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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 18, 2023

4:30 p.m.

REGULAR SESSION

SENATOR JAMAAL T. BAILEY, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT BAILEY: The  
3 Senate will come to order.

4 I ask everyone present to please  
5 rise and recite the Pledge of Allegiance.

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

8 ACTING PRESIDENT BAILEY: In the  
9 absence of clergy, let us bow our heads in a  
10 moment of silent reflection and/or prayer.

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

13 ACTING PRESIDENT BAILEY: Reading  
14 of the Journal.

15 THE SECRETARY: In Senate, Monday,  
16 April 17, 2023, the Senate met pursuant to  
17 adjournment. The Journal of Friday, April 14,  
18 2023, was read and approved. On motion, the  
19 Senate adjourned.

20 ACTING PRESIDENT BAILEY: Without  
21 objection, the Journal stands approved as read.

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing committees.

1 Reports of select committees.

2 Communications and reports from  
3 state officers.

4 Motions and resolutions.

5 Senator Gianaris.

6 SENATOR GIANARIS: Good afternoon,  
7 Mr. President. I move to adopt the  
8 Resolution Calendar, with the exception of  
9 Resolution 733.

10 ACTING PRESIDENT BAILEY: All those  
11 in favor of adopting the Resolution Calendar,  
12 with the exception of Resolution 733, please  
13 signify by saying aye.

14 (Response of "Aye.")

15 ACTING PRESIDENT BAILEY: Opposed,  
16 nay.

17 (No response.)

18 ACTING PRESIDENT BAILEY: The  
19 Resolution Calendar is adopted.

20 Senator Gianaris.

21 SENATOR GIANARIS: Can we begin  
22 with Resolution 733, by Senator Gounardes, read  
23 that resolution's title, and recognize  
24 Senator Gounardes.

25 ACTING PRESIDENT BAILEY: The

1 Secretary will read.

2 THE SECRETARY: Senate Resolution  
3 733, by Senator Gounardes, memorializing  
4 Governor Kathy Hochul to recognize April 20,  
5 2023, in honor of the 246th Anniversary of the  
6 adoption of the first New York State  
7 Constitution.

8 ACTING PRESIDENT BAILEY: Senator  
9 Gounardes on the resolution.

10 SENATOR GOUNARDES: Thank you,  
11 Mr. President.

12 My colleagues, this Thursday is  
13 New York's 246th birthday. As many of you know,  
14 for the last few years I've stood on this floor  
15 to commemorate April 20th as New York  
16 Constitution Day, the anniversary of the  
17 ratification of New York's first constitution  
18 after we joined the other colonies in declaring  
19 independence from England in 1777.

20 This year I want to spend my time  
21 talking a little bit about that first  
22 constitution and something that I think is both  
23 interesting and actually somewhat relevant to an  
24 issue that this body has spent quite a bit of  
25 time on this year, the judiciary. And more

1 specifically, the Court of Appeals.

2 But at the outset, I want to  
3 acknowledge and thank the Law Librarian in the  
4 Legislative Library, Jeff Buckley, for his help  
5 in researching this year's topic with me.

6 The Court of Appeals was not created  
7 until the Constitutional Convention of 1846. So  
8 I actually want to talk about the predecessor to  
9 the Court of Appeals, which was the Court for the  
10 Trial of Impeachment and the Correction of  
11 Errors.

12 This court was to be the first --  
13 the court of final appeals in New York, a chance  
14 to literally review the errors of the lower  
15 courts below and to issue final judgments. It  
16 was a holdover from the colonial judicial system,  
17 which itself was an imitation of the  
18 English House of Lords, which up until 2009 was  
19 the final arbiter of judicial appeals in the  
20 United Kingdom.

21 The Court for the Trial of  
22 Impeachment and the Correction of Errors -- which  
23 is quite a mouthful of a name, if you ask me --  
24 was composed of the Lieutenant Governor, the  
25 Chancellor of the Court of Chancery, who at that

1 time was the highest judicial officer in the  
2 state, the judges of the Supreme Court, and the  
3 32 members of the New York State Senate.

4 The constitution said that when  
5 cases came up on appeal, if there was a case that  
6 was previously decided by the Supreme Court  
7 judges, those judges could not vote on the appeal  
8 itself but only explain their rationale to the  
9 other members of the Court of Errors for their  
10 contemplation and consideration.

11 Similarly, the same held for the  
12 chancellor on any cases on appeal from his prior  
13 decisions.

14 And the thinking at that time was  
15 that an assemblage of the large, nearly 40-person  
16 body of esteemed preeminent government officials  
17 could hear these appeals, and that their  
18 collective wisdom would lead to the correct  
19 result.

20 But in practice, actually, there was  
21 an expectation that the nonjudicial members of  
22 the Court of Errors -- namely, the Senators --  
23 would be deferential to the judicial wisdom of  
24 the other judges and would simply rubber-stamp  
25 their decisions.

1 I'm going to come back to that point  
2 in a minute, but first I want to just pause for a  
3 second to reflect on this idea that was enshrined  
4 in our very first constitution, that members of  
5 the legislature would simultaneously serve as  
6 members of the judiciary. Just think about that:  
7 The people who wrote the laws were also the same  
8 people who would have the final say as to whether  
9 those laws were or were not valid.

10 That really strikes at our  
11 understanding of the separation of powers, which  
12 is a defining feature of the American system of  
13 government and one of the strokes of genius that  
14 shaped our founding fathers in Philadelphia a  
15 decade later.

16 But, on the other hand, maybe we  
17 shouldn't be so surprised, because at that  
18 time -- and we're talking about the 1770s,  
19 1780s -- courts primarily decided cases about  
20 common law and equity. It wasn't until 1803, in  
21 *Marbury versus Madison*, that the idea of judicial  
22 review of executive and legislative actions was  
23 even established as a judicial power.

24 Nevertheless, for some 40-odd years,  
25 from 1803 until 1846, the members of the Senate

1 would write laws and then hear judicial cases on  
2 appeal, often about the validity and  
3 constitutionality of the very laws they  
4 themselves wrote. That's fascinating.

5 Now, separation of powers aside, the  
6 problems with the Court of Errors were many. For  
7 starters, there was no consistency in how the  
8 court heard cases. On any given case, there'd be  
9 anywhere from 20 to 25 members of the court who  
10 would vote. And when it came time to issue a  
11 decision, the members of the court never actually  
12 consulted each other. Each Court of Errors judge  
13 would reach their own decision, based on their  
14 own rationale, and that was it.

15 So if the 20 judges heard a case,  
16 they'd sit around a table and then vote to affirm  
17 or reverse, and that was the end of it. No  
18 deliberations, no discussions, no unified written  
19 decisions, nothing. Each judge was free to write  
20 and publish their own opinions, but there was no  
21 way to know if the rationale that persuaded one  
22 judge applied to any other judge, let alone a  
23 majority.

24 You know, we spent a lot of time in  
25 the Judiciary Committee yesterday and today

1 talking about stare decisis and the value of  
2 precedent. But under the Court of Errors, which  
3 existed in this state for 70 years, there was no  
4 way to know what each ruling meant for creating  
5 precedent and how to decide future cases. In  
6 fact, in a great deal of cases, the Court of  
7 Errors -- or, more accurately, the lay members of  
8 the court, the Senators -- would vote to reverse  
9 lower courts often for reasons that were  
10 specious, frivolous, or even flat-out contrary to  
11 principles of settled law.

12 In one case, Smith & Hoe v. Acker,  
13 Senator Hopkins, in voting to reverse a lower  
14 court, openly admitted that his vote would  
15 directly conflict with the whole course of the  
16 decisions of the Supreme Court, but that he knew  
17 better because his mind was not embarrassed by  
18 the past decisions that should have dictated  
19 affirming the lower court's ruling.

20 This led a judge on the  
21 Supreme Court, Justice Bronson -- therefore also  
22 a member of the Court of Errors -- to go so far  
23 as to say that the decisions of the Court of  
24 Errors, "although final as between the parties,  
25 are so far from being conclusive by way of

1 authority that they are entitled to much less  
2 weight than the judgments that those courts which  
3 consider themselves bound by legal adjudications,  
4 in this case, the judgment is entitled to no  
5 weight at all."

6 In other cases, it was not uncommon  
7 for Senators to rule in favor of litigants who  
8 were also their own constituents -- or, even  
9 worse, their own political allies. In fact, some  
10 savvy litigants would go see their Senator, as if  
11 during constituent open hours, and really go talk  
12 about the case that they had pending before the  
13 Court of Errors.

14 By the 1830s and 1840s the problem  
15 with the court was well known. And as one  
16 commentator, writing in 1843, charitably  
17 described it, he said "The Court of Errors is  
18 frequently constituted of the Senate alone, and  
19 yet in the absence of every judicial officer, the  
20 gravest matters are often discussed, and  
21 questions of law which have tasked the wisdom of  
22 the ages are reviewed and settled by men who, if  
23 they have any acquaintance with the high matters  
24 placed under their cognizance, must have it only  
25 instinctively."

1                   As we know, in 1846 New York held a  
2 Constitutional Convention, and the records of  
3 that convention tell us "the necessity of  
4 revising and reorganizing the judiciary system  
5 was one of the principal causes of calling the  
6 Convention."

7                   The records continue:

8 "Dissatisfaction had long existed with regard to  
9 the construction of the present Court for the  
10 Correction of Errors. It was believed by many to  
11 be too numerous for securing the strict attention  
12 of all its members to the elaborate arguments  
13 frequently made before it in complicated and  
14 difficult cases. Its connection with the  
15 legislative branch of government was justly  
16 regarded by many as a fault in its organization,  
17 and particularly so with respect to the decision  
18 of all causes in which the constitutionality of  
19 an act of the legislature was drawn in question."

20                   And so, at the conclusion of that  
21 convention, a new constitution was proposed, the  
22 third in our state's history. And Article VI,  
23 Section 2, of that constitution provided that  
24 "There shall be a Court of Appeals, composed of  
25 eight judges, of whom four shall be elected by

1 the electors of the state for eight years, and  
2 four selected from the class of justices of the  
3 Supreme Court having the shortest time to serve."

4 So here we are. The Court of Errors  
5 lasted for 70 years, and in the years since then,  
6 the Court of Appeals has been our highest court  
7 in this state. By now, most if not all of the  
8 Court of Error's decisions have been superseded  
9 by relevant and more modern Court of Appeals  
10 decisions, and they're rarely cited. And at  
11 times in our state's history, our Court of  
12 Appeals has been considered the preeminent state  
13 court in this country.

14 So as we consider the nomination  
15 that's before us today and potential nominations  
16 that will come before this body in the future for  
17 members of that court, and as there is a renewed  
18 focus not just on our state judiciary, but on the  
19 role of state courts generally, let's remember  
20 not just this history that I shared today, but  
21 the importance of our state's entire  
22 constitutional history. We should study it. We  
23 should know it. And yes, we should even talk  
24 about it, like I am here today.

25 So with that, Mr. President, thank

1 you for your indulgence for letting me take some  
2 time. I'll close out by saying to my colleagues:  
3 Happy Constitution Day; Happy Birthday, New York!

4 Thank you.

5 ACTING PRESIDENT BAILEY: Thank  
6 you, Senator Gounardes. Happy Constitution Day  
7 indeed.

8 The question is on the resolution.  
9 All in favor signify by saying aye.

10 (Response of "Aye.")

11 ACTING PRESIDENT BAILEY: Opposed?

12 (No response.)

13 ACTING PRESIDENT BAILEY: The  
14 resolution is adopted.

15 Senator Gianaris.

16 SENATOR GIANARIS: Mr. President,  
17 I'm sure, after that, that Senator Gounardes  
18 wants to open that for cosponsorship.

19 ACTING PRESIDENT BAILEY: The  
20 resolution is most definitely open for  
21 cosponsorship. Should you for some reason choose  
22 not to be a cosponsor on the resolution, please  
23 notify the desk.

24 Senator Gianaris.

25 SENATOR GIANARIS: Mr. President,

1 we're going to come back to motions and  
2 resolutions in a little bit, but at this time I  
3 believe there's a report of the  
4 Judiciary Committee at the desk.

5 Can we please take that up and call  
6 on Senator Hoylman-Sigal.

7 ACTING PRESIDENT BAILEY: The  
8 Secretary will read.

9 THE SECRETARY: Senator  
10 Hoylman-Sigal, from the Committee on Judiciary,  
11 reports the following nomination:

12 As Chief Justice of the Court of  
13 Appeals, Rowan D. Wilson.

14 ACTING PRESIDENT BAILEY: Senator  
15 Hoylman-Sigal.

16 SENATOR HOYLMAN-SIGAL: Thank you,  
17 Mr. President.

18 I rise to move the nomination of  
19 Judge Rowan Wilson as Chief Judge of the New York  
20 State Court of Appeals.

21 I wanted to acknowledge that we're  
22 joined by Judge Wilson, as well as his colleagues  
23 on the Court of Appeals.

24 I want to thank first  
25 Governor Hochul for nominating Judge Wilson, and

1 my colleagues for conducting what I think we can  
2 all agree was a fair and thorough hearing  
3 yesterday, which lasted a little over three  
4 hours. You know it's thoughtful when the dormant  
5 Commerce Clause is a major topic of discussion.

6 And one of our colleagues said he  
7 likes to chill out and watch Senate confirmation  
8 hearings, Senator Lanza.

9 (Laughter.)

10 SENATOR HOYLMAN-SIGAL: We've known  
11 Judge Wilson since he was first considered by  
12 this body over six years ago, when he was  
13 nominated for his current position as an  
14 associate judge. In 2017 this body confirmed  
15 Judge Wilson by a unanimous voice vote, and since  
16 then Judge Wilson has more than lived up to our  
17 expectations.

18 In his more than 150 authored  
19 opinions, concurrences and dissents, not to  
20 mention thousands more motions, Judge Wilson has  
21 proven himself to be one of the most thoughtful,  
22 well-written and persuasive jurists in the nation  
23 and in the history of the Court of Appeals.

24 Even when you don't always agree  
25 with his holdings, Judge Wilson will change the

1 way you think about a legal issue. And that's  
2 something I think my colleagues on the  
3 Judiciary Committee can agree with after  
4 yesterday's hearing.

5 Judge Wilson is the embodiment of  
6 the American dream. He shared much of his  
7 personal story with the committee yesterday --  
8 which I won't repeat in full here -- but suffice  
9 to say Judge Wilson is known as something of a  
10 legal rock star. He attended Harvard College and  
11 Harvard Law School, clerked for a federal  
12 appellate judge, joined Cravath, Swaine & Moore,  
13 one of the most prestigious law firms in the  
14 country. And I can say when I was a third-year  
15 law student, just the mention of Cravath sent  
16 chills up my spine. He became both the youngest  
17 and the first Black partner in the law firm's  
18 history.

19 And finally, in 2017, to gloss over  
20 his incredible private-sector career, he was  
21 confirmed as an associate judge of the Court of  
22 Appeals. If confirmed today, he will be the  
23 first Black Chief Judge in the court's history.

24 During the course of our  
25 conversations yesterday, we discussed the dire

1 issue of the lack of diversity on the bench with  
2 Judge Wilson. I'm confident that he will do  
3 whatever he can as Chief Judge, in partnership  
4 with the Legislature and the profession, to  
5 recruit new diverse candidates to the bench so  
6 that we can ensure Latino, Asian and Black  
7 representation where we so desperately need it.

8 Judge Wilson's elevation will also  
9 put our Court of Appeals back on track to being  
10 the most preeminent appellate court in the  
11 nation.

12 Yesterday we were able to dive into  
13 the weeds on Judge Wilson's jurisprudence, from  
14 labor law to civil rights to criminal law to  
15 animal rights. No matter the issue or difficulty  
16 of the question, Judge Wilson kept a calm, cool  
17 demeanor. Hemingway called it "grace under  
18 pressure." He thoughtfully answered every  
19 question with detailed explanations.

20 He also showed a willingness to  
21 listen to the concerns of Senators and their  
22 constituents, even reflecting on the spot about  
23 his record, like an errant footnote that may not  
24 have accurately reflected the gravity of the case  
25 before the court.

1           At a time when federal courts are  
2 making rash and radical departures from  
3 longstanding precedent and literally ripping away  
4 our rights, New Yorkers can be assured that with  
5 Judge Wilson at the helm, our judiciary will have  
6 their best interests at heart, the best interests  
7 of New Yorkers; that he will act with integrity  
8 and lead the nation in thoughtful and intelligent  
9 development of the law.

10           When the time comes, Mr. President,  
11 I will be voting aye and encourage my colleagues  
12 to do the same. I proudly move this nomination  
13 to the floor and ask you, Mr. President, to  
14 recognize any Senator that wishes to be heard on  
15 the nomination.

16           Thank you.

17           ACTING PRESIDENT BAILEY:    Thank  
18 you, Senator Hoylman-Sigal.

19           Senator Gianaris on the nomination.

20           SENATOR GIANARIS:    Thank you,  
21 Mr. President.

22           You know, what we do here in the  
23 Senate, policymaking, is not always neat and  
24 clean. But what is important is what is the  
25 final product, where we do end up and what

1 direction does that take our state. And in that  
2 regard, this is a day that is among the proudest  
3 that I have served in this chamber, because we're  
4 about to confirm Rowan Wilson to be the  
5 Chief Judge of the New York State Court of  
6 Appeals.

7 I think whatever people might  
8 believe about his philosophy, there's universal  
9 agreement that Judge Wilson is a man of the  
10 utmost integrity, leadership and intellect. His  
11 lengthy opinions are well-documented and have  
12 been discussed at length over the last several  
13 weeks.

14 And Senator Hoylman-Sigal mentioned  
15 his work, on his way through his legal  
16 profession, working at Cravath, Swaine & Moore.  
17 I was also a third-year Harvard Law student, and  
18 that name also sent chills down my spine, but I  
19 think for different reasons than Senator  
20 Hoylman-Sigal's did. I wanted nothing to do with  
21 the place, because they were known as a place  
22 where you will be working 24/7, you will be  
23 immersed in your law books doing the work. And  
24 it's a credit to Judge Wilson that he signed up  
25 for that and rose up the ranks of that incredibly

1 prestigious firm.

2           Also, if you realize that not only  
3 is his legal intelligence among the highest of  
4 anyone I've ever met, but I think he's going to  
5 be more than just an intellect on that court.  
6 He's going to be a philosopher. Because if you  
7 read his decisions, you see an understanding not  
8 just of the case before him but of what it means  
9 in the context of the broader community.

10           And that is what the Court of  
11 Appeals has historically been in New York -- a  
12 place where other states and indeed the federal  
13 government and the federal judiciary can look for  
14 guidance, for direction. It has been a court  
15 throughout history that has been among the most  
16 respected and admired in the entire nation. And  
17 I know that Rowan Wilson is the person who is  
18 going to restore that reputation, restore that  
19 integrity to this court and, once again, have the  
20 New York Court of Appeals, our highest court, be  
21 an example for the entire nation to look at.

22           I know many of my colleagues want to  
23 add their comments as we move this nomination.

24 But I'm going to be so thrilled to support  
25 Rowan Wilson's nomination and vote yes in a few

1 moments, and to applaud him for being a  
2 ground-breaking, history-making leader who is  
3 going to make us incredibly, incredibly proud.

4 Thank you, Mr. President.

5 ACTING PRESIDENT BAILEY: Thank  
6 you, Senator Gianaris.

7 Senator Myrie on the nomination.

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

10 And let me offer my congratulations  
11 to Judge Wilson. Also my apologies for missing  
12 the hearing. As you might be able to hear, I am  
13 dealing with a volatile case of food poisoning,  
14 and so I was not able to make the hearing. But I  
15 did watch it, and I thought it was very important  
16 to be here on this day because of this historic  
17 vote.

18 There are many reasons to support  
19 the nomination of Judge Wilson. He'd be the  
20 first Black chief justice of our Court of Appeals  
21 in this state's history. That is a good enough  
22 reason to support him, but that's not the only  
23 reason that I will be voting yes.

24 As you have heard, he has trailed a  
25 path in Big Law, as we call it, at one of the

1 premier law firms. And I'm supporting him for  
2 that reason, but that is not the only reason.

3 You have heard about his ability to  
4 communicate by way of his opinions and his  
5 eloquent style of writing. That is one reason to  
6 support him, but that is not the only reason.

7 I'm going to try to make plain to my  
8 constituents why I am voting for Judge Wilson and  
9 why I urge all of my colleagues to do the same.  
10 For my constituents who have been wrongly  
11 convicted, it was Judge Wilson's dissent in  
12 People vs. Tiger that pointed out the injustice  
13 that this state still upholds in that space.

14 For victims of police misconduct --  
15 and I count myself in that crowd -- Judge Wilson  
16 has stood up for their rights.

17 For those who care about the  
18 relationship between tenants and landlords, and  
19 the power dynamic, Judge Wilson has written and  
20 stood up for the rights of tenants.

21 For those who care about government  
22 intrusion and the offense to our Fourth Amendment  
23 rights, Judge Wilson has written and stood up for  
24 our constitutional protection.

25 If you care about the environment,

1 Judge Wilson has stood up for that protection.

2 And to my constituents who read  
3 Harry Potter, Judge Wilson, in Hinton v.  
4 Village of Pulaski, quoted Harry Potter in his  
5 dissent. And if I count myself in that crowd as  
6 well.

7 (Laughter.)

8 SENATOR MYRIE: So I say all this  
9 with a raspy voice, a volatile stomach, but with  
10 incredibly great enthusiasm that I will be  
11 supporting Judge Wilson.

12 We are proud of you.  
13 Congratulations to your family and to your  
14 colleagues. I'll be voting aye.

15 Thank you.

16 ACTING PRESIDENT BAILEY: Thank  
17 you, Senator Myrie.

18 Senator Palumbo on the nomination.

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

21 So we did have a lengthy hearing  
22 yesterday, and I don't think anyone can really  
23 dispute the intelligence and education of  
24 Judge Wilson. He worked at a very prestigious  
25 law firm and I'm sure he was a very, very fine

1 lawyer. And he was also unanimously confirmed in  
2 2017 to be an associate judge.

3 But from what we've seen from that  
4 date forward is a type of judge who has gone  
5 outside the boundaries of what the duties of a  
6 judge are. So unfortunately, I'm going to speak  
7 against the nomination of Judge Wilson for a  
8 number of reasons.

9 And I think that he would make  
10 certainly a fine law professor. As I said, he's  
11 got very artful decisions, and I said this  
12 publicly. He has a lot of very interesting  
13 prose; he makes it simple, he makes it  
14 entertaining. And I get that. But this isn't a  
15 think tank. This isn't some law review. This is  
16 a body of law where judges are constitutionally  
17 mandated to abide by precedent, stare decisis,  
18 and to be judges of the law, not creators of the  
19 law.

20 And there was much to do about a  
21 recent decision from about a month ago, a rape  
22 case, People vs. Regan. And just so my  
23 colleagues that weren't there or didn't watch the  
24 actual hearing -- this was a rape case where  
25 there were two couples, the defendant raped his

1 friend's girlfriend, a 22-year-old woman, and the  
2 prosecution delayed. She had an immediate  
3 outcry, the prosecution precharged -- and this is  
4 the distinction, and this is the important part.  
5 And this is what my point is, that we have a body  
6 of law and we have statutory time frames for due  
7 process that all exist. We have statutes of  
8 limitations. Obviously we have speedy trial,  
9 30.30, Mr. President. We've got all these other  
10 constraints that ensure due process for someone  
11 who is accused.

12 But prior to a charge, really the  
13 only statutory rules are you have a statute of  
14 limitations. And rape in the first degree has no  
15 statute of limitations.

16 But in any event, it took the  
17 prosecution a couple of years to get a DNA sample  
18 from the suspect. And then after they received  
19 those results, I believe they took even longer.  
20 But it was a total of 48 months. And on  
21 appeal -- and he went to trial after being  
22 indicted, was found guilty unanimously by  
23 12 jurors. And the case was appealed, affirmed,  
24 and now it came to the Court of Appeals.

25 And the process for reviewing such a

1 conviction has five factors. It's called --  
2 People vs. Taranovich, so those Taranovich  
3 factors are essentially the extent of the delay;  
4 the reason for the delay; the nature of the  
5 underlying charge, meaning the seriousness of the  
6 crime; whether or not there's been an extended  
7 period of pretrial incarceration; and, lastly,  
8 whether or not there's any indication that the  
9 defense has been impaired by reason of the delay.

10 To give you the short answer, it was  
11 conceded that there was no prejudice to the  
12 defendant, no bad faith about a prosecution, and  
13 in fact, of course, this is about as serious as  
14 crime gets. And he even acknowledged on later  
15 questioning that obviously victims of horrendous  
16 sex crimes and heinous crimes like this are  
17 affected the rest of their lives. They suffer  
18 with that trauma. So this is as big as it gets.  
19 This is as serious as it gets.

20 And for the precharge delay, the  
21 judge relied on a case, People vs. Singer -- and  
22 I just read it again -- which is a Court of  
23 Appeals case from the early '70s. And in Singer,  
24 it actually was reversed because of an improper  
25 confession, that the DA's office held the case

1 for an individual who was incarcerated, they  
2 waited until he got out -- and quite frankly  
3 foreclosed the opportunity of maybe a concurrent  
4 sentence, so that was considered as well. But it  
5 was reversed and remanded for a new trial. It  
6 wasn't dismissed. So that reliance on Singer is  
7 misplaced.

8           Yet Judge Wilson's decision in Regan  
9 said because the prosecution pretrial -- he was  
10 never in custody. He was accused, yes, but there  
11 were no charges filed -- because of a 48-month  
12 delay in the prosecution of a rape in the first  
13 degree, the case is dismissed and thrown out.

14           So that result I think is egregious.  
15 I think it's a misapplication of the law. But  
16 there's a more important story to be told about  
17 the type of justice we're talking about. Again,  
18 remarkably intelligent man, I get it. But he  
19 found a time constraint that he imposed after a  
20 trial conviction on the prosecutors that doesn't  
21 exist, does not exist in law.

22           And when you look through that  
23 Singer case, they refer to a bunch of -- they  
24 call it pre-indictment or post-indictment, really  
25 pre-charge versus post-charge time constraints.

1 And in that case they refer to a bunch of  
2 United States Supreme Court cases and say they  
3 have recognized that to a very, very limited  
4 extent that that may, on occasion, apply. But  
5 when you weigh those five Taranovich factors,  
6 giving them all equal weight, there are at least  
7 three of them in favor of the prosecution.

8 This was a divided court. Madeline  
9 Singas, who dedicated her -- essentially her  
10 entire adult life to being a prosecutor had a  
11 very scathing dissenting opinion.

12 So the point of it is in a serious  
13 rape-in-the-first-degree case such as this, he's  
14 willing to toss it and create new law, be an  
15 activist judge creating law where there is none.  
16 He can run for Senate and make all the laws that  
17 he would like. But you cannot do that from the  
18 bench.

19 And if you're doing it in a rape  
20 case, what do we expect from this judge on a  
21 civil case? To just throw the baby out with the  
22 bathwater and he will be the new creator of the  
23 law in this state however he sees fit.

24 And so it really doesn't have to do  
25 with ideology, it has to do with doing your job

1 and a dereliction of duty when you go outside of  
2 the scope of your authority. We have a  
3 Legislature, we have a distinct separation of  
4 powers. And some of that I think it's lost in  
5 the intellectual exercises of writing decisions.

6           Because I actually pointed out and  
7 one of our colleagues just referenced that I  
8 pointed out a footnote in a case. It was a case  
9 to confine a pedophile, a convicted pedophile who  
10 had a long history of attempted rape -- rape,  
11 sexual misconduct, sexual harassment, and he was  
12 abusing his preteen stepdaughters who were under  
13 his charge for a period of years. That  
14 individual was held under Article 10 of the  
15 Mental Hygiene Law. It was -- Floyd was his  
16 first name. And that's the matter of State of  
17 New York against Floyd Y.

18           And Justice Wilson dissented and  
19 said he should have been released. And I get it.  
20 And again, notwithstanding that position that I  
21 disagree with, they heard that he said that he  
22 had sexual desires towards his preteen  
23 12-year-old -- preteen stepdaughter and acted  
24 upon it, and I get what I want -- he said, "I  
25 want what I want when I want it."

1                   Now, egregious facts. I get it.  
2           But what I brought up at the hearing was a  
3           footnote where Judge Wilson had referenced pop  
4           culture and opera, some other songs, and said  
5           sometimes athletes use this language. In the  
6           decision: "Fourth, his 'I want what I want when  
7           I want it' statement was made more than a decade  
8           ago. Doubtless countless celebrities, investment  
9           bankers, sports stars, politicians and perhaps  
10          even lawyers and psychiatrists have felt the same  
11          way." Footnote 5: "Although not admirable, such  
12          sentiments are regrettably mainstream enough to  
13          fail as evidence of a mental abnormality causing  
14          a lack of control." Because that was part of the  
15          standard that this person could not control their  
16          desires toward children.

17                   But we all know what Floyd meant  
18          when he said "I want what I want when I want it."  
19          That was to molest his stepchildren. However, in  
20          a footnote there are a number of other references  
21          'I want what I want when I want it' also happens  
22          to be the title of a song opening the second act  
23          of an operetta Mademoiselle Modiste." Further,  
24          quoting Paul McCartney and John Lennon, "I want  
25          you, I want you so bad it's driving me mad, it's

1 driving me mad." And again, Mick Ralphs, "Can't  
2 Get Enough of Your Love," 1974: "Well, I take  
3 whatever I want, and baby, I want you." Isaac  
4 Hayes, "I take what I want, I'm a bad go-getter,  
5 yeah, yes, I am. I'm never a loser and I'm never  
6 a quitter yet, oh, no. 'Cause I take what I want,  
7 baby, I want you, yeah, you." And lastly, a  
8 quote from Willy Wonka and the Chocolate Factory.

9           So again, I'm not trying to  
10 embarrass the judge on this, but that is so  
11 insensitive and degrading to that victim.  
12 Because those victims were adults when this  
13 decision came down. And they were waiting and  
14 reading this decision with bated breath to see if  
15 Floyd was going to be released from civil  
16 confinement.

17           So my point is that on serious cases  
18 like this, it's a little too glib for me. The  
19 fact that we are creating new laws, an activist  
20 judge is acting in a way that I think is contrary  
21 to common sense and the law in the Regan case,  
22 throwing out a rape case last month -- I'm very,  
23 very concerned.

24           Outside of that, Judge Wilson had  
25 some limited administrative experience, but I

1 don't think, quite frankly, nearly the experience  
2 that the candidate we spoke to today has.

3 So I will be a no on Judge Wilson's  
4 confirmation, and I urge my colleagues to be  
5 the -- to do the same.

6 Thank you.

7 ACTING PRESIDENT BAILEY: Senator  
8 Mayer on the nomination.

9 SENATOR MAYER: Thank you,  
10 Mr. President.

11 I rise with great pride to support  
12 the nomination of Judge Wilson as the Chief Judge  
13 of the Court of Appeals. I couldn't feel better  
14 about the nomination. I'm thankful for the  
15 Governor's nomination, and I was pleased to sit  
16 in the hearing and hear your thoughtful,  
17 down-to-earth and yet brilliant responses to the  
18 array of questions you faced.

19 I don't think we can ignore the  
20 moment we are at in this country where people  
21 realize that judges are capable of making  
22 decisions that influence the lives of ordinary  
23 people.

24 Tomorrow the United States  
25 Supreme Court is going to decide whether to lift

1 the stay on the distribution of medication that  
2 millions of American women depend on. Talk about  
3 legislating from the bench.

4 My colleagues have it wrong. Their  
5 judges are taking away the rights of millions of  
6 American women and using the law as a defense for  
7 their own partisan decisions and agenda.

8 That's not what Judge Wilson did,  
9 and that's not who Judge Wilson is. His record  
10 demonstrates a penchant for independent thinking  
11 and a commitment to the rights of all  
12 New Yorkers, including those who are most  
13 vulnerable.

14 I believe he's the right person to  
15 lead our court forward, and I'm so pleased to see  
16 his colleagues are here to support him as well.

17 I've also been clear that we need a  
18 Chief Judge who will prioritize the work of  
19 making our court system work better for all  
20 New Yorkers, especially those without attorneys.  
21 Again, most New Yorkers encounter our court  
22 system without lawyers when they go to contest a  
23 parking ticket, have a Family Court matter, or  
24 are facing investigation proceedings. They're  
25 faced with the daunting task of navigating the

1 system without a guide.

2 Judge Wilson understands this  
3 challenge that he will face as Chief Judge, and  
4 he has made clear that he is committed to  
5 changing our court system and improving how it  
6 works for all litigants, including those without  
7 lawyers.

8 Again, I'm so pleased to support  
9 your nomination. I look forward to your  
10 leadership. I'm very convinced you are the Chief  
11 Judge we need at this moment in time, and I  
12 proudly vote aye.

13 ACTING PRESIDENT PERSAUD:

14 Senator Bailey on the nomination.

15 SENATOR BAILEY: Thank you,  
16 Madam President.

17 "The Art of Cherry Picking" should  
18 be a novel that is written by some of my  
19 colleagues on that other side of the aisle. I  
20 wonder if the same energy happened when an  
21 activist Supreme Court decided to overturn  
22 something called Roe vs. Wade.

23 But that is not the point of today.  
24 The point of today is not to cast aspersions or  
25 insults or speak about decisions or cherry pick

1 decisions, as it were, Madam President. The  
2 point of today is to salute the accomplishments  
3 of an eminently qualified man that is on the  
4 verge of becoming our Chief Judge.

5           And it's not just about him being  
6 the first Black Chief Judge in the history of  
7 this great state. It's not just about that. It  
8 is a critically important moment, but it is about  
9 his keen intellect, his responses -- that he was  
10 sitting there yesterday being bombarded with  
11 questions that ranged from asinine to asinine,  
12 and he was able to respond from asinine to  
13 asinine without -- with recall (snapping fingers)  
14 like that.

15           That is the person that we need in  
16 charge of our state's highest court. That is the  
17 person that you should want in our state's  
18 highest court.

19           But it's not just about his  
20 responses yesterday. It's not just about his  
21 responses six years ago. It's not just about his  
22 career in private practice, being the first Black  
23 partner, dedicating his life to the Harlem  
24 Neighborhood Defender Service. It's not just  
25 about those things.

1                   It's not just about when I saw Judge  
2 Wilson at the Judicial Friends Gala and he asked  
3 me, without contact, saying, Senator, what can we  
4 do about visiting more prisons, about seeing the  
5 incarcerated, about how things are really  
6 happening? I didn't prompt that. He prompted  
7 it.

8                   If you understand someone that  
9 understands the downtrodden, that understands  
10 that the law is the law, but how you interpret  
11 the law is predicated upon context. It's  
12 predicated upon life experience, Madam President.  
13 Life experience. We all don't experience the  
14 same things.

15                   I have referenced Baldwin before:  
16 To be Black in America is to be in a constant  
17 state of rage. But it's not rage, it's joy  
18 today. In the church they say "Joy come in the  
19 morning." And joy has come in the afternoon,  
20 Madam President.

21                   It is so refreshing for a young  
22 Black lawyer -- who, when you first went to  
23 observe arraignments, was mistaken as a  
24 defendant -- to see a Black man as Chief Judge?  
25 That's something else, Madam President. That's

1 something else.

2 To witness Judge Wilson at events,  
3 to see him in the public, he is one of the most  
4 unassuming, kind individuals that you can see.  
5 No airs upon him at all, Madam President.  
6 Someone who walks amongst us because he is one of  
7 us.

8 If you see soon-to-be Chief Judge  
9 Wilson at an event, unless you know what he looks  
10 like, he's not walking around "I am the judge."  
11 As a matter of fact, he introduces himself: "Hi,  
12 I'm Rowan." A title does not define you. It is  
13 what you do with your title that will define you,  
14 Madam President.

15 I want to take you back to six years  
16 ago, February 6, 2017, his initial unanimous  
17 confirmation under a different majority.  
18 Unanimous confirmation under a different  
19 majority, Madam President.

20 Judge Wilson said a couple of things  
21 that have never left me. He was asked a question  
22 about housing and the importance of housing and  
23 he talked about how important it was to make sure  
24 that pro se litigants were given a fair  
25 opportunity. And he thought for a second about

1 weighing the difficulties between housing and  
2 family. And if he had to go without one and go  
3 with another, unequivocally he would go with  
4 family.

5 That's the kind of person that you  
6 want as your Chief Judge. It's the person that  
7 you need as your Chief Judge.

8 And lastly, Madam President, when I  
9 asked him what were his extracurricular  
10 activities, he responded: "In addition to the  
11 things that you can read about on my resume --  
12 that's fine -- I am in charge of laundry and  
13 dishes in my house."

14 Madam President, as the presiding  
15 officer of laundry and dishes in my house as  
16 well, I can appreciate someone who puts family  
17 first. And if Judge Wilson is going to put  
18 family first, he's for sure going to put New York  
19 first.

20 I proudly support this nomination.  
21 I am proud to be standing here today.

22 Congratulations, Judge Wilson.

23 ACTING PRESIDENT PERSAUD: Senator  
24 Stec on the nomination.

25 SENATOR STEC: Thank you,

1 Madam President.

2           This is my 11th year in the  
3 Legislature, my third in the Senate. I am  
4 astounded when I think about how we got to where  
5 we are today: When I look over the history of  
6 the last several years, the direction that the  
7 Legislature has taken in criminal justice. The  
8 legislative gymnastics that occurred in January  
9 to stack the Judiciary Committee to make sure  
10 that the Governor's first chief justice  
11 appointment -- who would have also been another  
12 first -- was defeated. You had to go to court,  
13 and you lost in court.

14           And the doubling down and the  
15 defending of your failed criminal justice  
16 policies. Polls across the state -- upstate,  
17 downstate, Democrat, Republican -- all want a new  
18 direction when it comes to criminal justice.

19           Now we're -- the timing of this is  
20 interesting, in that we're three weeks late on a  
21 budget and the budget is being held up over these  
22 criminal justice policies of yours that have  
23 failed. We certainly have different ideas of  
24 what passes for asinine around here.

25           I represent St. Lawrence County. I

1 don't think it's difficult for a jurist, a  
2 Harvard-educated jurist -- any lawyer -- to sit  
3 in a room and answer questions about their own  
4 past and their profession of study from a bunch  
5 of politicians for a couple of hours.

6 I think what must have been really,  
7 really challenging, horrific, difficult,  
8 unbearable -- I wouldn't want to be in those  
9 shoes -- is what happened in August of 2009 in  
10 St. Lawrence County. I'm proud to say I'm not a  
11 member of the bar, so I'm not interested in what  
12 anyone -- any other member of the bar thinks of  
13 me. But I do care what the people of  
14 St. Lawrence County and the rest of my district  
15 think about what passes for asinine in this  
16 chamber.

17 A woman was raped. Her assailant  
18 was brought to trial, convicted by a jury of  
19 12 people. That went to appeal. The appellate  
20 level upheld that conviction. And then last  
21 month -- and this is really important. Last  
22 month, not six years ago when this attorney was  
23 elevated to the Court of Appeals unanimously.  
24 I'm talking about what happened 30 days ago when  
25 your pick for chief justice decided that they

1 were going to cast a deciding vote and write the  
2 opinion that released a convicted rapist back  
3 into my community.

4 We are a state of 20 million  
5 people -- thousands of attorneys that are  
6 qualified to do this job. What kind of message  
7 are we sending the women of this state when  
8 you're going to elevate somebody that will let a  
9 rapist off back onto the streets?

10 That's the best we can come up with?  
11 We can do much better. And I will be in the  
12 negative.

13 ACTING PRESIDENT PERSAUD: Senator  
14 Ryan on the nomination.

15 SENATOR RYAN: Thank you,  
16 Madam President.

17 To Governor Hochul, thank you for  
18 nominating Judge Wilson.

19 To Senator Hoylman-Sigal, great job  
20 running committee meetings. You've been at it a  
21 few days now, but really happy with the result.

22 And to Judge Wilson, I was  
23 impressed, you know, by your writings before I  
24 met you. And I read over some of your cases.  
25 And I have to say I was more impressed when we

1 sat in the conference room and you answered  
2 question after question. You have a keen  
3 intellect, a memory that is quite -- quite  
4 shocking. You seem to have a command of every  
5 decision you wrote, and then decisions that you  
6 didn't write. But you understood how the law  
7 interacts with society, the impact of the  
8 decisions that are made in courts.

9           There's two sides to the job of  
10 being a Chief Judge. One's the jurisprudence  
11 part -- Appellate Division, Court of Appeals.  
12 And, you know, that's just one part. But the  
13 second part is, you know, the administrating of a  
14 large and sprawling judiciary system.

15           And as one of my colleagues  
16 mentioned before, there is the high law that  
17 takes place in the Court of Appeals and the  
18 Appellate Division, but then there is where sort  
19 of people interact with the judiciary system.  
20 That's in city courts and housing courts and  
21 family courts.

22           And you expressed an understanding  
23 of the gravity of what goes on in those courts.  
24 You've been to visit diversion courts. You've  
25 been to visit other courts in the New York State

1 system. So I'm confident that you have a command  
2 of understanding the jurisprudence part of the  
3 job, but also the part of the job of how hundreds  
4 of thousands of New Yorkers interact with various  
5 parts of the court system, day in and day out, to  
6 settle civil and criminal disputes.

7                   So I'm happy with your nomination.  
8 I'm confident that you have the skills necessary  
9 to handle both parts of those jobs. I look  
10 forward to watching your career as a Chief Judge,  
11 and I will proudly support your nomination.

12                   And I wish you congratulations to  
13 you and to your family, Judge Wilson.

14                   ACTING PRESIDENT BAILEY:    Senator  
15 Murray on the nomination.

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

18                   So I heard another speaker use the  
19 term "cherry picking." And I was amazed to hear  
20 that when describing this process, considering it  
21 was just a couple of weeks ago we were sitting in  
22 this very chamber with an extremely qualified  
23 judge who went through the same process and had  
24 hundreds if not over a thousand decisions on his  
25 record, and they cherry-picked a couple that they

1 felt were questionable to then vote him down.  
2 Another, by the way, historic nomination, in the  
3 first Hispanic nominated as chief justice to the  
4 appellate court.

5           So here we are today -- so I just  
6 found that ironic. But here we are today, three  
7 weeks late on a budget, and the major hang-up, as  
8 has been widely reported, is bail reform. And  
9 the question is in the sticking point -- the big  
10 sticking point is the Governor's desire to allow  
11 judges to consider the dangerousness of the  
12 crimes when setting bail, and consider the safety  
13 of the public.

14           And it's no secret that the Majority  
15 leadership and many members on the other side of  
16 the aisle were adamantly opposed to this  
17 happening. I mean, how dare these judges  
18 consider the dangerousness of the crime and  
19 consider the safety of the public when trying to  
20 set bail.

21           So I guess while it's extremely  
22 disappointing, it's not surprising that we're  
23 voting on a judge that, as has been mentioned,  
24 just last month made the decision to free a  
25 convicted -- not accused, a convicted rapist.

1 Convicted by a jury of his peers.

2 And that sent a clear message and a  
3 frightening message to crime victims all across  
4 this state that he perfectly fits the bill of  
5 what some Majority members have been very public  
6 in saying that they wanted in a chief judge, and  
7 that is an advocate for the accused.

8 So I've heard other members  
9 congratulate this judge today. That's your  
10 message to him. My message is to crime victims  
11 all across this state, and I say my condolences  
12 to you.

13 I will be voting no.

14 ACTING PRESIDENT BAILEY: Senator  
15 Canzoneri-Fitzpatrick on the nomination.

16 SENATOR CANZONERI-FITZPATRICK:  
17 Thank you, Mr. President.

18 Over the past two days during our  
19 Judiciary meetings we have talked extensively  
20 about the separation of powers between our  
21 judicial branch and the legislative branch.  
22 We've talked about respect for stare decisis and  
23 precedent. And we've talked about the role of  
24 the Judiciary to apply the law as it exists out  
25 of the Legislature.

1                   We've also talked about the role of  
2 the Chief Judge to build consensus and to  
3 collaborate with their colleagues.

4                   I do not believe that Judge Wilson  
5 is the right choice for this role. He's written  
6 over a hundred dissents, and he openly stated  
7 that he likely would never disagree with his  
8 colleague Justice Madeline Singas. And one of  
9 the decisions that you've heard about today,  
10 People vs. Regan, is incredibly telling about  
11 Justice Wilson's decision-making regarding  
12 choices before him.

13                   Madeline Singas was a -- Justice  
14 Singas had 24 years experience in the DA's office  
15 and wrote a blistering dissent disagreeing with  
16 Judge Wilson's decision because -- she stated  
17 very clearly that this decision was a stunning  
18 nullification of a jury's first-degree rape  
19 conviction and the reinforcement of the bleak  
20 history of the treatment of sexual assault  
21 victims.

22                   In her dissent she went through the  
23 history, and it was stunning to read that sexual  
24 assault victims, alone, their word is not taken;  
25 there must be corroborating evidence. This was a

1 case that there was -- there was DNA evidence  
2 that tied this defendant to this crime. And I  
3 think that Justice Singas, who is steeped in  
4 criminal law experience, should have been given  
5 more deference and should have been respected  
6 more in this process.

7 Justice Wilson wrote that societal  
8 interests have to be considered and that they  
9 might outweigh the victim's rights. Yet when I  
10 asked him what specific societal interests were  
11 served by this decision, he could not give me a  
12 good answer.

13 The reality is that he made new law.  
14 The law as it states did not require a dismissal  
15 of this conviction. But he decided that that's  
16 what should happen in this case. He went outside  
17 the bounds of law. And it will have a stunning  
18 effect to deter future rape victims from coming  
19 forward.

20 I find this so troubling and so  
21 impactful that I cannot vote for this candidate  
22 in good conscience, because the judiciary's role  
23 is to apply the law and not broaden it.

24 So for that reason I will be voting  
25 no. Thank you.

1                   ACTING PRESIDENT BAILEY:    Senator  
2   Stavisky on the nomination.

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

5                   As a member of the Judiciary  
6   Committee, I am not an attorney, but I sat  
7   through the three-hour hearing yesterday and  
8   found it quite, quite interesting.  By  
9   background, I was a high school history teacher.

10                  But the -- I fail to understand the  
11   connection between the fact that we are coming  
12   very close on a budget and this nomination today.

13                  Secondly, it seems to me that the  
14   People v. Regan case is a tragedy.  There's a  
15   victim out there because the district attorney in  
16   St. Lawrence County failed to provide the DNA  
17   request for three or four years.

18                  In contrast, we have a supremely  
19   prepared attorney -- private practice with a  
20   large firm -- and I think he's going to take this  
21   Court of Appeals, understanding the precedent --  
22   we spent a lot of time listening to testimony  
23   today on precedent.  And yes, obviously that's  
24   important.  But we would not have other landmark  
25   cases if we didn't expand upon precedent.

1 I congratulate Judge Wilson, and I  
2 look forward to his confirmation.

3 Thank you, Mr. President.

4 ACTING PRESIDENT BAILEY: Senator  
5 Tedisco -- Senator Gianaris, excuse me.

6 SENATOR GIANARIS: Mr. President,  
7 before we hear from Senator Tedisco, let me just  
8 remind my colleagues each side has 30 minutes to  
9 discuss nominations, and there's a little less  
10 than 10 minutes remaining for each side. So for  
11 the remaining members, I don't want to have to  
12 cut them off, so I just wanted to make them  
13 mindful of the time constraints.

14 ACTING PRESIDENT BAILEY: Thank  
15 you, Senator Gianaris. Mindful of time.

16 Senator Tedisco.

17 SENATOR TEDISCO: Thank you,  
18 Mr. President.

19 Mr. President and my colleagues, I  
20 think anybody -- I know I'm shocked. But I think  
21 anybody who's listening or watching, from the  
22 media to the 19.5 million people who we  
23 represent, would be shocked to hear some of the  
24 things that were said on that side of the aisle.  
25 Not that they're not true. They would be shocked

1 that you said them on this floor and admitted to  
2 them. And I'm glad they're in the record today.

3 We heard early on that we need a  
4 philosopher as a judge, as the chief judge of the  
5 Court of Appeals, highest court. We need a  
6 philosopher. We don't need a philosopher as a  
7 judge in this state or anywhere else, on a local  
8 level or on a federal level. We need a judge  
9 that is learned of the laws we make, a separate  
10 branch of government, the intent of those laws,  
11 and asked to protect the freedoms and liberties  
12 embedded in this state but, more importantly, the  
13 greatest Constitution, the greatest document in  
14 the world, the Constitution of the United States  
15 of America. Which embodies all those freedoms  
16 and liberties.

17 We don't need a judge that makes  
18 amendments to the laws we make, which we could  
19 make if we wanted to, as an activist. I'm  
20 shocked that on the record we think we need a  
21 philosopher as our chief judge.

22 Then I heard the other side say we  
23 don't do everything all the time neat and clean.  
24 You're right. That's on the record too. And I  
25 appreciate the majority leader putting that on

1 the record. You don't do things neat and clean.

2 But what you said is: I don't do  
3 them neat and clean, but it's the outcome that  
4 matters. That's basically the ends justifying  
5 the means. That's never a reason to take means  
6 to do something. The ends should never justify  
7 the means.

8 Now, I'm not surprised about the  
9 fact that that's the truth. I'm surprised your  
10 majority leader said it on the floor. You don't  
11 use things in a neat and clean manner to get  
12 things done. The reason why I'm not shocked is  
13 because I saw the redistricting last year. And  
14 that's what this is all about. You know that, I  
15 know that, the media knows that, and the public  
16 should understand that.

17 You're trying to get an activist  
18 judge to roughshod the rest of the courts to turn  
19 over the unconstitutional redistricting that  
20 you're saying took place with the  
21 unconstitutional district -- redistricting that  
22 you put in place to begin with.

23 What they told you, the highest  
24 court, was that basically it wasn't even a  
25 redistricting, it was a savage attack on our

1 representative democracy. They were right.

2 Now you want to use the not so neat  
3 and clean process by appointing an activist judge  
4 to go back, maybe try to get in Congress -- I  
5 don't know what else you're trying to do. But  
6 that's not the way we get things done. And you  
7 know what you're doing when you don't use those  
8 neat and clean processes to get things done? You  
9 get 30 percent of the people in New York State  
10 saying in five years they're going to walk out of  
11 this state. That's what you get, 30 percent.

12 You know, you can go "But we got  
13 70." You know, three out of 10 people want to  
14 leave the State of New York and you think your  
15 agenda is working?

16 You've had control the last four  
17 years. In 48 years, in the past 48 years, you're  
18 the first political party who controlled all  
19 levers of power. You've got a supermajority  
20 here, you've got a supermajority in the Assembly.  
21 Schumer -- when Spitzer was here, you had it for  
22 a little bit, then they had that consolidation.  
23 But consistently, you haven't been able to pass  
24 an on-time budget.

25 Now, you never said when -- give us

1 full control and we'll pass a good late budget.  
2 You said you'd have an on-time budget, you said  
3 you'd incentivize people to stay here and live  
4 here. They're leaving in droves. We're number  
5 one in outmigration. We're one of seven states  
6 that lost another representative. Thirty percent  
7 say they want to leave this state. We're behind  
8 Florida in population now. We were one of two or  
9 two to create jobs and economic development.

10 When enough people leave this state  
11 that can afford to leave the state -- and I've  
12 said this before, U-Haul's doing pretty good in  
13 this state right now, one of the businesses.  
14 When middle-class and lower incomes are the only  
15 people left, when you pass a 226, \$230 billion  
16 budget, how are you going to pay for  
17 infrastructure, education, healthcare, daycare,  
18 libraries? It's not going to be possible. It's  
19 not sustainable.

20 It's not I love New York anymore,  
21 it's I leave New York. And if you continue to do  
22 not so neat and clean things to get things done,  
23 that's going to continue to happen. Because the  
24 end never justifies the means.

25 And that's the statements we heard

1 on the floor today. And that's why I'm voting no  
2 on this particular candidate.

3 Thank you, Mr. President.

4 ACTING PRESIDENT BAILEY: Senator  
5 Gianaris.

6 SENATOR GIANARIS: Mr. President, I  
7 don't have the time to correct all the gross  
8 misstatements that we just heard. But as a point  
9 of order, I am the deputy majority leader, not  
10 the majority leader. The Majority Leader is  
11 Andrea Stewart-Cousins, who is the first woman to  
12 ever lead a legislative body, something that  
13 never happened all those glorious years when you  
14 were in charge.

15 Thank you, Mr. President.

16 ACTING PRESIDENT BAILEY: Thank  
17 you, Senator Gianaris.

18 I want to remind our colleagues on  
19 the other side of the aisle that there are  
20 approximately five minutes remaining for this for  
21 the party -- point of order, please.

22 I just want to remind individuals  
23 there are approximately five minutes remaining  
24 for your side to continue the conversations.

25 With that being said, Senator

1 Borrello on the nomination.

2                   SENATOR BORRELLO:     Thank you,  
3 Mr. President.  You know, some people would say  
4 that manufacturing is dead in New York State, but  
5 not so with Rowan Wilson.  He's been able to  
6 manufacture a lot of things in his time as a  
7 judge.  He's manufactured rights that don't  
8 exist, he's manufactured laws that don't exist.  
9 He's basically treated our constitution and our  
10 laws as an Etch-a-Sketch that he can shake up and  
11 start over again.

12                   That's what we heard in the release  
13 of a rapist.  He created, he manufactured a right  
14 that didn't exist, and then was told that he was  
15 in fact in violation of that right and that's why  
16 he was released.

17                   He wanted to release an elephant.  
18 Now, I'm a big fan of animal rights, but he  
19 wanted to give this elephant human rights.  An  
20 elephant that spent 40 years living quite  
21 comfortably in a zoo.  He wanted to apply the  
22 human right of him being able to be released.

23                   Now, I can't imagine what would  
24 happen to an elephant that's lived 40 years in a  
25 zoo being released into the wild.  It would have

1       been a disaster. And he wrote a 74-page opinion  
2       as to why an elephant has human rights. That's  
3       no exaggeration. That's an issue, I think.

4                       We need prudent jurists that  
5       actually judge the Constitution and the law, not  
6       based on whatever the progressives like or the  
7       liberals like or the special interests like.  
8       That's not the role of the judiciary. The role  
9       of the judiciary is to judge the law and the  
10      Constitution.

11                      This is not who is going to take the  
12      role of chief judge today. It's very concerning  
13      to me. It should be concerning to all of us.  
14      And I'll be voting no. Thank you.

15                      ACTING PRESIDENT BAILEY: To my  
16      colleagues on this side of the aisle, we have  
17      approximately seven minutes.

18                      Senator Breslin.

19                      SENATOR BRESLIN: Thank you,  
20      Mr. Chairman.

21                      I've been hearing all about moving  
22      to Florida, I've been hearing all about reforms  
23      in criminal justice -- everything but focusing on  
24      this candidate.

25                      As many of you know, I'm the

1 longest-serving member of the Judiciary  
2 Committee. And in my 25 years I have not seen  
3 someone with the integrity, the intelligence, the  
4 work ethic, the ability to communicate as we all  
5 would want judges to be. A very, very special  
6 citizen and jurist.

7 He came before us, we asked every  
8 question imaginable for almost four hours. He  
9 did not have a stack of cases, as many judges  
10 have. He had his intellect. He had his honesty.  
11 And he answered questions.

12 And I was compelled to believe,  
13 after reading about this case, that he did the  
14 right thing. I know the other side doesn't like  
15 that. But we have a process to follow in  
16 criminal justice, and that process leads to not  
17 acceptable outcomes at times.

18 But the ones that set the proper  
19 precedents, the DAs and people on the prosecution  
20 side have an obligation, an obligation to do  
21 things right and properly. That didn't -- that  
22 didn't happen here. And you don't want to set an  
23 example at times to say to other prosecutors,  
24 it's okay, take a few years, it's a rape case, no  
25 one cares about that. Take another year. Those

1 are the cases that would multiply if this judge  
2 didn't make the proper decision.

3           And all decisions judges make,  
4 they're not acceptable by all. They -- people  
5 reach out and say, I can twist this a little.  
6 And as I stand here, and for those people in the  
7 room, I believe they know how qualified this  
8 judge is. And they know how different he is than  
9 the great majority of judges we've approved in  
10 this room for many years.

11           And as I started with, this judge is  
12 special. This judge will make a reputation as  
13 the Chief Judge of the Court of Appeals and turn  
14 that Court of Appeals into a body -- it has very  
15 talented judges there already. He will turn it  
16 into what it was in the past, after the Supreme  
17 Court -- and sometimes, people felt, ahead of the  
18 Supreme Court -- the finest court in the  
19 United States.

20           And I very willingly vote in favor  
21 of the judge.

22           Thank you, Mr. President.

23           ACTING PRESIDENT BAILEY: Thank  
24 you.

25           Senator Rhoads on the nomination.

1                   SENATOR RHOADS:    Thank you,  
2   Mr. President.  I know our time is limited.

3                   Courts are supposed to be the final  
4   guardians against tyranny -- the final guardians,  
5   really, against tyranny of the majority.  And  
6   what we've seen since January is really the  
7   process of selecting our judges, and particularly  
8   our chief judge, manipulated to become an arm of  
9   the tyranny of the majority.

10                  With Hector LaSalle we had someone  
11   who was nominated to become the chief judge,  
12   someone who actually has administrative  
13   experience as the presiding judge of the busiest  
14   judicial department in the State of New York.  
15   And my colleagues on the other side of the aisle  
16   cherry-picked a handful of decisions out of  
17   thousands to argue that somehow he was  
18   unqualified.

19                  And the reason that we're bringing  
20   up cases like Regan is because it's a part of an  
21   overarching theme which seems to take place with  
22   the majority that we want judges not who are  
23   going to be fair and impartial, but we want  
24   judges who are going to see the world the way we  
25   want it to be seen.

1                   And when we talk about courts being  
2                   the final guardians against tyranny of the  
3                   majority, that's exactly what we want to make  
4                   sure that we fight against. We want judges who  
5                   are not going to not advocate for anything. We  
6                   want judges who are going to look at the facts,  
7                   who are going to look at the law, and who are  
8                   going to interpret the law the way it was  
9                   intended to be interpreted.

10                   And the reason that we're raising  
11                   the Regan case is because it's the perfect  
12                   example of legislating from the bench. This  
13                   Legislature decided, back in 2006, that we were  
14                   not going to have a statute of limitations on  
15                   rape. And yet after the Regan decision, we now  
16                   have a statute of limitations on rape. It's four  
17                   years.

18                   The judge didn't have to make the  
19                   decision that he made. There were five factors  
20                   that the court could have considered. He could  
21                   have sent a message to prosecutors by simply  
22                   putting in his decision to prosecutors, We  
23                   weren't happy about what the district attorney's  
24                   office did in this particular instance.

25                   That's not what happened. That rape

1 case, for example, could have been brought today.  
2 If the victim came forward today and made her  
3 allegation and there was a prompt prosecution,  
4 that person could be convicted and sentenced to  
5 jail today, even from 2009.

6 But as a result of this decision, as  
7 a result of the decision in the Regan case, now  
8 the law has changed. And it wasn't the  
9 Legislature that did it, it was the courts that  
10 did it.

11 And the reason that I'm voting  
12 against Justice Wilson has nothing to do with his  
13 background, it has nothing to do with his  
14 experience, it has to do with his philosophy --

15 ACTING PRESIDENT BAILEY: Senator  
16 Rhoads, your time is beginning to lapse. Please  
17 conclude your statements, please.

18 SENATOR RHOADS: Yes, thank you. I  
19 appreciate it, Mr. President.

20 -- his philosophy of expanding the  
21 strike zone.

22 And when we have a Legislature which  
23 for the last four years has concentrated its  
24 efforts on making people, residents of the State  
25 of New York, less safe, I can't have a chief

1 judge doing the same thing.

2 So I'll be voting no.

3 ACTING PRESIDENT BAILEY: Thank  
4 you.

5 Senator Ramos on the nomination.

6 SENATOR RAMOS: Thank you,  
7 Mr. President.

8 I wasn't really planning on speaking  
9 today, but today I rise as a survivor of rape.  
10 It's not something that I've talked about  
11 publicly before, and it's not something that is  
12 easy for me to talk about. But I felt it very  
13 important to share in light of so many remarks  
14 that I'm hearing from across the aisle. Such a  
15 false sense of outrage from so many of you when  
16 you've had the opportunity to actually make  
17 lasting policy change in this body to help  
18 victims.

19 I want to let you know that you  
20 don't speak for me, and you don't speak for many  
21 people who have been raped. Perhaps most of you  
22 don't know what it's like to be pinned down by  
23 someone who supposedly loves you and to be taken  
24 advantage of in that way.

25 You see, I want my rapist to see

1 justice. But due process is justice. And it's  
2 very important that we respect the procedures  
3 that we've actually outlined in our constitution  
4 and that we respect everybody's individual right  
5 to due process, to be heard, and to be seen by  
6 the court fairly.

7 I can't believe that you guys use  
8 this political theater. I understand that you're  
9 in the Minority. I understand that getting these  
10 clips so that you can post them on social media  
11 is very important for your constituents to see.  
12 But what a false sense of outrage when you  
13 actually don't help us enact any actual change.  
14 It's a joke. And deeply offensive to me  
15 personally.

16 Judge Wilson, I know you will do us  
17 proud. I tried to ask you some hard questions  
18 myself. I've been so impressed with your body of  
19 writing. You know, I haven't voted for many  
20 judges here on the floor, even predating my being  
21 a member on the Committee of the Judiciary. But  
22 having written more than 150 decisions, more than  
23 any that I've -- more than any judge that I've  
24 seen here, I've greatly appreciated, as a  
25 non-attorney, being able to understand in very

1 layman's terms exactly what it is that you mean  
2 to convey when you are considering the future of  
3 the defendant.

4                   So I want to thank you for setting  
5 that as an example of work for many future  
6 jurists, and certainly for jurists of color who  
7 will surely follow in your footsteps to the Court  
8 of Appeals.

9                   So thank you, everyone. And I will  
10 be voting aye for Judge Wilson. Thank you.

11                   ACTING PRESIDENT BAILEY: Thank  
12 you, Senator Ramos.

13                   Senator Krueger on the nomination.

14                   SENATOR KRUEGER: I'm not sure I  
15 want to follow Senator Ramos. Thank you for  
16 standing up for so many women today.

17                   So this is political theater on this  
18 floor today. We all know this. But I urge  
19 people who are really trying to follow this  
20 question and understand why I proudly vote for  
21 Senator -- excuse me, Senator? -- for  
22 Judge Wilson to be the Chief Judge of the State  
23 of New York, is, as you've heard, we believe this  
24 is one of the most important votes we can take,  
25 one of the most important decisions we can make

1 on behalf of the people of New York.

2 And if the people of New York want  
3 to see and understand why we are making the  
4 decision to vote for Judge Wilson, I urge them to  
5 turn on the tape online of the three hours of  
6 questioning that he went through yesterday by the  
7 Judiciary Committee, to look at some of those  
8 decisions. And I have no question, people will  
9 see exactly who he is -- an extraordinarily,  
10 extraordinarily qualified attorney to lead this  
11 state's judicial system. And it needs his help.

12 And he will do us so proud, as you  
13 have already heard today. And no one needs to  
14 turn on the clips of right now. They should turn  
15 on yesterday's three hours and hear the answers  
16 he gave to the people of New York, because nobody  
17 could have done it better.

18 So I'm very proud to stand here and  
19 say I vote for this judge.

20 Thank you.

21 ACTING PRESIDENT BAILEY: Majority  
22 Leader Andrea Stewart-Cousins to close on the  
23 nomination.

24 SENATOR STEWART-COUSINS: Thank you  
25 so much, Mr. President.

1                   And I do want to thank  
2 Governor Hochul for putting forward this nominee.

3                   And I also want to thank  
4 Senator Hoylman and our Judiciary -- I'm sorry,  
5 how did I do that to you -- Senator Hoylman-Sigal  
6 and the members of our Judiciary Committee for  
7 advancing this nomination.

8                   I'm happy to be here today for this  
9 historic moment in New York State. I love  
10 serving the people of New York, and in this  
11 chamber I certainly love celebrating firsts.  
12 Because, quite frankly, we've broken many, many  
13 barriers. And once again, we're shattering  
14 another barrier.

15                   However, I am disappointed in the  
16 tone and the tenor from some of my colleagues on  
17 the other side of the aisle. This chamber is  
18 better than this.

19                   But I'm going to go back to the good  
20 news. We're officially confirming the first  
21 Black judge to serve the State of New York as the  
22 Chief Judge of the Appeals Court. Judge Rowan  
23 Wilson has spent decades as a practitioner of  
24 law, and he's spent six of those years as a judge  
25 on the New York State Court of Appeals.

1                   During that time -- and I think he  
2 very, very clearly demonstrated during the more  
3 than three hour hearing yesterday, he has carried  
4 himself with grace and poise. And in that  
5 hearing it was amazing how his patience was on  
6 display constantly, his intellect on display  
7 constantly. I heard over and over again that no  
8 matter what was asked, not a note was referred  
9 to. Because it lives in your head and it lives  
10 in what you do, and you knew exactly what the  
11 response was in every case, in every point that  
12 was made. It was amazingly impressive.

13                   Judge Wilson, as we've heard, is a  
14 prolific writer. And whether you agree with his  
15 rulings or not, he has consistently, again,  
16 demonstrated that he wants you to understand  
17 exactly what the law dictates and how he has  
18 concluded what his ruling would be.

19                   It's so important -- we talk about  
20 transparency; we talk about people feeling  
21 disconnected from the legal process. To have  
22 someone that's prolific and able to defend,  
23 whatever the position, so that everyone  
24 understands, will be incredibly important for  
25 uplifting not only the understanding but the

1 relationship we have with the court.

2 Judge Wilson will bring honor to our  
3 court and will help lead our court, yes, in a new  
4 direction that will stand up for all New Yorkers.  
5 Now more than ever, the role the judiciary plays  
6 is crucial in securing our most basic freedoms.  
7 In the past year we've seen antidemocratic seeds  
8 planted at the state level that have grown all  
9 the way up to the Supreme Court. We've witnessed  
10 barbaric attacks on settled law, the evisceration  
11 of Roe v. Wade, rollbacks to reproductive  
12 healthcare, criminalization of basic voting  
13 rights, proliferation of guns through our  
14 country. These regressive attacks would not have  
15 been possible without judges tipping the scale.

16 New York must lead the way against  
17 radical rulings and reversals.

18 We look forward to working with you,  
19 judge, to safeguard the progress that we've made  
20 in New York while at the same time elevating the  
21 important role that state courts play in our  
22 nation.

23 I'm very, very proud to stand in  
24 support of your nomination and to congratulate  
25 you as the Chief Judge Rowan Wilson for your

1 historic role, your historic confirmation today.  
2 I wish you and your colleagues the very best in  
3 making sure that New York is the very best.

4 Thank you so much. I vote aye.

5 ACTING PRESIDENT BAILEY: Thank  
6 you, Madam Leader.

7 The question is on the historic  
8 nomination. Call the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT BAILEY: Announce  
11 the results.

12 THE SECRETARY: In relation to the  
13 nomination of Rowan D. Wilson as Chief Justice of  
14 the Court of Appeals, those Senators voting in  
15 the negative are Senators Ashby, Borrello,  
16 Canzoneri-Fitzpatrick, Griffio, Helming, Lanza,  
17 Martins, Mattera, Murray, Oberacker, Ortt,  
18 Palumbo, Rhoads, Rolison, Stec, Tedisco, Walczyk,  
19 Weber and Weik.

20 Ayes, 40. Nays, 19.

21 ACTING PRESIDENT BAILEY: The  
22 nominee is confirmed.

23 (Extended standing ovation.)

24 ACTING PRESIDENT BAILEY: Senator  
25 Gianaris.

1                   SENATOR GIANARIS:    Thank you,  
2   Mr. President.   Back to motions and resolutions  
3   now.

4                   Can we please take up previously  
5   adopted Resolution 281, by Senator Kennedy, read  
6   its title, and recognize Senator Kennedy.

7                   ACTING PRESIDENT BAILEY:    The  
8   Secretary will read.

9                   THE SECRETARY:    Senate Resolution  
10   281, by Senator Kennedy, congratulating the  
11   Lewis J. Bennett/Olmstead/Middle Early  
12   College/East High School Varsity Football Team  
13   upon the occasion of capturing the 2022 New York  
14   State Public High School Athletic Association  
15   Football Class AA Championship on December 4,  
16   2022.

17                   ACTING PRESIDENT BAILEY:    Senator  
18   Kennedy on the resolution.

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

21                   I rise today to honor the Lewis J.  
22   Bennett/Olmstead/Middle Early College/East High  
23   School Varsity Football Team and cheerleaders,  
24   the Bennett High Tigers.

25                   These student-athletes are to be

1 celebrated for so many reasons. I'll start with  
2 the reason they visited the Capitol earlier  
3 today. They clinched the 2022 New York State  
4 Public High School Football Class AA Championship  
5 this past December.

6 I was thrilled to welcome them to  
7 Albany today, not only to recognize this  
8 outstanding athletic achievement, but to applaud  
9 the talent and hard work that was put in, day in  
10 and day out, to get these young athletes to this  
11 point.

12 We all know the power of teamwork,  
13 something we all try to emulate here at the  
14 Capitol -- the idea of working together to  
15 accomplish something big. It takes  
16 collaboration, it takes drive, and it takes a  
17 whole lot of heart. That's something this  
18 football team has plenty of. And we saw that on  
19 full display on a statewide level back in  
20 December.

21 When the No. 6-ranked Tigers  
22 defeated No. 9-ranked Newburgh Free Academy in a  
23 decisive 42-8 victory to capture their first  
24 state championship at the JMA Wireless Dome in  
25 Syracuse, they turned the football world upside

1 down, and they made all of Buffalo and Western  
2 New York and the great State of New York so  
3 proud.

4 We also know that behind every good  
5 team is a great coach or, in many cases, coaches.  
6 That's certainly the case here. I want to  
7 recognize Head Coach Stevenson McDuffie for his  
8 leadership in getting his team to this point, as  
9 well as Assistant Coaches Patrick Foster, Bob  
10 O'Connor, Anthony Scott, Gary Wheeler, Aaron  
11 Young, Clifford Scott, Arthur Jordan,  
12 D'Juan Todd, Jordan Fayson, and Alex Clemons.

13 I also want to recognize  
14 Cheerleading Coach Genah Lasby.

15 The insight and advice they have  
16 provided these young men and women, both on and  
17 off the field, is changing their lives for the  
18 better. I couldn't be more thrilled to celebrate  
19 them with my Senate colleagues here earlier  
20 today, and I want to thank my dear friend  
21 Assembly Majority Leader Crystal Peoples-Stokes  
22 for organizing their visit here to the Capitol  
23 today.

24 To the Tigers, well done. May this  
25 championship win be the first of many.

1                   And with that, Mr. President, I vote  
2     aye.

3                   ACTING PRESIDENT BAILEY:     Thank  
4     you, Senator Kennedy.

5                   The resolution was previously  
6     adopted on January 24th.

7                   Senator Gianaris.

8                   SENATOR GIANARIS:     Mr. President, I  
9     believe Senator Kennedy would like to open that  
10    resolution for cosponsorship.

11                  ACTING PRESIDENT BAILEY:     The  
12    resolution is open for cosponsorship.    Should you  
13    choose not to be a cosponsor, please notify the  
14    desk.

15                  Senator Gianaris.

16                  SENATOR GIANARIS:     Can we please  
17    take up the reading of the calendar.

18                  ACTING PRESIDENT BAILEY:     The  
19    Secretary will read.

20                  THE SECRETARY:     Calendar Number 11,  
21    Senate Print 612A, by Senator Mayer, an act to  
22    amend the Election Law.

23                  SENATOR GIANARIS:     Lay it aside for  
24    the day.

25                  ACTING PRESIDENT BAILEY:     Lay the

1 bill aside for the day.

2 THE SECRETARY: Calendar Number  
3 132, Senate Print 280, by Senator Gounardes, an  
4 act to amend the Executive Law.

5 ACTING PRESIDENT BAILEY: Read the  
6 last section.

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

9 ACTING PRESIDENT BAILEY: Call the  
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT BAILEY: Senator  
13 Griffo to explain his vote.

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

16 As we're voting on this legislation  
17 today to honor our State Constitution  
18 appropriately, it's been three weeks now that  
19 there's been a failure to fulfill our  
20 responsibility to vote on a state budget. We're  
21 required by our State Constitution to pass a  
22 budget for the state's new fiscal year, and the  
23 State Finance Law sets April 1st as that deadline  
24 for the state's fiscal year.

25 So as we recognize and honor the

1 Constitution, it should be equally as important  
2 and significant to respect and to fulfill our  
3 constitutional and statutory obligations.

4 I vote aye.

5 ACTING PRESIDENT BAILEY: Senator  
6 Griffo to be recorded in the affirmative.

7 Announce the results.

8 THE SECRETARY: Ayes, 59.

9 ACTING PRESIDENT BAILEY: The bill  
10 is passed.

11 THE SECRETARY: Calendar Number  
12 303, Senate Print 1794, by Senator Hinchey, an  
13 act to amend the Town Law.

14 ACTING PRESIDENT BAILEY: There is  
15 a home-rule message at the desk.

16 Read the last section.

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

19 ACTING PRESIDENT BAILEY: Call the  
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT BAILEY: Announce  
23 the results.

24 THE SECRETARY: Ayes, 59.

25 ACTING PRESIDENT BAILEY: The bill

1 is passed.

2 THE SECRETARY: Calendar Number  
3 363, Senate Print 3261, by Senator Hoylman-Sigal,  
4 an act to repeal Section 470 of the  
5 Judiciary Law.

6 ACTING PRESIDENT BAILEY: Read the  
7 last section.

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

10 ACTING PRESIDENT BAILEY: Call the  
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT BAILEY: Announce  
14 the results.

15 THE SECRETARY: In relation to  
16 Calendar Number 363, voting in the negative:  
17 Senator Skoufis.

18 Ayes, 58. Nays, 1.

19 ACTING PRESIDENT BAILEY: The bill  
20 is passed.

21 THE SECRETARY: Calendar Number  
22 425, Senate Print 2988, by Senator Harckham, an  
23 act to amend the Public Service Law.

24 ACTING PRESIDENT BAILEY: Read the  
25 last section.

1                   THE SECRETARY:    Section 2.  This  
2 act shall take effect on the 30th day after it  
3 shall have become a law.

4                   ACTING PRESIDENT BAILEY:   Call the  
5 roll.

6                   (The Secretary called the roll.)

7                   ACTING PRESIDENT BAILEY:   Senator  
8 Harckham to explain his vote.

9                   SENATOR HARCKHAM:    Thank you very  
10 much, Mr. President.

11                   Vines choking telephone poles.  To  
12 many, it may just be unsightly as we see them  
13 from transit corridors on trains and cars and  
14 right of ways.  Even more galling, the utilities  
15 are required to spend millions in vegetation  
16 management, cutting the vegetation back from  
17 around the wires, but they never touch the  
18 vegetation, the invasive vines on the poles,  
19 because they don't own them.

20                   Well, it's not just about  
21 aesthetics.  This is about resiliency.  And this  
22 is about the reliability of the grid.  Because  
23 these vines hold water in on the wooden poles and  
24 rot them.  So that when storms come, the poles  
25 are not as strong as they need to be.  We've had

1 storms in my district where we've lost over a  
2 thousand poles in a weekend. And it takes weeks  
3 to rebuild the grid.

4 This is simply about people shirking  
5 their responsibility. They're required to  
6 inspect these poles every five years. This  
7 simply requires the folks who own the poles to  
8 maintain the poles every five years.

9 This is a win for resiliency and for  
10 reliability of the grid. I vote aye.

11 Thank you, Mr. President.

12 ACTING PRESIDENT BAILEY: Senator  
13 Harckham to be recorded in the affirmative.

14 Announce the results.

15 THE SECRETARY: In relation to  
16 Calendar 425, those Senators voting in the  
17 negative are Senators Ashby, Borrello,  
18 Canzoneri-Fitzpatrick, Griffio, Helming, Lanza,  
19 Martins, Mattera, Murray, Oberacker, Ortt,  
20 Palumbo, Rhoads, Rolison, Stec, Tedisco, Walczyk,  
21 Weber and Weik.

22 Ayes, 40. Nays, 19.

23 ACTING PRESIDENT BAILEY: The bill  
24 is passed.

25 THE SECRETARY: Calendar Number

1 564, Senate Print 2376, by Senator Persaud, an  
2 act to amend the Penal Law.

3 ACTING PRESIDENT BAILEY: Read the  
4 last section.

5 THE SECRETARY: Section 5. This  
6 act shall take effect on the 90th day after it  
7 shall have become a law.

8 ACTING PRESIDENT BAILEY: Call the  
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BAILEY: Announce  
12 the results.

13 THE SECRETARY: In relation to  
14 Calendar Number 564, voting in the negative:  
15 Senator Brisport.

16 Ayes, 58. Nays, 1.

17 ACTING PRESIDENT BAILEY: The bill  
18 is passed.

19 THE SECRETARY: Calendar Number  
20 566, Senate Print 2832, by Senator Breslin, an  
21 act to amend the Penal Law.

22 ACTING PRESIDENT BAILEY: Read the  
23 last section.

24 THE SECRETARY: Section 3. This  
25 act shall take effect immediately.

1                   ACTING PRESIDENT BAILEY:    Call the  
2    roll.

3                   (The Secretary called the roll.)

4                   ACTING PRESIDENT BAILEY:    Announce  
5    the results.

6                   THE SECRETARY:     Ayes, 59.

7                   ACTING PRESIDENT BAILEY:    The bill  
8    is passed.

9                   THE SECRETARY:     Calendar Number  
10   582, Senate Print 722, by Senator Serrano, an act  
11   to amend the Parks, Recreation and Historic  
12   Preservation Law.

13                  ACTING PRESIDENT BAILEY:    Read the  
14   last section.

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

17                  ACTING PRESIDENT BAILEY:    Call the  
18   roll.

19                  (The Secretary called the roll.)

20                  ACTING PRESIDENT BAILEY:    Announce  
21   the results.

22                  THE SECRETARY:     Ayes, 59.

23                  ACTING PRESIDENT BAILEY:    The bill  
24   is passed.

25                  THE SECRETARY:     Calendar Number

1 585, Senate Print 4026, by Senator  
2 Scarcella-Spanton, an act to amend the  
3 Navigation Law.

4 ACTING PRESIDENT BAILEY: Read the  
5 last section.

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

8 ACTING PRESIDENT BAILEY: Call the  
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BAILEY: Senator  
12 Scarcella-Spanton to explain her vote.

13 SENATOR SCARCELLA-SPANTON: This  
14 legislation, which will create an act to amend  
15 the Navigation Law in relation to providing an  
16 exemption from certain laws for operators of  
17 law enforcement and fire department vessels  
18 responding for emergencies on the navigable  
19 waters of the state, prioritizes first responders  
20 traveling via waterways.

21 Our first responders need to be able  
22 to get to an emergency as efficiently and swiftly  
23 as possible. The fact that our current law does  
24 not account for first responders traveling via  
25 waterways has been an oversight for far too long.

1 These exemptions already exist in the New York  
2 State Vehicle and Traffic Law concerning police  
3 and emergency vehicles, and I am glad that this  
4 bill will correct the oversight for first  
5 responder vessels.

6 Protecting our first responders that  
7 command fire and law enforcement vessels should  
8 always be a priority, and I am confident that  
9 this legislation will prioritize their safety  
10 moving forward.

11 I proudly vote aye. Thank you.

12 ACTING PRESIDENT BAILEY: Senator  
13 Scarcella-Spanton to be recorded in the  
14 affirmative.

15 Announce the results.

16 THE SECRETARY: Ayes, 59.

17 ACTING PRESIDENT BAILEY: The bill  
18 is passed.

19 THE SECRETARY: Calendar Number  
20 590, Senate Print 1213B, by --

21 SENATOR LIU: Lay it aside for the  
22 day.

23 ACTING PRESIDENT BAILEY: The bill  
24 will be laid aside for the day.

25 Senator Liu, that completes the

1 reading of today's calendar.

2 SENATOR LIU: Is there any further  
3 business at the desk?

4 ACTING PRESIDENT BAILEY: There is  
5 no further business at the desk.

6 SENATOR LIU: I move to adjourn  
7 until Wednesday, April 19th, at 3:00 p.m.

8 ACTING PRESIDENT BAILEY: On  
9 motion, the Senate stands adjourned until  
10 Wednesday, April 19th, at 3:00 p.m.

11 Go New York, Go New York, Go!

12 (Whereupon, at 6:04 p.m., the Senate  
13 adjourned.)

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