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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 11, 2009

11:26 a.m.

REGULAR SESSION

SENATOR DAVID J. VALESKY, Acting President

ANGELO J. APONTE, Secretary

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P R O C E E D I N G S

ACTING PRESIDENT VALESKY: The  
Senate will please come to order.

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

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

ACTING PRESIDENT VALESKY: In the  
absence of clergy, may we all bow our heads in  
a moment of silence.

(Whereupon, the assemblage  
respected a moment of silence.)

ACTING PRESIDENT VALESKY: The  
reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate,  
Tuesday, February 10, the Senate met pursuant  
to adjournment. The Journal of Monday,  
February 9, was read and approved. On motion,  
Senate adjourned.

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

1 Presentation of petitions.  
2 Messages from the Assembly.  
3 Messages from the Governor.  
4 Reports of standing committees.  
5 Senator Klein.

6 SENATOR KLEIN: Mr. President, I  
7 believe that the report of the Judiciary  
8 Committee is at the desk, and I ask the  
9 President to have the report read at this  
10 time.

11 ACTING PRESIDENT VALESKY: There  
12 is a report of the Judiciary Committee at the  
13 desk.

14 The Secretary will read.

15 THE SECRETARY: Senator Sampson,  
16 from the Committee on Judiciary, reports the  
17 following nomination.

18 As Chief Judge of the Court of  
19 Appeals, the Honorable Jonathan Lippman, of  
20 New York City.

21 ACTING PRESIDENT VALESKY:  
22 Senator Sampson.

23 SENATOR SAMPSON: Yes,  
24 Mr. President, I rise to move forth the

1 nomination of the Honorable Jonathan Lippman,  
2 who is presently presiding justice of the  
3 Appellate Division of the First Department, to  
4 Chief Judge of the Court of Appeals.

5 We had a very hearty and fruitful  
6 meeting this morning, and I want to commend  
7 Jonathan Lippman but most of all commend the  
8 Governor on his appointment of Jonathan  
9 Lippman.

10 There's always been issues with  
11 respect to the selection process and the way  
12 in which a nomination list did not contain one  
13 of women. And this is of deep concern. And  
14 that is why I started conducting hearings  
15 dealing with the whole selection and judicial  
16 nominating process. But I want you to rest  
17 assured that it does not taint the Honorable  
18 Judge Lippman.

19 Judge Lippman is a person who I had  
20 an opportunity to have a conversation with  
21 with respect to the issues of concern not only  
22 to me but to our conference: The issue of  
23 diversity, the issue of morale within the  
24 court system, the issue of pay raises, and

1 also the issue of the appointment of acting  
2 Supreme Court judges not only in the city but  
3 throughout the State of New York.

4 And we had a very frank and very  
5 pointed discussion with respect to those  
6 issues, and then he had an opportunity to meet  
7 my colleagues. And one thing we walked away  
8 with is that this is a man who has heard our  
9 issues and concerns, and he's not going to  
10 just act with rhetoric or words, he's going to  
11 implement in deeds. And that has won over a  
12 lot of my colleagues with respect to this  
13 nomination who had questions.

14 So at this point in time I would  
15 like to move forth his nomination as Chief  
16 Judge of the Court of Appeals. And I want to  
17 first of all congratulate his family: his  
18 wife, Amy Lippman, his son, Russell Lippman,  
19 and also his daughter, Lindsay Lippman.

20 And, Your Honor, I want to commend  
21 you on going through a process which was  
22 uneasy at times, but you handled yourself as  
23 the jurist you are. And I look forward not  
24 only to being a partner but being a friend

1           when dealing with the judicial system.

2                       Because at the end of the day, it's  
3           not about me, it's not about my colleagues,  
4           it's about the people of the State of New  
5           York. And it's about the judicial system,  
6           it's about restoring the faith, the trust, and  
7           the confidence in the judicial system and  
8           ensuring that Lady Justice continues to remain  
9           blind and the scales of justice are balanced.

10                      In a lot of communities throughout  
11           the city and throughout the state, we don't  
12           feel that way. But under your leadership,  
13           Your Honor, we expect that to occur. And we  
14           look forward to working with you not only from  
15           this day forward but throughout the future and  
16           making sure that your issues are our issues,  
17           and our issues become your issues, and you  
18           understand how committed we are to those  
19           principles that are expressed to you.

20                      So once again, at this point in  
21           time I would like to move his nomination forth  
22           as the Chief Judge of the Court of Appeals.

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

1                   Senator Maziarz.

2                   SENATOR MAZIARZ:     Thank you very  
3 much, Mr. President.

4                   Before I speak on this nominee on  
5 behalf of the Republican conference as the  
6 ranking Minority member, I just want to note  
7 for the record and thank the chairman, Senator  
8 John Sampson. Senator Sampson handled this  
9 nomination in a most courteous and  
10 professional manner. As a new ranking member  
11 and Senator, I want to thank you for the  
12 courtesies that you showed. Thank you very  
13 much.

14                  SENATOR SAMPSON:     Thank you very  
15 much, Senator Maziarz. And I learned the best  
16 from you, Senator.

17                  SENATOR MAZIARZ:     Thank you.

18                  On the nomination, Mr. President.  
19 I want to rise in support, as the ranking  
20 member of this committee, in support of the  
21 Governor's nomination of Jonathan Lippman as  
22 the Chief Judge of this court.

23                  Judge Lippman has made himself  
24 available to our members, answered all of our

1           questions in a professional and an excellent  
2           manner.

3                       I just want to say, as many of you  
4           have heard me speak on the floor and in  
5           Judiciary Committee in the past, I feel very  
6           passionately about some issues, particularly  
7           as they evolve around the Court of Appeals.  
8           And I rise in support of this nomination for a  
9           lot of different reasons. I'm only going to  
10          mention one.

11                      But Judge Lippman -- and maybe he  
12          didn't even remember this, but a long time ago  
13          there was a judge in upstate New York who was  
14          going through an extremely emotional personal  
15          situation involving the health of their child.  
16          And I don't think Judge Lippman ever even met  
17          that judge at that point in time, but through  
18          an intermediary he was asked to do something  
19          on that judge's behalf, and he did it. And I  
20          never forgot it, Judge.

21                      So again, on behalf of our  
22          conference, I do want to mention that I  
23          received a call from a good friend of many of  
24          ours, a former chairman of this committee,

1 Jim Lack, in strong support of this  
2 nomination.

3 And, Mr. Chairman, I rise and  
4 second the nomination by my good friend  
5 Senator Sampson. Thank you.

6 ACTING PRESIDENT VALESKY: Thank  
7 you, Senator Maziarz.

8 Senator Diaz.

9 SENATOR DIAZ: Thank you,  
10 Mr. Chairman.

11 Today we are having a day where  
12 sometimes I wish that this day would not  
13 happen. But, Mr. Chairman, I'm here today to  
14 express why I will abstaining from this  
15 nomination.

16 But I have to say it has nothing to  
17 do with Judge Lippman. I have great, great  
18 regard for Judge Lippman. His qualifications,  
19 his resume, and his life shows that he is well  
20 qualified to be in the position that he is  
21 today.

22 However, Mr. President and members  
23 of this body, the system, the way in which  
24 Judge Lippman was chosen, casts doubt on his

1 nomination. And I will tell you why,  
2 Mr. President.

3           There were two women that applied  
4 and were interviewed. One of them was Justice  
5 Fern A. Fisher, with a B.A. from Harvard  
6 University, with a juris doctor degree from  
7 Harvard Law School, admitted to the New York  
8 Bar Association in 1980. Deputy director of  
9 Harlem Legal Services. Assistant Attorney  
10 General of the New York State Department of  
11 Law. Four years of pro bono legal services to  
12 Harlem-based community organizations. Project  
13 director of the National Conference of Black  
14 Lawyers. Deputy supervising judge of the City  
15 Civil Court. Elected to the New York State  
16 Supreme Court in 1993. For the last 13 years,  
17 she has been the administrative judge of the  
18 Civil Courts of the City of New York.

19           Over 30 years' experience,  
20 Mr. President. But she was found not  
21 qualified, not qualified by the committee that  
22 gave it to Judge Lippman. An African-American  
23 lady. It has nothing to do with being  
24 African-American, it has nothing to do with

1 being a woman, it has nothing to do with being  
2 a minority. It has to do with her  
3 qualifications. Unqualified.

4 The other lady, woman, Justice  
5 Carmen Beauchamp Ciparick, graduated from  
6 Hunter College in 1963, a juris doctor degree  
7 from St. John's University. She has served as  
8 a Legal Aid attorney. She's been assistant  
9 counsel for the Judicial Conference of  
10 New York State. She's been chief law  
11 assistant of the New York City Criminal  
12 Courts, counsel to the Office of the New York  
13 City Administrative Judge. Judge of New York  
14 City Criminal Court.

15 In 1982, she was elected to the  
16 New York State Supreme Court. Member of the  
17 New York State Court of Appeals since 1993,  
18 16 years a member of that body. And she is  
19 the senior associate judge of the New York  
20 State Court of Appeals. Thirty-two years of  
21 experience. Another woman, Hispanic, was  
22 found to be not qualified.

23 Two women. Two women -- one  
24 African-American, one Hispanic -- not

1 qualified. This is a shame, the way in which  
2 our system works. When is it that a woman or  
3 a minority person would have the possibility  
4 to compete?

5 Judge Lippman is superqualified.  
6 He's qualified. I'm glad, and I'm joining his  
7 family today in congratulating him. But these  
8 two women were prevented, Mr. President, they  
9 were prevented from competing.

10 And now my question is, with their  
11 resume, with their experience, with their  
12 education, why were they found not qualified?  
13 Because they're women? Are we discriminating  
14 against women, because one is black and one is  
15 Hispanic? Are we discriminating against a  
16 black? Are we discriminating against a  
17 Hispanic?

18 So there we've got a problem, as I  
19 said before. We have a big problem in this  
20 state. And if I vote yes, then I become part  
21 of the problem. If I vote no, people might  
22 think that I'm voting against Judge Lippman,  
23 which I would never do.

24 But I cannot vote yes to be part of

1 the problem, and I cannot vote no because I  
2 don't want to be under -- I don't want to give  
3 people the opportunity to say that I'm voting  
4 against him.

5 I'm abstaining. I will not vote, I  
6 will not take part in this process. Just to  
7 show my anger, to show my rejection of the way  
8 in which these two women were prevented and  
9 found not qualified.

10 The system has to be changed. And  
11 then they gave the Governor seven candidates  
12 and forced the Governor to choose from one of  
13 the seven.

14 These two ladies, Mr. President,  
15 were not qualified. I mean, this has sent a  
16 message to all of us. And I said before that  
17 this happens to us over and over and over.  
18 And then they say: We will fix it. Don't  
19 worry about it, vote yes and we will fix it.  
20 And then it happens again. And then we all  
21 have been promised that the system is going to  
22 be changed. Maybe, maybe because they think  
23 that we minorities, we come here, we talk, and  
24 then we say okay, yes.

1                   No. The time is going to come --  
2                   and I think the time is going to come, I'm  
3                   saying no, the time is going to come when we,  
4                   black and Hispanic legislators, have to stand  
5                   up and say no way, no how. That's why I'm  
6                   abstaining, Mr. President. Thank you.

7                   And I congratulate Judge Lippman on  
8                   his nomination today.

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

11                  Senator Espada.

12                  SENATOR ESPADA:     Thank you,  
13                  Mr. President, for giving me the opportunity  
14                  to share some thoughts on the nomination and  
15                  indeed, as my colleague Senator Diaz just  
16                  articulated, on the process itself.

17                  But first, as to the nominee,  
18                  absolutely qualified.

19                  I wish to thank Senator Sampson for  
20                  his deliberations. And he was very thoughtful  
21                  and very fair in taking his time. This is a  
22                  deliberative process and a deliberative body.  
23                  He's accomplished and made us very proud this  
24                  day.

1                   But I was particularly taken with  
2                   the comments that Judge Lippman made on  
3                   advocacy versus activism. And I was very  
4                   pleased to hear you, sir, speak about the need  
5                   to advocate for reform and advocate for  
6                   change. And that doing so in no way, in no  
7                   way sets the court apart from its essential  
8                   process of become objective and weighing the  
9                   facts in evidence.

10                   And the facts in evidence in this  
11                   case, as you so clearly articulate, Senator  
12                   Diaz, is that we have a flawed and terrible  
13                   system not only with respect to this process,  
14                   but I navigated and traversed other counties  
15                   and met with other people on my own about this  
16                   process of our justice system. Not just this  
17                   nomination of the Chief Judge, but those who  
18                   serve as acting judges, those who serve on  
19                   housing court and civil court, the highest  
20                   courts of the land, visited on this issue that  
21                   has politicized the judiciary in this country  
22                   and in this state for far too long.

23                   And so there are many issues that  
24                   burden us today. But for me, this candidate

1 is worthy of support, but I must stay  
2 steadfast and focused on this process. This  
3 process will not only yield, in my humble  
4 estimation, the most powerful person in this  
5 state henceforward, today, will be Justice  
6 Jonathan Lippman, presiding over what many  
7 times is the last recourse for justice.

8 But we talked about the beginning  
9 of the process, the need to reform the grand  
10 jury system, when too many who cannot afford a  
11 lawyer have no voice and no defense. And to  
12 that point I congratulate you, sir, you were  
13 right on target with having, you know, the  
14 most indigent defendants get their day in  
15 court. But it starts there. And so he was  
16 clear on that, and I support him  
17 wholeheartedly on that.

18 The draconian Rockefeller Drug Laws  
19 that have seen generations of  
20 African-Americans, Hispanics, poor people that  
21 have not had the ability and judges who have  
22 not had the ability to pass judgment and to  
23 use their discretion to render justice.

24 And so to all of those points --

1 not the resume, but the person, his soul, his  
2 preparation, his character -- I think we will  
3 be well served.

4 But as the rules of the house do  
5 not provide for an abstention, when I walk  
6 through those doors, through that exit sign, I  
7 will join Senator Diaz, sir, in not voting  
8 against you but to make a point that so many  
9 issues in our justice system have to be  
10 visited.

11 And so for this moment and this  
12 day, I wish to join you in this protest,  
13 Senator Diaz. With no aspersions to you and  
14 your nomination, Judge Lippman.

15 Thank you, Mr. President.

16 ACTING PRESIDENT VALESKY: Thank  
17 you, Senator Espada.

18 Senator Hassell-Thompson.

19 SENATOR HASSELL-THOMPSON: Thank  
20 you, Mr. President.

21 I rise to lend my support to the  
22 nomination of Judge Lippman to this, the  
23 highest post in the court system in the State  
24 of New York. And I do so not with the same

1 level of conflict as some of my colleagues  
2 have.

3 I have serious conflict with the  
4 process, I think I've made that publicly  
5 known. And I think that every opportunity  
6 that I get, I will be participating in a  
7 proactive way to ensure that this process is  
8 in fact changed as quickly as we possibly can  
9 do so.

10 My support of Judge Lippman,  
11 however, is based upon his history of his  
12 hiring practices, his support and nurturing of  
13 people of color in his historic rise to this  
14 position. I listened to testimony this  
15 morning, but certainly I have many friends in  
16 the court system across this state who revere  
17 the work that he has done and the efforts that  
18 he has made to ensure not only that they are  
19 in positions of importance and prominence, but  
20 certainly that they are a part of the policy  
21 process.

22 Many times we will have people who  
23 will come before us and talk about that they  
24 are regretful of the process and that they

1       feel very bad about it, and they pay lip  
2       service. But I happen to know that  
3       historically the work that I have had the  
4       opportunity to do with Judge Lippman in my  
5       district responds to the needs of those who  
6       were formerly incarcerated for drug use, and  
7       Judge Lippman helped to work in our community  
8       to ensure that we had alternative programs to  
9       incarceration.

10                 And this was among a group of  
11       people who were unrepresented and who are  
12       black and who are poor and who are Latino.  
13       And so that set the tone for me in terms of  
14       observing how he would go about doing the work  
15       that he will do.

16                 I think that Judge Lippman,  
17       separate from the process, will be very  
18       important to our judicial system. He has  
19       waxed eloquently on those things that he  
20       recognizes, similarly to me, that the kinds of  
21       things that we need to do to ensure fairness  
22       and to restore the trust of the people in our  
23       judicial system in the State of New York are  
24       tantamount to his first priorities.

1                   And therefore, the importance of  
2                   what this appointment means, he represents.  
3                   And therefore I join my colleagues in  
4                   supporting this nomination, but I will be  
5                   calling on Judge Lippman as we go forward to  
6                   ensure that he stays actively involved in the  
7                   process to change this system so that people  
8                   who believe that we need stronger justice will  
9                   see that that is so.

10                  No one would consider Judge Lippman  
11                  as liberal, but they certainly would judge him  
12                  as fair-minded. And that is appropriate and  
13                  necessary for our judicial system,  
14                  particularly when you look at the numbers of  
15                  minorities who come and go throughout our  
16                  court systems.

17                  And as our young girls are becoming  
18                  more and more involved in the juvenile and the  
19                  justice system, it becomes important to have  
20                  someone at the head of our judicial system  
21                  that understands the need to address these  
22                  issues in a preventive as well as a judicious  
23                  way as they come through the courts.

24                  So I am very pleased to make, based

1           upon my knowledge of his experience and the  
2           opportunities that he has given, that he will  
3           be a justice that will be fair. And that he  
4           also know I will be breathing down his neck to  
5           ensure that the things that he has done in the  
6           past will be those that he will continue to do  
7           in the future. And those people who attempt  
8           to block his good efforts, he will have a  
9           champion in me to help him to move those  
10          roadblocks as he represents the people of the  
11          State of New York.

12                           Thank you, Mr. President.

13                           ACTING PRESIDENT VALESKY:       Thank  
14          you, Senator Hassell-Thompson.

15                           Senator Klein.

16                           SENATOR KLEIN:        Thank you,  
17          Mr. President.

18                           I rise today to second the  
19          nomination of Jonathan Lippman as our Chief  
20          Judge of the Court of Appeals.

21                           I think this is sort of, I think, a  
22          celebration for the judge and his family, and  
23          also all of us as New Yorkers. A man who came  
24          from humble beginnings, growing up on the

1 Lower East Side, I think he reflects what many  
2 young lawyers at the time -- when they go to  
3 law school, when they graduate from law  
4 school -- what their dreams would be. And I'm  
5 sure there's many who dream of being just a  
6 judge. But many, I guess, wouldn't dare to  
7 dream to be Chief Judge, the top judge in the  
8 great State of New York.

9 And I think again, if anyone can  
10 plan their life on what the road map you would  
11 take to be the Chief Judge of the Court of  
12 Appeals in New York State, I think Judge  
13 Lippman followed that road map. Worked his  
14 way up from a law secretary in Manhattan,  
15 later became an administrative judge, then an  
16 Appellate Court judge, all the while learning  
17 and making our court system better.

18 Again, I think one of the things  
19 that Oliver Wendell Holmes once said, that the  
20 experience of the law is what's important.  
21 And I think in many cases there's no one in  
22 the court system that has more experience than  
23 Judge Lippman.

24 Everything that has been good about

1       our judicial system over the last 20 years, in  
2       many ways Judge Lippman had a very important  
3       and positive impact on all of that. Domestic  
4       violence courts, expanding the Family Courts,  
5       all types of different medical malpractice  
6       parts, Jonathan Lippman had a major impact on  
7       each and every one of those things.

8               And there's also, I think, when you  
9       think about the type of person who should be  
10      the Chief Judge -- I talked extensively about  
11      his administrative experience, but also his  
12      legal acumen. He understands the various  
13      issues that come before our great court in the  
14      State of New York. And I think he's going to  
15      be a credit to each and every one of us.

16              And I think all of us here should,  
17      I think, take pride in the fact, especially if  
18      we're an attorney, that we can rise not only  
19      to become a State Senator, as we all stand  
20      here today, but also become a great judge,  
21      even a Chief Judge.

22              And the only thing I can say, when  
23      Jonathan Lippman officially assumes his post  
24      as the Chief Judge of the State of New York, I

1 think the residents of the State of New York  
2 can rest assured that justice will be done.

3 Thank you, Judge.

4 ACTING PRESIDENT VALESKY: Thank  
5 you, Senator Klein.

6 Senator Volker.

7 SENATOR VOLKER: Mr. President,  
8 first of all, if I might just say that Senator  
9 Sampson did an excellent job at the hearing.

10 In fact, it was mentioned that  
11 former Judicial chairman Jim Lack mentioned  
12 support of Jonathan Lippman. The only reason  
13 I mention Senator Lack is that when he was  
14 chairman of Judiciary, I think that John  
15 Sampson did a better job of handling one  
16 particular witness who has testified on many  
17 occasions. And Senator Lack had a little bit  
18 bigger problem with that witness. In fact, I  
19 think that woman got thrown out of the room.  
20 But that's neither here nor there.

21 But I have to say, Jonathan, that  
22 you have always been, with me as chairman of  
23 Codes and as somebody who has worked for many  
24 years with the judiciary, a class individual,

1        forthright, ready to assist in any way  
2        possible.

3                    In fact, I think one of the things  
4        that kind of bothers me a little is I heard  
5        some criticism of Judge Kaye, that it's a  
6        continuation of Judge Kaye. Gee, that's too  
7        bad. I thought Judge Kaye did a pretty good  
8        job, personally.

9                    And, you know, I realize very much  
10       that the problem with the judiciary is, let's  
11       be very frank, the judges are all angry  
12       because they didn't get a pay raise. We know  
13       that. The last time I looked, the Chief Judge  
14       of the Court of Appeals doesn't get to vote in  
15       either house of the Legislature.

16                   It is a shame, because the  
17       judiciary should have gotten a pay raise. But  
18       that's something that this house, I think,  
19       tried our best to make that happen. But -- I  
20       know we passed legislation. I didn't want to  
21       get into that.

22                   But Jonathan Lippman -- and I  
23       understand the feelings of people here that  
24       there were other people who could have been on

1 the list. And, you know, I've got to say  
2 something, years ago I said that Jim McGuire  
3 should have been on the list also. And he  
4 wasn't on the list. And you could name any  
5 number of people. It wasn't that they weren't  
6 qualified, it's just that the list was picked  
7 based on a decision that had to be made.

8 And of course I will say this too,  
9 Judge. One of the Court of Appeals judges --  
10 I happen to know him much, much, much longer  
11 than you -- Gene Piggott, since he comes from  
12 my area. Please take care of him and watch  
13 that he doesn't get into trouble. Okay?

14 But in any case, you'll make a fine  
15 chief justice. I'm happy to support you. I  
16 haven't always agreed in the past with the  
17 former Chief Judge's decisions. But then, as  
18 I've said, a lot of people disagree with me.

19 So I can only say this, that I  
20 think that the Office of Court Administration  
21 will be especially -- and maybe that's as  
22 critically important as anything -- will be  
23 run by somebody that knows more about it than  
24 anybody else. And in this time, this fiscal

1           time, that may be -- and I'm not saying  
2           that -- obviously, the decisions that are made  
3           are extremely important. But running the  
4           Office of Court Administration right now is  
5           going to be something that's almost equally as  
6           important.

7                           So good luck to you, and Godspeed.

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

10                           Senator Leibell.

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

13                           This is probably one of the most  
14           important confirmations that we will have the  
15           opportunity to consider over the course of any  
16           term. The Chief Judge of the New York Court  
17           of Appeals leads our other branch of  
18           government, the judiciary.

19                           And we are really very fortunate  
20           today because we have someone whose name has  
21           been sent to us who has had a tremendous,  
22           tremendous career in the law and as a judge.  
23           He brings to this position every possible  
24           qualification that we could ask for as a

1 legislative body. He has great integrity, he  
2 has the disposition we would expect from a  
3 judge, he has the knowledge of the law that we  
4 would hope for from a judge. And he has a  
5 tremendous sense of fairness.

6 I've had the good fortune to know  
7 Judge Lippman for some time, worked with him  
8 on a number of issues. I cannot think of a  
9 better person to fill this position. So I am  
10 very pleased to stand here today and to lend  
11 my support to this nomination.

12 Thank you, sir.

13 ACTING PRESIDENT VALESKY: Thank  
14 you, Senator Leibell.

15 Senator Saland.

16 SENATOR SALAND: Thank you,  
17 Mr. President.

18 I too rise in support of Judge  
19 Lippman's confirmation to the position of  
20 Chief Judge of the Court of Appeals.

21 I have had the good fortune of  
22 knowing the judge for a number of years here  
23 in Albany, in my capacity as a member of  
24 several committees with which the judiciary

1 deals with from time to time.

2 Certainly when I chaired the Senate  
3 Children and Families Committee, and as a  
4 member of the Judiciary and Codes Committees,  
5 I had opportunity to frequently have contact  
6 with Judge Lippman, and always found him to be  
7 extraordinarily dedicated, extraordinarily  
8 capable, a man possessed of keen intellect, a  
9 man dedicated to public service, a man whose  
10 word was his bond, a man who full-well  
11 understood that there is a process, a  
12 legislative process, which contains that  
13 ever-present element of give and take. A man  
14 who understood that, a man who tried his best  
15 to use his abilities to influence that system  
16 on behalf of his constituencies, particularly  
17 when he was chief administrative judge of the  
18 judiciary.

19 I mentioned earlier in the  
20 Judiciary Committee today that in my earlier  
21 time as an attorney, I spent a lot of time in  
22 court -- not as much since I came to this  
23 chamber -- and there were certain qualities  
24 that I would always hope to find in a judge.

1           And those qualities, whether it be the trial  
2           bench or the appellate bench, I think are  
3           critically important.

4                       Obviously, first and foremost, you  
5           want somebody who's fair, somebody who can  
6           analyze with a kind of keen intellect, a  
7           person who doesn't have an agenda, a person  
8           who is about justice, a person who is  
9           judicious, a person who epitomizes everything  
10          that you believe in when you look at the  
11          symbol of that blind goddess.

12                      Well, Judge Jonathan Lippman is  
13          such a person. Judge Jonathan Lippman has  
14          been a superb public servant. He will be an  
15          exemplary Chief Judge. He is certainly a  
16          credit to his family, he is a credit to the  
17          judiciary, and he will be an enormous credit  
18          to the State of New York.

19                      I wish you well, Judge.

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

22                      Senator Stewart-Cousins.

23                      SENATOR STEWART-COUSINS:       Yes, I  
24          too rise to second the nomination of Jonathan

1 Lippman for the Chief Judge of the Court of  
2 Appeals.

3 Certainly there's no question that  
4 the process is seriously flawed, and I would  
5 be remiss in not saying that. But I would  
6 also be remiss in not standing in support of  
7 someone who has been outstanding.

8 I had the privilege of being on the  
9 county board of legislators when Judge Lippman  
10 was our chief administrative judge. And  
11 during that time, he did what he does, make  
12 sure that we move ahead, make sure that we  
13 progress, make sure that there are no  
14 obstacles to reforming our court system or, as  
15 was the case in Westchester County,  
16 restructuring and rebuilding our courts.

17 It was a difficult time because the  
18 money was very, very large that was involved.  
19 There were many of us who were concerned with  
20 the expense. And at some point the process  
21 seemed to be stalled. And it was Judge  
22 Lippman who made sure that we understood the  
23 big picture, we understood the ramifications  
24 for all of our county residents and beyond.

1           And we understood that, while he showed  
2           leadership but an incredible amount of respect  
3           with every step.

4                         There was never a question that  
5           this was about better service to the people --  
6           not about ego, not about anything but making  
7           sure that our courts were the best they could  
8           be.

9                         He has brought with him those  
10          values, those considerations, and that  
11          commitment. And whether it's the drug courts  
12          or restructuring the system or being part of  
13          the process that will change the process that  
14          has lingered, there couldn't be better  
15          leadership.

16                        So I congratulate you, and I  
17          welcome working with you.

18                        ACTING PRESIDENT VALESKY:     Thank  
19          you, Senator Stewart-Cousins.

20                        Senator Adams.

21                        SENATOR ADAMS:           Thank you,  
22          Mr. President.

23                        I came to Albany this week  
24          intending, as a member of the Judiciary

1           Committee, intending to vote no on this  
2           nomination -- until I had a conversation with  
3           Senator Sampson, who's the chair of that  
4           committee, and he assured me that some of our  
5           concerns were laid to rest.

6                        You know, if only life was as  
7           simple and as black-and-white as just going  
8           with the qualifications of an individual. But  
9           the reality is there are shades of gray. And  
10          my belief, as I listened to Senator Espada and  
11          Senator Diaz, is this is a sad moment for the  
12          State of New York. Where we can put a black  
13          man into the White House, we cannot put a  
14          black or Hispanic in a black robe in the  
15          highest court in our land.

16                       And although there's a celebratory  
17          mood that's here, although we want to  
18          celebrate because a qualified person is  
19          reaching that level, but the reality is the  
20          dream that Judge Lippman is living is a  
21          nightmare that though black and Hispanic  
22          lawyers and judges are qualified, they're  
23          never getting there.

24                       We cannot stay in the minor leagues

1 our entire life. We need to play in the major  
2 leagues. We need to sit on the top courts.  
3 We need to participate.

4 And so for those who dismiss the  
5 concerns of Diaz and Espada and others as mere  
6 just rhetoric, I say no to that. It's a real  
7 pain, it's a real concern. We can't continue  
8 to hear "Well, maybe next time, maybe next  
9 year, maybe next appointment, maybe next  
10 moment." No to that "next."

11 Now is the time. If a black can  
12 integrate the White House, then we can  
13 integrate black robes in our court system.  
14 Enough is enough.

15 And so what I'm hoping, out of all  
16 of this madness, I'm hoping that the judge  
17 doesn't see this as a step back but an  
18 opportunity, an opportunity to diversify the  
19 ranks.

20 And it's also an opportunity for us  
21 to look at the process. There's no way that  
22 in as diversified a state as New York, a group  
23 of male whites decide the criminal justice  
24 system. Our justice is supposed to be blind,

1 but I'm tired of a hole being in that  
2 blindfold, when it comes down to people of  
3 color, to look at the sentencing, to look at  
4 how we're treating the various people that  
5 come in front of the court system.

6 So this is our opportunity to  
7 change the process and not allow ourselves  
8 again to have a list where qualified black  
9 women and men were not on the list and no  
10 matter what people tried to color it with,  
11 they were deemed ineligible. If you're not on  
12 the list, you are ineligible. And there are  
13 too many eligible people of color that are  
14 capable of sitting on the high court and are  
15 constantly and continually being passed over.

16 So yes, I'm happy that Judge  
17 Lippman is here. Yes, I'm happy I had a  
18 conversation with Senator Sampson and he said  
19 we have an opportunity to do some great  
20 things. And I thank Senator Sampson for  
21 leading that committee and chairing it and  
22 saying let's have an opportunity.

23 But I don't want to sit here again  
24 and hear "maybe next time." I'm tired of my

1 community staying in the minor leagues. We  
2 don't want to live a lifetime of running fast,  
3 jumping high, but we can't coach the team.  
4 We've heard that before. I don't want to hear  
5 it anymore. I don't want to hear about, well,  
6 it's only fair. I want to deal with those  
7 shades of gray that other people want to  
8 ignore.

9 And this is not a statement towards  
10 Judge Lippman. I'm sure Judge Lippman is  
11 highly qualified to do this.

12 But the reality is we can wear the  
13 handcuffs. The reality is we can occupy the  
14 prisons in the northern part of the state.  
15 The reality is we can sit inside the precincts  
16 cuffed to the benches. The reality is we can  
17 be called perps. The reality is that our  
18 justice system has a blindfold around the  
19 woman that holds the scales of justice. But  
20 when we come into that courtroom, when we fill  
21 out our qualifications to sit on the bench,  
22 all of a sudden the blindness of justice has  
23 some way to peek through and say  
24 "unqualified."

1                   Enough is enough. Enough is  
2                   enough. If we can occupy, again, the White  
3                   House, we can wear a black robe on the high  
4                   courts in our state.

5                   So I say aye, but I respect the  
6                   concerns of Senators Diaz and Espada and  
7                   others that have constantly stated enough is  
8                   enough. Enough is enough.

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

11                  Senator Monserrate.

12                  SENATOR MONSERRATE:     Thank you,  
13                  Mr. President, and to my distinguished  
14                  colleagues here in the State Senate.

15                  First I want to recognize the fine  
16                  work of the Judiciary Committee and their  
17                  chair, Senator John Sampson, for his diligence  
18                  in this process.

19                  I want to acknowledge that with  
20                  Judge Jonathan Lippman we have an individual  
21                  of impeccable credentials, an individual with  
22                  a lifelong service record, one that is  
23                  exemplary.

24                  I stand here, however, to join my

1 colleagues Senator Reverend Diaz and Senator  
2 Espada to in essence cast an abstention vote  
3 to the process, a process which did not allow  
4 for the eligibility of women or Latinos in  
5 particular and other African-Americans.

6 And I stand here to say that I  
7 understand that Judge Lippman will do a fine  
8 job as our chief justice.

9 But we need to do more than just  
10 pay lip service to inclusion, particularly to  
11 large and emerging communities such as ours,  
12 which seems to be the fastest-growing and the  
13 largest in the state with respect to minority  
14 groups. We have to ensure that there's a  
15 process that integrates and doesn't segregate  
16 us out.

17 And we are standing, the three of  
18 us in particular, not to just make a political  
19 statement for the day, but to say that we are  
20 committed to the due diligence that this house  
21 will have for years to come to ensure that  
22 there is inclusion and a process that  
23 enfranchises people, people who have  
24 historically have felt disenfranchised from

1           this process.

2                         And the finality of this process,  
3           though it produced a fine judge, a judge that  
4           will serve us well, still leaves millions of  
5           New Yorkers scratching their heads and asking  
6           the question, is the process ever going to be  
7           equitable for all of the people?

8                         So I will be joining my colleagues  
9           and in essence not cast a vote on this.

10                        Thank you very much.

11                        ACTING PRESIDENT VALESKY:        Thank  
12           you, Senator Monserrate.

13                        Senator Schneiderman.

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

16                        I rise also in support of the  
17           nomination of Judge Lippman -- Chief Judge  
18           Lippman before the day is out.

19                        And I would like to note, in  
20           keeping with the comments of my colleagues,  
21           that we are supporting Judge Lippman today.  
22           We are supporting you today, sir, and we will  
23           seek your support tomorrow as we seek to  
24           improve and open the judiciary to ensure that

1 all New Yorkers are represented.

2 Because the voice of the Chief  
3 Judge of the Court of Appeals is not just a  
4 powerful voice in rulings on the law from the  
5 bench, it is a powerful voice for reform, for  
6 justice, and for the ongoing process of  
7 improving the judicial system and the legal  
8 system in the State of New York.

9 So I'm honored to vote to confirm  
10 this highly qualified nominee. But I assure  
11 you all that the concerns voiced by my  
12 colleagues are not going away. And indeed, I  
13 would like to mention to all of my colleagues  
14 who are not on the Judiciary Committee, who  
15 were not present at the hearing we had earlier  
16 today, it is absolutely clear that our new  
17 Judiciary chair, Senator John Sampson, is  
18 committed to transforming the flawed process  
19 that brought us here today. He has already  
20 begun to hold hearings. We've already started  
21 to move on this.

22 So, ladies and gentlemen, reform is  
23 on the way. We're beyond the point of saying  
24 hope is on the way: Reform is on the way.

1           And I hope that Judge Lippman, I am confident  
2           that Judge Lippman will be our partner in that  
3           effort.

4                         I am confident that he will join us  
5           because of his record so far. And I would  
6           urge all of my colleagues that if you look at  
7           the last decade in the New York court system,  
8           it has been a time of tremendous innovation.  
9           It has been a time where other courts and  
10          legislatures around the United States have  
11          looked to New York and looked to reforms made  
12          in New York for ideas of how we can do better.

13                        We have to do better. We have to  
14          do better here and around the country. The  
15          United States is coming to a point, I believe,  
16          where we are all realizing that our failed  
17          national experiment with mass incarceration  
18          must be put to an end. We have 2.4 million  
19          people in prison in the United States. One  
20          out of every nine young African-American men  
21          is in jail or prison.

22                        We have to change the system. We  
23          have to go with innovations that Judge Lippman  
24          has been a part of such as drug courts,

1 innovations such as changing our system of  
2 parole and probation. We have over 9,000  
3 prisoners in the New York State correctional  
4 system for technical violations of parole.  
5 That wastes money, that wastes lives, that is  
6 unacceptable.

7 So I rise both to compliment our  
8 Judiciary Committee chair, Senator Sampson,  
9 for beginning the process of reform, and to  
10 voice my strong support for this great  
11 nominee, with the confidence that he will join  
12 all of us in the effort to continue to reform  
13 the system, to open the process, to ensure  
14 that all have adequate representation, and to  
15 ensure that this is a system of equal justice  
16 under law for all New Yorkers.

17 Thank you, Mr. President.

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

20 Senator Dilan.

21 SENATOR DILAN: Yes,  
22 Mr. President.

23 I rise to indicate that I will be  
24 voting in the affirmative for the nominee.

1 I'd like to congratulate him.

2 I would also like to indicate that  
3 despite that the process was flawed, I am  
4 still voting for him.

5 I had the opportunity to question  
6 Judge Lippman directly in committee, and I'm  
7 satisfied with his answers that he indicated  
8 that he will be reviewing a panel that was  
9 created in 2007 to review the qualification of  
10 sitting elected judges. He will also be  
11 reviewing court diversity. And also, he  
12 indicated to me that he will be staking out a  
13 clear and concise position on judicial pay  
14 raises.

15 And as a result of that, I will be  
16 working with my colleagues, and especially  
17 Senator Sampson, the chairman of the Judiciary  
18 Committee, and Judge Lippman to work on those  
19 reforms.

20 Thank you, and congratulations.

21 ACTING PRESIDENT VALESKY: Thank  
22 you, Senator Dilan.

23 Senator Perkins.

24 SENATOR PERKINS: Thank you,

1 Mr. Chair.

2 I want to rise and second the  
3 nomination and appreciation for Judge Lippman,  
4 our next Chief Judge of the Court of Appeals.

5 But first I want to send some love  
6 to my chairman of the Judiciary Committee for  
7 the outstanding work that he's been doing, and  
8 especially in this particular process.

9 And I daresay I would like to  
10 commend his partner, Senator Maziarz, because  
11 they've worked in a very collegial, bipartisan  
12 way during this process, but even in other  
13 instances. But this one especially, because  
14 it was controversial.

15 And rather than simply complain  
16 about the broken process and the shortcomings  
17 of the process, you took the leadership to see  
18 what could be done to reform it, to fix it.  
19 And I think that's a very, very important  
20 model for all of us, in or not in leadership,  
21 to look at as we move forward to address not  
22 just this type of a concern but the budgetary  
23 process and other areas as well.

24 And to Judge Lippman, I want to

1       thank you for your availability as we were  
2       exploring the problems of the process and as  
3       we were looking for solutions.  And you were  
4       open and frank.  You heard criticism.  Where  
5       it was appropriate, you accepted it, and where  
6       it was not, you didn't.  But at the same time,  
7       you offered, I think, a very positive approach  
8       to the concerns that were not only expressed  
9       here but also were expressed in those moments  
10      that we had together.

11                   And I'm very pleased.  For those  
12      who are concerned about the injustice of the  
13      Rockefeller Drug Laws, there is a judge about  
14      to become the Chief Judge of the Court of  
15      Appeals who heard that concern, understands  
16      that it needs corrections, and is prepared to  
17      provide visible leadership -- not just a memo  
18      to the parties that are interested, but  
19      actually really looking at the problem and  
20      making sure that a change, a difference will  
21      be made.

22                   And that I think is very, very  
23      important for the kind of reform that all of  
24      us are looking for, not only with regard to

1 the Rockefeller Drug Laws but other areas of  
2 criminal justice that are important to us.

3 And I think that yes, the process  
4 raised a lot of concerns, from the Governor's  
5 office to the man and woman in the street.  
6 And we need to see how we can continue the  
7 efforts on our part in the Judiciary Committee  
8 and other areas to bring about that kind of  
9 reform.

10 But I just wanted to make sure that  
11 I lent my voice to your candidacy, to what I  
12 believe is going to be an outstanding  
13 leadership in the Court of Appeals, and want  
14 you to know that I and I daresay all of my  
15 colleagues are there to be with you.

16 Thank you.

17 ACTING PRESIDENT VALESKY: Thank  
18 you, Senator Perkins.

19 Senator Oppenheimer.

20 SENATOR OPPENHEIMER: Thank you.

21 Your concerns about the process of  
22 my colleagues is certainly shared by, I think,  
23 almost all of us. And the process, as I  
24 understand it, is in the process of being

1 changed.

2 And so I would like to take these  
3 few moments to speak about Jonathan Lippman.

4 And I feel that if we all loved the  
5 courts under Judith Kaye, we will continue to  
6 love the courts under Jonathan Lippman. There  
7 are no two people who worked more closely  
8 together, that shared a similar philosophy of  
9 reform of our courts. And I think this is an  
10 amazingly good appointment.

11 And on a personal level, Jonathan  
12 lives in my district, Judge Lippman lives in  
13 my district and is well-regarded in Rye Brook.  
14 And his family is.

15 And this is person that has not  
16 only the intellectual skills, but he also has  
17 excellent interpersonal skills and skills of  
18 compassion and thoughtfulness. And I think in  
19 this appointment we are going to see the  
20 finest that we could possibly see.

21 And, Jonathan, I'm just very happy,  
22 not only for you but for us too. And I second  
23 the nomination.

24 ACTING PRESIDENT VALESKY: Thank

1           you, Senator Oppenheimer.

2                         Senator Craig Johnson.

3                         SENATOR CRAIG JOHNSON:       Thank you  
4           very much, Mr. President.  I too rise to  
5           support the nomination of Judge, soon to be  
6           Chief Judge Lippman.

7                         Of course I want to add my kudos to  
8           my very good friend and chairman of the  
9           Judiciary Committee, John Sampson.

10                        And maybe I'm unique, but I'm one  
11           of the few lawyers that don't sit on the  
12           Judiciary Committee.  But I've had the  
13           opportunity to speak with a number of the  
14           members through the process, to hear their  
15           concerns as well as their wisdom.

16                        I want to add a few things.  As a  
17           practicing attorney, I've had the privilege of  
18           working and appearing before a number of  
19           judges on the bench.  And what I've noticed in  
20           my short tenure as an attorney is when  
21           Jonathan Lippman became the chief  
22           administrative judge for all of the courts in  
23           New York State, justice moved.  Justice became  
24           swift.

1                   It was a problem that numerous  
2 practitioners -- it was widely known, the  
3 backlogs on the civil side. And quite  
4 frankly, with a little bit of an iron fist,  
5 but a deft touch, Jonathan Lippman improved  
6 the New York State court system.

7                   But I think what's very important  
8 to my colleagues, I urge you, take a moment to  
9 look at a resume that is not simply one page,  
10 but it's a resume of accomplishment and  
11 demonstrates the superior legal mind that we  
12 are getting in Jonathan Lippman as the Chief  
13 Judge for the Court of Appeals.

14                  And you have a difficult chore  
15 ahead of you. You are succeeding a great  
16 chief judge in Judith Kaye, and it goes on  
17 from there. And we could talk about the  
18 accomplishments, but I am confident that you  
19 are going put your own imprint on the Court of  
20 Appeals -- a Court of Appeals that in recent  
21 years has seen a little bit of division in  
22 terms of philosophies and needs to be the  
23 strong Court of Appeals that it once was.

24                  And I am confident that you will

1 bring that. And I'm confident that when  
2 plaintiffs and defendants, prosecutors and  
3 defenders come before you on issues, they will  
4 get a fair and impartial hearing and the  
5 decision that you render or help craft will be  
6 one of wisdom and one of fairness.

7 So I congratulate you today. It's  
8 an honor well-deserved. I think all of  
9 New York's residents should look forward and  
10 should have the confidence that when they  
11 appear before you, if they have to appear  
12 before you -- and hopefully they don't have to  
13 appear before you -- that they will have a  
14 wise Chief Judge to make their arguments to.

15 I congratulate you, I wish you the  
16 best of luck.

17 Thank you very much, Mr. President.

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

20 Senator Squadron.

21 SENATOR SQUADRON: Thank you very  
22 much, Mr. President. I also rise in support  
23 of the nomination of Chief Judge Jonathan  
24 Lippman.

1                   We know and I think we've heard a  
2                   lot today about how important it is that the  
3                   scales of justice are fair. But of course  
4                   it's also very important that the scales of  
5                   justice work.

6                   And Chief Judge Nominee Lippman's  
7                   career in the judiciary in this state, really  
8                   making sure that it works, that our state  
9                   judiciary works, is so important and so  
10                  welcome in the position of Chief Judge. It  
11                  leads to all of the issues we've talked about  
12                  today, whether it's increasing justice by  
13                  reforming how we deal with the Rockefeller  
14                  Drug Laws or increasing access for those who  
15                  are most in need to our court system. Or  
16                  making the process that we all go through of  
17                  jury duty easier so that the civic engagement  
18                  of it is effective.

19                  And your background on the courts  
20                  is something that I think will be welcome  
21                  across the state. But of course there's  
22                  another background that you have that I want  
23                  to rise and mention, which is on the Lower  
24                  East Side of Manhattan, which is where you

1           come from and what I represent.

2                       And so many of us in this room and  
3 across this country started on the Lower East  
4 Side; if not personally, our families did. My  
5 grandfather did, you did personally. And when  
6 you look at these same issues, when you look  
7 at questions of equity, questions of justice,  
8 questions of diversity, which has been such a  
9 subject -- for good reason -- today, the Lower  
10 East Side of Manhattan is the best place to  
11 find those issues.

12                      And I am confident that with your  
13 background there, your history of coming from  
14 the place where the melting pot melts, from  
15 around the world and then goes forth to the  
16 rest of the country, that your focus on the  
17 courts and as Chief Judge will help to push  
18 for those goals of diversity, of equity, of  
19 justice.

20                      And I do, before I sit, just want  
21 to also congratulate Senator Sampson for  
22 having really brought these issues to the fore  
23 at the same time that he moved you forward, so  
24 that we can both have a Chief Judge with all

1 of these skills and also make sure that these  
2 issues which have been raised today and so  
3 often do not get lost in the shuffle.

4 So I look forward to working with  
5 you. And it is another -- it's a good day for  
6 the State of New York and, as so many days  
7 are, a good day for the Lower East Side of  
8 Manhattan.

9 Thank you very much.

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

12 Senator Sampson.

13 SENATOR SAMPSON: Thank you very  
14 much.

15 In closing, I want to thank all my  
16 colleagues, especially those who spoke on this  
17 nomination.

18 And, Senator Squadron, as you said,  
19 the judge comes from the Lower East Side in  
20 your district. But what I can say is you have  
21 a kid from Brooklyn who, along with the  
22 gentleman from the Lower East Side, is not  
23 going to only make change with respect to  
24 rhetoric, but we're going to go from hope to

1 reforming this system.

2           So, Judge Lippman, I want to  
3 commend you. And you heard my colleagues.  
4 You know, we don't want to be in the minor  
5 leagues no more. We want to be in the major  
6 leagues. We don't want lip service as to  
7 inclusion, because we want to be included. We  
8 want to be at the table when decisions are  
9 being made.

10           But most of all, as Senator Adams  
11 said, there is a hole in the blindfold of Lady  
12 Justice. And I want to make sure your  
13 commitment as well as my commitment is making  
14 sure that we change that blindfold and we make  
15 sure that the scales of justice are balanced.  
16 Because time and time again throughout  
17 communities throughout the State of New York,  
18 justice is not balanced.

19           And this is what I talked about  
20 when challenging the whole selection process.  
21 It's about restoring the faith, the trust, and  
22 the confidence in the judicial system. And  
23 that's what it's all about.

24           You know, justice is supposed to be

1 color-blind, but a lot of times it's not. And  
2 that is the reality of the day. And that is  
3 the reality of the people on the streets -- in  
4 Brooklyn, Bedford-Stuyvesant, East New York,  
5 Brownsville -- because we experience it on a  
6 day-to-day basis.

7 So, Your Honor, I want to commend  
8 you on being very frank, being very  
9 forthright, on listening to us but also  
10 implementing, as you're saying, certain  
11 resolutions. We're a body that we're not  
12 concerned about rhetoric or words, because  
13 they are meaningless to us. We want to see  
14 action. And we don't want to see action a  
15 year from now, two years from now. Action  
16 needs to take place as soon as you are sworn  
17 in and your confirmation is done here today.

18 That's what we're about. We're  
19 about an active body. We're not a  
20 dysfunctional body, we're a body concerned  
21 about the issues and concerns of the people in  
22 the State of New York, from Brooklyn all the  
23 way to Buffalo.

24 So, Your Honor, I want to commend

1           you but most of all commend your family on the  
2           journey that you have taken.

3                         Thank you very much, Mr. President.

4                         ACTING PRESIDENT VALESKY:     Thank  
5           you, Senator Sampson.

6                         Senator Libous, to close for the  
7           Minority.

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

10                        I rise to support this nominee and  
11           this nomination. I have known Judge Lippman  
12           for a number of years and have had the  
13           pleasure of working with him on a number of  
14           very important issues as they pertain to the  
15           citizens of the State of New York.

16                        And as many of my colleagues have  
17           mentioned, there at least in my opinion is not  
18           a more qualified individual, or I would say he  
19           is extremely qualified for this chief justice  
20           position.

21                        But I want to speak on behalf of  
22           those New Yorkers today -- many of my  
23           colleagues got up as attorneys and talked  
24           about the legal process and their experiences

1 with Judge Lippman. But I want to speak on  
2 behalf of probably some 19 million New Yorkers  
3 who are not attorneys. And on behalf of all  
4 of them, I want to say that the Governor has  
5 picked a man who is compassionate, someone who  
6 is a good person, he is kind, he is smart.  
7 But as I said before, he is extremely  
8 qualified.

9 I am very pleased that Jonathan  
10 Lippman will soon be our Chief Judge on the  
11 Court of Appeals.

12 ACTING PRESIDENT VALESKY: Thank  
13 you, Senator Libous.

14 Senator Smith, to close for the  
15 Majority.

16 SENATOR SMITH: Thank you very  
17 much, Mr. President.

18 I rise to second the nomination, to  
19 support the nomination of Justice Lippman.  
20 But I also want to give a tremendous amount of  
21 respect and credit to our chair of Judiciary,  
22 Senator John Sampson.

23 You had to deal with a matter that  
24 required you to address your personal

1 concerns, your concerns on behalf of  
2 19.5 million people in this state, concerns of  
3 other legal scholars throughout the state as  
4 well as this body of members. And you did it  
5 with tremendous respect, you did it with the  
6 type of honor and dignity that I think most of  
7 our colleagues were able to recognize that you  
8 have set the bar higher for chairs.

9 And I want to tell you myself the  
10 respect that I have for you and how you had to  
11 deal with this matter, which I know was  
12 sensitive to some members as relates to the  
13 process, as relates to the selection process,  
14 having nothing to do with the candidate. And  
15 you did a tremendous job under difficult  
16 circumstances at a time when change is in the  
17 air, and that's what is present for everyone.

18 So I want to go on record as saying  
19 that I appreciate the difficult situation you  
20 were in, I appreciate what you have done, and  
21 I would hope all of our colleagues respect you  
22 as well as your deputy or your ranker, Senator  
23 Maziarz, as well. To both of you, you did a  
24 tremendous job, and I thank you on behalf of

1 the State of New York.

2 Judge Lippman, Amy, Lindsay,  
3 Russell -- to the law firm of Lippman,  
4 Lippman, Lippman and Lippman -- this is a  
5 proud day for you. It's a proud day for your  
6 childhood friend, Sheldon Silver, who I know,  
7 while he is not here on the floor, he is  
8 watching the proceedings, saying, "Hurry up,  
9 guys, get this over with so I can smile."

10 But I will tell you, I've had the  
11 experience of knowing Justice Lippman when I  
12 was ranker on Judiciary. And aside from his  
13 obvious scholarship as relates to the legal  
14 profession, what he has done for the Family  
15 Court, which is very important for  
16 constituents, in particular black and Hispanic  
17 constituents, who that Family Court at one  
18 point was like a factory -- and I use that  
19 word very guardedly.

20 And he knows what had to be done to  
21 make that system at least give the dignity and  
22 respect to individuals who are going through  
23 very difficult times. Family Court is a very  
24 difficult, pressing matter that weighs on the

1 heart. And what he did with that system to  
2 show and allow dignity and respect for people  
3 going through difficult times, I'm hoping that  
4 becomes a national model. And so my hat is  
5 off to you for that.

6 This is a good day for us,  
7 colleagues. You know, we have three branches  
8 of government. We have the executive branch,  
9 we have the legislative branch, and we have  
10 the judicial branch. And while they are in  
11 separate places, they work together for the  
12 good of the people of this state, meaning that  
13 we get elected because we believe the 300,000  
14 people that we represent believe in us, and so  
15 we try to do the best that we can.

16 The Governor gets elected, along  
17 with the Lieutenant Governor and the  
18 Comptroller and the Attorney General, and they  
19 have a job to do. And now today we have  
20 nominated and will be electing Justice Lippman  
21 to be the Chief Judge in the highest court of  
22 the State of New York, and he will do as we  
23 expect to do in terms of representing the  
24 people of this state.

1                   So, Judge, this is a good day.  
2           Your family, I know -- Amy, it's good to see  
3           you resting. Good to see you. And I will be  
4           forever grateful to each and every one of you  
5           for allowing Justice Lippman to put the time  
6           that he's put in.

7                   It's not easy, just like it's not  
8           easy for any of us. Our families suffer a  
9           great deal because of the absence of that  
10          individual. And when he comes home, he's  
11          wearing that day. And I know sometimes you  
12          have to allow him that space, which is not  
13          always easy. And many people don't get that.  
14          But as elected officials, one who is  
15          constantly having the public on our mind,  
16          decisions on our mind, I know how that weighs  
17          on you and the rest of the family.

18                   So we appreciate the fact that you  
19          have allowed him to take this position. And  
20          we would hope that as the future presents  
21          itself to us that there will be other  
22          individuals who have an opportunity, just as  
23          Jonathan Lippman, to rise themselves up to  
24          that place as the highest court in the state.

1                   So my hat is off to you and the  
2                   family. God bless you. We will continue to  
3                   pray for you as you move forward in this  
4                   position.

5                   Thank you.

6                   ACTING PRESIDENT VALESKY:       Thank  
7                   you, Senator Smith.

8                   The question at this time before  
9                   this Senate is on the motion to confirm the  
10                  nomination of Jonathan Lippman as Chief Judge  
11                  of the Court of Appeals. All those in favor  
12                  signify by saying aye.

13                  (Response of "Aye.")

14                  ACTING PRESIDENT VALESKY:  
15                  Opposed, nay.

16                  (No response.)

17                  ACTING PRESIDENT VALESKY:       The  
18                  motion carries. The nomination of Jonathan  
19                  Lippman as Chief Judge of the Court of Appeals  
20                  is hereby confirmed.

21                  (Lengthy standing ovation.)

22                  ACTING PRESIDENT VALESKY:       Judge  
23                  Lippman is joined in the gallery today by his  
24                  wife, Amy; his son, Russell; his daughter,

1 Lindsay. Congratulations and all best wishes.

2 Senator Klein.

3 SENATOR KLEIN: Mr. President, I  
4 believe Senator Aubertine has a resolution at  
5 the desk. I ask that the resolution be read  
6 in its entirety and move for its immediate  
7 adoption.

8 ACTING PRESIDENT VALESKY: We'll  
9 do that in just a moment, Senator Klein.

10 Reports of select committees.

11 Communications and reports from  
12 state officers.

13 Now we're on motions and  
14 resolutions.

15 Senator Aubertine, the Secretary  
16 will read.

17 THE SECRETARY: By Senator  
18 Aubertine, Legislative Resolution Number 371,  
19 urging the New York State Congressional  
20 delegation to support the United States dairy  
21 economy in this time of impending crisis.

22 "WHEREAS, The dairy industry is a  
23 keystone industry which not only supports  
24 rural communities but enhances other sectors

1 of agriculture, providing open space for  
2 recreation, sportsmen and women, and tourism;  
3 and

4 "WHEREAS, The dairy industry  
5 provides an economic impact of an estimated  
6 \$14,000 per cow per year, primarily in the  
7 local economy; and

8 "WHEREAS, The lack of stable  
9 prices, concentration of processing and  
10 capacity, outdated regulations and labor  
11 shortages are creating a crisis in the  
12 industry; and

13 "WHEREAS, A significant loss of  
14 capacity would create a dependence on imported  
15 milk and other dairy products and reduce our  
16 nation's food security; and

17 "WHEREAS, The 2008 Farm Bill  
18 creates a review process for federal milk  
19 marketing orders; and

20 "WHEREAS, This Legislative Body  
21 joins the state agricultural and rural leaders  
22 in acknowledging the importance of the dairy  
23 industry nationwide, as well as the unique  
24 aspects of the dairy industry region by

1 region, by funding and implementing the  
2 federal milk marketing order study as outlined  
3 in the 2008 Farm Bill, with regional  
4 representation from producers, processors, and  
5 state policymakers; implementation of fair  
6 tariffs on imported dairy solids; setting  
7 regional prices to reflect accurately and  
8 realistically the cost of production; and  
9 addressing the problems of labor shortages  
10 within the dairy industry by providing more  
11 opportunity for training and education as well  
12 as a fair and sensible approach to imported  
13 labor; now, therefore, be it

14 "RESOLVED, That the New York State  
15 Congressional delegation be and hereby is  
16 respectfully memorialized by this Legislative  
17 Body to support the United States dairy  
18 economy in this time of impending crisis; and  
19 be it further

20 "RESOLVED, That this resolution,  
21 suitably engrossed, be transmitted to each  
22 member of the Congressional delegation from  
23 the State of New York."

24 ACTING PRESIDENT VALESKY:

1 Senator Aubertine.

2 SENATOR AUBERTINE: Thank you,  
3 Mr. President. Briefly on the resolution.

4 This resolution was first drafted  
5 several weeks ago at the Council on State  
6 Governments' Agricultural Chairs Summit. And  
7 what that means is that agricultural chairs  
8 from all across the country had the  
9 opportunity to review and look at this  
10 resolution and support it. It was supported  
11 unanimously there, and I would certainly hope  
12 that we could get all the support we can here  
13 for this resolution.

14 It is important. I think all too  
15 often agriculture is not given the status that  
16 it should be given. I think that all too  
17 often people look at places like Wall Street,  
18 they look at the LME, they look at Toronto  
19 Stock Exchange, they look at exchanges, the  
20 CME, and they look at that as places where  
21 wealth is created. It is not. Wealth changes  
22 hands there, but wealth is created in places  
23 like farms.

24 And I think it's important that as

1 we look at the dairy industry today -- and  
2 we've seen crisis after crisis in the past,  
3 most noticeably in 2006, when nationally and  
4 worldwide the dairy industry as a whole was  
5 probably in one of the worst financial crises  
6 that it's ever been in.

7 But this year presents, I believe,  
8 even more issues for the dairy industry, and  
9 probably a worse financial state for that  
10 industry.

11 So with that, Mr. President, I  
12 would ask that everyone present support this  
13 resolution. It's important not only for the  
14 dairy industry but for the state as whole.

15 So thank you, Mr. President.

16 ACTING PRESIDENT VALESKY: Thank  
17 you, Senator Aubertine.

18 Senator Young.

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

21 I'm proud to say that in the past  
22 few years the New York State Senate has led  
23 the charge on behalf of the dairy industry  
24 right here in New York State. We started the

1 Center for Dairy Excellence, we started the  
2 Farm Viability Institute. We've strongly  
3 supported Cornell University milk programs.

4 And Senator Aubertine references  
5 2006, and that's when the State Senate led the  
6 charge to establish the Dairy Assistance  
7 Program, which invested \$30 million into our  
8 family dairy farms in New York State.

9 But so much really rests in the  
10 hands of the federal government. We do as  
11 much as we can in Albany -- and we have done  
12 that -- for the dairy industry. But really in  
13 Washington it's where the decisions are made  
14 that make a difference as to how farmers are  
15 able to make a profit or not. And I'm  
16 speaking of the milk price and how that is set  
17 in Washington.

18 Our dairy farmers desperately need  
19 help right now. Milk prices have reached  
20 dangerous lows, and they are facing rising  
21 costs with inflationary prices on feed, fuel,  
22 fertilizer, and so on. And so it's incumbent  
23 on us to raise our voices.

24 I want to commend Senator Aubertine

1 for putting in this resolution. And we need  
2 to continue to work together with our  
3 colleagues in Washington so that they're  
4 making the right choices for the dairy  
5 industry, because it is an economic engine  
6 right here in New York State. So I would urge  
7 everyone to get on this resolution.

8 And again I thank you, Senator  
9 Aubertine, for putting this in.

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

12 The question is on the resolution.  
13 All those in favor please signify by saying  
14 aye.

15 (Response of "Aye.")

16 ACTING PRESIDENT VALESKY:  
17 Opposed, nay.

18 (No response.)

19 ACTING PRESIDENT VALESKY: The  
20 resolution is adopted.

21 At the request of the sponsor, the  
22 resolution is open for multisponsorship by the  
23 entire house. Any member wishing not to  
24 cosponsor this resolution should inform the

1 desk.

2 Senator Klein.

3 SENATOR KLEIN: Mr. President, is  
4 there any further business at the desk?

5 ACTING PRESIDENT VALESKY: There  
6 is none.

7 SENATOR KLEIN: I just want to  
8 make one brief announcement, Mr. President.  
9 Immediately after session, there will be a  
10 Banking Committee meeting in Room 124.

11 ACTING PRESIDENT VALESKY:  
12 Banking Committee meeting in Room 124  
13 immediately following the close of session.

14 Senator Klein.

15 SENATOR KLEIN: Mr. President,  
16 there being no further business, I move we  
17 adjourn until Monday, February 23th, at  
18 3:00 p.m., intervening days to be legislative  
19 days.

20 ACTING PRESIDENT VALESKY: There  
21 being no further business to come before the  
22 Senate, on motion, the Senate stands adjourned  
23 until Monday, February 23rd, at 3:00 p.m.,  
24 intervening days to be legislative days.

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(Whereupon, at 12:43 p.m., the  
Senate adjourned.)