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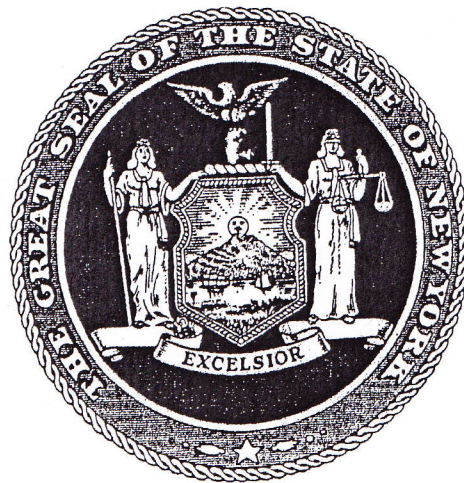
NEW YORK STATE SENATE

**THE
STENOGRAPHIC RECORD**

Albany, New York

December 17, 2002

11:55 a.m.



REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

1 SENATOR BRUNO: Madam President,
2 if we can stand at ease for just a moment,
3 we're waiting for the return of the report of
4 the Judiciary Committee.

5 THE PRESIDENT: The Senate stands
6 at ease, Senator Bruno.

7 (Whereupon, the Senate stood at
8 ease at 12:01 p.m.)

9 (Whereupon, the Senate reconvened
10 at 12:24 p.m.)

11 THE PRESIDENT: The Senate will
12 please come to order.

13 Senator Bruno.

14 SENATOR BRUNO: Madam President,
15 can we return to the order of reports of
16 standing committees.

17 And I believe that there is a
18 report from Judiciary at the desk, and I would
19 ask that that report be read at this time.

20 THE PRESIDENT: Reports of
21 standing committees.

22 The Secretary will read.

23 THE SECRETARY: Senator Volker,
24 acting chairman from the Committee on
25 Judiciary, reports the following nomination:

1 As a judge of the Court of Claims, James J.
2 Lack, of East Northport.

3 THE PRESIDENT: Senator Volker.

4 SENATOR VOLKER: Madam President,
5 the Judiciary Committee had the hearing today
6 and voted unanimously to send the name of
7 Senator James J. Lack, of East Northport, to
8 the floor.

9 And to make an opening statement on
10 the nomination, I will refer to Majority
11 Leader Senator Joseph Bruno for a statement.

12 THE PRESIDENT: Senator Bruno.

13 SENATOR BRUNO: Madam President
14 and colleagues, I stand to speak about a
15 Senator that joined the Senate sometime close
16 to the time that I did, within a year or two
17 after, and who has, over these past years,
18 served with great distinction in every way
19 that he has been asked to serve. He has made
20 we, his colleagues, proud of him as a Senator.
21 His wife, Therese, is here, daughter, Kara,
22 and he's made them proud, I'm sure.

23 And when Jim Lack goes on, as he
24 will, to the Court of Claims, he expands his
25 jurisdiction, he expands his public service,

1 but he builds on the base that he has had here
2 as chair of Judiciary, which is one of the
3 prestigious, powerful, important committees in
4 the Senate. And he has done that with great
5 diplomacy, with his superior intellect as he
6 approaches all the things that have to be
7 considered, and he has done it in a way that
8 has been beyond reproach.

9 So we're indebted to Jim. I
10 personally, as part of leadership here, Jim,
11 have been indebted to you for your service in
12 the Senate for all of these 22-some years, and
13 am totally confident that as you go on to be
14 continuing in public service that you will
15 continue with the excellence that you have
16 demonstrated here with your colleagues.

17 So we're sorry to see you leave the
18 Senate, but we're very, very happy for you,
19 for your extended constituency, and that you
20 will continue your good work on behalf of so
21 many people. So I'm going to congratulate you
22 in advance, and I urge my colleagues to move
23 this nomination.

24 Thank you, Madam President.

25 THE PRESIDENT: Senator Spano.

1 SENATOR SPANO: Thank you, Madam
2 President.

3 You know, when you look back on the
4 calendar, and I look at -- in fact, starting
5 in January, I'll be starting my 25th year in
6 the Legislature. For those of us who have
7 been here for a long time, you think back
8 where we were when we started and how did all
9 of a sudden, overnight, it seems that 25 years
10 have passed.

11 I was very happy and proud to have
12 been elected back in 1978 to the Assembly, the
13 same year Jim was elected to the Senate. And
14 during these past 24 years, I've certainly,
15 like many of us have, seen many members come
16 and go. Every member has their own style,
17 their own temperament, their own way of
18 impacting the system. But there are a few of
19 them who have really made a major impact on
20 this system. There are a few of them who I
21 have met who have made a major impact on me
22 personally, in my own life and my own
23 political career.

24 And it's Jim Lack who I have spent
25 hours and hours with, as my seatmate right

1 here for the past 16 years, sitting alongside
2 him in the conference for 16 years in the
3 Majority, sharing offices in -- when I was
4 first elected for my first day in the Senate,
5 and sharing conference rooms with him and
6 fighting with him over whether the conference
7 table was 6 inches over on my side or his.

8 But he came to this -- and he talks
9 about the citizen legislature. He came to
10 this Legislature with a background in consumer
11 protection, came here and took that background
12 and was the prime sponsor of the Bottle Law
13 that really changed the way that we treat our
14 environment and our community in this state.
15 He was a person who was ahead of his time.

16 You know, before it was fashionable
17 for many of us Republicans to be friendly with
18 organized labor, Jim Lack was chair of the
19 Labor Committee in the Senate and led the way
20 so often in protecting the rights of workers,
21 making sure that injured workers, through
22 workers' comp, were protected, and made sure
23 that within our Senate Majority conference
24 there was a voice in reaching out and speaking
25 for organized labor across the state.

1 He was a true leader in his effort
2 when he chaired the National Conference of
3 State Legislatures, where he rose up through
4 the ranks and worked real hard in committees
5 and became the chairman of this national group
6 and traveled across this country and across
7 the world, meeting with other legislatures,
8 but always came back home here to say that we
9 were the best.

10 When he chaired the Judiciary
11 Committee, he took that same passion that he
12 has shown in his own life and his own
13 political career to that committee as well.
14 In all the years I've been here, there is
15 probably no one that I think has more of an
16 institutional memory of this house than Jim
17 Lack, no one who has had more of a commitment
18 to the rank-and-file members and to this
19 institution than Jim Lack.

20 And I know that -- you know, I had
21 a chance to spend some time with Jim's mom.
22 And I know that Jim's mom was very proud of
23 her Jimmy, as she would call him, as a
24 Senator. And unfortunately, she's not here
25 today to share this day when we'll be able to

1 call him a judge.

2 But it's a day that your family
3 will certainly all be proud, Jim. All of us
4 who consider to be your close friends are very
5 proud of you for what you have done for us,
6 for your community on Long Island, for the
7 people of this state, for legislators across
8 this nation who have looked up to you.

9 So to Therese, to Kara, to Jeremy,
10 who is not here, and to your mom, who is here
11 looking down, we say that we all love you,
12 we're going to miss you tremendously. But the
13 Governor made an excellent choice. And what
14 better time than this holiday season for us to
15 be able to say some nice things about a real
16 good guy who's going to be an outstanding
17 judge.

18 Congratulations, Jim.

19 THE PRESIDENT: Senator LaValle.

20 SENATOR LAVALLE: Thank you,
21 Madam President. I rise to support this
22 nomination of a colleague. Senator Lack's
23 district is the district to the immediate
24 west.

25 Jim Lack and I first met in 1977,

1 which was the first year that I served in this
2 chamber, and he was the Commissioner of
3 Consumer Affairs in the County of Suffolk.

4 At the time, myself and then
5 Senator Pisani had the notion that there were
6 food products in cans or elsewhere that were
7 on the shelf or in the grocery store for a
8 considerable period of time and, without any
9 labeling, the consumer did not have an idea of
10 whether that was a new product or an old
11 product.

12 And I reached out for cooperation
13 and some guidance and assistance from the then
14 Commissioner of Consumer Affairs. And I must
15 tell you that he was enthusiastic, he was --
16 and the people that worked with him in his
17 department. The things that we did in going
18 through grocery stores -- and we found that a
19 grocery store in my village was probably the
20 greatest offender and the greatest abuser of
21 having products on the shelf for -- that were
22 years and years old. And so that was our
23 first introduction.

24 We then got to know one another.
25 And when the Second Senatorial District seat

1 became available, I received a call from the
2 county chairman at the time. And the senator,
3 Jim's predecessor, really kind of late in the
4 game, as we would say, decided not to seek
5 reelection, and so the party in Suffolk County
6 was looking for individuals.

7 And when he called me, I indicated
8 that our then -- our Consumer Affairs
9 Commissioner, now he had moved to the Better
10 Business Bureau, would be an excellent,
11 excellent choice. And there were certainly
12 other people who voiced that approval.

13 And Jim certainly has, through
14 elections and through his work in this
15 chamber, has indicated that he has been a very
16 focused and knowledgeable legislator.

17 On a personal basis, we have seen
18 our children grow up, we have seen them get
19 married, we have seen our parents pass away.
20 And so over these 26 years that we've known
21 one another, it has been not only in a
22 collegial, professional way but also a way
23 that we interact on a personal basis.

24 Jim Lack has been, in the years
25 that I've been here both as a member and a

1 staff member and seen people chair the
2 Judiciary Committee, he has been just a
3 fantastic chair. The person that succeeds him
4 will have to reach very high to get over the
5 bar. And certainly he has made an enormous
6 contribution to improving the court system,
7 changes to the Estate Powers and Trust Laws,
8 the EPTL, and on and on. And I know that Jim
9 will make a very good Court of Claims judge.

10 I wish you good luck, Jim, and to
11 your family, congratulations.

12 THE PRESIDENT: Senator Volker.

13 SENATOR VOLKER: Madam President,
14 and as I said at the hearing, in the Judiciary
15 Committee hearing, I believe I am the second
16 most senior member of the Judiciary Committee
17 after Senator John Marchi. I've been in the
18 Legislature for 30 years.

19 And I've known Jim Lack for just
20 about 25 years, whatever he's been in the
21 Legislature, and knew him actually before,
22 casually, in his career with consumer
23 protection and several other areas.

24 But let me just say that we have
25 worked together, since he became chairman of

1 Judiciary, in trying to deal with some of the
2 complex problems involved not only in the
3 judiciary but in the entire justice system.
4 Because one of my charges in Codes, as
5 chairman of Codes, is to also oversee part of
6 the civil justice system. And we have worked
7 on many projects together -- not always
8 agreeing, but always we have tried to provide
9 a united front in behalf of the Senate.

10 And there are a lot of people who
11 we've confirmed over the years to judgeships,
12 but I can't think of hardly any who have had
13 the competence and the ability that Jim Lack
14 has. And there's no question in my mind he
15 will make a great Court of Claims judge.

16 And I wish him the best, and
17 Therese and Kara and also Jeremy. He has a
18 great family. And as I tell my wife, without
19 my wife, I wouldn't be anything. Without
20 Therese, it would be much more difficult.

21 THE PRESIDENT: Senator Libous.

22 SENATOR LIBOUS: Thank you, Madam
23 President. I too would like to join my
24 colleagues in rising to second the nomination
25 of my friend and colleague, Senator -- soon to

1 be Judge -- Jim Lack.

2 Picking up on some comments that
3 Senator Spano made, I know that each of us in
4 this house develop relationships with
5 individuals both professionally and
6 personally. And from a professional
7 standpoint, when certain issues come up and
8 colleagues are mingling and talking about how
9 to handle those issues, issues about Senate
10 rules or often ethics or legal matters that
11 pertain to certain types of legislation, often
12 referenced in those conversations are "Why
13 don't we see what Jim Lack thinks about this,
14 because he has a perspective on that issue."

15 Or, as Senator Spano mentioned, he
16 understands the rules of the house and often
17 was very proud of the fact that the Senate
18 stood for something and today still stands for
19 something.

20 On a personal basis, I will be
21 saddened to see my friend and colleague leave
22 the Senate, but I will have a friend and
23 colleague who will soon the joining the Court
24 of Claims.

25 And just on a couple of personal

1 notes, I will tell you that in the mornings,
2 Senators Spano and Maziarz, Senator Lack and I
3 have been walking for several years. And I
4 know it might not show on any of us. But he
5 is probably the fastest walker. He should be
6 a sprinter, because he moves quite quickly.
7 And I know that Senator Maziarz in particular
8 has had trouble keeping up with him.

9 But, Senator, I think that's
10 indicative of your entire career, that many of
11 us have had trouble or will have trouble in
12 keeping up with you professionally.

13 So I just want to wish you the
14 very, very best. And as I said, I will miss
15 you as a Senate colleague, but you will always
16 be a good friend.

17 THE PRESIDENT: Senator Stafford.

18 SENATOR STAFFORD: Madam
19 President, when you've been here as long as
20 some of us, you make friends by osmosis. And
21 what I mean by that is you really learn about
22 each other, you learn the strengths. All of
23 us have had that experience.

24 And I can share with you that one
25 of the real -- and, as you know, interestingly

1 enough, you don't make that many close
2 friends. But one of the real and close
3 friends that I've made here in the Senate is
4 Jim Lack.

5 He has relatives that live in my
6 district. I was concerned -- this was years
7 ago, I handled a closing for his brother, and
8 his brother said, "What can I do for it?" His
9 brother is a doctor in our area. And he sent
10 me a case of Beefeater gin. That made me a
11 little nervous. That wouldn't be the case
12 today, by the way. But that was -- that's all
13 history. It's all history. (Laughter.)

14 But I do say, as has been said here
15 today, but it should be said over and over,
16 Jim does have such a great legal ability,
17 understands people, and will do such a great
18 job.

19 And I have to share this with you,
20 Therese and Kara. You should be recognized,
21 but Jeremy also has become a friend of mine.
22 And not being here, I have to share with all
23 of you there is not a sharper, brighter, plus
24 personable fellow than Jeremy Lack. So we
25 certainly are thinking of him at this very,

1 very important occasion.

2 We compliment the Governor on
3 another great appointment. And I know we'll
4 hear a great deal about the great work that
5 Judge Lack will be doing.

6 Thank you.

7 THE PRESIDENT: Senator Breslin.

8 SENATOR BRESLIN: Thank you,
9 Madam President.

10 THE PRESIDENT: You're welcome.

11 SENATOR BRESLIN: For the past
12 several years, I've served as the ranker on
13 Judiciary. And Senator Lack has provided not
14 only myself but all the members, Democratic
15 and Republican alike, every accommodation.

16 And he had only one goal as the
17 chairman of Judiciary, and that goal was the
18 betterment of the judiciary, whether it be in
19 the passage of laws that cleaned up or
20 modernized the EPTL, or whether it be judges
21 that were being approved and sent down to us
22 by the Governor. Whether it was 18B, which he
23 made every effort to make and have it become
24 law, or court reform, he was always on the
25 cutting edge of doing what was right and

1 making things better for the judiciary. And
2 it isn't a coincidence today that by his
3 nomination we are in fact making the judiciary
4 better.

5 Thank you very much, Madam
6 President.

7 THE PRESIDENT: Senator Paterson.

8 SENATOR PATERSON: I agree with
9 Senator Breslin -- as I usually do -- about
10 the great qualifications of Senator Lack.

11 Senator Lack I met when I first
12 came here in 1986. I remember his work on the
13 Long Island Power Authority bill in 1987. My
14 favorite incident was the time that we were
15 having a dispute about Robert's Rules of Order
16 and Senator Lack came over to show me a
17 document known as Mason's Rules of Order,
18 which are the rules of order for government
19 procedure.

20 And, from that day in 1996, I have
21 never seen another copy of Mason's Rules of
22 Order. I think Senator Lack actually wrote
23 that document to convince me of his view on
24 that particular rule.

25 But it's just an example of his

1 scrupulous attention to detail, his enthusiasm
2 and passion for issues, his work on consumer
3 protection, also labor issues, products
4 liability, and of course the difficult task of
5 picking the judges here in the state of
6 New York.

7 This time we pick him as a judge.
8 I think he'll be outstanding. He has always
9 had a dynamic approach as an individual, an
10 articulate voice as a speaker. I've never had
11 the opportunity to get to know him that well,
12 as Senator LaValle or Senator Stafford have.
13 I don't know his family, but I'm sure they're
14 very proud of him, as they should be.

15 And we certainly here in the
16 Minority -- Senator Connor spoke to me this
17 morning about Senator Lack. The former leader
18 Senator Ohrenstein also spoke to me to
19 congratulate Senator Lack from their work with
20 him as leaders of the Minority conference
21 while Senator Lack served 24 years in the
22 Senate.

23 We're all very proud of him and
24 certainly wish him well. I didn't think that
25 as a leader the first thing I would do would

1 be to get up and extol the virtues of a
2 Republican, but it was most apropos in this
3 case. And we certainly look forward to
4 viewing Senator Lack's work on the court and
5 trying as desperately as we can to replace him
6 in his service to this chamber.

7 THE PRESIDENT: Senator Johnson.

8 SENATOR JOHNSON: Madam

9 President, I'm here to support the nomination
10 of Senator James Lack for Court of Claims
11 judge.

12 Senator Lack has been a confidant
13 and a friend whose advice has proved
14 invaluable to me over the years. He's been my
15 seatmate for 24 years and been part of the
16 strong Suffolk delegation, which included
17 Senator Trunzo, Senator LaValle, and myself
18 and him, and now of course we have Senators
19 Fuschillo and Marcellino as well.

20 He has served the public and the
21 state very well with his legislation over the
22 years. He's served the people of Suffolk very
23 well as part of our strong delegation which I
24 mentioned. He's raised a beautiful family,
25 has a wonderful wife. He's a special person

1 and one that we'll not soon forget.

2 I think there's no doubt in my mind
3 that I'm going to miss him, and many of us
4 here will miss him. We wish him well. We
5 know he's going to be a wonderful judge, and
6 we wish him well in his future career.

7 And bon voyage, Jim.

8 THE PRESIDENT: Senator
9 DeFrancisco.

10 SENATOR DeFRANCISCO: I rise
11 since I'm in the business of doing legal work
12 before judges, and I want to make sure that I
13 stand up and speak in case I ever appear
14 before Jim in any of my cases.

15 But having tried a lot of cases, I
16 think the most important thing for a judge is
17 not only to know the law, the substantive law
18 and the issues that are being dealt with, the
19 rules of evidence, the procedural rules, but
20 also to be able to apply those rules in a fair
21 and an even-handed manner.

22 Although on first meeting Jim, he's
23 a very outgoing, very forceful, intimidating
24 individual. But on the other hand, deep down,
25 to those of us who know him, he's a man with a

1 huge heart and a man with a sense of fairness
2 second to none.

3 Jim, you're going to make a great
4 judge, and I hope I have the honor to appear
5 before you at some time.

6 THE PRESIDENT: Senator Saland.

7 SENATOR SALAND: Thank you, Madam
8 President.

9 I rise in support of the nomination
10 of Senator Jim Lack in what is certainly a
11 joyous and yet I'm sure a bittersweet moment
12 for him -- perhaps purely joyous for his
13 family; he'll have the opportunity to return
14 home now, instead of the trek to Albany that
15 he's been engaged in for 24 years.

16 But bittersweet in the sense that
17 I'm sure that the relationships, the
18 accomplishments, the commitment that has tied
19 him so closely to the state capital and to his
20 constituents in his district will not easily
21 be transitioned into the judgeship.

22 Bittersweet for me because Jim Lack
23 is among my dearest of friends. He and I and
24 his wife, Therese, and my wife, Linda, spent a
25 loot of time together. As I mentioned briefly

1 in the Judiciary Committee, Jim is not only a
2 friend of enormous standing but a mentor.

3 And we've all heard from a number
4 of our colleagues about the multidimensional
5 Jim Lack. Jim is certainly a superb
6 intellect, globally bright and, in my opinion,
7 quite the Renaissance man. He's a man who's
8 devoted to his family. He's a man who's
9 devoted to the task, whatever it may be. And
10 he brings this extraordinary capacity and
11 energy to whatever it is that the issue may
12 be.

13 And I'm sure, although I didn't
14 have the opportunity to know of his
15 accomplishments or share the accomplishments
16 that he had as the chair of the Labor
17 Committee, I can tell you from firsthand
18 experience that as the chair of the Judiciary
19 Committee he has been just unending and
20 tireless in his devotion to the judiciary.
21 And there are things that he has done that I'm
22 confident would have been a far greater task
23 and maybe not a doable task for another chair
24 of that same committee.

25 There are many ways in which I

1 could thank Jim. One of the ways perhaps
2 would be if I had my wife, Linda, here to
3 thank him as well. And Jim and Therese and
4 Kara are aware that she had every intention of
5 being here, but unfortunately a personal
6 situation has required her to stay at home.

7 Jim is the, as was pointed out, I
8 believe, by Senator Spano, is the former
9 president of the National Conference of State
10 Legislatures. And I tell you from my
11 involvement that the same type of dedication,
12 the same type of energy, and the same crisp,
13 analytical ability that he's demonstrated here
14 time and again, both on the floor and in
15 conference, is really his hallmark at the
16 NCSL.

17 He's a man whose contributions have
18 not merely been to the chamber that we reside
19 in, and to this legislative institution, but
20 the legislative institutions of all fifty
21 states.

22 He's an extraordinarily dedicated
23 and extraordinarily capable and
24 extraordinarily judicious man whose analytical
25 abilities, combined with all of his other

1 qualities, will make him the superb judge that
2 I'm confident that he will be.

3 And God bless you, and I wish you
4 nothing but the best for you, Therese, Kara,
5 and certainly Jeremy as well.

6 THE PRESIDENT: Senator Velella.

7 SENATOR VELELLA: Madam
8 President, there will be an immediate meeting
9 of the Rules Committee in the Majority
10 Conference Room.

11 THE PRESIDENT: There will be an
12 immediate meeting of the Rules Committee in
13 the Majority Conference Room.

14 Senator Trunzo.

15 SENATOR TRUNZO: Madam President,
16 I stand here to second the nomination of
17 James, better known to me as Lucky, as the
18 Court of Claims judge.

19 Jim and I have been working
20 together very closely over the many years. We
21 shared offices in the state office building in
22 Haupauge, and so I got to know Jim very, very
23 well. And really, when Nick Spano had
24 indicated the fact that as chairman of the
25 Labor Committee, when Senator Anderson

1 appointed him as chairman of the Labor
2 Committee, and myself as the chairman of the
3 Civil Service and Pensions Committee,
4 together, I think we together, Jim, Nick, and
5 I, have revolutionized the whole labor
6 movement for the Republican Party here in the
7 state of New York.

8 But I know the other side of Jim
9 Lack, which I ain't going to go into, because
10 he is a good guy. He has been an outstanding
11 legislator, one that I've been proud to know
12 and to work with, to kid around with him, to
13 insult him at times and whatever else had to
14 be done, as friends normally do.

15 But I commend the Governor for
16 appointing him as a judge of the Court of
17 Claims. And, Jim, I wish you the best of
18 luck, and I'm going to miss having you around.

19 THE PRESIDENT: Senator
20 Dollinger.

21 SENATOR DOLLINGER: Thank you,
22 Madam President. I made my remarks in the
23 Judiciary Committee about Jim Lack. I'm going
24 to just add one other postscript to those.

25 Jim, you have proven, in my

1 judgment, to have the attributes of the great
2 hitters in baseball: you know how to hit a
3 curve ball. I threw a bunch of them in the
4 Judiciary Committee at you when you were the
5 chair. And I think this is a message perhaps
6 to those who follow Jim Lack in our
7 understanding of the judicial system. I would
8 throw a curve ball at Jim Lack about what
9 practitioners did, being a practitioner
10 myself, and he always seemed to have the right
11 answer.

12 He would talk about how the
13 intricacies of what we do here affect lawyers
14 planning for their clients, judges handling
15 cases in front of them. That is what the
16 legal system is all about.

17 And I think his -- certainly his
18 spectacular performance in swinging at the
19 Dollinger curve ball, that's what you're going
20 to see on the bench, Your Honor. And I know
21 that you know how to hit it, I've seen you hit
22 it out of the park. And I only hope that when
23 you see those pitches as a judge, you will
24 again use that bat honed in Long Island and in
25 the politics and experiences in this chamber

1 and send that ball into the deep stratosphere
2 in the night.

3 Congratulations and good luck.

4 THE PRESIDENT: Senator Maziarz.

5 SENATOR MAZIARZ: Thank you very
6 much, Madam President. I get up here and sort
7 of -- almost it's a sad day to see Jim leave.

8 I know that when I first came here
9 eight years ago and I kind of looked around
10 this chamber and our conference, Jim was an
11 attorney, he was from Long Island, he was
12 forceful, he was outgoing. We really didn't
13 have a whole lot in common.

14 But I have to say that mostly
15 through working with Jim on judicial
16 appointments for the area that I represent,
17 there are a lot of county court judges and
18 family court judges today that were -- the
19 system of being appointed and being confirmed
20 was made much easier, Jim, because of the
21 advice that you rendered to me.

22 And Senator Libous mentioned our
23 morning walks. And he's absolutely right,
24 Jim; you walk far too fast, particularly for
25 me.

1 But I know that there were many
2 times, tension-filled days, like today is,
3 when very controversial issues were going to
4 be coming up, and Jim would give us his
5 morning analysis of all those. And I'd have
6 to say that when it came to Spano, Libous and
7 Lack, Jim Lack was always right, the other two
8 were almost always wrong. (Laughter.) So I
9 learned early on to take Jim's advice to
10 heart.

11 And, Jim, we just want to
12 congratulate you. I'm truly going to miss
13 you, Jim, miss your advice on a lot of
14 important topics to me and to the constituents
15 of my district.

16 And I do have a message for you.
17 Beverly said that if you need any help with
18 the Court of Claims, just give her a call and
19 she'll help you out. Okay?

20 THE PRESIDENT: Senator Meier.

21 SENATOR MEIER: Thank you, Madam
22 President.

23 THE PRESIDENT: You're welcome.

24 SENATOR MEIER: I'm very pleased
25 to rise to support the nomination of my good

1 friend Jim Lack to the Court of Claims.

2 When you come here as a new member,
3 you find out pretty quickly that this
4 institution operates on two principles,
5 seniority and collegiality. When you're new,
6 there's a lot of guys willing to teach you
7 about seniority and how that works. Jim Lack
8 was one of the guys who taught me about
9 collegiality.

10 You quickly learn when you're new
11 here that Jim Lack is one of the best people
12 in this body to go to talk to if you have a
13 question about legislation, about public
14 policy. And I found out what kind of a guy
15 Jim Lack was when something occurred in my
16 second term. It was important to me to have a
17 seat on the Energy Committee because of the
18 large Power Authority assets in my district,
19 and there was no room on that committee. It
20 was Jim Lack who gave up his seat so that I
21 could sit on the Energy Committee and
22 adequately represent the people of the North
23 Country.

24 And with Jim Lack, no kindness is
25 too small. When my daughter was about to get

1 married, it was Steve Saland and Jim Lack who
2 counselled me through the process, providing
3 important tips on how to deal with the bride,
4 the mother of the bride, and not least of
5 which was Jim Lack, who counseled me on how to
6 deal with the macatuna [ph]. For those of you
7 who don't understand what I just said, you can
8 look it up or ask Jim Lack, who is an
9 encyclopedia of such knowledge.

10 I said once before about another
11 judge, and I say this proudly about you, Jim:
12 Judges find the law in books. They find
13 justice in a life well lived, in a
14 well-rounded life, and in a sound grounding in
15 what is important and valuable in life. You
16 combine all those things. You will be a
17 wonderful judge. God bless you and good luck.

18 THE PRESIDENT: Senator Hoffmann.

19 SENATOR HOFFMANN: Thank you,
20 Madam President. I too want to join my
21 colleagues in praising our good friend Senator
22 Lack and wishing him well as he moves on.

23 And I'm reminded of what a great
24 success he has been in yet another area, and
25 that is as a distinguished member of Cornell

1 University's Board of Trustees. He has
2 represented this chamber, two separate
3 majority leaders, as a very earnest member of
4 that board. And as such, he has developed a
5 very warm rapport with a number of people in
6 the Central New York area, in the Finger Lakes
7 area.

8 In his travels nationally and
9 internationally, we have all been fortunate
10 that Senator Lack has regarded not just his
11 own district but all of New York State as his
12 home or as his bailiwick, and he has done
13 wonderful things to promote us as a state, as
14 a people, and to explain to those who might be
15 less informed about our many bounties and our
16 great strengths.

17 We have been well served by him,
18 not only as a legislator but through his
19 capacity as past president of the National
20 Conference of State Legislatures. He has been
21 a representative to all of us in this chamber
22 and to our constituents in the process.

23 This gives him a unique background
24 moving into the judiciary branch of
25 government, and one which will show temperance

1 and an understanding and compassion that might
2 be lacking in other judges.

3 So for your great breadth of
4 experience, we are indeed fortunate, and so is
5 the state. And the Governor is to be
6 commended in his wise choice in your position.

7 THE PRESIDENT: Senator Seward.

8 SENATOR SEWARD: Thank you, Madam
9 President.

10 It gives me a great deal of
11 personal pride to stand and to support the
12 confirmation of our good friend Jim Lack to
13 become a judge of the Court of Claims.

14 I arrived as a member of this
15 chamber 16 years ago. And over those 16
16 years, as have so many mentioned here today,
17 we've grown very close in terms of friendship
18 with Jim Lack, and something that's very dear
19 to me and something that even though he's
20 going on will remain with us in the future,
21 and I'm very pleased about that.

22 Much of what my colleagues have
23 said I would echo in terms of Jim Lack's
24 intellect, his hard work on behalf of his
25 constituents in Suffolk County, but also on

1 behalf of the people of the entire state and
2 of course with his presidency of NCSL; in
3 fact, his hard work on behalf of people all
4 over the United States of America. And that's
5 a great legacy that will remain in terms of
6 Senator Lack's hard work as a legislator.

7 And of course, building on what
8 Senator Hoffmann had mentioned in terms of
9 Jim Lack's involvement with Cornell
10 University, I've been privileged to represent
11 Cornell as part of my district these last 16
12 years. And I know firsthand, because of Jim
13 Lack's work as a member of the board of
14 trustees of that great institution, how much
15 he has contributed to the ongoing success of
16 that great research university.

17 In fact, we're very pleased that
18 his son, Jeremy, is a student there, an
19 outstanding student at that.

20 And so personally, on behalf of my
21 constituents as well, and specifically on
22 behalf of the Cornell University, I want to
23 congratulate Jim Lack on his confirmation as a
24 judge of the Court of Claims. We also want to
25 acknowledge his wife, Therese, and his

1 daughter, Kara, and of course Cornell alum
2 Jeremy, because you all have meant a great
3 deal to that community and to me personally.
4 And for that we thank you, congratulate you.

5 We know you're going to make an
6 outstanding judge of the Court of Claims.
7 Congratulations.

8 THE PRESIDENT: Senator
9 Marcellino.

10 SENATOR MARCELLINO: Thank you,
11 Madam President. I'm not going to repeat all
12 of the great things and good things that I'm
13 sure my colleagues have said about Senator
14 Lack.

15 The Senator has been a good friend
16 and a mentor of mine since I was elected eight
17 years ago. We shared a common part of Suffolk
18 County, and I always looked to Jim for advice
19 and counsel. Didn't always take it, but I
20 always looked to him for it. The times I
21 didn't take it, I probably was wrong, I should
22 have.

23 But the Senate will be losing a
24 sense of institutional knowledge that is hard
25 to replace; in fact, impossible. When you've

1 been here as long as Jim and you have served
2 as well and you've done as much, you learn
3 things. And Jim is that type of a person.
4 Whatever job he takes on, he takes it on full
5 boat, no half-hearted stuff. He goes for it,
6 he gains the knowledge, he gains the
7 intuition, and he makes his decisions based on
8 knowledge.

9 Jim knows the Senate. There have
10 been many times I've heard him talking about
11 rules and this and that that could be used and
12 could be done. When we were in floor debates
13 and battles on the floor, Jim always seemed to
14 know the answer and always seemed to know how
15 to get things done.

16 That will be missed in this house,
17 besides his friendship and besides his --
18 well, I'm not going to miss his friendship,
19 because he's going to be in Suffolk County and
20 I'm going to always have access to him, and we
21 will get together from time to time. But
22 we'll miss him here in Albany.

23 And, Jim, we all wish you well and
24 I wish you well personally. And to Therese
25 and Kara and your son, who couldn't be here

1 but I'm sure wanted to be here, we say God
2 bless and Godspeed.

3 THE PRESIDENT: Senator Larkin.

4 SENATOR LARKIN: Thank you, Madam
5 President.

6 I too rise to -- someone said
7 second him, and a couple of people here in the
8 back row said to say it took a long time for
9 Therese to convince him to quit.

10 But, you know, I go back to Jim
11 when I was a member of the Assembly and we
12 served on some joint committees. Jim, I think
13 if you remember when Dan Walsh put together
14 the joint tax committee and everybody was
15 looking at everybody else. And Dan Walsh
16 looked around and said, "Jim, legally, can we
17 do it?" And Jim Lack said, "I'll think it
18 over." And that's how that joint tax
19 committee started that set a lot of the
20 policies that are being enjoyed today.

21 And I think that a lot of the
22 accountants, Jim, would remember that when we
23 decided to pool everything instead of just
24 sending something back to the CPAs or the
25 constituent with a form letter that says "We

1 got your tax return and one of these days
2 we're going to look at." We started going
3 back with the window -- you remember the
4 window you produced? And the window said "to
5 John or Mary Smith," so then they were sure
6 that somebody in the Tax Department had it.

7 I guess finally, because there's a
8 lot of other people, when I became the
9 president of NCOIL, Jim came to me and said:
10 "Remember, you're just the president of an
11 insurance organization. You are to lead, not
12 follow, and every so often listen. They may
13 have some good ideas."

14 Jim Lack, you've been a friend and
15 a supporter. I can't tell you how much I
16 appreciate everything you've done for me. And
17 I want to say to his family -- what a
18 wonderful family -- may God bless you always.

19 THE PRESIDENT: Senator Maltese.

20 SENATOR MALTESE: Madam

21 President, I would be remiss if I didn't rise
22 to add my words and accolades to my good
23 colleague Jim Lack.

24 Speaking as a Senator, he always
25 was a font of good judgment and wisdom and

1 good advice. In the questions of judiciary,
2 the questions of potential judges, the
3 questions dealing with the law, he always was
4 available, always would get right back to me.

5 Where we had questions that related
6 to potential candidates and where you had
7 apprehension on their parts or you had some
8 feeling that they wouldn't be acted on, he
9 always allayed their fears, whether or not
10 they were ultimately picked.

11 He was the perfect man for the
12 perfect position, just as he is as he is sent
13 to the judiciary. He certainly goes with our
14 wishes for Godspeed, good luck, and
15 congratulations on this fine appointment of
16 the Governor.

17 THE PRESIDENT: Senator Nozzolio.

18 SENATOR NOZZOLIO: Madam

19 President, my colleagues, I rise to associate
20 myself with the remarks, support and adulation
21 and friendship that we have all shared as
22 colleagues of this great body, as members of
23 our conference in particular, with Jim Lack.

24 I just want to reference two points
25 among those that have been made. I recall

1 that one of the first issues that I confronted
2 as a Senator that Jim Lack was intimately
3 involved with aggressively supporting, and
4 that was something near and dear to me, when
5 Jim was chairman of the Labor Committee
6 supporting the construction, expansion, of the
7 library at the New York State School of
8 Industrial and Labor Relations at Cornell,
9 something Jim was very much a part of, as M.P.
10 Catherwood, who was one of my original
11 mentors, and the library is named after M.P.

12 Certainly it was wonderful to see
13 Jim's aggressive approach to that, a chore
14 that I certainly supported. But we needed a
15 leader, and Jim was our leader that pushed
16 that through. And, Jim, for that I will
17 certainly be forever grateful.

18 One other anecdote that comes to
19 mind was when Jim spoke to the Appellate
20 Division members in the Fourth Department out
21 of Rochester, New York, and it was very
22 interesting to see how judges were so
23 attentive to a senator. I'm sure that had
24 nothing to do with the fact that Jim made so
25 many judges through the years in his capacity

1 as the chairman of the Judiciary Committee.

2 Jim, I hope that the judges give
3 you as much respect in your position as a
4 judge as they gave you as a senator. I'm sure
5 that will happen. But nonetheless, you will
6 be missed here.

7 Godspeed, we wish you well, and we
8 know you will be a fine member of the
9 judiciary, as you were a fine member of this
10 body.

11 THE PRESIDENT: Senator
12 Fuschillo.

13 SENATOR FUSCHILLO: Thank you,
14 Madam President.

15 I too rise and just want to offer
16 my congratulations to Senator Lack and his
17 family. And I must admit never seen him smile
18 so much in the five years, almost, that I've
19 been here. And, Therese, take that as a
20 compliment.

21 But he's been a tremendous help to
22 me. And probably the most discouraging thing
23 I heard last night when he talked about his
24 career -- and I say that as the junior senator
25 from Nassau County, after almost five years --

1 that he is still the junior senator from
2 Suffolk County after 25 years. I don't know
3 what the future holds for me, but I know it's
4 certainly bright for you.

5 Jim has certainly been a tremendous
6 help to me with his insight of the inner
7 workings of Albany. But for me personally, my
8 best recollection is going to be of his
9 friendship. And at a time, a personal time in
10 my family when there was a crisis, this man
11 came to rise to the occasion, to help my
12 family, and I will forever be indebted and
13 grateful to him. So I just rise to wish him
14 the best.

15 And when you look back on your
16 career here, you should look back with a smile
17 on your face and say to yourself that in your
18 25 years in this Legislature, which is a great
19 body, and I pinch myself every time I walk in
20 here, you have truly left your mark and made a
21 difference.

22 So best of luck. Congratulations
23 to you.

24 THE PRESIDENT: Senator Skelos.

25 SENATOR SKELOS: Thank you, Madam

1 President. It's my pleasure to rise and to
2 join in the seconding of the confirmation of
3 Jim Lack.

4 You know, it's very difficult in
5 this house when we have the opportunity to say
6 goodbye to somebody, at least from this
7 chamber. I remember saying that when Manny
8 Gold retired. And it's difficult, whether
9 it's a Republican or Democrat, whether it's
10 somebody that you've debated vigorously at
11 times, like Senator Dollinger. I think we all
12 have a respect for the institution of the
13 State Senate.

14 And Jim Lack has been an integral
15 part for so many years of this Senate chamber.
16 He's a person that we've relied upon when
17 issues of ethics have arisen, in looking for
18 his guidance. And certainly any chairmanship
19 of a committee that he's held, whether it was
20 Labor or Judiciary, he's done it efficiently,
21 with all his heart, and he's been a pioneer
22 and an innovator in his chairmanship of those
23 committees.

24 So yes, it's very difficult to say
25 goodbye to a friend, a neighbor on Long

1 Island, a colleague for so many years. But
2 it's always time -- our time all comes in this
3 business where we have to move on, whether
4 it's by the voter or it's a personal decision,
5 as Jim has made.

6 But I just want to mention what a
7 wonderful family you have, Jim. You know,
8 Therese, we can say that you are truly a
9 saint, being married to Jim all these years.
10 And to Kara and Jeremy, who's not here, both
11 of you have done a job with your children that
12 I know how proud you are. And those of you
13 who have seen them grow up know what a great
14 job that you've done and how proud you should
15 be of your children. But what's also
16 important, Jim and Therese, your children are
17 very proud of you.

18 So we wish you the best of luck,
19 Jim, in your new endeavor.

20 THE PRESIDENT: Senator Rath.

21 SENATOR RATH: Thank you, Madam
22 President. I rise to add my congratulations
23 to soon-to-be-Judge Lack.

24 There's very little to add after so
25 much has been said, but there may be a

1 relationship of mine that has been a little
2 different the last several years. And it's
3 been that Jim has served as chairman of the
4 budget conference committee that worked on
5 local government issues. And did I have a
6 chance to learn a lot, sitting next to Jim
7 Lack, as he was moving us through that. I
8 appreciate your wise counsel and your patience
9 with my efforts to learn and understand.

10 You've always spoken to all of us
11 too, not only individually but collectively,
12 in terms of our ethical approach and the need
13 to be squeaky-clean, as it were. And I don't
14 think we will any of us forget that, because
15 that comes from deep experience and
16 understanding of the challenges we face.

17 And you've been, of course, very
18 supportive of the judges association, the
19 Supreme Court Judges Association, of which my
20 husband, I was very proud he was president.
21 And you were there at the meetings, and they
22 always loved to see Senator Lack come in
23 because they knew they were going to hear what
24 was really going on with the judiciary when
25 you came in.

1 And finally, as you go to the
2 judiciary, I would remember a time when
3 Judge Kehoe ascended to the judiciary. And
4 one of the wise sages of the Legislature said
5 to me: "You know, the judges are always
6 really glad when they get someone from the
7 Senate to come up to the judiciary, because
8 they can usually figure out what the senators
9 meant when they passed legislation."

10 So good luck. You take a lot of
11 institutional memory with you. And the people
12 of the State of New York will be very
13 fortunate to have another kind of service from
14 Jim Lack.

15 THE PRESIDENT: Senator Wright.

16 SENATOR WRIGHT: Thank you, Madam
17 President. I too join all of my colleagues in
18 our support for Senator Lack today.

19 There's very little that I can add
20 that hasn't been articulated and articulated
21 very well. I've had the occasion to spend
22 going on ten years now in the company of my
23 colleague, and I found over the course of that
24 time that he was someone you learned to
25 respect, you took advice from. And on

1 occasion, I would attend national meetings and
2 find that they too responded in very much the
3 same way that all of us here did in the
4 New York State Senate, seeking his advice,
5 seeking his input, following his leadership,
6 following his example.

7 All of those things that have been
8 articulated this morning are very much true
9 and very indicative of the way Jim has handled
10 himself here in this chamber over more than
11 two decades. But what I will always remember
12 is each and every time that I encountered Jim
13 when we returned from a long recess, were back
14 after election or whenever the occasion is,
15 when you're just meeting him, the first thing
16 he asks is: How is your wife, and how are
17 your kids?

18 And through all the business that
19 we go through here in the Capitol and back in
20 our district, I think we all respect and
21 understand the importance of our family, and
22 he's always put that first -- his family, our
23 families.

24 So we're very glad and I'm very
25 glad to be here to support his confirmation

1 and say to his family, you can be proud
2 because we are. Best wishes, Jim.

3 THE PRESIDENT: Senator Leibell.

4 SENATOR LEIBELL: Thank you,
5 Madam President.

6 I think it's pretty clear from the
7 comments here today that our friend Jim Lack
8 is going to be sorely missed. Jim has been in
9 every respect a great legislator, and he has
10 chaired one of our most influential committees
11 and has done so with great expertise. More
12 than that, he's been a colleague and a dear
13 friend to all of us.

14 And I guess the vast majority of us
15 are junior to you, Jim. And so we've all come
16 in and been able to take your wisdom, your
17 advice and your counsel. I know I certainly
18 did.

19 You're going to be a great judge.
20 It's a great nomination. And I'll look
21 forward to many years of our friendship
22 together.

23 THE PRESIDENT: Senator Hannon.

24 SENATOR HANNON: Madam President,
25 I just would like to add my recommendation for

1 as a member of the Consumer Affairs Committee.
2 We sat there with the chairman. Many issues
3 came up. And the person who, because of his
4 background and experience, had the most to say
5 that made sense was Senator Lack. He knew a
6 great deal, a great deal more than the
7 chairman, who happened to be a guy by the name
8 of Joe Bruno. Now, apparently Senator Bruno
9 has not remembered that. But I have.

10 We wish you all the best, and your
11 family. And we know that this is something
12 you have yearned for, deserve, and will
13 benefit the people of this state in
14 accomplishing it.

15 THE PRESIDENT: The question is
16 on the confirmation of James J. Lack as a
17 judge of the Court of Claims. All in favor
18 please signify by saying aye.

19 (Response of "Aye.")

20 THE PRESIDENT: Opposed, nay.

21 (No response.)

22 THE PRESIDENT: James J. Lack is
23 hereby confirmed as a judge of the Court of
24 Claims.

25 (Applause.)

1 THE PRESIDENT: Judge Lack, as
2 president of the New York State Senate, let me
3 congratulate you, be the first to congratulate
4 you with that official title.

5 I have known Senator -- former
6 Senator, now Judge Lack for many years. The
7 first impression of the Senator is definitely
8 that he is a person of substance. As you get
9 to know him and work with him, you know that
10 that impression is definitely a reality.

11 I have always found Judge Lack in
12 my dealings with him to be eminently
13 professional, informed, and in the words of my
14 dad, who was also a judge, a student of the
15 law. You always interpret the law and blend
16 it effectively with the facts. With my
17 background on the State Supreme Court bench, I
18 know that you will make an outstanding
19 addition to the court system in New York
20 State.

21 When I was with the Governor at
22 lunchtime, I congratulated him on choosing my
23 friend and colleague, Judge Lack, for this
24 definite benefit to the people of the state of
25 New York. Best wishes to you and your family

1 in all of your future endeavors.

2 Senator Kuhl.

3 SENATOR KUHL: Yes, Madam
4 President. May we return to the order of
5 reports of standing committees. My
6 understanding is there's a report from the
7 Rules Committee at the desk. I'd ask that it
8 be read.

9 THE PRESIDENT: Report of the
10 Rules Committee.

11 The Secretary will read.

12 THE SECRETARY: Senator Bruno,
13 from the Committee on Rules, reports the
14 following bills:

15 Assembly Print Number 7535A, by
16 Member of the Assembly Parment, an act to
17 amend the Education Law;

18 Assembly Print 11460A, by the
19 Assembly Committee on Rules, an act to amend
20 the Education Law;

21 Senate Print 7597, by Senator
22 Wright, an act to amend Chapter 519 of the
23 Laws of 1992;

24 720, by Senator Goodman, an act to
25 amend the Executive Law;