Larkin; Wayne Jackson, who's
3 a Sergeant-at-Arms who actually had injuries,
4 he's a Purple Heart recipient. I'm not missing
5 anybody, right? Consider, when you take that
6 uniform off, that you come to places like this,
7 because America needs you.

8 God bless.

9 (Applause.)

10 ACTING PRESIDENT VALESKY: Thank
11 you, Senator Ball.

12 Senator Addabbo on the resolution.

13 SENATOR ADDABBO: Thank you,
14 Mr. President. Good morning.

15 First I want to echo the sentiments
16 about Colonel Senator Larkin, for his dedication
17 to our country and of course our state, and for
18 his efforts on West Point Day each and every
19 year.

20 As ranking member of the Senate
21 Veterans, Military Affairs and Homeland Security
22 Committee, what I see today is both the history
23 and the future of our country here in terms of
24 military armed forces. And I know it's possible
25 that one of these cadets will create a new

1 chapter in America's history, and that future
2 cadets will learn from their leadership and learn
3 from their experiences someday.

4 Only recently, this past December,
5 we lost an icon, one of the greats at West Point,
6 and that's General Norman Schwarzkopf. As a
7 leader for the coalition forces in the Persian
8 Gulf War, and with the extraordinary military
9 career he had before that, we certainly lost an
10 American icon.

11 And today we have one of General
12 Schwarzkopf's West Point classmates. I am
13 pleased to recognize United States Army Brigadier
14 General, West Point Class of 1956 -- and my
15 uncle -- General Luciano Salamone. Uncle Leo.

16 (Applause.)

17 SENATOR ADDABBO: Once again, it's
18 a great honor. I say thank you for your
19 commitment and dedication to our country, and
20 it's a pleasure having you here today in the
21 Senate chambers. Thank you very much.

22 Thank you, Mr. President.

23 (Applause.)

24 ACTING PRESIDENT VALESKY: Thank
25 you, Senator Addabbo.

1 Senator Little on the resolution.

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

4 I would just like to commend all of
5 these young men and women who attend the
6 military academy for their perseverance, for
7 their actual desire to attend a military academy,
8 and then the hard work that goes into it to
9 become to accepted a military academy, and then
10 the harder work to be able to maintain your
11 grades there and to graduate from there. It's a
12 wonderful career, and we're very, very proud of
13 you.

14 My own son attended the Naval
15 Academy, so as a parent I know how difficult it
16 is. And I remember when people would ask him,
17 when he'd come home, "Do you like it there?" he'd
18 say, "Well, I don't always like it there, but I
19 will like being from there."

20 And believe me, that is the truth,
21 because you are getting one of the finest
22 educations that is available to any young man or
23 woman in this country.

24 And I know how proud I am of my son,
25 and I know how proud your family is of you.

1 Congratulations, and thank you for selecting a
2 military academy and a military career.

3 Thank you.

4 (Applause.)

5 ACTING PRESIDENT VALESKY: Thank
6 you, Senator Little.

7 Senator Hoylman on the resolution.

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

10 I wanted to acknowledge the cadets
11 who are here today and welcome them, and of
12 course acknowledge Senator Colonel Larkin's
13 contributions to this afternoon but also for
14 a lifetime of military service.

15 I particularly wanted to acknowledge
16 a young woman who is from my district, the
17 district of Chelsea, as she leaves. Her name is
18 Elizabeth -- E.J. -- Judd.

19 You know, the great cultural
20 anthropologist Margaret Mead once wrote: "I do
21 not believe in using women in combat because
22 females are too fierce." And I think E.J. Judd
23 falls into that category.

24 She is a graduate of Stuyvesant High
25 School, which is one of the finest public high

1 schools in New York City. She's a major in
2 mechanical engineering, is currently ranked fifth
3 individually in national competition in USMA
4 fencing. And she told me that she fell in love
5 with West Point on a third-grade field trip, and
6 she knew at age 10 what she wanted to do with the
7 rest of her life. I think I'm still trying to
8 figure that out.

9 But I acknowledge her service, her
10 future work on behalf of the U.S. military, and
11 wanted to thank Congressman Nadler for her
12 nomination and making certain that she received
13 this education. She's the only woman cadet here
14 today, but she's one of 200 in her class. So
15 there's great things on the horizon for women in
16 our military service.

17 Thank you, Mr. President.

18 ACTING PRESIDENT VALESKY: Thank
19 you, Senator Hoylman.

20 Senator Golden on the resolution.

21 SENATOR GOLDEN: Quickly, I'd like
22 to congratulate again Senator Larkin for his
23 great outstanding work in our military and here
24 in our Senate body.

25 I'd like to congratulate General

1 Trainor for his great service to our nation.

2 But there was another general,
3 General Swezey, that was with them as well.
4 General Swezey was on the ground, not only, as
5 Senator Sanders has pointed out, in the
6 Rockaways, but he was in Nassau, he was in
7 Suffolk, he was Senator Lanza in Staten Island,
8 he was with Simcha Felder and Senator Golden in
9 Brooklyn.

10 They came down and they helped all
11 of those families. They've been a credit to this
12 nation for the past 200 years. They've been a
13 credit to this nation from 9/11, a terrible
14 tragedy that took 3,000 lives. They have done an
15 outstanding job since 9/11 and continue to serve
16 this great nation with honor, and I congratulate
17 them.

18 And I congratulate you,
19 Senator Larkin, for your great work.

20 Thank you.

21 (Applause.)

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

24 Senator Kennedy on the resolution.

25 SENATOR KENNEDY: Thank you,

1 Mr. President.

2 I too want to join my colleagues in
3 welcoming the cadets who have joined us here
4 today at the State Capitol from West Point. You
5 cadets have done so much already to make our
6 nation and our state proud, and I know you'll
7 continue to accomplish great things for
8 yourselves and your families, for your neighbors,
9 the Empire State, and the United States of
10 America.

11 Duty, honor and country. Those are
12 the values that you deeply believe in and values
13 that you live every day. They're also values
14 that drive our work here in the Senate, and they
15 are the values that every American respects and
16 often seeks to fulfill. You cadets are those
17 values personified.

18 As you begin your careers in service
19 to the nation, I know that you'll forever keep
20 "duty, honor and country" at the forefront of
21 your hearts and your minds and you'll do
22 everything you can to keep our nation strong and
23 free. Congratulations as you prepare for
24 graduation, and good luck in all of your future
25 endeavors.

1 I also want to just take a moment to
2 specifically recognize a young man who recently
3 traveled from West Point to Buffalo and back
4 again. And in that brief moment of time he was
5 in Western New York to visit his friends and his
6 family, he took the time to meet with me and
7 discuss a project he's working on to help
8 veterans that have served this country so nobly.

9 Jay Long, a young Western New Yorker
10 and my fellow alumnus of St. Joseph's Collegiate
11 Institute -- for those of you keeping track, the
12 greatest high school in America --

13 (Laughter.)

14 SENATOR KENNEDY: -- is making his
15 family, our high school alma mater, and our
16 community in Western New York proud as he
17 graduates from West Point.

18 Jay talked to me about Trek for Our
19 Troops, an important program that aims to give
20 veterans an opportunity to gain direction and
21 recharge their ambition after they return home
22 from their service and sacrifice to this great
23 country.

24 So often we hear the tragic stories
25 of veterans who come home and struggle to find

1 employment, struggle to reacclimate to civilian
2 life, and struggle to find the support that they
3 need. Simply put, this is not right and it is
4 unacceptable.

5 When soldiers return home after
6 fulfilling their duties and completing their
7 service to our country, it is our duty to protect
8 and support our veterans and their families.
9 They deserve access to the opportunities they
10 need to lead long fulfilling lives after military
11 service, to become reacclimated to society, to
12 find a job, to raise their families and to serve
13 the community with honor and dignity as they've
14 served this great nation.

15 I firmly believe that, we in the
16 Senate here believe that, and I know Jay Long and
17 his fellow cadets that join him here today
18 believe that as well.

19 I encourage everyone in this chamber
20 and the people of the state to learn more about
21 Trek For Our Troops and the work that they're
22 doing with Team Red, White and Blue. Programs
23 like these are giving veterans a better shot at
24 completing a smoother transition from military
25 service to civilian life. It's a noble effort, a

1 great cause, and it's a mission we should all
2 commit to.

3 Thank you, Jay, for your hard work.
4 Thank you, cadets, for your service to this great
5 country. And thank you for all that you do for
6 the future.

7 Thank you, Mr. President.

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

10 (Applause.)

11 ACTING PRESIDENT VALESKY: Senator
12 Libous, that concludes comments from the Senators
13 on the West Point resolution.

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

16 I believe Senator Larkin wanted to
17 open the resolution up to all the members. So if
18 you would put all the members on the resolution.
19 If for some reason a member doesn't want to be on
20 the resolution, let the desk know.

21 ACTING PRESIDENT VALESKY: All
22 Senators will be placed on the resolution.
23 Anyone wishing not to cosponsor should notify the
24 desk.

25 Senator Libous.

1 SENATOR LIBOUS: Mr. President, can
2 we return to motions for a second.

3 ACTING PRESIDENT VALESKY: Motions
4 and resolutions.

5 Senator Libous.

6 SENATOR LIBOUS: On behalf of
7 Senator Young, on page 29 I offer the following
8 amendments to Calendar Number 391, Senate Print
9 3710B, and ask that said bill retain its place on
10 the Third Reading Calendar.

11 ACTING PRESIDENT VALESKY: The
12 amendments are accepted and the bill will retain
13 its place on the Third Reading Calendar.

14 Senator Libous.

15 SENATOR LIBOUS: And,
16 Mr. President, on behalf of myself, I wish to
17 call up my bill, Senate Print 3580, recalled from
18 the Assembly, which is now at the desk.

19 ACTING PRESIDENT VALESKY: The
20 Secretary will read.

21 THE SECRETARY: Calendar Number
22 181, by Senator Libous, Senate Print 3580, an act
23 to amend the Environmental Conservation Law.

24 ACTING PRESIDENT VALESKY: Senator
25 Libous.

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

4 ACTING PRESIDENT VALESKY: The
5 Secretary will call the roll on reconsideration.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 60.

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

10 ACTING PRESIDENT VALESKY: The
11 amendments are accepted.

12 Senator Libous.

13 SENATOR LIBOUS: Sir, could we now
14 at this time have the reading of the
15 noncontroversial calendar.

16 ACTING PRESIDENT VALESKY: The
17 Secretary will read.

18 THE SECRETARY: Calendar Number 73,
19 by Senator Zeldin, Senate Print 2598A, an act
20 authorizing.

21 ACTING PRESIDENT VALESKY: Read the
22 last section.

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

25 ACTING PRESIDENT VALESKY: Call the

1 roll.

2 THE SECRETARY: Ayes, 60.

3 ACTING PRESIDENT VALESKY: The bill
4 is passed.

5 THE SECRETARY: In relation to
6 Calendar Number 73: Ayes, 59. Nays, 1. Senator
7 Bonacic recorded in the negative.

8 ACTING PRESIDENT VALESKY: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 167, by Senator Klein, Senate Print 3070, an act
12 to amend Chapter 174 of the Laws of 2012.

13 ACTING PRESIDENT VALESKY: Read the
14 last section.

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

17 ACTING PRESIDENT VALESKY: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 59. Nays,
21 1. Senator Bonacic recorded in the negative.

22 ACTING PRESIDENT VALESKY: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 170, by Senator Bonacic, Senate Print 1886, an

1 act to amend the Education Law.

2 ACTING PRESIDENT VALESKY: Read the
3 last section.

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

6 ACTING PRESIDENT VALESKY: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 60.

10 ACTING PRESIDENT VALESKY: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 233, by Senator Kennedy, Senate Print 2871, an
14 act authorizing.

15 ACTING PRESIDENT VALESKY: Read the
16 last section.

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

19 ACTING PRESIDENT VALESKY: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 58. Nays,
23 2. Senators Bonacic and O'Mara recorded in the
24 negative.

25 ACTING PRESIDENT VALESKY: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 237, by Senator O'Mara, Senate Print 3911, an act
4 to amend the Village Law.

5 ACTING PRESIDENT VALESKY: Read the
6 last section.

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

9 ACTING PRESIDENT VALESKY: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 60.

13 ACTING PRESIDENT VALESKY: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 238, by Senator Little, Senate Print 3933, an act
17 to amend the Town Law.

18 ACTING PRESIDENT VALESKY: Read the
19 last section.

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

22 ACTING PRESIDENT VALESKY: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 60.

1 ACTING PRESIDENT VALESKY: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 241, by Senator Zeldin, Senate Print 4092, an act
5 to authorize.

6 ACTING PRESIDENT VALESKY: Read the
7 last section.

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

10 ACTING PRESIDENT VALESKY: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 58. Nays,
14 2. Senators Bonacic and O'Mara recorded in the
15 negative.

16 ACTING PRESIDENT VALESKY: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 242, by Senator Martins, Senate Print 4192, an
20 act to authorize.

21 ACTING PRESIDENT VALESKY: Read the
22 last section.

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

25 ACTING PRESIDENT VALESKY: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 58. Nays,
4 2. Senators Bonacic and O'Mara recorded in the
5 negative.

6 ACTING PRESIDENT VALESKY: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 294, by Senator Larkin, Senate Print 280,
10 Concurrent Resolution of the Senate and Assembly.

11 ACTING PRESIDENT VALESKY: Call the
12 roll on the concurrent resolution.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 60.

15 ACTING PRESIDENT VALESKY: The
16 resolution is passed.

17 THE SECRETARY: Calendar Number
18 295, by Senator Ranzenhofer, Senate Print 1127A,
19 an act to amend the Domestic Relations Law.

20 ACTING PRESIDENT VALESKY: Read the
21 last section.

22 THE SECRETARY: Section 3. This
23 act shall take effect on the 120th day.

24 ACTING PRESIDENT VALESKY: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 60.

3 ACTING PRESIDENT VALESKY: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 298, substituted earlier by Member of the
7 Assembly Braunstein, Assembly Print Number 197,
8 an act to amend the Judiciary Law.

9 ACTING PRESIDENT VALESKY: Read the
10 last section.

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

13 ACTING PRESIDENT VALESKY: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT VALESKY: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 299, substituted earlier by Member of the
21 Assembly Zebrowski, Assembly Print Number 195, an
22 act to amend the Civil Practice Law and Rules.

23 ACTING PRESIDENT VALESKY: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT VALESKY: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT VALESKY: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 322, substituted earlier by Member of the
10 Assembly Pretlow, Assembly Print 814 --

11 SENATOR GIANARIS: Lay it aside.

12 ACTING PRESIDENT VALESKY: The bill
13 is laid aside.

14 THE SECRETARY: Calendar Number
15 325, substituted earlier by Member of the
16 Assembly Weinstein, Assembly Print Number 1051,
17 an act to amend the Civil Practice Law and Rules.

18 ACTING PRESIDENT VALESKY: Read the
19 last section.

20 THE SECRETARY: Section 8. This
21 act shall take effect on the same date and in the
22 same manner as Chapter 500 of the Laws of 2012.

23 ACTING PRESIDENT VALESKY: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 59. Nays, 1.

2 Senator Bonacic recorded in the negative.

3 ACTING PRESIDENT VALESKY: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 326, by Senator Klein, Senate Print 2369, an act
7 to amend the Local Finance Law.

8 ACTING PRESIDENT VALESKY: Read the
9 last section.

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

12 ACTING PRESIDENT VALESKY: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 60.

16 ACTING PRESIDENT VALESKY: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 327, by Senator Zeldin, Senate Print 2925A, an
20 act to authorize.

21 ACTING PRESIDENT VALESKY: Read the
22 last section.

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

25 ACTING PRESIDENT VALESKY: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 58. Nays,
4 2. Senators Bonacic and O'Mara recorded in the
5 negative.

6 ACTING PRESIDENT VALESKY: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 333, substituted earlier by Member of the
10 Assembly Magee, Assembly Print 1091, an act to
11 amend the General Municipal Law.

12 ACTING PRESIDENT VALESKY: Read the
13 last section.

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

16 ACTING PRESIDENT VALESKY: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 60.

20 ACTING PRESIDENT VALESKY: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 350, by Senator Ball, Senate Print 2655 --

24 SENATOR LIBOUS: Lay it aside for
25 the day.

1 ACTING PRESIDENT VALESKY: The bill
2 is laid aside for the day.

3 THE SECRETARY: Calendar Number
4 351, by Senator Ball, Senate Print 2657, an act
5 to amend the Military Law.

6 ACTING PRESIDENT VALESKY: Read the
7 last section.

8 THE SECRETARY: Section 3. This
9 act shall take effect on the 30th day.

10 ACTING PRESIDENT VALESKY: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 60.

14 ACTING PRESIDENT VALESKY: The bill
15 is passed.

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

18 SENATOR LIBOUS: Could we now have
19 the controversial reading of the calendar.

20 ACTING PRESIDENT VALESKY: The
21 Secretary will ring the bell.

22 The Secretary will place Calendar
23 322 before the house, controversial reading.

24 THE SECRETARY: Calendar Number
25 322, by Member of the Assembly Pretlow,

1 Assembly Print 814, an act to amend the Education
2 Law.

3 ACTING PRESIDENT VALESKY: Senator
4 Krueger.

5 SENATOR KRUEGER: Thank you,
6 Mr. President. If the sponsor would please yield
7 for some questions.

8 ACTING PRESIDENT VALESKY: Senator
9 Libous?

10 SENATOR LIBOUS: I do,
11 Mr. President.

12 ACTING PRESIDENT VALESKY: The
13 sponsor yields.

14 SENATOR KRUEGER: Thank you.

15 Specifically my questions involve
16 the last section of this bill -- actually, it's
17 not the last section, it's Section 4:
18 "Subparagraph (iv) of paragraph 1 of subdivision
19 (d) of section 3101 of the Civil Practice Law and
20 Rules is REPEALED."

21 Can you please explain what that
22 repeal would mean?

23 SENATOR LIBOUS: Mr. President --
24 through you, of course -- what it does is it just
25 strikes that clause that says that in an action

1 for podiatric medical malpractice a physician may
2 be called upon as an expert witness in trial.

3 This is something that the Assembly
4 Codes Committee had requested be amended, and we
5 are amending the bill at their request.

6 ACTING PRESIDENT VALESKY: Senator
7 Krueger.

8 SENATOR KRUEGER: Through you,
9 Mr. President, if the sponsor would continue to
10 yield.

11 ACTING PRESIDENT VALESKY: Senator
12 Libous.

13 SENATOR LIBOUS: Sure.

14 ACTING PRESIDENT VALESKY: The
15 sponsor yields.

16 SENATOR KRUEGER: Thank you.

17 So if we were in the Assembly, I
18 would ask them why they wanted to amend this
19 language. But since you're carrying the bill in
20 the Senate, why would we want to change the
21 standard of who can be called as a witness in a
22 medical malpractice case involving specifically
23 podiatrists?

24 SENATOR LIBOUS: Well, it was
25 originally part of the chapter, Mr. President.

1 But because the importance of this bill is
2 something that the doctors are -- the
3 podiatrists are interested in, we wanted to make
4 sure that the chapter could go forward. And at
5 this time we're making that amendment so that the
6 bill gets --

7 SENATOR KRUEGER: Through you --

8 ACTING PRESIDENT VALESKY: Senator
9 Krueger.

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

13 ACTING PRESIDENT VALESKY: Senator
14 Libous.

15 SENATOR LIBOUS: Sure.

16 ACTING PRESIDENT VALESKY: The
17 sponsor yields.

18 SENATOR KRUEGER: So my
19 understanding is we passed a law that this is a
20 chapter amendment to, and the law now allows
21 podiatrists to do surgery up to the knee.

22 Now, personally I voted against that
23 law because I actually don't think the training
24 and scope of practice of podiatrists should
25 include surgery on a significant part of the body

1 up to the knee, but it had become the law.

2 And as part of the law, there's the
3 recognition that you face the possibility of
4 medical malpractice when you're in fact doing
5 surgery -- I mean, they always faced medical
6 malpractice, but now they face medical
7 malpractice on a larger part of the body that
8 they can do surgery on. And I understand that.

9 But this repealer would actually
10 translate into physicians not being allowed to be
11 called as expert witnesses on a podiatric medical
12 malpractice action. And I'm concerned that if I
13 were to go to any medical practitioner and they
14 performed surgery --

15 ACTING PRESIDENT VALESKY: Senator
16 Krueger, are you speaking on the bill or asking
17 Senator Libous a question?

18 SENATOR KRUEGER: No, I have a very
19 long question, thank you.

20 ACTING PRESIDENT VALESKY: Perhaps
21 we could get to that question.

22 SENATOR KRUEGER: I will be getting
23 to it. I'm just trying to give you the scenario
24 of the question.

25 That if this bill were to pass, that

1 I would be prevented from having a doctor as an
2 expert witness in a medical malpractice case
3 against my podiatrist. So that is my question.

4 Is that the understanding of the
5 sponsor, that the law allows surgery, it requires
6 malpractice insurance, but we would no longer be
7 allowed to call a doctor as an expert witness in
8 a case involving a podiatrist?

9 SENATOR LIBOUS: Mr. President,
10 that is not true. Doctors still could be called
11 as an expert witness.

12 SENATOR KRUEGER: Through you,
13 Mr. President, then I repeat my question. What
14 does this section of his bill do to change the
15 existing civil law?

16 SENATOR LIBOUS: It allows the
17 court to make the decision.

18 SENATOR KRUEGER: Through you,
19 Mr. President.

20 ACTING PRESIDENT VALESKY: Senator
21 Krueger.

22 SENATOR KRUEGER: Thank you.

23 We specifically --

24 ACTING PRESIDENT VALESKY: Senator
25 Krueger, are you continuing to ask Senator Libous

1 to yield or are you speaking on the bill?

2 SENATOR KRUEGER: No, I'm going to
3 speak on the bill. And I may have some
4 additional questions.

5 ACTING PRESIDENT VALESKY: Senator
6 Krueger on the bill.

7 SENATOR KRUEGER: Thank you.

8 So in other forms of medical
9 practice and other forms of surgery, in other
10 situations where there may be a malpractice case,
11 the law is clear that you can call a doctor as an
12 expert. There is a process where a judge may
13 determine this person is or isn't qualified to be
14 the expert. There are always lawyers on both
15 sides in these cases, and usually a lawyer for
16 the defendant will make an argument as to why
17 they don't believe this person is or isn't
18 qualified to be the expert witness for the
19 plaintiff.

20 The law also already allows
21 flexibility for judges to determine whether or
22 not a specific person can be recognized as an
23 expert witness. Despite my colleague's
24 statement, I actually believe this could be read
25 as doctors cannot be called as expert witnesses

1 in a medical malpractice case involving a
2 podiatrist.

3 I accept under current law a judge
4 might determine a specific doctor or doctors or
5 any other kind of witnesses as not being
6 qualified. But in fact, it is particularly
7 important that there be no gray area in our law
8 when it comes to being allowed to recognize that
9 doctors may in fact be the only appropriate
10 experts to testify in a medical malpractice case
11 involving podiatrists, because the podiatrist is
12 doing surgery perhaps on the bones in the ankle
13 or heading up the leg, or may be involved in
14 other removals of things along the leg or the
15 foot up to the knee.

16 But through malpractice, which may
17 be intentional or unintentional, they may hit the
18 tibial artery or the peroneal artery or the
19 dorsalis pedis artery or the popliteal artery or
20 even the femoral artery, leading to potentially
21 blood clots, aneurysms, blood stoppage to the
22 heart, oxygen stoppage to the rest of the body,
23 causing serious physical harm or even death.

24 If that happened to me or my family
25 members, I would want to make sure that an expert

1 in arterial and venous circulation flow, with
2 expertise in what happens if there are mistakes
3 in surgery, even unintentional, involving systems
4 in the foot, leg or knee, I would want that
5 expert to be -- the expert in the surgical
6 procedures, in the anatomy, to be testifying.

7 And we have a perfectly good law
8 that we recognize for other medical malpractice
9 by other providers of healthcare. And I really
10 can't understand why we would want some exception
11 to the standards in our civil law about the
12 rights of who may be called in a civil case as an
13 expert to testify specifically for podiatric
14 malpractice. So this is my opposition to the
15 bill.

16 May I ask the sponsor if he will
17 yield to an additional question.

18 ACTING PRESIDENT VALESKY: Senator
19 Libous, do you yield?

20 SENATOR LIBOUS: Sure.

21 ACTING PRESIDENT VALESKY: The
22 sponsor yields.

23 SENATOR KRUEGER: Thank you.

24 The sponsor answered that the
25 Codes Committee of the Assembly supported this,

1 but again I pointed out we're not in the
2 Assembly.

3 Are the podiatrists asking for this
4 repeal?

5 SENATOR LIBOUS: No, this
6 actually -- look it, Mr. President, this actually
7 clarifies the law. And it allows either a doctor
8 or a podiatrist to be called as a witness.

9 ACTING PRESIDENT VALESKY: Senator
10 Krueger.

11 SENATOR KRUEGER: Through you,
12 Mr. President, could the Senator --

13 SENATOR LIBOUS: Taking it out, it
14 clarifies the law.

15 SENATOR KRUEGER: Could the sponsor
16 read me the section of civil law and explain why
17 repealing it clarifies --

18 SENATOR LIBOUS: No, the sponsor
19 can't at this time.

20 SENATOR KRUEGER: So the sponsor
21 and I disagree about the current law, the need to
22 repeal the law.

23 But again, my understanding is, for
24 the record, that this would limit the ability to
25 potentially call a doctor as an expert witness in

1 a medical malpractice case involving podiatrists.

2 SENATOR LIBOUS: That's not true,
3 Mr. President, it would not.

4 SENATOR KRUEGER: I know we
5 disagree on that, but Senator -- excuse me.
6 Through you, Mr. President.

7 ACTING PRESIDENT VALESKY: Senator
8 Krueger.

9 SENATOR KRUEGER: Thank you. The
10 sponsor won't show me the language being repealed
11 and explain to me why that wouldn't do that, and
12 I have asked him and he won't.

13 And again, my understanding is
14 podiatrists are not asking for this change. And
15 so I want to respectfully point out we passed a
16 law to give them more authority to do surgery --

17 ACTING PRESIDENT VALESKY: Senator
18 Krueger, are you now speaking on the bill?

19 SENATOR KRUEGER: On the bill. On
20 the bill.

21 ACTING PRESIDENT VALESKY: Senator
22 Krueger on the bill.

23 SENATOR KRUEGER: Thank you so
24 much.

25 -- that they asked us to change the

1 law, giving them more authority. We made that a
2 law relatively recently, so in fact we don't even
3 have enough time to do research about whether
4 there are any medical malpractice problems or
5 not. There may be none at all.

6 But I certainly don't think that we
7 should be repealing a section of law that exists
8 and applies to other professions and medical
9 malpractice and the standards of civil law in
10 this state. And that I can't see a clear
11 justification for it.

12 And again, we have no memos in
13 support or opposition by anyone as far as I
14 know. But I have been advised that the
15 podiatrists are not asking for this change
16 themselves, and so I really don't understand why
17 we'd do it at this time.

18 So I'll be voting no,
19 Mr. President. Thank you.

20 ACTING PRESIDENT VALESKY: Thank
21 you, Senator Krueger.

22 Are there any other Senators who
23 wish to be heard?

24 Seeing none, the debate is closed.

25 The Secretary will ring the bells.

1 All Senators are asked to proceed immediately to
2 the chamber so that we may move forward with the
3 roll call.

4 The Secretary will read the last
5 section.

6 THE SECRETARY: Section 5. This
7 act shall take effect on the same date and in the
8 same manner as Chapter 438 of the Laws of 2012.

9 ACTING PRESIDENT VALESKY: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT VALESKY: Senator
13 DeFrancisco to explain his vote.

14 SENATOR DeFRANCISCO: Yes, I'm
15 going to vote for this.

16 And my understanding of what this is
17 all about is that in the original bill the
18 wording could have been interpreted as only
19 allowing physicians to be expert witnesses, and
20 not podiatrists. So this amendment basically
21 conforms to existing law before the podiatrists
22 bill, insofar as making it clear that an expert
23 witness could either be a doctor or a podiatrist,
24 as is the case with any other malpractice case.

25 So I think this is clarifying that.

1 And since it's clarifying that, I think it's a
2 good bill.

3 As a practical matter, having done
4 these from time to time, even though a defendant
5 can call a podiatrist, I would think if the
6 plaintiff was going to be calling a physician, it
7 would be pretty risky for the defendant to not to
8 call a physician as well in defense. But it's up
9 to the defendant, if this bill passes, and so
10 it's clear that they could call a podiatrist.

11 So I think it makes sense. I vote
12 yes.

13 ACTING PRESIDENT VALESKY: Senator
14 DeFrancisco to be recorded in the affirmative.

15 Announce the results.

16 THE SECRETARY: In relation to
17 Calendar Number 322, those recorded in the
18 negative are Senators Gipson, Hassell-Thompson,
19 Hoylman, Krueger, O'Brien, Sanders, Serrano and
20 Tkaczyk.

21 Absent from voting: Senators Adams,
22 Breslin, Diaz, Dilan, Espaillat, Farley, LaValle,
23 Montgomery, Perkins and Ranzenhofer.

24 Ayes, 43. Nays, 8.

25 ACTING PRESIDENT VALESKY: The bill

1 is passed.

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

4 SENATOR LIBOUS: Thank you,
5 Mr. President. Is there any further business at
6 the desk?

7 ACTING PRESIDENT VALESKY: The desk
8 is clear.

9 SENATOR LIBOUS: Thank you.
10 Then there being no further
11 business, I move that we adjourn until Monday,
12 April 29th, at 3:00 p.m., intervening days being
13 legislative days.

14 ACTING PRESIDENT VALESKY: On
15 motion, the Senate stands adjourned until Monday,
16 April 29th, at 3:00 p.m., intervening days being
17 legislative days.

18 SENATOR LIBOUS: Mr. President.

19 ACTING PRESIDENT VALESKY: Senator
20 Libous.

21 SENATOR LIBOUS: Please tell the
22 members that the 1:00 o'clock lunch with the
23 West Point cadets is in Room 332.

24 ACTING PRESIDENT VALESKY: Lunch at
25 1:00 p.m. in Room 332 with the cadets from

1 West Point.

2 The Senate stands adjourned.

3 (Whereupon, at 12:31 p.m., the
4 Senate adjourned.)

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