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

P R O C E E D I N G S

ACTING PRESIDENT BAILEY: The Senate will come to order.

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

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

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

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

ACTING PRESIDENT BAILEY: Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

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

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

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed, nay.

(No response.)

ACTING PRESIDENT BAILEY: The Resolution Calendar is adopted.

Senator Gianaris.

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

ACTING PRESIDENT BAILEY: The

Secretary will read.

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

ACTING PRESIDENT BAILEY: Senator Gounardes on the resolution.

SENATOR GOUNARDES: Thank you, Mr. President.

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

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

specifically, the Court of Appeals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The records continue:

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

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

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

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

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

So with that, Mr. President, thank

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

Thank you.

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

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

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed?

(No response.)

ACTING PRESIDENT BAILEY: The resolution is adopted.

Senator Gianaris.

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

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

Senator Gianaris.

SENATOR GIANARIS: Mr. President,

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

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

ACTING PRESIDENT BAILEY: The Secretary will read.

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

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

ACTING PRESIDENT BAILEY: Senator Hoylman-Sigal.

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

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

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

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

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

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

(Laughter.)

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you.

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

Senator Gianaris on the nomination.

SENATOR GIANARIS: Thank you, Mr. President.

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

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

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

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

prestigious firm.

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

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

I know many of my colleagues want to add their comments as we move this nomination. But I'm going to be so thrilled to support Rowan Wilson's nomination and vote yes in a few

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

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Thank you, Senator Gianaris.

Senator Myrie on the nomination.

SENATOR MYRIE: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

If you care about the environment,

Judge Wilson has stood up for that protection.

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

(Laughter.)

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

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

Thank you.

ACTING PRESIDENT BAILEY: Thank you, Senator Myrie.

Senator Palumbo on the nomination.

SENATOR PALUMBO: Thank you, Mr. President.

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

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

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

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

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

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

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

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

And the process for reviewing such a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you.

ACTING PRESIDENT BAILEY: Senator Mayer on the nomination.

SENATOR MAYER: Thank you, Mr. President.

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

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

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

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

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

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

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

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

system without a guide.

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

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

ACTING PRESIDENT PERSAUD: Senator Bailey on the nomination.

SENATOR BAILEY: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

something else.

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

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

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

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

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

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

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

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

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

Congratulations, Judge Wilson.

ACTING PRESIDENT PERSAUD: Senator Stec on the nomination.

SENATOR STEC: Thank you,

Madam President.

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

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

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

I represent St. Lawrence County. I

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

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Senator Ryan on the nomination.

SENATOR RYAN: Thank you, Madam President.

To Governor Hochul, thank you for nominating Judge Wilson.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT BAILEY: Senator Murray on the nomination.

SENATOR MURRAY: Thank you, Mr. President.

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

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

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

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

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

Convicted by a jury of his peers.

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

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

I will be voting no.

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT BAILEY: Senator Stavisky on the nomination.

SENATOR STAVISKY: Thank you, Mr. President.

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

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

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

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

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

Thank you, Mr. President.

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

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

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

Senator Tedisco.

SENATOR TEDISCO: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

representative democracy. They were right.

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

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

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

Now, you never said when -- give us

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

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

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

And that's the statements we heard

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

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Senator Gianaris.

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

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Thank you, Senator Gianaris.

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

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

With that being said, Senator

Borrello on the nomination.

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

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

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

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

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

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

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

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

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. Chairman.

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

As many of you know, I'm the

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

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

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

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

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

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

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

And I very willingly vote in favor of the judge.

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Thank you.

Senator Rhoads on the nomination.

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

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

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

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

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

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

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

That's not what happened. That rape

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

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

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

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

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

-- his philosophy of expanding the strike zone.

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

judge doing the same thing.

So I'll be voting no.

ACTING PRESIDENT BAILEY: Thank you.

Senator Ramos on the nomination.

SENATOR RAMOS: Thank you, Mr. President.

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

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

You see, I want my rapist to see

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

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

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

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

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

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

ACTING PRESIDENT BAILEY: Thank you, Senator Ramos.

Senator Krueger on the nomination.

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

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

on behalf of the people of New York.

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

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

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

Thank you.

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

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

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

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

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

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

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

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

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

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

relationship we have with the court.

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

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

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

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

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

Thank you so much. I vote aye.

ACTING PRESIDENT BAILEY: Thank you, Madam Leader.

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

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 40. Nays, 19.

ACTING PRESIDENT BAILEY: The nominee is confirmed.

(Extended standing ovation.)

ACTING PRESIDENT BAILEY: Senator Gianaris.

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

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

ACTING PRESIDENT BAILEY: The Secretary will read.

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

ACTING PRESIDENT BAILEY: Senator Kennedy on the resolution.

SENATOR KENNEDY: Thank you, Mr. President.

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

These student-athletes are to be

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

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

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

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

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

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

I also want to recognize Cheerleading Coach Genah Lasby.

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

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

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

ACTING PRESIDENT BAILEY: Thank you, Senator Kennedy.

The resolution was previously adopted on January 24th.

Senator Gianaris.

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

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

Senator Gianaris.

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

ACTING PRESIDENT BAILEY: The Secretary will read.

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

SENATOR GIANARIS: Lay it aside for the day.

ACTING PRESIDENT BAILEY: Lay the

bill aside for the day.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Griffo to explain his vote.

SENATOR GRIFFO: Thank you, Mr. President.

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

So as we recognize and honor the

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

I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BAILEY: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BAILEY: The bill

is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 58. Nays, 1.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Harckham to explain his vote.

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

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

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

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

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

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

Thank you, Mr. President.

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

Announce the results.

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

Ayes, 40. Nays, 19.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 58. Nays, 1.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

I proudly vote aye. Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BAILEY: The bill is passed.

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

SENATOR LIU: Lay it aside for the day.

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

Senator Liu, that completes the

reading of today's calendar.

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

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

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

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

Go New York, Go New York, Go!

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