

SENATE FLOOR PROCEEDINGS: March 28, 2011

*Excerpted from the Senate transcript of the Senate floor proceedings
for Monday, March 28, 2011, 3:00 p.m. – 8:52 p.m.
<http://www.nysenate.gov/event/2011/mar/28/senate-session-03-28-11>*

...
(at 1:15:15 mins.)

SENATOR LIBOUS: I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT FLANAGAN: Senator Libous, there is.
The Secretary will read.

THE SECRETARY: Senator Skelos, from the Committee on Rules reports the following:
Senate resolution amending Rules VI and VII of the Senate rules, in relation to committees.

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

ACTING PRESIDENT FLANAGAN: Move to accept the Rules report. All those in favor
signify by saying aye.
(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.
(Response of "Nay.")

ACTING PRESIDENT FLANAGAN: The Rules report is adopted.
Senator Libous.

SENATOR LIBOUS: Is there any further business at the desk?

ACTING PRESIDENT FLANAGAN: Senator Libous, there is --

SENATOR LIBOUS: Mr. President, I got ahead of myself.
There's a privileged resolution at the desk. I ask that it be read, its title read and we adopt it.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Senate resolution by Senator Skelos, amending Rules VI and VII of the
Senate rules, in relation to committees.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Mr. President, I object to this resolution and would like to debate it. I was wondering if Senator Libous, on behalf of Senator Skelos, would yield to a couple of questions.

SENATOR LIBOUS: Sure, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous, will you yield to Senator Squadron?

SENATOR LIBOUS: I will. I will.

SENATOR SQUADRON: Thank you very much. And I do know the hour is late, the night is dark. In fact, we maybe having this debate under the dark of night, one could say. And I appreciate that.

So, Senator Libous, I just would like to know, do you know when this resolution was furnished to the Minority Leader pursuant to Rule VI, Section 9A?

SENATOR LIBOUS: Well, that rule doesn't pertain to this resolution.

But I could tell you that it was probably given to the Minority Leader this afternoon. Through you, Mr. President.

SENATOR SQUADRON: Through you, Mr. President, Rule --

ACTING PRESIDENT FLANAGAN: Senator Squadron, are you asking Senator Libous to continue to yield?

SENATOR SQUADRON: Yes, please, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous, will you continue to yield?

SENATOR LIBOUS: I will, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you.
Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President. Through you.

Rule VI, Section 9A is simply the rule that creates some standard for resolutions so that they don't get driven through this house without consideration. It says that you need 48 hours notice for the Minority Leader and the Majority Leader.

Senator Libous suggested that that doesn't apply here. And I would wonder, relative to Rule XI, Section 1, which says that all resolutions that change the Senate rules need to be introduced, how it could possibly be that a simple 48-hour notice, when you're talking about something as important as the Senate rules, doesn't apply.

SENATOR LIBOUS: Mr. President, through you, we believe that it doesn't apply.

And, Mr. President, I can go back and use precedent when they were in charge, Mr. President. And if I could relate an example, on July 9th of '09, Senator Sampson referred to Rules a rules change. On the same day, it was reported, and on the same day, Mr. President, it was adopted.

That rules change at the time separated the positions, I believe, of Temporary President and Majority Leader. But it was done when they were in charge. It was a procedural change, it was a rule change, all done the same day, just like this. Therefore, we believe that what we're doing is absolutely right.

SENATOR SQUADRON: Thank you, Mr. President. On the resolution at the moment. And I thank Senator Libous for that.

As Senator Libous probably remembers about the example --

ACTING PRESIDENT FLANAGAN: Excuse me, Senator Squadron, are you asking Senator Libous to continue to yield?

SENATOR SQUADRON: On the resolution. No, sorry, Mr. President, on the resolution.

ACTING PRESIDENT FLANAGAN: On the resolution.

SENATOR SQUADRON: Thank you.

As Senator Libous probably -- may or may not recall, that was at the end of the so-called coup that shut down this Senate for over a month. It was truly extraordinary circumstances. And those rules, in fact, had been negotiated and agreed upon by both the majority and minority at the time. So it's a vastly different situation than the one that we're talking about here.

The situation here is very simple. Here, on this very busy week, when we have incredibly important business before us in this house, we have one of the toughest budgets that hopefully any of us will ever see that has just been hopefully finally negotiated, that's going to be facing this house. Everyone's focused in this state, 19.3 million New Yorkers or more, are focused on getting this budget done. And in that moment, 10 minutes before we were supposed to come into session, something that changes the rules, changes the operations of the house was presented in contradiction to the current Senate rules and in contradiction to good faith, to transparency.

So the 2009 example certainly reminds us of some of the darkest days in the Senate's history. I think that repeating those days this week, when we should be working together to focus on this budget -- some of us will support it, some of us will have questions about it -- is really a mistake. And I think it's exactly the example of why this is so problematic.

None of us want to be here at 8:20 at night under the dark of night, as I said, talking about Senate rules. We want to be here talking about a budget that affects New Yorkers every day. And unfortunately, that's not possible. Unfortunately, we're forced into this situation and harken back to some of the darkest days, certainly the darkest days that this Senate has seen in a long, long time.

Look. This resolution, Mr. President, is clearly in contradiction to the Senate rules. The idea that this is somehow a privileged resolution means that there are no rules when it comes to a resolution the Majority wants to put forward, and that is a huge problem.

In fact, there's an entire section of our rules that are set up to protect against this. Rule XI, Section A -- Section 1, excuse me, is very, very, very clear. Changes to the Senate rules need to be done very carefully. They need a memo or a description. I don't know if this typewritten document on the back of the voting sheet counts as a memo or a summary or it follows the rules here explaining the justification.

It clearly doesn't. The idea of a 10-minute notice certainly doesn't. The idea of doing this at a moment when we have \$132 billion budget just waiting to get done, the idea of a rule change at that moment certainly does not keep with the spirit of the Senate rules. And that is an enormous problem, Mr. President.

Now, look, when you look at the rules themselves -- and again, I'm glad Senator Libous talked about some of the historic rules changes that came out of that darkest day in the Senate in the 2009. These rules changed some of that.

And through you, Mr. President, I would request Senator Libous to yield for a couple more questions on this resolution.

ACTING PRESIDENT FLANAGAN: Senator Libous, will you yield to Senator Squadron?

SENATOR LIBOUS: I will, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

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

Senator Libous, as you know, this rules resolution that we're debating here tonight amends Rule VI, Section 1, paragraph C. Is that right, Senator Libous?

SENATOR LIBOUS: If that's what the resolution says, Mr. President, that's what it does.

SENATOR SQUADRON: Thank you.

Through you, Mr. President, will Senator Squadron continue to yield.

ACTING PRESIDENT FLANAGAN: Senator Libous, will you continue to yield?

SENATOR LIBOUS: I will, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Thank you very much.

The rule I just referenced, Mr. President, talks about the proportional membership of Senate committees and the fact that Senate committees should be proportional to the partisan divide in the house. I would like to ask Senator Libous, do you remember how that rule came about and when it came about?

SENATOR LIBOUS: I believe, Mr. President, it came about sometime after that famous day in June. Or maybe it was even July.

SENATOR SQUADRON: Thank you very much.
Would Senator Libous continue to yield?

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: I will, sir.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Thank you.

And my recollection is that that proportional representation was about making sure that both parties would be represented in every committee, committees do such important work, in the same way they are here on the Senate floor, and that there would be some equity to that.

Senator Libous, the rules amendment here, do you know what it does to that proportional representation that, out of those dark days, we codified in the rules?

SENATOR LIBOUS: Actually, Mr. President, I do. And it makes it very similar to what it was last year when they were in charge.

SENATOR SQUADRON: Would Senator Libous continue to yield?

ACTING PRESIDENT FLANAGAN: Senator Libous, will you continue to yield?

SENATOR LIBOUS: My pleasure, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Would Senator Libous please explain that statement.

SENATOR LIBOUS: Mr. President, I believe when the Democrats were in charge they had 14 members on Rules, we had 10. I believe they had 19 on Finance; we had 14.

Now, we understood when they were in charge, Mr. President, that they controlled the agenda and that the makeup of the committee didn't matter because they still had more Democrats than Republicans. Therefore, the makeup of the committee was still in their favor.

Nothing has changed here. We add two members to Finance, one in Rules. The makeup of the committee is still -- we as the majority party still have more members because we're in the majority. And if you look at the breakout, as I said, they had 14 members on Rules; we had 10. They had 19 members on Finance; we had 14.

To the Senator's point, I -- I'm missing it.

SENATOR SQUADRON: Thank you. Through you, Mr. President, to respond to that before I ask Senator Libous to yield again.

Clearly these rules take what was a proportional representation and for the majority party

say, in terms of the two what are often considered the two most important committees here, it's proportional plus 5 percent. So those numbers, it seems to me, would not suggest what I would like to ask Senator Libous to yield again to.

ACTING PRESIDENT FLANAGAN: Senator Squadron, are you asking Senator Libous that question? Or are you commenting and now asking him to yield?

SENATOR SQUADRON: I am commenting and now asking him to yield.

ACTING PRESIDENT FLANAGAN: Senator Libous, will you continue to yield to Senator Squadron?

SENATOR LIBOUS: I'd be happy to yield, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Thank you very much.

Just to be clear, the effect of this rules change is to increase the proportion of majority members on the Senate Rules and the Senate Finance Committee beyond the proportional representation in the house.

SENATOR LIBOUS: No, Mr. President, that's not what it does. What it does, it brings us pretty much to parity to what they had when they were in the majority. That's how I read the numbers.

SENATOR SQUADRON: Thank you, Mr. President. On the resolution.

I think that when Senator Libous says that it does not do what I suggested, which is increase the majority representation beyond the proportional representation of the house on the Rules and the Finance Committee, that simply isn't accurate. I wish it were, but it's not. It clearly does. It increases beyond the proportional representation of the house by 5 percent.

Now, that's particularly insidious here because the rule and the practice is that anything over a whole number, you get to 50.01 percent, that's an additional percent. You get to 55.01 percent, that's an additional person. So the effect of this is very clear. It disempowers the minority members, disenfranchises their constituents on the Senate Rules and the Senate Finance Committee.

Because in the case of the Senate Finance Committee, it's going to be -- let me just make sure I get it right. In the Senate Finance Committee you're going to have two additional majority members, just like that, thanks to this rule that we've now been considering, we've now been aware of for less than three hours.

In the Senate Rules Committee, you're going to have one additional majority member. In both cases, you're going to see a supermajority for the majority party and increasing difficulty for the minority party in standing up.

And that's a real problem. And it undoes the improvements that were made in the last term. It undoes the improvements that many members of this house, the majority, voted for earlier this year. And it does it in this most important of weeks when we should be talking about issues

much less arcane and much more significant.

And so, you know, I think that it's simply not accurate to say that it doesn't change the proportion. It definitively does.

It does something else very disturbing, and that is it gives the counsels in the Majority Conference the power to decide who sits and has voting rights on a committee. Now, this is completely and absolutely unprecedented, the idea that rather than committee memberships being passed up, as we've done many times this year, instead you can now swap out committee members on the Rules Committee. If anyone has an excused absence, the counsel for the majority is able to decide "I would like someone else on that committee" or "I refuse to have someone else on that committee."

The idea that not even on the Senate floor you would be able to have someone who is not elected, who does not engage -- is on the Senate floor decide who is a voting member on the Rules Committee and the Finance Committee is truly shocking.

Later this week we are going to have, going through the Finance Committee, budget bills, budget bills totaling, as I said earlier, \$132 billion, one of the most difficult budgets in the history of this state. If this rule is in effect, then the voting membership of the committee is going to be decided by an unelected counsel to the Senate Majority.

That, as I say, is unprecedented and is a disturbing slippage -- not back to the bad old days before the rules reform of last term, but a slippage to a place we have never been before as a house. Whether you're minority party or majority party, I think we can all agree that the idea of taking the power of committee membership, taking the power of who votes on the Finance Committee, on the Rules Committee, on any committee, outside of this body to someone who is unelected is something that none of us can feel comfortable with.

So, look, I know the partisan games. I know that we're coming on 8:30 here at night the week the budget is due. I know that most folks, if they're watching, are wondering why it is we could possibly be talking about this instead of talking about the state budget. And I agree with them. I am sympathetic to them.

But we have this rules resolution before us. We shouldn't. We should have had 48 hours to consider it, we should have had a much more thorough description of it, all pursuant to the current rules. But here we are, and we have it before us. I would urge every member of this house, on the basis of not losing the progress that we made last year, that did not go back, did not slip back at the beginning of this year, and on the basis of not, for the first time ever, putting significant power outside of the elected body, outside of our constituents, and into an unelected member, I would urge every member of this house -- Majority, Minority -- to rise above politics, rise above this dark of night, rise above this, to quote my colleague Senator Ball, poisoning of the well of these rules, and together vote against these rules.

Let's have some time to discuss them and consider them. I am sure that, when considered, the Majority will not feel comfortable with this idea that an unelected person decides who has voting power. Perhaps that 48-hour consideration period will fix that problem. And perhaps it will, as well, give us an opportunity to have a proportional representation so that we're not disempowering the constituents who are represented by Minority members of this Senate. We did that for a long time in this Senate. We've started to make improvements. Let's not tonight, in this most important of weeks, slip back.

I look forward to working with many of the members who have stood up for rules changes,

hopefully will vote with us tonight. And hopefully if these rules do come back before us, they will come back in a much fairer form and a form that respects the intrinsic importance of elected members of this house deciding who the voting members are on our committees.

So with that I will vote no, Mr. President. Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Squadron.

Senator Libous on the resolution.

SENATOR LIBOUS: Thank you, Mr. President.

In all due respect to my colleague Senator Squadron, I really think you're reading this wrong. Nobody is diminishing representation on the committee. If anything, we're going to parity. We're doing what you did. We're going to the same spread on the committees that you did. And the numbers are in the book. It's published. And, Senator, I'd be happy to provide you with that later on.

And just on the other issue about the resolution and late at night and it's been six hours, I found two other examples when you were in the majority, both resolutions by Senator Smith. Reported to Rules on the 15th of July, reported to the floor on the 15th of July and adopted. Senate resolution amending the rules of the Senate.

On the same day, July 15, '09, reported to Rules. July 15, '09, reported to the floor. July 15, '09, adopted.

So, Mr. President, this has been a practice that this body has done for a long time. It's obvious that our colleagues from the other side of the aisle, when they were in charge, did it the same way we're doing it. These are the same rules. We are not looking to take anything away from anybody. It's all documented. It's in the Senate minutes.

And the breakouts are there. Again, last year they had 19 members on Finance, two more Democrats than Republicans. That's what we're doing here. They had 14 members on Rules, one more voting member. Just like we're doing here.

So, Mr. President, there's no special movement at 8:30 at night, there's no secret stealth thing here. This is pretty simple. This is the way we've been functioning.

As far as the way Senator Squadron, Mr. President, is interpreting the rule, certainly the counsel has to be notified. Counsels talk all the time. But at the end of the day, it's Senator Sampson and Senator Skelos who are going to make the final determinations on who he wants to substitute in the Minority on a committee or who Senator Skelos wants to substitute. It's not the counsels that make those decisions. We all know the members make those decisions and the leaders make those decisions.

And so, Mr. President, I would just like to move this resolution right now because I think it is pretty clear in what it does.

ACTING PRESIDENT FLANAGAN: Senator Libous, the question is on the resolution.

Senator Krueger, why do you rise?

SENATOR LIZ KRUEGER: Thank you.

Will the sponsor please yield to an additional question?

ACTING PRESIDENT FLANAGAN: Senator Libous, would you yield to a question from Senator Krueger?

SENATOR LIBOUS: I will, Mr. President, I'm sorry.

ACTING PRESIDENT FLANAGAN: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

So the first section of the rules change, Section VI, budget bills, the underlined new language is "Budget bills may be reported from the Finance Committee direct to the Third Reading Calendar."

I distinctly remember a week or two ago, when we objected to moving from Finance to third reading because you needed a unanimous consent or needed to move a bill through Rules, we were told by a ruling of the chair that the existing rules allowed a budget bill to be moved from Finance to the Third Reading Calendar.

Senator Libous, why, since we had that ruling of the chair either one or two weeks ago, would we need to change the rule tonight?

SENATOR LIBOUS: Mr. President, I'd be happy to answer that.

Because, as I explained on the floor, Mr. President, about a week ago or whenever that took place, for the past number of years when we were in the majority, it was always the Republicans' policy to report a budget bill from the Senate Finance Committee to the floor. For whatever reason, when the Democrats were in charge, they changed that policy and they reported it from Finance to Rules and to the floor. They believe they're right, we believe we're right. That's everybody's respectful right to disagree.

So what we're doing here, since I think within the next 24 hours a number of major budget bills are going to come to the floor, and because we think it's important to get those bills passed before midnight on Thursday, and because we believe we were always right, we're codifying the rule.

And I don't think there's anything wrong in codifying the rule, making it a matter of fact. Because, Mr. President, I would guess if we didn't and we continued to do it the way we believe is right, my guess is the other side of the aisle might challenge us.

SENATOR LIZ KRUEGER: Thank you, Mr. President. On the resolution.

ACTING PRESIDENT FLANAGAN: Senator Krueger on the resolution.

SENATOR LIZ KRUEGER: Thank you.

First off, since you didn't need the rule change last week but you need the rule change this week -- suddenly, urgently, with no notice to anyone that they're doing these rules tonight -- I would actually question the sincerity of the argument for codifying as opposed to actually changing the rules. We are changing the rules. We're skipping a process for budget bills.

Budget bills are the most important legislation we do here in the Legislature each year. Budget bills should be publicly available, easy to understand, transparent. They should not be

done by skipping the process. The process is critical for budget bills. So for the record, budget bills should have to move from Finance to either a third reading, a unanimous consent, or the Rules Committee. We have three options available to us. And this rule change is intended to skip that public process.

Second off, I have to disagree with my colleague's response to Senator Squadron's questioning. These weren't the numbers, as referenced by Senator Libous. Actually, we looked and when the Democrats had the Senate prior to the coup, it was 18 Democrats, 15 Republicans, the ratio -- I'm sorry, and after the coup, excuse me.

And so there's a logic to having a weighted number of Democrats and Republicans on committees. In fact, those rules were negotiated, negotiated between the Republicans and the Democrats. July 9th and July 15th, the two dates referenced, those were negotiated changes because of the recognition during the coup that the rules were not in everybody's best interest.

So when I hear my colleagues here tonight say we need to change the rules to pre-coup, I have to say I don't think that's a very good idea for any of us. And in fact I've heard many of my colleagues from both sides of the aisle speak about why the coup might have happened.

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

SENATOR LIBOUS: Would Senator Krueger yield for a question?

ACTING PRESIDENT FLANAGAN: Senator Krueger, will you yield to Senator Libous?

SENATOR LIZ KRUEGER: Let me just finish the sentence and I'll be happy to yield.

SENATOR LIBOUS: Thank you, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

So again, when I hear my colleagues talk about wanting to go back to pre-coup rules, it gives me pause and I think it should give all of us pause. Because this has been a process where each time we've changed the rules in the last few years, and we've done it now several times, we've all talked about wanting to move forward, we've talked about wanting to get more things on the agenda for improved rules for the Senate. And I see this as a giant step backwards.

And now I'm happy to yield to Senator Libous.

ACTING PRESIDENT FLANAGAN: Senator Libous, Senator Krueger will yield to a question.

SENATOR LIBOUS: Thank you, Mr. President.

Senator Krueger, are you familiar with a document that was put out by your side of the aisle, Senator Smith, it was April 1, 2009, to March 31, 2010, it was the Fiscal Committees' Executive Budget?

SENATOR LIZ KRUEGER: I don't have it memorized. I'm sure that that is true, and I'm sure if I took a look at it I could remind myself of the details. But please, Senator Libous, continue.

SENATOR LIBOUS: Well, I just -- for the record, Mr. President, it shows in that document 19 Democrats and 14 Republicans on the Senate Finance Committee.

I have another document here which is the actual record of the Senate. And in all due respect to my colleague, Mr. President, on January 11, 2010, it shows 19 Democrats and 14 Republicans on the Finance Committee and 14 Democrats on Rules and 10 Republicans.

So I certainly understand that possibly Senator Krueger's numbers are a little mixed up. But I'm referencing official documents of the Senate.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Libous.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Responding to Senator Libous, I will be happy to take a look at the report. Looking at the Legislative Digest for 2010, it's 18/15.

But again, to clarify the change, that was made post-coup. So I did misspeak and correct myself earlier about pre- and post-coup.

Again, post-coup, I think we made some progress. I'm very disturbed to see us going back to pre-coup rules, taking a step backwards at this time both in skipping an important procedural step for moving budget bills -- again, Senator Libous is absolutely right. The Republicans have the majority. That is established in each committee. It is established by what bills come to the floor. It is established by what agenda gets moved.

I really don't understand why tonight, before we do the budget, having a majority isn't apparently enough, we need to plus 5 percent on the two most critical committees of the State Senate.

I also don't quite understand why we have a model or we're proposing a model where you get to swap in and out your members in these two key committees with an hour's notice. I don't think I have ever heard of any process for establishing legislative committees or the important role of legislative committees where you just move the members on and off with an hour's notice, perhaps because somebody hasn't shown up in time. I think that is fundamentally a dangerous procedure for a legislative body to follow, sort of musical chairs to make sure you have the chairs filled in two committees at any given time.

And again, to point out the role of the Majority counsel in accepting changes in the Finance and Rules Committee, conceivably that means the Majority counsel can reject the change in the Finance and Rules Committee. And that is, granted, a decision for my colleagues on the other side of the aisle. But I think we all talk quite a bit in this place about sometimes having too many staff-driven decisions as opposed to the elected driven decisions.

And to note several times now in the Rules Committee this year, when Senator Breslin attempted to follow the rules of this house and move a petition to move a bill for a hearing, we were told that the chair of the committee, Senator Libous, couldn't accept or reject the petition to move a bill to a public hearing, it was the clerk of the committee. And I've argued before and I'll argue again that's not supposed to be the model, that legislators get overridden by counsels or clerks.

So I think all of these changes in the Senate rules are going in the wrong direction. They are not in the best interests of democracy, small-D democracy. One has to raise the question why

they are popping up tonight with no notice and no opportunity for anyone other than those of us standing here tonight and sitting here tonight to really review or even ask questions about why these rule changes must be done tonight. I'm urging every member to vote no.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Krueger.
Senator DeFrancisco on the resolution.

SENATOR DeFRANCISCO: I think we've had enough. Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator DeFrancisco.
Senator Skelos on the resolution. Senator Skelos.

SENATOR SKELOS: Would Senator Squadron yield for a question?

SENATOR SQUADRON: Absolutely, Mr. President.

SENATOR SKELOS: Senator Squadron, right now in the Senate, how many Democrats have chairmanships of committees?

SENATOR SQUADRON: Through you, Mr. President, I am less familiar with the makeup of the Senate than the leader is, so I would defer back to him.

SENATOR SKELOS: So we have three Democrats and a chairman of a legislative commission, so we have four Democrats in leadership positions that we've appointed. Is that correct?

SENATOR SQUADRON: Through you, Mr. President, yes.

SENATOR SKELOS: On the joint conference committees, where they're normally Republican-Democrat appointments, how many Democrats have been appointed by the Republican side to be on joint conference committees as one of our appointments?

SENATOR SQUADRON: Through you, Mr. President, I believe the same Democrats.

SENATOR SKELOS: Four. Do you recall how many Republicans when we were in the minority were appointed to joint conference committees by the then-Democrat majority?

SENATOR SQUADRON: Through you, Mr. President, I don't. I believe the number is none.

SENATOR SKELOS: Now, let me ask you, how do you define proportional representation?

SENATOR SQUADRON: Through you, Mr. President, I wouldn't deign to define proportional representation, I would refer to the current rules to do so. In -- I believe it's Rule VI, Section 1, paragraph C.

SENATOR SKELOS: So again, how would you define it? Would it be 32 Republicans, 30 Democrats? Or would it be 32 Republicans, 26 Democrats, and four independent Democrats?

SENATOR SQUADRON: Through you, Mr. President, as we discussed quite a bit at the beginning of this session, both on and off this floor, there really is no process. I believe we in fact had this debate around the adoption of the rules. There is no process for anything other than two conferences.

SENATOR SKELOS: So we couldn't --

SENATOR SQUADRON: So based on that I would say 30/32.

SENATOR SKELOS: -- proportional representation and through the Majority Leader, because appointments are made in consultation to make sure that all are represented well, technically the Majority Leader could appoint four from the Independent Democrat Conference to these committees.

SENATOR SQUADRON: Through you, Mr. President, in order to ensure that both conferences are represented well, I would very respectfully -- and I appreciate the opportunity to have this conversation with Senator Skelos on the floor, but I would respectfully suggest that any time that the majority is deciding what fair representation for the minority is isn't fair by its very nature.

So certainly the points that Senator Skelos made are accurate and reflect there are four Democrats in the position Senator Skelos said. Those same four Democrats had roles on the conference committees appointed by Senator Skelos.

The truth is that real representation for a minority really must come through the minority leader, because otherwise there are all sorts of risks. And in fact we had this very debate on this floor at the beginning of the session when we talked about some of the risk of having multiple conferences and having the majority decide which minority members get representation.

The real concern here tonight, Mr. President, has to do with the makeup of these committees, though I'm certain in a week as serious and important as this one we're not going to see games or any such thing in terms of the committees. The issue is the change of the rules, the way the change of the rules is happening, the permanence of it, the slippage back to a time when this Senate wasn't as fair to the majority/minority parties, and an unprecedented empowerment of someone who's not elected to the Senate at all to accept or reject voting members of these committees.

So, you know, I don't think that it is up to the majority to decide what's fair for the minority or, equally, for the minority to decide what's fair for the majority. That's why we have two conferences and two conference leaders.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Squadron.

The question is on the adoption of the resolution. All those in favor signify by saying aye.
(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.
(Response of "Nay.")

ACTING PRESIDENT FLANAGAN: Senator Breslin.

SENATOR BRESLIN: Mr. President, can we have a show of hands, please.

ACTING PRESIDENT FLANAGAN: Those wishing to be in the negative please raise your hands.
(There was a show of hands.)

ACTING PRESIDENT FLANAGAN: The Secretary will announce the results.
THE SECRETARY: Ayes, 35. Nays, 23.

ACTING PRESIDENT FLANAGAN: The resolution is adopted.
Senator Libous.

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

ACTING PRESIDENT FLANAGAN: There is no further business, Senator Libous.

SENATOR LIBOUS: Mr. President, I hand up the follow committee assignment by Senator Skelos and ask that it be filed.
Mr. President, have we adjourned?

ACTING PRESIDENT FLANAGAN: No, Senator Libous, we haven't.

SENATOR LIBOUS: Thank you. Because for a moment there I thought we had adjourned.
Because I have a very important message to announce, Mr. President. There being no further business to come before the Senate, I move that we adjourn until Tuesday, March 29th, at 3:00 p.m.

ACTING PRESIDENT FLANAGAN: Senator Libous, the committee assignment is so ordered to be filed in the Journal.
On motion, the Senate stands adjourned until Tuesday, March 29th, at 3:00 p.m.
(Whereupon, at 8:52 p.m., the Senate adjourned.)