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ALBANY, NEW YORK

March 17, 1993

3:08 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

1                   ACTING PRESIDENT FARLEY: The  
2                   Senate will come to order. Senators will find  
3                   their places.

4                   Will you please rise for the  
5                   Pledge of Allegiance to the Flag.

6                   (The assemblage repeated the  
7                   Pledge of Allegiance to the Flag.)

8                   Today, in the absence of clergy,  
9                   we'll bow our heads for a moment of silent  
10                  prayer.

11                  (A moment of silence was  
12                  observed. )

13                  ACTING PRESIDENT FARLEY:  
14                  Secretary will begin by reading the Journal.

15                  THE SECRETARY: In Senate,  
16                  Tuesday, March 16th. The Senate met pursuant to  
17                  adjournment, Senator Daly in the chair upon  
18                  designation of the Temporary President. Prayer  
19                  by the Reverend Vincent Gordon of Bethany Chapel  
20                  of Brooklyn, New York. The Journal of Monday,  
21                  March 15th, was read and approved. On motion,  
22                  session -- on motion, Senate adjourned.

23                  ACTING PRESIDENT FARLEY: Hearing

1 no objection, the Journal will stand approved as  
2 read.

3 The order of business:

4 Presentation of petitions.

5 Messages from the Assembly.

6 Messages from the Governor.

7 Reports of standing committees.

8 We have a report of a standing  
9 committee. Senator Mega, chairman of the  
10 Judiciary Committee.

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

13 From the Executive Chamber dated  
14 February 22nd, 1993: To the Senate: Pursuant to  
15 the provisions of Section 2 of Article VI of the  
16 Constitution and the provisions of subdivisions  
17 (2), (3) and (4) of Section 68 of the Judiciary  
18 Law, I hereby nominate as chief judge of the  
19 Court of Appeals, Judith Smith Kaye, of New York  
20 City, to fill the vacancy caused by the  
21 resignation of Sol Wachtler. Signed, Mario M.  
22 Cuomo, Governor.

23 Mr. President, this is the report

1 to the full Senate that the Judiciary Committee  
2 met this morning for approximately three hours  
3 and took testimony relative to the qualifica  
4 tions of Judge Judith Smith Kaye, and before I  
5 report completely on what occurred at the  
6 committee meeting, at this time, I would like to  
7 yield to Senator Cook for the purpose of moving  
8 the nomination.

9 ACTING PRESIDENT FARLEY: Senator  
10 Cook for the purpose of nomination.

11 SENATOR COOK: Mr. President,  
12 thank you very much.

13 Going to start out by taking some  
14 exception to what I think some of my colleagues  
15 might be saying, which is that this is a histor  
16 ic occasion because we are confirming the first  
17 woman as chief judge of the Court of Appeals,  
18 because auspicious as that may be and certainly  
19 is, the real important thing is that we are  
20 confirming the best candidate that could be  
21 found for that office. That woman -- that  
22 person happens to be a woman, and she happens  
23 also, Mr. President, if I may indulge in a bit

1 of parochialism, to be a native of the 40th  
2 District and, in the tradition of -- following  
3 in the tradition of another native of not only  
4 the 40th District but, indeed, the same village  
5 of Monticello, of Judge Cooke, Judge Lawrence  
6 Cooke, who also I had the privilege of  
7 nominating some years ago.

8 So this is a real double  
9 privilege for me, and I want to tell you, Judge  
10 Kaye, before I launch into this formally, that  
11 there is a real celebration going on in  
12 Monticello, in Sullivan County, at this time.  
13 It's not the kind of thing that is fireworks and  
14 popping champagne corks necessarily, but there  
15 are a lot of people who know you personally and  
16 who hold very warm memories and thoughts of you,  
17 and who, within their hearts, are celebrating,  
18 and within the conversation of the community are  
19 celebrating this great occasion with you.

20 As I indicated, Judge Kaye was -  
21 is a native of Monticello, graduated from high  
22 school in that community, and then moved on to  
23 other locales to pursue her legal career,

1 attending college at Barnard College and later  
2 attending New York University Law School. She  
3 nevertheless is a distinguished favorite  
4 daughter of Sullivan County and of Monticello,  
5 and Judy Smith is a person who is held in -  
6 with great warmth in the thoughts of many people  
7 down there.

8 It serves little purpose probably  
9 to dwell upon Judge Kaye's legal qualifications  
10 since they are so well known. I wanted to share  
11 just a couple of personal thoughts for a moment,  
12 that I found out this morning in talking with  
13 her that she and I share some common experi  
14 ences. Both -- we are both farm -- farm kids,  
15 born on farms in adjoining counties, and we also  
16 attended one-room schoolhouses and, as chairman  
17 of the Education Committee, I find it's  
18 interesting that the chief judge indeed can be a  
19 product of a one-room school which is -- she and  
20 I are probably ones of the very few people of  
21 our general age category who share that  
22 background.

23 But Judge Kaye indeed is a

1 distinguished jurist. She has been an active  
2 and respected participant in formulating the  
3 legal opinions of the Court of Appeals since her  
4 original appointment in 1983. Her sharp mind is  
5 evidenced by her questioning of the parties and  
6 her grasp of the issues that are central to the  
7 cases which appear before the court, and her  
8 votes on the court have been motivated by a  
9 respect for the law and for precedents and by a  
10 reading of the Constitution that is strongly  
11 steeped in personal individual rights.

12 Mr. President, out of custom, I  
13 will briefly recite some of Judge Kaye's  
14 remarkable biography, but I would preface this  
15 reading by saying that the thing that really  
16 matters is her deep personal traits of  
17 intelligence, of dedication and integrity, and a  
18 life that has been devoted in equal balance to  
19 her public duty and to her family  
20 responsibilities.

21 As I said, Judge Kaye graduated  
22 from Monticello High School as Judith Smith  
23 then, graduated from Barnard College, later

1 enrolled in New York University Law School. She  
2 was associate editor during her law school  
3 career of the Law Review, graduated cum laude in  
4 1962. She became a litigation associate and  
5 then later a partner in Olwine, Connelly, Chase,  
6 O'Donnell & Weyher in the year 1969. Prior to  
7 that, she was an assistant to Dean Niles at the  
8 New York University Law School, worked for a  
9 year with the IBM corporation, and had worked  
10 for a time with Sullivan & Cromwell, another New  
11 York City law firm.

12 Judge Kaye is married to Stephen  
13 Rackow Kaye, himself a New York attorney, I be  
14 lieve a native of Rockland County. Their chil  
15 dren, Lisa, Jonathan and Gordon, have disting  
16 uished themselves in a variety of ways, ranging  
17 from law to engineering to linguistics to sports  
18 management. In fact, she tells me at this point  
19 that one of her children is in Europe skiing and  
20 the other one is in Europe playing -- playing  
21 hockey. So they indeed are very active people.

22 Judge Kaye's service in a variety  
23 of prestigious panels and positions is document

1 ed in a list which occupies an entire page and  
2 which I will not, mercifully, read to you at  
3 this time, but which all the members have  
4 available to them, and her list of published  
5 writings is of equal length.

6 In one newspaper column which  
7 dwelt on Judge Kaye's personal characteristics,  
8 one lifetime friend is quoted as speculating as  
9 to "how her soft voice would be heard in a  
10 courtroom." Mr. President, I predict that not  
11 only will her voice be heard in the courtroom  
12 and in courtrooms across the state of New York,  
13 but indeed they will echo across this nation as  
14 she will be even better known as a distinguished  
15 scholarly and compassionate administrator and a  
16 leader for this, one of the greatest courts in  
17 the nation over which she will preside.

18 Thank you.

19 ACTING PRESIDENT FARLEY: Senator  
20 Mega.

21 SENATOR MEGA: Yes. Thank you,  
22 Mr. President.

23 A second on the nomination, and

1 Senator Cook has said it all so well, and really  
2 covered what had to be said about the new chief  
3 judge or soon-to-be chief judge of the Court of  
4 Appeals of the state of New York.

5           Knowing that the Governor once  
6 played baseball, I likened this situation to a  
7 baseball game. The judiciary is losing three to  
8 nothing in the top of the ninth, and up comes  
9 Mario Cuomo to bat, and he hits a home run with  
10 the bases loaded and wins the game, and that's  
11 what I believe the Governor has done in this  
12 situation. He's hit a home run with the bases  
13 loaded at a time when we need the kind of  
14 leadership that Judge Kaye will bring to the  
15 court.

16           Merit, experience, ability, human  
17 decency, intellectual scope, they are the  
18 characteristics we look for in a chief judge,  
19 and from all that I've heard during the process  
20 and all that I've learned about Judge Kaye, she  
21 possesses all of these characteristics.

22           The Judiciary Committee met, as  
23 I've indicated, for almost three hours this

1 morning and took testimony and made the kind of  
2 record that is to be made when we do something  
3 of such importance that affects all the people  
4 of the state of New York in such really a  
5 personal way, even though many of them may not  
6 realize that until some day they might come into  
7 contact with the judicial system.

8 So I think we do an extremely  
9 important thing today by confirming a judge who  
10 has the outstanding qualifications and  
11 credentials to lead the Court at a very serious  
12 time. It's well known that Judge Kaye was on  
13 President Clinton's short list for the position  
14 of U. S. Attorney General. Many have said that  
15 her stated preference to remain in the Court of  
16 Appeals is the President's loss and our gain,  
17 and I certainly agree with that.

18 Leadership, as I've indicated,  
19 surely is a crucial one at this period of time  
20 in the history of this great court, and it is a  
21 great court, for the Court of Appeals is a  
22 judicial body that has been known more in the  
23 words of one observer for its consensus than

1 contentiousness and, based on all that I've come  
2 to know and all that the members of the  
3 Judiciary Committee have come to know about  
4 Judge Judith Kaye, she promises to continue to  
5 be that way when she becomes the chief judge.

6           Again, it was loud and clear from  
7 the testimony that you are a leader, you are a  
8 scholar, you are a student of the law, and there  
9 was some concern about the leadership aspect  
10 but, after listening to the testimony, the  
11 Committee is well satisfied, and I'm certainly  
12 well satisfied that you will bring the kind of  
13 leadership needed in the Court at this very  
14 crucial, crucial time.

15           So I thank all the members of the  
16 Judiciary Committee, the ranking minority  
17 member, Senator Leichter, and all of the members  
18 that participated to make the system work, and  
19 it does work. You know, sometimes there's an  
20 indication that maybe we should be more like the  
21 federal system. I say nay. I say that our  
22 system is better, and it's stronger than the  
23 federal system, because we have not politicized

1           it. We have taken the best and have put the  
2           best on the Court of Appeals and that's what  
3           we've done in nominating and confirming shortly  
4           the new chief judge of the Court of Appeals.

5                         We have not "Borked" anybody. We  
6           have not tried to make anybody look bad during  
7           the confirmation process, because that's not  
8           what it's about. What it's about is getting the  
9           best qualified person to sit on that court and,  
10          in this instance, we have done that. So I am  
11          proud to be part of this process.

12                        I second the nomination of the  
13          new chief judge of the Court of Appeals, Judge  
14          Judith Smith Kaye, and I wish you and your  
15          family well, and I say I wish for you and your  
16          family what I wish for myself and my family,  
17          continued success and, most of all, good health,  
18          good health; and any way that I, as chairman of  
19          the Judiciary Committee, can be helpful in your  
20          new duties, I certainly would try to be.

21                        Congratulations.

22                        ACTING PRESIDENT FARLEY: Senator  
23          Nolan.

1                   SENATOR NOLAN: I'm going to be  
2                   brief, because I have a throat that makes it  
3                   very difficult for me to speak today and a lot  
4                   of people probably think that's pretty good.

5                   But, Judge, I just first want to  
6                   take the opportunity to congratulate Mario Cuomo  
7                   on naming Judith Kaye to this great position as  
8                   chief judge of the Court of Appeals.

9                   It's been said before, but it  
10                  certainly was a tremendous choice. Judith Kaye  
11                  has been a brilliant lawyer, a great judge. She  
12                  has written some tremendous opinions. She has  
13                  -- her writings really are some of the sharpest  
14                  writings that I personally have seen in the  
15                  Court of Appeals in many, many years.

16                  And so, although the fact that  
17                  Judge Kaye is a woman is certainly a historic  
18                  first, but even more important she was the best  
19                  qualified person to become the chief judge of  
20                  this Court of Appeals.

21                  She follows a -- comes from a  
22                  very illustrious place, Monticello, New York.  
23                  My -- one of the three senior law partners in my

1 law firm, Richard Weiner, who comes from an old  
2 family down in Monticello, and he said to say  
3 hello to you, Judge, so Joe Wasser, there's been  
4 so many great people from down there, and you  
5 certainly -- are certainly not the least but  
6 moved to the front of all of these great folks  
7 from Monticello.

8 I also want to point out that  
9 Judge Kaye also happens to be a woman for all  
10 seasons. Lo and behold, last summer I was part  
11 of an official delegation of the city of Albany  
12 to the city of Verona, and lo and behold, who  
13 wound up going to the opera one night with us,  
14 it was Judge Kaye and her husband, and she  
15 certainly is a great fan of opera, and I know  
16 you'll continue that as well as being a great  
17 judge.

18 So I'm pleased and happy to  
19 second this nomination, Judge, and God bless and  
20 Godspeed, and I know you'll do a great job in  
21 leading this court forward.

22 ACTING PRESIDENT FARLEY: Senator  
23 Smith.

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

3                   Since her appointment as  
4                   associate judge to the Court of Appeals in 1983,  
5                   Judge Kaye has illustrated her clear  
6                   understanding of the law, and she has helped  
7                   shape the judicial protocol of the state and has  
8                   enlightened the court's decisions with her  
9                   unique and vibrant persona.

10                  Judge Kaye is clearly one of the  
11                  most astute jurists in this country. She has  
12                  the credentials, temperament and the vision to  
13                  lead the New York State Court of Appeals into  
14                  the next century.

15                  I applaud Governor Cuomo for  
16                  making this nomination. I applaud all of you  
17                  for voting for Judge Kaye, and I know that she  
18                  will represent all of the people of the state of  
19                  New York, but especially the majority, the women  
20                  of the state, who are extremely proud of you and  
21                  we hope to be here behind you in every way  
22                  possible.

23                                    Congratulations!

1                   ACTING PRESIDENT FARLEY:  Senator  
2                   Galiber.

3                   SENATOR GALIBER:  Thank you, Mr.  
4                   President.

5                   I rise to join my voice with my  
6                   colleagues who have so many good things to say  
7                   about this candidate.

8                   I had the -- the Governor and I  
9                   don't always agree, Mr. Chairman.  From time to  
10                  time, we go in different directions.  Every now  
11                  and then, though, he does some good things and  
12                  we are glad then to support him.  This is one of  
13                  the better things that he has done.

14                  This justice of our court, soon  
15                  to become judge -- chief judge of the Court of  
16                  Appeals, as I listened to the comments this  
17                  morning, and I knew them all along, all those  
18                  good things that were said, some nine and a half  
19                  years ago I had the opportunity to hear some  
20                  things that led me to believe that nine and a  
21                  half years later, they would certainly be better  
22                  than they were then.  Such things as compassion  
23                  which you don't hear often in the judicial

1 branch of government, even-handed treatment, and  
2 this young person who brings so much dignity to  
3 our court, an even-handed administrator, that's  
4 what she will be, an even-handed administrator,  
5 as she metes out justice in the state of New  
6 York.

7 Love of people, dignity, some of  
8 our communities that I come from where they give  
9 persons extra credit for life experiences. They  
10 give them so much credit in college because of  
11 what they've done in their life experience.  
12 Judge Kaye has so many qualifications just in  
13 life experiences, which is rare in our judicial  
14 process or branch of government.

15 I had an opportunity to question  
16 Judge Kaye, no, just to make some observations  
17 because I don't think any of us really  
18 questioned her. I mentioned at the end that she  
19 had been instrumental, along with the last  
20 appointment, and that was Bundy Smith converted  
21 me from a merit -- back to a merit system, not  
22 back to a merit system but to a merit system  
23 which I had some doubts about before because

1 I've been around long enough to know that some  
2 20-odd years ago, when you mentioned merit,  
3 merit was used to exclude people, not to judge  
4 their qualifications. So I have been  
5 converted.

6 I talked to Judge Kaye this  
7 morning about some troubled areas, recognizing,  
8 of course, as we all know that racism in our  
9 judicial system is alive and doing well and  
10 pointing up that, as a result of the former  
11 justice, judge, chief judge of the Court of  
12 Appeals, who recognized and was sensitized also,  
13 asked for some report, the Franklin Williams  
14 report, and a couple of other task forces, which  
15 meant that things weren't happening in our  
16 judicial system as they should be, and she  
17 assured us that she would carefully, carefully  
18 take all those factors into consideration and  
19 she could do that with ease because being the  
20 person that she is, with that experience that  
21 she has had, the outside experience, this living  
22 experience, assured me that she will be fair and  
23 just and careful as to who is picked as

1 administrator for her to see to it that some of  
2 the troubled areas that she is aware of will be  
3 resolved.

4 So I am happy that our system is  
5 working. I was privileged to meet some good  
6 friends this morning, old friends, and I want to  
7 take this opportunity, Mr. Chairman, to thank  
8 you for running such a great judiciary, as you  
9 have since you've been the chairperson. I was  
10 honored and privileged to be your ranking  
11 minority at one time, but Franz Leichter came  
12 and pushed me out a little bit, and that was  
13 O.K., because it came in good hands.

14 But I had an opportunity to  
15 reflect back, John Marchi, Senator Marchi, and  
16 Dick Bartlett, who was there saying good, kind,  
17 honest things this morning; Judge Hugh Jones  
18 again, who I was privileged to serve with on the  
19 Jones Commission -- that was a knee-jerk  
20 reaction to the Attica situation -- and a few  
21 others.

22 So, Judge Kaye, I'm very happy  
23 for you, and I'm happy for your family and, most

1 of all, I'm happy for the people of the state of  
2 New York, your coming on board.

3 ACTING PRESIDENT FARLEY: Senator  
4 Ohrenstein.

5 SENATOR OHRENSTEIN: Mr.  
6 President, I'd like to yield to Senator Leichter  
7 who is the ranking member on Judiciary, for the  
8 purpose of seconding this nomination.

9 ACTING PRESIDENT FARLEY: Senator  
10 Leichter.

11 SENATOR LEICHTER: Mr. President,  
12 I'm happy to join my colleagues here in second  
13 ing this nomination.

14 As much as a confirmation, this  
15 is also a celebration. It's a celebration  
16 because it's a historic moment. We're about to  
17 confirm the first woman as chief judge of the  
18 state of New York. Unfortunately, it took us  
19 some 200-plus years to reach this point and,  
20 unfortunately, we've only had one woman serve as  
21 an associate justice, and that happens to be  
22 indeed the person that we're about to confirm as  
23 chief judge. But this is a step forward, a

1 significant step forward.

2           It's also a celebration because  
3 we're filling this post with a person of  
4 outstanding qualifications. We are really,  
5 indeed, fortunate that we have found somebody  
6 with the excellent credentials of Judge Kaye.  
7 Make no mistake about it. This is a very, very  
8 special appointment. This is a special person.  
9 This will be an outstanding chief judge, and I  
10 think that's particularly important because we  
11 had as predecessor an outstanding chief judge.  
12 And it must be said, and I think we all very  
13 much feel the pain and the tragedy which created  
14 the vacancy, and sometimes when you have a  
15 situation with that pain one doesn't talk about  
16 it, but I would hope that there would be an  
17 occasion where we as a Legislature as well as, I  
18 would hope, other segments of our society, the  
19 bar and so on, would celebrate the outstanding  
20 work that Judge Wachtler did, and irrespective  
21 of whatever may have happened, the fact is that  
22 he was an outstanding chief judge, and that  
23 needs to be recognized and makes it all the more

1 important that we have found somebody who will  
2 carry on in the same outstanding tradition.

3 And let me say the style may be  
4 different, and I'm sure that Judge Kaye will  
5 bring to this position her own method, her own  
6 manner, but nobody should make any mistake that  
7 she will have that commitment, that conviction  
8 and that fight for those issues and those  
9 matters that are important for the judiciary,  
10 just as Judge Wachtler did.

11 You've heard of the outstanding  
12 record that she has had as a member of the bar,  
13 as a member of the Court of Appeals. She brings  
14 intelligence; she brings clarity, candor, a  
15 succinctness. I just want to say that she  
16 exhibited at the hearing today an ability to  
17 answer questions in a very simple, clear,  
18 understandable manner. There are some judges  
19 whose skill or profundity is based on the fact  
20 that nobody understands what they say, so the  
21 belief is that they must be very profound. This  
22 is a judge whose skill is to be very clear, and  
23 what makes her profound is the fact that you can

1 understand what she says.

2 Let me say that I know that she  
3 is an extremely hard worker because of a  
4 personal experience I had. Unaccustomed as I am  
5 to get to my office early, I did so this morning  
6 and I look in the hall and I see two people  
7 walking around. They looked a little lost. I  
8 figured they were constituents complaining about  
9 the budget; and no, indeed, it was Judge Kaye  
10 and her husband who, if he hasn't been  
11 introduced yet, I'm sure will be, a  
12 distinguished member of the bar. They were  
13 looking for some legislators to shake hands  
14 with. None of us were around that early. But I  
15 think that's the sort of work ethic she's going  
16 to bring to the position and, indeed, that she's  
17 exhibited.

18 This is also a celebration  
19 because we celebrate how well the system works  
20 for choosing our judges of the Court of  
21 Appeals. We have really had the outstanding  
22 bench in the United States, and the merit system  
23 has worked exceptionally well. It's brought

1 really the best that we have to offer to this  
2 very important court, and we certainly do that  
3 today. We bring the very best to be the head of  
4 that court, the chief judge.

5 I'm delighted to second the  
6 nomination of Judge Judith Kaye for chief judge  
7 of the state of New York.

8 Thank you.

9 ACTING PRESIDENT FARLEY: Senator  
10 Ohrenstein, you still have the floor.

11 SENATOR OHRENSTEIN: Mr.  
12 President, I'm delighted to join in Senator  
13 Leichter's seconding of this nomination and  
14 delighted to be here to participate in this  
15 very, very important moment in the history of  
16 the state of New York, and I'd like to say a  
17 couple of things. I want to talk a little bit  
18 about the nominating process here. I want to  
19 talk a little bit about the Court of Appeals  
20 and, obviously, I want to talk about Judge  
21 Kaye.

22 First of all, I think once again  
23 this nomination and the process that was follow

1 ed in the wake of a very great governmental and  
2 personal tragedy vindicates the process which  
3 this Legislature set in motion some five or ten  
4 years ago. We are an outstanding example in  
5 this state of a non-partisan merit selection  
6 process with regard to the Court of Appeals.

7 I wish I could say that we've  
8 followed that process with regard to all  
9 judicial nominations but, as the ways of the  
10 Legislature and of politics may be, we have not  
11 reached that point yet. But we certainly can be  
12 very proud here, on a non-partisan basis, of the  
13 process that is being followed here and that has  
14 been followed with regard to the Court of  
15 Appeals for some decade and a half. It is  
16 non-partisan. It is a merit selection process.  
17 It has produced some of the finest judges we  
18 have ever had on this bench, and it has  
19 produced, in my opinion, the finest court in the  
20 country.

21 So that I think it bears saying,  
22 and I said it when Judge Bundy Smith was -- came  
23 here for confirmation, because it was again an

1 example of a process that reached out and was  
2 able to produce a very, very fine nominee and  
3 again, here in a very crucial, very difficult  
4 time, we come to the fruition of the process in  
5 terms of the nomination and of -- and the  
6 appointment of a highly highly qualified  
7 individual. So that we should be very proud of  
8 it, and perhaps we will all learn something from  
9 it and begin to strengthen that process and to  
10 extend it to other parts of the judiciary.

11 Secondly, I want to say something  
12 about the Court of Appeals, our Court of  
13 Appeals, and this is a little bit political and  
14 please forgive me because I know that some  
15 people on the other side of the house may  
16 disagree with some of this, but we have been  
17 through a decade -- over a decade in the United  
18 States, of struggles about our judicial system  
19 and I'm referring to the struggles -- the very  
20 political and ideological struggle that has  
21 taken place in this country with regard to the  
22 Supreme Court of the United States. We can, at  
23 one and the same time, be extraordinarily proud

1 of our system, because our system has prevailed  
2 during very difficult times and has functioned  
3 during very difficult struggles that were  
4 political and ideological, and on the question  
5 of merit, on the question of some of the most  
6 moving and profound issues that this country has  
7 been faced with.

8 But in -- in that struggle, in  
9 those struggles institutionally, we are set up  
10 with a series of checks and balances between the  
11 three major portions of government, and the  
12 court system is one of them, and the Supreme  
13 Court of the United States, of course, is the  
14 most important court in the country and has the  
15 power to determine some of these very, very  
16 profound issues.

17 There are many of us who have  
18 found the Supreme Court wanting from time to  
19 time. As I said before, that's a -- that is a  
20 conclusion which obviously there is some -- a  
21 lot of disagreement on, but at least it ought to  
22 be said that that was the case and that, as a  
23 result of the way the Supreme Court has

1       functioned over the last 10 or 15 years, or  
2       maybe even 20 years -- I can't count the  
3       years -- there has been a profound disagreement  
4       with the -- with the way that court has gone and  
5       in the way that court has dealt with some of the  
6       very profound issues before it, and -- but no  
7       one can gainsay that the court functioned  
8       legally and according to the dictates of our  
9       system.

10                       The reason I say this is not to  
11       get into a political controversy, but during  
12       that time the Court of Appeals of the state of  
13       New York was and became the bellwether court of  
14       this country, because when the Supreme Court in  
15       its wisdom began to walk away from some of the  
16       decisions it had put into place some decades  
17       ago, whether they related to civil rights or  
18       civil liberty or to the function of the federal  
19       system or to the function of the system of  
20       checks and balances in our system, when that  
21       court took a certain position which at least  
22       some people in this country disagreed with, it  
23       was the Court of Appeals of this state who,

1 again and again, examined and re-examined these  
2 decisions, these issues, as they came before it  
3 on a case-by-case basis, and exhibited a wisdom  
4 and a profound understanding of the mandates and  
5 the imperatives of the American system of  
6 democracy which were parallel to none.

7 So we can be extremely proud that  
8 during that decade and a half or for however  
9 many years, it was this court, and it is this  
10 court that discharged that responsibility to the  
11 people of this state and made an example to the  
12 people of this country as to where judicial  
13 opinion and judicial policy should go.

14 I dare say that, as the new  
15 Supreme Court or as the changed Supreme Court  
16 begins to evolve during this administration and  
17 subsequent administrations in Washington, we're  
18 going to find that the United States Supreme  
19 Court will be following and citing as precedents  
20 many, many of the opinions that have been  
21 written by this Court of Appeals over the last  
22 two decades, and that they will begin to follow  
23 some of the ground that was plowed by this Court

1 of Appeals.

2 So I believe that we have every  
3 reason to be proud of this court and to be proud  
4 of the position this state as a result occupies  
5 within the judicial system and within the  
6 development of judicial policy and governmental  
7 policy as enunciated by this court.

8 The reason I say all of this is  
9 because it is extraordinarily important that, in  
10 the wake of the tragedy facing us here, that  
11 this court continue in that fashion and it has,  
12 not only before but during the terrible events  
13 which have played out here during the last four  
14 months, and most important that it continue to  
15 be a court which -- which follows and displays  
16 the wisdom and the judgment and the discretion  
17 that this court has done over the last several  
18 decades, and that is why this particular  
19 nomination is historic and of extraordinary  
20 importance, because we are not just selecting  
21 another associate judge of the Court of Appeals,  
22 as important as that position is. We are here  
23 voting on the chief judge of the Court of

1 Appeals and, in our system, that chief judge is  
2 not only a member of the Court of Appeals, but  
3 is also a powerful supervising administrator of  
4 the court system as a whole and, therefore,  
5 needs to have the qualifications to discharge  
6 that job as well.

7 And, in that regard, I, too, want  
8 to join with my colleagues in congratulating the  
9 Governor, in congratulating first of all the  
10 nominating commission, for coming up with a  
11 series of very, very wise and very effective  
12 judges, but most of all for having put into the  
13 picture as a suggested nominee that of Judge  
14 Judith Kaye, an associate judge, presently  
15 associate judge of the Court of Appeals, and I  
16 want to join in congratulating the Governor for  
17 having the wisdom to select her as the nominee  
18 that he chose to forward to us for confirmation,  
19 because I can't think of anybody that has come  
20 under consideration for this position that could  
21 discharge the responsibilities that I just  
22 alluded to than -- better than Judge Kaye.

23 Her qualifications and her

1 history has been talked about by others on this  
2 floor, so I don't certainly have to enumerate  
3 those, but what is important to say and the  
4 reason I'm pausing a little bit, because I'm  
5 trying to phrase this happily and  
6 diplomatically. I would say what is most,  
7 perhaps, proof of the pudding here, that we all  
8 know that Judge Kaye, not by her own design but  
9 by the design of people whose wisdom is -- goes  
10 beyond that of the state of New York, had come  
11 under consideration during this period for  
12 another position which, by historic accident,  
13 became very controversial. And so let's all  
14 accept the compliment in terms of this state,  
15 that it was Judge Kaye who was obviously under  
16 consideration by our new President for Attorney  
17 General of the United States.

18 I have no knowledge of the facts  
19 any more than the rest of you do except by what  
20 I read in the newspapers, but I assume the  
21 newspapers weren't entirely wrong, and I would  
22 dare say that had Judge Kaye chosen to play in  
23 that game -- and I don't know whether it was

1 offered to her or not; only she knows that, and  
2 the President knows that -- but had she entered  
3 that game, that she probably would have been  
4 taken away from us and would now be serving in  
5 that position. But I consider it an enormous  
6 compliment that, for whatever reason, that Judge  
7 Kaye chose to remain here at her post during  
8 this very important time and chose this as the  
9 preferred route for public service which she is  
10 now engaging.

11 So, as I said before, I think we  
12 -- there is no one who could have been better  
13 qualified or is better qualified for this very,  
14 very enormously important position during this  
15 time.

16 Finally, I have to say  
17 personally, I've known Judge Kaye for some years  
18 and her husband, who joins her in the gallery.  
19 She is a constituent of mine, and she's even a  
20 neighbor in -- on the West Side of Manhattan.  
21 And so I am personally delighted, both in terms  
22 of merit and the very profound historic  
23 opportunity we are now discharging.

1                   I'm also personally delighted on  
2                   behalf of myself and my family, and our  
3                   neighborhood, for seeing Judge Kaye here today  
4                   and for being able, with great joy and in  
5                   celebration, to cast this vote in the  
6                   affirmative.

7                   THE PRESIDENT:   Senator  
8                   Stafford.

9                   SENATOR STAFFORD:   Mr. President,  
10                  I was very fortunate a number of years ago.  
11                  Judge Kaye had just been appointed to the Court  
12                  of Appeals, and she gave the commencement where  
13                  I attended with she and her husband.  I was not  
14                  only impressed by her eloquence but also her  
15                  reasonable brevity.  We have problems with that  
16                  here, Judge, but we'll -- we're working on it.

17                  I have to say that I was here too  
18                  when we changed the law as far as the Court of  
19                  Appeals members being appointed or elected.  Of  
20                  course, they're now appointed, and I, too, agree  
21                  that this certainly is an example of the system  
22                  working very well.

23                  I also am impressed by the

1 members of the judiciary who have supported  
2 Judge Kaye's appointment, as has been indicated  
3 here today by Judge Jones on her left, and the  
4 presiding justice of the Appellate Division,  
5 Third Department, Judge Weiss, here today and we  
6 all know, and again everyone should be  
7 complimented, as has been mentioned, that we  
8 have a chief justice who will serve in the same  
9 manner as Learned Hand, Benjamin Cardozo, and  
10 continue to make the Court of Appeals of the  
11 state of New York the finest court in the  
12 nation.

13 THE PRESIDENT: Senator Larkin.

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

16 I had the privilege of  
17 representing Sullivan County for a number of  
18 years with my good colleague, Senator Cook, and  
19 I heard the judge's name mentioned about how she  
20 used to come home and how the people in Small  
21 wood always thought about her in the store and  
22 there was always that warmness, and it was  
23 always that roots coming home, understanding,

1           compassion, concern.

2                         Since this opening took place a  
3           few months ago, some of those people that I call  
4           constituents called me and said, Don't forget  
5           her. She's not just a lawyer. She's just not a  
6           person on the bench. She is a responsible,  
7           dedicated, committed person.

8                         When you talk about roots, I  
9           remember when I came to the Senate body, my  
10          91-year-old aunt, I called her and told her I  
11          won. Her comment was, Don't forget where you  
12          came from. And I think that's what we're saying  
13          about this charming lady.

14                        But I think one of the things  
15          I've heard here today is we've made great  
16          strides. We now have a woman as our chief  
17          judge. Being the proud father of two daughters,  
18          I would rather say we made history, that's  
19          right; we prevailed, and the best candidate, not  
20          a woman among women, but a candidate among  
21          candidates, not breaking ice but ensuring that  
22          the person that was going to lead that court was  
23          the best qualified.

1                   You know, we were fortunate in  
2                   the Hudson Valley. We had Judge Cooke, and what  
3                   a wonderful successor down the line. I think  
4                   that those of us in this chamber and the people  
5                   in the state of New York, and especially us in  
6                   the Hudson Valley who know of her background and  
7                   her concern, and have had a chance to understand  
8                   her rationale and reasoning for why and what,  
9                   clearly understand that today this confirmation  
10                  is of an individual who is the highest  
11                  qualified, the best qualified, and the only  
12                  qualified.

13                                Congratulations.

14                                THE PRESIDENT: Senator Marchi.

15                                SENATOR MARCHI: Mr. President,  
16                   Senator Mega justifiably pointed with pride to  
17                   his staff and to the members of the Committee  
18                   and reflected a feeling that he must have sensed  
19                   flowed from the members of that Committee on the  
20                   way in which he presided and conducted the  
21                   hearing that we had this morning and, indeed,  
22                   the entire process as he likes to refer to it.

23                                The felicitous underlying fact,

1 of course, also enhanced the pride which we all  
2 felt because he was working and passing on a  
3 candidate of unusual merit, and it was a very  
4 felicitous matching of consideration going to an  
5 eminently qualified candidate for the position.

6 In piecing together the mosaic  
7 that makes up Judge Kaye, there are many ele  
8 ments, many pieces; and allusions and references  
9 were made to professional qualifications,  
10 professional acuity, the intelligence, mastery,  
11 judgment, so many different factors, and to that  
12 have to be added, I believe, broad-gauged taste  
13 and educational background. These tastes have a  
14 -- not a capital "C", catholicity, a broad  
15 gauged grasp of moral values, cultural values,  
16 and they enhance the entire process, because the  
17 most prosaic and pedantic consideration in the  
18 world may contain a lot of wisdom, but unless it  
19 is animated and it is given dimensions that we  
20 can embrace, that engages the hearts as well as  
21 the souls of people, it is not going to be as  
22 operative and make a difference. And all of  
23 these factors were there.

1                   You had the family, the family  
2           being cut from the same bolt of cloth because  
3           they brought in so many different tastes and  
4           interests that reinforced and gave life to  
5           anything that they addressed and, in her case,  
6           this single devotion when it came to public  
7           responsibility in defining issues that were very  
8           important to all of us.

9                   Senator Galiber and myself shared  
10          some of our deeply felt concerns with her, not  
11          that it's going to lead to anything, not with  
12          the expectation that it would conform to our  
13          deeply felt concerns, but it was a dialogue  
14          which we felt better in sharing it with her, and  
15          I'd like to feel that she felt the same way in  
16          receiving commentary and observations.

17                   So I know that we're only a silly  
18          millimeter apart, Senator Ohrenstein, and you  
19          were projecting your "druthers" and I was  
20          projecting mine, but I think both of us, both of  
21          us know, both of us know and draw comfort from  
22          the fact that judgment, intelligence, character,  
23          these factors all come together so that we both

1           -- we both could draw considerable comfort  
2 knowing that you will be there and caring for it  
3 in your accustomed manner, and this I feel  
4 institutionally adds to the strength of this  
5 state.

6                        People say, well, gee, you're  
7 walking in on a very difficult situation, and  
8 all of us are in the middle of a very difficult  
9 situation. But the call is very special, so the  
10 opportunity, if we look at it not as a -- as an  
11 obstacle to be overcome but as an opportunity to  
12 make that difference, in the face of great,  
13 great challenges, then indeed it -- I think we  
14 all mutually interact in circumstances such as  
15 these to draw strength from it and we certainly  
16       -- you certainly have our prayers and our hopes  
17 and everything that -- and our best wishes, you  
18 and your family, that you will draw comfort from  
19 the proceedings here today, and that you -- when  
20 you look to us, that you will be looking to a  
21 resource, a resource of comfort and of strength  
22 in carrying out your awesome responsibilities.

23                        I join my other colleagues to -

1 to move this confirmation, a most felicitous  
2 one, as I pointed out earlier.

3 THE PRESIDENT: Senator Mendez.

4 SENATOR MENDEZ: Mr. President,  
5 it is with great pride that I, as a woman, stand  
6 up here today to also second the nomination of  
7 this brilliant woman, Judge Judith Kaye, to be  
8 the chief of the Supreme -- to be chief judge of  
9 the Court of Appeals.

10 I will not talk about her  
11 brilliant mind and brilliant legal career. I  
12 will not talk about any of those issues. I just  
13 want to mention, Mr. President, that one word  
14 has been used, another great one to describe  
15 what we're doing here today, and that is that  
16 this is a moment in history. This is historic  
17 and I, for one, think about all those brilliant  
18 young women presently studying in all the  
19 various law schools throughout the nation  
20 contemplating the possibility of making a  
21 contribution in the -- in the legal field, that  
22 they will be looking upon Judge Kaye as the  
23 model, the role model to follow because -- and

1 the best that any young lawyer could aspire to  
2 and that is a tremendous contribution.

3 We know that, even though in  
4 today's world, one-third of the women who go to  
5 law school, that finally are admitted and about  
6 one-third of the graduates of law school are  
7 women, we know that, but still we also know that  
8 there are great barriers because today -- I love  
9 all you guys -- it is still a man's world. So  
10 that women do have greater barriers to go  
11 through to obtain their goals.

12 I hope, and I know that Judge  
13 Kaye will make all of us, not only women, but  
14 all you residents of New York State and of the  
15 nation proud, will make us proud of her judicial  
16 -- judicial temperament and rational decisions  
17 that she'll be making there.

18 But I hope that she -- I know  
19 that she must know about that famous report that  
20 came out of the Governor's Task Force on Judi  
21 cial Diversity that has great recommendations as  
22 to what both parties in the state of New York  
23 should do to ensure that greater, greater

1 representation, opportunity be given to Puerto  
2 Ricans, African-Americans and Hispanics and  
3 women and other protected classes to obtain  
4 positions within the judiciary, and I hope that  
5 in some way and I figure that if she, in some  
6 way, will be able to, she will try to also  
7 outside her immediate legal work that she might  
8 also contribute there, because that situation,  
9 for the benefit of all must eventually be  
10 changed.

11 Finally, I really want to  
12 congratulate Governor Cuomo and Senator Mega and  
13 the members of the Committee and the process by  
14 which Judge Kaye was selected. You know, it's  
15 very funny, and I think so many times, Mr.  
16 President, when I was elected to serve in this  
17 great chamber, I became a member of the modern  
18 courts, something or other, and I was very -- I  
19 have always been very hopeful that that is the  
20 best way that we should follow to be sure that  
21 judges are, in fact, separated from the reach of  
22 us politicians.

23 Well, that system has worked with

1 the Court of Appeals. However, that system, in  
2 my view, and I am very ambivalent about it -- I  
3 never felt that I would be, but I am very  
4 ambivalent about it -- that system is not  
5 working that well in terms of providing genuine  
6 opportunity for Puerto Ricans, African-Americans  
7 and other minorities to become judges in the  
8 city of New York and in the state of New York.

9 And so we must revise this  
10 situation. These commissions always end up  
11 finding a way not to submit names of minorities  
12 that are also highly qualified to make a  
13 contribution within the judicial system, but  
14 since it goes for the Court of Appeals, we'll  
15 rejoice in Judge Kaye's appointment, and we also  
16 know that at last -- at least that system of  
17 merit selection of judges has, in fact, once  
18 more done an excellent job in -- in choosing the  
19 highest qualified person that could possibly  
20 serve there.

21 Congratulations, Judge Kaye.

22 THE PRESIDENT: Senator

23 Dollinger.

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

3                   I rise, I guess, for what I call  
4                   a very uncommon moment at least in my ten weeks  
5                   of experience in this chamber and, your Honor,  
6                   with all due respect, it really doesn't involve  
7                   some of the other issues that have been talked  
8                   about here.

9                   What I find uncommon is that both  
10                  sides of the aisle have sung the praises of our  
11                  next chief judge. I'd like to talk -- first of  
12                  all, I'd like to commend Senator Mega for the  
13                  handling of the hearing with respect to Judge  
14                  Kaye. It seems to me that both handling the  
15                  hearing and handling the issues was very, very  
16                  well done and, as I said, is an uncommon event  
17                  that we, as the members of this body who tend to  
18                  have contentious moments, came together on this  
19                  nomination.

20                  I want to talk, your Honor, just  
21                  about the common man, my startling question to  
22                  you on the common law, in what I think is a very  
23                  common moment, and that is the issue of

1 nominating and approving a chief judge of the  
2 New York Court of Appeals. It is something that  
3 this body has done before, but it's unusual when  
4 this Legislature gets the opportunity to elect  
5 someone to something else. Usually we're in the  
6 business of electing ourselves or electing our  
7 peers, and we come together today to elect  
8 someone to a coordinate branch of government, to  
9 elevate someone in our system of checks and  
10 balances between a legislative branch, an  
11 executive branch and a judicial branch. We hold  
12 the power to name that other branch of  
13 government, and it seems to me that -- and I  
14 will depart slightly from my colleagues who have  
15 talked about the issue of gender because, for  
16 me, that's not an uncommon factor.

17 For me to celebrate gender over  
18 competence is to downplay the very skills that  
19 have brought you to this day. They have been  
20 sung by others. I won't sing them at any  
21 greater length here, but I do want to touch on  
22 the issue of the common man, the part of this  
23 common law question that I asked you.

1                   My colleagues, Senator Galiber  
2                   and Senator Mendez, I think, talk about the  
3                   evolution of the common man as we've known it in  
4                   this country. Look around this chamber and  
5                   you'll see a different face on the common man.  
6                   It might not even be a man; it might be a woman,  
7                   might be a member of a minority, an African  
8                   American, a Puerto Rican, other minorities.

9                   Our notion in this state of the  
10                  common man is changing. Our system of justice,  
11                  our system of common law, has to change too.  
12                  When I asked you the question about the common  
13                  law, and you said you were startled, I -- I only  
14                  wanted to emphasize that many of us in this  
15                  chamber believe that we make the law in this  
16                  state. We hold the power to make the law.  
17                  Those of us who have studied the law, studied  
18                  the tradition of law, realize that we are late  
19                  entrants into the business of creating law, that  
20                  it is common law courts, common law judges  
21                  applying the wisdom of their own experience and  
22                  their sense of fairness to a set of facts that  
23                  have generated the major portion and the major

1 development of our system of law in this  
2 country.

3 It's my hope, as I suggested in  
4 the hearing today, that you will take the common  
5 law as others have done before you, and that you  
6 will drive it forward again to the next  
7 century. Don't be afraid that the common law  
8 may go too far. We hold the power in this  
9 branch to tell you that you've gone too far if  
10 that's what we determine. Take the common law,  
11 make sure that it addresses the fundamental  
12 issues of fairness for the growing and evolving  
13 common man.

14 And lastly, it's my hope to you  
15 that, as you take the mantle of the judge and  
16 don the robe, that you won't let the burdens of  
17 that system which too often we rely on for true  
18 justice or true fairness, that you won't let the  
19 burdens of that system overwhelm you personally  
20 or overwhelm the court that we all revere.

21 When you see problems, don't  
22 hesitate to say, This is an issue that deserves  
23 legislative attention. Don't hesitate to be a

1 product to force those of us who should be  
2 looking out for the common man's interest to  
3 make sure that we better represent him. It's my  
4 hope that the solutions will both come from here  
5 and be brought here.

6 I welcome you as the chief judge  
7 of the New York Court of Appeals. As a member  
8 of the coordinate branch of government, it's my  
9 proud moment to -- my uncommon moment for me to  
10 cast a ballot both in your favor and in favor of  
11 this court and in favor of the system that we  
12 all hold so dear.

13 Congratulations and good luck.

14 THE PRESIDENT: Senator Farley.

15 SENATOR FARLEY: Thank you, Mr.  
16 President.

17 Justice Kaye, as a father of two  
18 lawyers that are married to two lawyers, and as  
19 a law professor and a lawyer, what a distinct  
20 pleasure and honor it is for me to support this  
21 nomination.

22 When I was in law school, I saw a  
23 study that showed that there were less women

1 lawyers than any other profession. Today in  
2 almost every law school, the classes are equally  
3 divided. And what a thrill it is for New York  
4 State and for this chamber and for our Governor  
5 to have appointed a woman to the generally  
6 recognized premier and leading state court in  
7 the nation; and, Judith Kaye, you were a pioneer  
8 without a doubt as a lawyer and as a woman.

9 You, through your remarkable  
10 career and how you progressed to where you are,  
11 you make everybody proud, everybody in the legal  
12 profession. The legal profession, as we all  
13 know, is sometimes criticized, particularly this  
14 body, and all the lawyers that serve here, but I  
15 think it's an honorable profession and, as we  
16 get more and more women that are rising stars  
17 within our profession, maybe our entire image  
18 will improve.

19 I am particularly proud to  
20 support this nomination. Your competence is  
21 even more significant than your sex, and let me  
22 say that may your tenure be blessed with the  
23 luck of the Irish in that you are being

1 confirmed on St. Patrick's Day.

2 Congratulations.

3 THE PRESIDENT: Senator Sheffer.

4 SENATOR SHEFFER: Mr. President,

5 for several reasons, it's a source of great  
6 pride for me to join in supporting and in  
7 celebrating the confirmation of Judge Kaye as  
8 chief judge.

9 Many Senators have paid tribute  
10 to the extraordinary legal talent and judicial  
11 temperament and personal dedication of Judge  
12 Kaye. I want to speak to a slightly different  
13 dimension of Judge Kaye's stewardship for this  
14 state.

15 Over the last several years, I've  
16 been privileged to serve with Judge Kaye and  
17 several others on the Regents Visiting Committee  
18 for the State Archives. When I was first asked  
19 to serve on that body, I, frankly, assumed there  
20 would not be enough caffeine on this planet to  
21 keep one awake during meetings on the state  
22 archives. As a result of the really exceptional  
23 contributions of Judge Kaye and people like

1 former Regent Chodos, that has been for me an  
2 exceptionally interesting and productive  
3 experience.

4 Last June, all of you voted in  
5 this chamber for creation of a State Archives  
6 Partnership Trust, which was a real tribute to  
7 the work that Judge Kaye and that committee has  
8 done.

9 My point is to say that, in  
10 addition to her extraordinary tenure on the  
11 Court of Appeals, Judith Kaye is the type of  
12 person who has lent her talent and commitment  
13 and time to efforts for this state that are  
14 apart from her judicial role, and I think that's  
15 something to be applauded by this house.

16 To his credit, Governor Cuomo has  
17 brought great respect and pride to the state of  
18 New York with the nomination of Judge Judith  
19 Kaye, and it's an honor for me to join in urging  
20 her confirmation.

21 THE PRESIDENT: Senator Onorato.

22 SENATOR ONORATO: Mr. President,  
23 I rise to join my colleagues, and I heartily

1 concur with everything that was said today about  
2 her. I'm just going to recite a quote my father  
3 told me when I was getting into politics, not  
4 being an attorney: Learn to say a little bit  
5 that means a whole lot.

6 So I'm going to quote from an  
7 unknown source I heard this morning at a  
8 confirmation hearing, that I am thrilled from  
9 the top of my head to the tip of my toes that  
10 you have been nominated, and I second the  
11 nomination to your position.

12 Good luck and good health.

13 THE PRESIDENT: Senator  
14 Hoffmann.

15 SENATOR HOFFMANN: Thank you, Mr.  
16 President.

17 I rise with great pride to second  
18 the nomination and join my colleagues in con  
19 gratulating Judith Kaye on this memorable  
20 occasion. Like everybody in this chamber, I am  
21 thrilled to be here for this historic moment not  
22 only because Judith Kaye is the first woman to  
23 assume this august position but also because she

1 is the most qualified individual under  
2 consideration for the position, and I have a  
3 rather secret fondness here that in speculation,  
4 Judith Kaye may have actually had the  
5 opportunity to take a federal appointment but  
6 she decided that she would prefer to wait things  
7 out and hope for this appointment instead.

8           Regardless of what the history  
9 was in the national limelight and what the  
10 history was in this arena, it is most certainly  
11 our gain and the nation's loss that she's in New  
12 York State, but we should be enormously proud to  
13 have this opportunity.

14           My only regret is that Judith  
15 Kaye was not able to be one of the justices  
16 sitting on the recent reapportionment hearing  
17 that we had. I wonder if our outcome might have  
18 been a little bit different had she been one of  
19 the voting members in that decision, and I look  
20 forward to outstanding decisions in the years to  
21 come.

22           Congratulations, Judy!

23           THE PRESIDENT: Unless there is

1 any other Senator that wishes to speak, the  
2 question occurs on the confirmation of the  
3 nominee. All those in favor, say aye.

4 (Response of "Aye.")

5 Opposed nay.

6 (There was no response. )

7 The ayes have it. The nominee is  
8 confirmed. Congratulations.

9 (Standing applause.)

10 THE PRESIDENT: Senator Daly.

11 SENATOR DALY: Mr. President, I  
12 rise on behalf of a resolution that was  
13 presented at the desk and, if I could have it  
14 presented to the house.

15 THE PRESIDENT: The Secretary  
16 will read the title.

17 THE SECRETARY: Legislative  
18 Resolution Number 709, by Senator Daly and  
19 others, honoring St. Patrick and all persons of  
20 Irish heritage upon the occasion of the 1993  
21 celebration of St. Patrick's Day.

22 THE PRESIDENT: Senator Daly is  
23 recognized, and there will be order in the

1 chamber.

2 SENATOR DALY: Mr. President,  
3 this is the second year in a row I've been  
4 privileged to carry this resolution, and I still  
5 do it with enthusiasm, high spirit, but with  
6 sadness, because when I look at this resolution  
7 realize I'm carrying before the house, I can not  
8 help but think back to a dear departed colleague  
9 who carried this resolution for so many years  
10 and, of course, I'm talking about our dear  
11 friend, Senator Jim Donovan.

12 I feel very proud that I'm able  
13 to succeed Senator Donovan in carrying this  
14 resolution, and instead of having it read in its  
15 entirety, because you've heard it before, I  
16 thought I'd just look upon the idea and concept  
17 of St. Patrick's Day, where it came from and why  
18 we have it and what it means and really, when  
19 you think about St. Patrick's Day and the fees,  
20 the celebration, not the fees, but the  
21 celebration of St. Patrick's Day, if you look  
22 back at its beginning, you realize that truly it  
23 started as an attempt of immigrants, by

1 immigrants I should say, from a small and  
2 persecuted island to try to demonstrate publicly  
3 their presence in this great country and their  
4 deserving of the same rights and privileges of  
5 every other American, and sometimes we forget  
6 that at that time there was a sign prevalent  
7 through the this country, "Irish need not  
8 apply," and it's to the credit of this nation  
9 and this people that they have grown and pros-  
10 pered in this great nation of ours, and my  
11 mother, God rest her soul, who came from Ireland  
12 I always remember when I would sit down, Mr.  
13 President, and complain about the food and my  
14 mother would look and say to me, "Shut up and  
15 thank God your father took the boat."

16 And I do thank God my father took  
17 the boat because it gave me the opportunity to  
18 live in a nation that knows no second in the  
19 history of mankind, namely, our great country of  
20 America.

21 But what started out really as an  
22 attempt by the Irish to say we're here and we  
23 deserve has gone beyond that, and you know,

1 really, the St. Patrick's Day that we celebrate  
2 today, it doesn't know any racial, doesn't know  
3 any religious or national bounds.

4 St. Patrick's Day literally has  
5 become a spirit and look at the celebration that  
6 we have here in Albany. We have the Ohrensteins,  
7 and we have the Cuomos, and we have the Marinos  
8 and we have the Markowitzes, and we have the  
9 Galibers who, by the way, I might announce Mr.  
10 Chairman, has accepted, Mr. President, the  
11 honorary chairmanship of the Irish party that  
12 begins on the fourth floor next Monday, to which  
13 all are invited.

14 And so really, it's a spirit.  
15 It's a spirit which we all can relax, enjoy and  
16 say isn't it great to be alive? Isn't it great  
17 to have companionship? Isn't the human spirit  
18 lifted by the fact that it can enjoy a cele  
19 bration of life, glory in life, glory in living,  
20 knowing that we can share that, we can share  
21 that with each other, as I said, regardless of  
22 our race, our religion, our color, whatever.

23 And so, truly, St. Patrick's day

1       has evolved, Mr. President, and now it's  
2       something I would hope that everyone can enjoy,  
3       regardless of where their parents came from or  
4       when they got here, but truly we can all enjoy  
5       because we can enjoy each other and we can spend  
6       a day enjoying each other and having fun, so to  
7       speak, and I do believe, Mr. President, that  
8       this one day which we enjoy with each other  
9       means much more because truly it does -- it does  
10      create a feeling of brotherhood, a feeling of  
11      love for each other.

12                   And so we ask you all to join us  
13      next Monday -- of course, today is St. Patrick's  
14      but next Monday is the day we will celebrate  
15      here in Albany -- we ask you all to enjoy, to  
16      join us so that we can enjoy you, you can enjoy  
17      us, and we can all enjoy life and, as the Irish  
18      say, God bless.

19                   ACTING PRESIDENT FARLEY:  Senator  
20      Mendez, do you wish to speak to this resolution?

21                   SENATOR MENDEZ:  Mr. President, I  
22      support wholeheartedly this resolution.  I think  
23      my colleague, John Daly, definitely defines the

1 spirit of the parade in terms of sheer enjoyment  
2 and sharing of culture and everybody is invited.

3 But, Mr. President, you mentioned  
4 the Ohrensteins; Senator Daly, you mentioned the  
5 Galibers. You mention everybody and you didn't  
6 mention the Mendezes.

7 ACTING PRESIDENT FARLEY: Senator  
8 Daly, I know why you rise.

9 SENATOR MENDEZ: Mr. President, I  
10 just want to say in the spirit of the festivity  
11 of St. Patrick's -- St. Patrick, I just want to  
12 say, Erin go Bragh!

13 SENATOR DALY: I can't add to  
14 that.

15 ACTING PRESIDENT FARLEY: Thank  
16 you, Senator O'Mendez.

17 All in favor of the resolution,  
18 say aye loudly.

19 (Response of "Aye.")

20 The resolution is unanimously  
21 adopted.

22 Senator Holland.

23 SENATOR HOLLAND: Mr. President,

1 I'd like to offer up the following privileged  
2 resolution, ask that the title be read and that  
3 it be adopted.

4 ACTING PRESIDENT FARLEY:  
5 Secretary will read the title.

6 THE SECRETARY: Legislative  
7 Resolution, by Senator Holland and others,  
8 urging President William Jefferson Clinton to  
9 implement the five recommendations on Irish  
10 issues which would set in motion a constructive  
11 United States policy in regard to the north of  
12 Ireland.

13 ACTING PRESIDENT FARLEY: All in  
14 favor of the resolution, say aye.

15 (Response of "Aye.")

16 Those opposed, nay.

17 (There was no response. )

18 The resolution is adopted.

19 Do we have any other resolutions  
20 on the floor? We have some motions. Senator?

21 SENATOR SEWARD: Yes, Mr.  
22 President, on behalf of Senator Volker, on page  
23 7, I offer the following amendments to Calendar

1 55, Senate Print Number 1141, and ask that the  
2 bill retain its place on the Third Reading  
3 Calendar.

4 ACTING PRESIDENT FARLEY: Without  
5 objection.

6 SENATOR SEWARD: On behalf of  
7 Senator Saland, on page 8, I offer the following  
8 amendments to Calendar Number 138, Senate Print  
9 Number 2363, and ask that the said bill retain  
10 its place on the Third Reading Calendar.

11 ACTING PRESIDENT FARLEY: Without  
12 objection.

13 SENATOR SEWARD: Thank you.

14 SENATOR MEGA: Mr. President.

15 ACTING PRESIDENT FARLEY: Senator  
16 Mega.

17 SENATOR MEGA: On page 12, on my  
18 bill, I offer the following amendments to  
19 Calendar Number 208, Print Number 2784, and ask  
20 that said bill retain its place on Third Reading  
21 Calendar.

22 ACTING PRESIDENT FARLEY: Without  
23 objection, the amendments are received.

1                   SENATOR MEGA: Mr. President, I  
2                   now move to discharge the Committee on Finance  
3                   from Assembly Print Number 5959-A and substitute  
4                   it for the identical bill.

5                   ACTING PRESIDENT FARLEY:  
6                   Substitution is ordered.

7                   Senator Kuhl.

8                   SENATOR KUHL: Yes, Mr.  
9                   President. On behalf of Senator Levy, could you  
10                  place a sponsor's star on Calendar Number 186,  
11                  Senate Print Number 2,000.

12                  ACTING PRESIDENT FARLEY: 186 is  
13                  starred at the request of the sponsor.

14                  SENATOR KUHL: Thank you.

15                  ACTING PRESIDENT FARLEY: Senator  
16                  Present.

17                  SENATOR PRESENT: Could we go to  
18                  the non-controversial calendar.

19                  ACTING PRESIDENT FARLEY: We have  
20                  a couple substitutions. Could we do those  
21                  first?

22                  SENATOR PRESENT: Yes, and then  
23                  non-controversial.

1                   ACTING PRESIDENT FARLEY:

2           Secretary will read the substitutions.

3                   THE SECRETARY:   On page 12 of  
4           today's calendar, Senator Padavan moves to  
5           discharge the Committee on Transportation from  
6           Assembly Bill Number 3836 and substitute it for  
7           the identical Third Reading 191.

8                   ACTING PRESIDENT FARLEY:

9           Substitution is ordered.

10                   THE SECRETARY:   Also on page 12,  
11           Senator Present moves to discharge the Committee  
12           on Education from Assembly Bill Number 2868 and  
13           substitute it for the identical Third Reading  
14           194.

15                   ACTING PRESIDENT FARLEY:

16           Substitution is ordered.

17                   Secretary will do  
18           non-controversial.

19                   THE SECRETARY:   On page 11,  
20           Calendar Number 183, by Senator Marino, Senate  
21           Bill Number 1776, authorize the city of Glen  
22           Cove to sell and convey certain parcels of real  
23           property.

1                   ACTING PRESIDENT FARLEY:  Senator  
2                   Galiber.

3                   SENATOR GALIBER:  One day on  
4                   that, please?

5                   ACTING PRESIDENT FARLEY:  I  
6                   didn't hear.

7                   SENATOR GALIBER:  Lay it aside.

8                   SENATOR PRESENT:  For the day.

9                   THE SECRETARY:  Calendar Number  
10                  185, by Senator Bruno, Senate Bill Number 2186,  
11                  an act to amend the Real Property Tax Law, in  
12                  relation to residential improvement exemption in  
13                  certain cities.

14                  ACTING PRESIDENT FARLEY:  Read  
15                  the last section.

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

18                  ACTING PRESIDENT FARLEY:  Call  
19                  the roll.

20                  (The Secretary called the roll. )

21                  THE SECRETARY:  Ayes 56.

22                  ACTING PRESIDENT FARLEY:  The  
23                  bill is passed.

1 THE SECRETARY: Calendar Number  
2 188, by Senator Johnson, Senate Bill Number  
3 1284, an act to amend the Vehicle and Traffic  
4 Law.

5 ACTING PRESIDENT FARLEY: Read  
6 the last section.

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

9 ACTING PRESIDENT FARLEY: Call  
10 the roll.

11 (The Secretary called the roll. )

12 THE SECRETARY: Ayes 56.

13 ACTING PRESIDENT FARLEY: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 189, by Senator Lack.

17 SENATOR PRESENT: Lay it aside  
18 for the day.

19 ACTING PRESIDENT FARLEY: Laid  
20 aside for the day.

21 THE SECRETARY: Calendar Number  
22 190, by Senator Marchi, Senate Bill Number 2531,  
23 an act to amend the Public Authorities Law, in

1 relation to permitting certain vehicles of the  
2 United States armed forces.

3 ACTING PRESIDENT FARLEY: Read  
4 the last section.

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

7 ACTING PRESIDENT FARLEY: Call  
8 the roll.

9 (The Secretary called the roll. )

10 THE SECRETARY: Ayes 55, nays  
11 one, Senator Leichter recorded in the negative.

12 ACTING PRESIDENT FARLEY: That  
13 bill is passed.

14 THE SECRETARY: Calendar Number  
15 191, substituted earlier today, by member of the  
16 Assembly Silver, Assembly Bill Number 3836, an  
17 act to amend the Vehicle and Traffic Law, in  
18 relation to additional penalties for parking  
19 violations.

20 ACTING PRESIDENT FARLEY: Read  
21 the last section.

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

1                   ACTING PRESIDENT FARLEY: Call  
2                   the roll.

3                   (The Secretary called the roll. )

4                   THE SECRETARY: Ayes 54, nays  
5                   two, Senators Galiber and Waldon recorded in the  
6                   negative.

7                   ACTING PRESIDENT FARLEY: The  
8                   bill is passed.

9                   THE SECRETARY: Calendar Number  
10                  193, by Senator Farley, Senate Bill Number 716,  
11                  authorize payment of transportation aid to the  
12                  Schalmont Central School District.

13                  ACTING PRESIDENT FARLEY: Is  
14                  there a local fiscal impact note? There is a  
15                  local fiscal impact note here at the desk. You  
16                  can read the last section.

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

19                  ACTING PRESIDENT FARLEY: Call  
20                  the roll.

21                  (The Secretary called the roll. )

22                  THE SECRETARY: Ayes 56.

23                  ACTING PRESIDENT FARLEY: The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 194, substituted earlier today, by member of the  
4 Assembly McGee, Assembly Bill Number 2868,  
5 authorize the change of name of the Randolph  
6 Children's Home Union Free School District.

7 ACTING PRESIDENT FARLEY: Read  
8 the last section.

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

11 ACTING PRESIDENT FARLEY: Call  
12 the roll.

13 (The Secretary called the roll. )

14 THE SECRETARY: Ayes 56.

15 ACTING PRESIDENT FARLEY: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 208, substituted earlier today, by member of the  
19 Assembly Koppell, Assembly Bill Number 5959-A,  
20 an act to amend Chapter 502 of the Laws of 1992,  
21 relating to certain non-judicial officers and  
22 employees.

23 ACTING PRESIDENT FARLEY: Senator

1 Present.

2 SENATOR PRESENT: Mr. President,  
3 is there a message of necessity at the desk?

4 ACTING PRESIDENT FARLEY: There  
5 is a message, Senator.

6 SENATOR PRESENT: I move we  
7 accept the message.

8 ACTING PRESIDENT FARLEY: All in  
9 favor of accepting the message, say aye.

10 (Response of "Aye.")

11 Those opposed nay.

12 (There was no response.)

13 The message is accepted.

14 You can read the last section.

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

17 ACTING PRESIDENT FARLEY: Call  
18 the roll.

19 (The Secretary called the roll. )

20 THE SECRETARY: Ayes 56.

21 ACTING PRESIDENT FARLEY: That  
22 bill is passed.

23 ACTING PRESIDENT FARLEY:

1 Calendar Number 210, the bill is high. We'll  
2 lay it aside.

3 Does that conclude it? Nothing  
4 left over, Senator Present.

5 SENATOR PRESENT: Mr. President,  
6 in behalf of Senator Levy, I'd like to announce  
7 an immediate meeting of the Majority in Room  
8 332.

9 ACTING PRESIDENT FARLEY: There  
10 will be an immediate conference of the Majority  
11 in Room 332.

12 SENATOR PRESENT: Mr. President,  
13 there being no further business, I move that we  
14 adjourn until Monday, March 22nd at 2:30 p.m.,  
15 intervening days to be legislative days.

16 ACTING PRESIDENT FARLEY: The  
17 Senate will stand adjourned until Monday,  
18 regular hour.

19 (Whereupon, at 4:31 p.m., the  
20 Senate adjourned.)

21  
22  
23