



## **What a week! The Capitol has been in total chaos for four days.**

This week in the Capitol has been like a Shakespearian tragedy/farce with emphasis on the farce. With ten days remaining in session, this is the time when serious “three-way” negotiations are usually taking place and a flurry of legislation is being passed. Instead of the work of the people getting done, on Monday afternoon a coup was initiated by the Republican Minority against the Democratic Majority.

This coup was a total surprise to everyone in the Capitol; apparently most surprised was Malcolm Smith, the Majority Leader. Two dissident Democrats—Hiram Monserrate (D-Queens) and Pedro Espada, Jr. (D-Bronx) flipped from the Democratic Majority to the Republican Minority, thereby putting the Republicans in the majority by two votes. As the galleries above the Senate Chamber began to fill to capacity as word spread of the coup on the floor, Senator Thomas Libous (R-Binghamton) stood up and made a resolution to change the leadership of the Senate. Senator Neil Breslin, presiding that day, immediately called for adjournment, banged the gavel and the Democrats left the Chamber except for Mr. Monserrate and Mr. Espada. The Republican Senator George Winner then took the podium and declared a quorum present to do the business of the Senate. Suddenly, it was dark in the Senate Chamber, except for one small lamp on the clerk’s desk; the Democrats had turned off the lights and pulled the plug on the video feed so there was no longer any gavel to gavel coverage of the Senate. The lights did go back on and the Republicans voted Mr. Espada as the new President Pro Tempore and Mr. Skelos as Vice-President and Majority Leader. The Republicans then passed a set of rules to govern the Senate. The Senate was then adjourned until 3 p.m. on Wednesday. As soon as the Republicans left the Chamber, Angelo Aponte, Secretary of the Senate and a top advisor to Senator Malcolm Smith, locked the large iron gates to the Senate Chamber. The Senate lobby remained darkened and the gates locked until Thursday at 11 a.m., when Republicans forced their way in.

A little information about the principal characters in this political struggle:

- Pedro Espada, Jr. (D-Bronx) ---Mr. Espada was originally elected to the State Senate in 2002 and then when it became apparent to the public that he was more Republican than Democrat, he lost his seat to Senator Efrain Gonzalez, who is now in prison for mail fraud. Mr. Espada was re-elected in November 2008 and has been under a cloud of investigation for several months. He's under investigation by the AG's office for funneling state money into his Bronx health care business which goes back to one of the reasons why he lost his Senate seat originally. It appears that he is angry with Majority Leader Malcolm Smith because Mr. Smith refused his member item request of \$1.2 million dollars. On close examination by the Senate Majority office, it was discovered that Mr. Espada had set up two new companies whose validity could not be substantiated. On top of this, according to the SBOE, Mr. Espada has not filed his campaign finance filings for either his 2008 state campaign or his filing with the NYC BOE for his campaign for office the city. The SBOE has fined Mr. Espada for a total of approximately \$61,000 dollars which has not been paid.

- Hiram Monserrate (D-Queens) ---Mr. Monserrate has been indicted on felony assault charges for slashing his girlfriend's face with a broken bottle. He is scheduled for trial on that assault in July 2009.
- Tom Golisano/Steve Pigeon—Mr. Golisano and his advisor allegedly orchestrated the coup. Mr. Golisano is a Rochester billionaire who recently changed his residency to Florida; he also ran a losing campaign (3 times) for NYS Governor. Mr. Pigeon is a former Erie County Democratic Party chairman. Mr. Pigeon is also a co-chairman of Responsible New York, a political organization backed by Tom Golisano.

Tuesday was a dark day in the Senate, all committee hearings were cancelled and the Democrats remained behind closed doors putting together a legal strategy on how to undo the coup and simultaneously trying to apply pressure to Mr. Monserrate to flip back into the Democratic Conference. At one point, I was told that there were 25 attorneys in the fifth floor offices of the Democratic Senate trying to put together a legal strategy.

Wednesday began with a Press Release advising the press that there would be a Press Conference held at 2:30 p.m. by the "Coalition Government." Because the Republicans would not use the minority conference room for any Press Gathering (they wanted to appear as if they were in the majority), the Press Conference was slated for outside the locked doors of the Senate Chamber. By 2:00 p.m. hundreds of Press from all over NYS and lobbyists from all over the Capitol began gathering in the lobby. 2:30 p.m. came and went, 3:30 p.m. came and went and 4:00 p.m. came and went. A press person from the "Coalition Government" (30 Republicans and 2 dissident Democrats) came out periodically to say: "just five more minutes." It was hot and reporters became increasingly frustrated. It was apparent that all was not well with the new coalition. Behind closed doors Mr. Monserrate was being pressured by the Democrats and cajoled by the Republicans; rumors were rampant that he kept raising the ante as to which way he would go. Finally at 4:30 p.m. Mr. Skelos, Mr. Espada and Mr. Monserrate made their way to the podium. Reporters began shouting questions, such as: "What do you want Mr. Monserrate?" "Did you make a deal Mr. Monserrate?"

Mr. Espada spoke about the new "Coalition Government" and how they intended to bring "reform" and "ethics" back to the state Senate. He then held up a key and vowed that they would unlock the door and go into session the next day at 11:00 a.m. Mr. Monserrate said that there would be more Democrats joining the new coalition. Mr. Skelos looked uncomfortable and never said a word. During the rest of the day more meetings were held behind closed doors for both Democrats and Republicans.

Thursday morning brought more people into the Senate lobby including a large group of protestors holding signs which said: "Voters Not Donors" and "Senate Not For Sale." At 11:00 a.m. reporters swarmed Mr. Skelos and Mr. Espada as they appeared from the Senate Minority Offices and walked toward the Senate Chamber. The protestors started chanting "Voters Not Donors" and "Senate Not For Sale." There was much jostling by protestors, cameramen and Senators trying to push into the Senate Chamber through the center doors which are not normally used. It was a near riot and total chaos!!!! Finally the Sergeants at Arms were able to get Senators and the Press inside the Senate Chambers. People began running for the stairs to get a seat in the Senate gallery. Senator Winner gavelled in by using his cell phone since the gavel was

locked up. Mr. Monserrate spoke and said that if a vote were taken he would vote “no” since there were no other Democrats present and he was a loyal Democrat. Speculation is that Mr. Monserrate is receiving tremendous pressure from organized labor, constituents and elected officials in his district to return to the Democratic fold.

Also on Thursday, the Democrats went into Albany County Court to file for a TRO (Temporary Restraining Order) to enjoin Mr. Espada from being able to become Governor if Governor Paterson became incapacitated. The judge refused to issue a TRO but agreed to hear the legality of the initial coup and scheduled arguments for Friday morning. The Democrats then went to Rensselaer County judge who also refused their request and from there they went to Kingston where Third Department Appellate Judge Karen Peters granted their TRO request but only until Friday afternoon. Both parties were back in court at 9:00 a.m. on Friday morning before Supreme Court Judge McNamara who strongly requested that they work this out between the parties since he did not want to involve the judiciary in a legislative dispute. Stay tune for more legal arguments.

If Mr. Monserrate is persuaded to rejoin the Democrats, there will be a 31-31 tie and no Lieutenant Governor to break that tie. This would continue the power vacuum with no Majority Leader; with this power vacuum, no one is sure how the business of the Senate will operate. The remedy for this situation would only be a constitutional amendment which could not be done until two consecutively elected Legislatures agreed with ratification by the people. Clearly that will not help in the immediate future. The only other recourse would be for more Democrats and/or Republicans to join one side or the other, giving one side a clear majority.

The biggest casualty of this week’s chaos is that the business of the citizens of New York has come to a complete stop. Although the Assembly continues passing bills, they have no partner in the Senate with whom to negotiate and in Albany, unless there is three-way agreement, nothing can be accomplished. This has been an embarrassing week for representative democracy and the people of New York deserve better.