

## CHOICE/LESS 301: Wendy Davis

Leticia V.: Mr. President, parliamentary inquiry.

Speaker 3: State your inquiry.

Leticia V.: At what point must a female senator raise her hand or her voice to be recognized over the male colleagues in the room?

Speaker 3: The issue before the body is the previous question. The secretary will call the roll.

Jenn Stanley: For Rewire Radio, I'm Jenn Stanley, and this is season three of Choice/Less.

In 2013, a Texas State Senator, Wendy Davis, became a household name overnight when she filibustered the Texas Senate's extreme and sweeping anti-abortion bill, SB5, which became better known when it passed in the House as HB2, and parts of the law were challenged and struck down in the Supreme Court case, *Whole Women's Health versus Hellerstedt*. It was a restrictive anti-choice bill that aimed to make Texas one of the nation's most hostile states toward abortion rights. Among other things, it banned abortions after 20 weeks of pregnancy, required abortion clinics to meet the same standards as ambulatory surgical centers, and mandated that abortion providers have admitting privileges at local hospitals.

It passed in the Senate and then in the House with a few changes, so it was bounced back to the Senate at the end of a 30 day special session. This allowed Democrats in the Senate to filibuster.

Wendy Davis: My name is Wendy Davis. I'm a former Texas State Senator. We talked about whether we should filibuster the bill. Immediately decided that, yes, we wanted to do that, and then there three of us who were willing to be the person to carry that flag for the day, and two of them were men, and it was decided that because this was so uniquely impactful for women, that it made sense that a woman Senator should be the one to filibuster.

Jenn Stanley: The rules and strategies of a filibuster can vary from state to state. But in Texas, one of its most effective uses is to try to kill a bill by running out the clock to prevent a vote before the end of the legislative session. The Senator conducting the filibuster cannot eat, drink, use the bathroom, or lean on anything for support, and she must speak on topics relevant to the bill, which can be open to interpretation. The filibuster ends after the Senator voluntarily yields the floor or after three violations, in which case the Senate votes on a point of order, which, if sustained, forces the Senator to yield the floor.

Wendy Davis: I got up early. A doctor came over, a woman gynecologist, who fitted me for a catheter at about 6:30 in the morning. I listened to one of my favorite songs to try to help me relax and put things in perspective. It's a Bruce Robison song that's called *What Would Willie Do?* We here in Texas worship Willie Nelson. I certainly do. It's a song about how Willie has gone through some real challenges in his life,

and how he just keeps getting back up and playing another day and rolls with it. I wanted to put all of this in perspective for myself, and to not feel like I couldn't survive it if it didn't work out well.

(Music)

I had one boiled egg. I was afraid to eat more than that, and I was definitely afraid to drink too much liquid, and then I headed to the Capital probably, I don't know, 8:30 or 9:00. I sat down with my staff, and we went through the binders that they and other Democratic staffers had put together of materials for me to read, and most importantly, some of those binders, of course, were filled with the stories of women who had showed up to testify at Committee hearings and who had been turned away, who had been told after many hours of testimony that their stories had become repetitive, as though any individual's unique experience with abortion could be called repetitive.

I wanted that day to be about the people who had been told they weren't going to be heard, and there came a point where we thought we were going to run out of stories. My staff got a little bit worried about that, and so they put out a call on social media asking for more. Within that day, we got over 16,000 stories. We joked that we actually had binders full of women truly that we brought out to the Senate floor that day and that we read from, and sure enough, right at 11:11 AM, the Lieutenant Governor called the bill up, and so it began.

Typically in Texas, a filibuster, because they're rare and because they are a test of endurance, we can't have a sip of water. We can't have a hard candy in our mouth, nothing to eat. Can't lean on our desk. No sitting down, and obviously no leaving the floor to go to the bathroom. It is a test of physical endurance, and it has been shown respect from folks on the opposite side of the aisle when a filibuster is being conducted.

This was the first time actually in the history of a Texas filibuster that there was hostility to it, and an attempt to shut it down.

I didn't really know that's what I would confront that day, and for the first, I don't know, two or three hours, I really wasn't clear on that intent, and so in that early part, time was going by so slowly. I was afraid to look up at the clock, because I was afraid I would look up and only an hour had gone by, and I'd already be completely tired or running out of things to say, and I was probably, I don't know, three hours or so in before I finally did look up to see what time it was.

But then the first point of order was called, and then I realized, "Okay. They're up to something," and it was very clear that Republican Senators were taking turns watching me. I could tell when it was someone's assigned post, because they wouldn't take their eyes off of me for however long their slot was, and they were looking for me to slip up in some way, so that they could call a point of order and try to bring the filibuster to end. When that started, then I got kind of mad, and when I got mad, it really helped me, because time started flying, and as the second

point of order was called and sustained, and I knew I had only one more, and I understood that these were being very unfairly ruled upon by the Chair, and that they were going to try to keep me on the tightest rail possible, I got so focused on staying on that rail that time just started flying.

And, of course, the fact that there were people there, the gallery was full. I expected that would be the case. I knew there would be some folks in the halls of the capital as well, but I could never have predicted the turnout that actually appeared. People came from all over the state, and many of them were making an unexpected pilgrimage that day. They got up and they weren't thinking they were going to come to the Capital, but they saw what was happening. They wanted to come and add their support to what we were doing there, and before long, there were so many people in the Capital that it had to be closed, because it filled to capacity, which is incredibly hard to do. In fact, it was the first time in the history of the Texas Capital that's happened, and still they came.

I could feel and hear that energy. I knew that something extraordinary was going on there in terms of the number of people who had showed up, and that really buoyed me through the day and through some of those tough moments.

Jenn Stanley: The first violation was that she was off-topic by talking about Planned Parenthood's budget. The second was that she received assistance with a back brace from a colleague, thus breaking the don't lean rule, and the third violation that ended the filibuster was when Senator Davis discussed a sonogram law that passed in 2011, which the Senate ruled was, also, off-topic.

Wendy Davis: The filibuster was just under 13 hours. I spoke for about 11 and a half of that, and then the Chair ruled on the final point of order, and made an attempt to call the filibuster to an end. That began a lengthy debate over the parliamentary ruling, and that's when my Democratic colleagues in the Texas Senate stepped up, and I got to tell you, I'm still in awe of how strategically they argued that point of order, and what an amazing job they did of eating up the clock. Ultimately, at about a quarter to midnight, the filibuster was called to an end, and it was the people who were there who got us passed the midnight deadline.

My Senate colleague, my sister, Leticia Van de Putte, who wasn't even planning to come that day. She literally on that day had buried her father, who had tragically died in an automobile accident. She lives in San Antonio, which is about an hour and 15 minutes away from Austin, and she heard what was happening and how hostile I was being treated, and she decided that she just needed to come and be there. What she told me later that her intent was just to come and stand on the floor with me, and just send me her energy, and love, and support, but, of course, it wasn't long before she was engaged in the parliamentary debate.

The Chair or someone had ordered that the microphones of the Democratic Senators were turned off, and that meant that getting the attention of the Chair during that parliamentary debate was increasingly challenging, and she was frustrated because she had been trying to be recognized and had not been.

After the filibuster was called to an end and the microphones were coincidentally turned back on, she asked to be recognized, and she was, and she said, "Mr. Chair, at what point ..."

Leticia V.: At what point must a female Senator raise her hand or her voice to be recognized over the male colleagues in the room?

Wendy Davis: When she said it, of course, it was appropriate and poignant in that moment, but the broader meaning of that question wasn't lost on anyone who was there, and the folks in the gallery, who had been respectful of the rules all day, but who were watching them getting broken left and right by Senators on the floor, they finally erupted, and it was her question that sparked that eruption, and when they did, they stood. They began screaming, pounding their feet. They were crying out, "Let her speak. Let her speak," and, of course, that wasn't just about me. It was about all women whose voices were being shut down in that moment.

Then everyone in the hallway started screaming, and everyone outside on the Capital law, and it was just the most amazing noise, beautiful noise, the sound of democracy at work, in a state where we have tended to believe that our voices just don't matter, and so it was even more extraordinary considering how beaten down so many people are here, and it was because of them that the Secretary of the Senate was unable to take that voice vote in time, though she was trying.

The final vote was taken at 12:03, three minutes past midnight, and we collectively succeeded, if only temporarily, in killing that bad bill.

Speaker 3: Well, members, it's now past midnight, and so I'm going to look for a motion from Senator Whitmire.

Senator Whitmire: No.

Wendy Davis: It's hard to describe. We actually wound up debating in private with the Lieutenant Governor and our Republican Senate colleagues whether the bill had actually successfully been killed. Someone, you may know this, actually went in and changed the time stamp on the recording of the last vote to make it look as though it had come in before midnight, and thanks to some unbelievably astute observer on social media, who had taken a snapshot of the original time stamp of 12:03, thanks to that, we had concrete evidence that it had been changed, that we had actually killed the bill, and we debated that round and round, particularly with the Lieutenant Governor, and then even after he accepted that was the case, we spent I promise you another good hour debating with him on how he was going to come out and articulate the ruling that the bill had been killed.

He was trying so hard to say it without saying it, and he kept going off and spending time writing something, and coming back and saying, "Okay, how about this," and we would say, "No. That's not acceptable." It was close to three in the morning before he finally came out and declared his ruling that indeed the bill had died.

A lot of people had stayed around for that amazingly, and so when we walked out of the chamber, the hallways of the Capital were still filled. The atrium was absolutely filled with the most incredible energy. Cecile Richards was there. Of course, Cecile is the Executive Director of Planned Parenthood and the daughter of our only ever, or, well, second actually, the only elected ever female governor, and she was standing beneath her mother's portrait in that rotunda in that moment.

Speaker 6: Hold your applause.

The Lieutenant Governor has agreed that SB5 is dead.

Wendy Davis: And it was remarkable. It was remarkable to be part of that group of people. We all went out onto the lawn of the Capital, and I and my Senate colleagues stood on the Capital steps, and there were so many people, and it was pitch black and I couldn't see anyone. Someone had given me a bull horn, and I just aimed it up straight in the air and spoke briefly, and, of course, with such gratitude for everything that we'd all done together that day.

Jenn Stanley: What time was it at this point?

Wendy Davis: It was around three-ish in the morning.

Jenn Stanley: You must have been so exhausted.

Wendy Davis: Actually when I left the floor after standing and not having anything to eat or drink for 13 hours, I went into the Senate lounge, and I couldn't sit down. I was still so filled with all of this adrenaline, and finally Senator Zaffirini said, "Sit down," and she forced me to eat a yogurt and have something to drink.

The time really flew by, and I went home, I don't know, probably around five, and had to be back at the Capital the very next day to an astonishing amount of press coverage. I think I was back at eight that next morning, and we began doing on camera interviews, and those lasted for three solid days, literally with one camera crew coming out and another one coming in.

But it was great, because it gave attention to a really important issue happening here, and that's one thing I really want to stress. When we come together and we fight for our values, even if we lose, which, of course, ultimately we were called back to another special session, and that bill passed. The importance of fighting cannot be overstated, because when we wage fights like that, we call attention to what legislators are up to all over the country, and we raise the awareness in a way that helps others who may not have been tuned in and tapped in to understand exactly what their legislators are up to, and to see that in many instances, it's not in keeping with the things that matter to them.

Jenn Stanley: As Senator Davis mentions, the bill did eventually pass a few weeks later in another special session. But parts of it were later struck down in the Supreme Court case

Whole Women's Health versus Hellerstedt, and Senator Davis' filibustered garnered more attention towards what was happening at the state level to chip away at abortion rights.

It, also, put Senator Davis in the national spotlight. She went from a social media following of maybe a few thousand to hundreds of thousands of followers, both in and out of Texas. She received hateful mail and online harassment, and right wing websites and protestors began calling her Abortion Barbie. But she says that she positive responses outweighed the negative, both in volume and what they meant to her.

Wendy Davis:

What for me was the most poignant of that experience was sometimes, and it still happens to me today. I literally get chills thinking about it. A young woman will come up to me, and not really say very much, but shed some tears and say, "Thank you," and what you know is that person has had a personal journey and an abortion story of her own, and that the importance of speaking up and out on an issue like that for people, if even they don't feel comfortable sharing their own story forward, it's really important.

I think it was the day after or two days after the filibuster, I went to a Panera, and I walked in and it was really my first understanding of the impact that this had on young women. There was a young woman working behind the counter. She couldn't have been more than, I don't know, 17, 18 years old, and she saw me, and she just kind of gasped, came around the corner, already crying quite hard, and just took me and hugged me. Didn't say a word, other than thank you, but I understood obviously she had a really important and powerful story, and that when we speak on behalf of the need for abortion, safe and legal abortion, we're speaking for a lot of people.

There was a moment on the Senate floor when I was reading a letter from someone named Carol M., and her story was my story. It was exactly my story, and as I was reading it, I was so overcome with emotion, and in that moment, I was having this conversation with myself, should I share my story right now? I decided not to in that moment and on that day, and the reason I did was I didn't want it to become about me.

But then afterward, with such respect and admiration for all the other women who had come forward, I didn't feel like I would really be serving the movement or even myself personally if I didn't share my story as well. I made a decision to do that, and I wanted to do it on my terms. I did it through the release of my memoir. I didn't publicize the fact that this was going to be a part of that book, and I shared my experience of a very much wanted pregnancy, where post-20 weeks, we discovered that the baby daughter that we very much wanted had a really tragic and unsustainable fetal abnormality, a brain abnormality, and we were confronted with a really difficult decision, one that took us some time to make, and after getting three and four different doctor opinions to make it.

I understood in that moment that the idea that a legislator should insert

themselves into what was the most difficult, personal decision I've made in my lifetime ... It felt personal, yes, but that wasn't necessarily the strongest motivating force for me. The motivating force for me was an understanding of what it was going to mean to tens of thousands of women in our state if this law became reality.

That's the interesting thing about a lot of people who show up and fight on behalf of reproductive freedoms. For some of us, that issue won't ever arise again, and yet, we are looking back on our own journeys, and understanding that we have to pay it forward, that our access, our freedoms, our rights are those that should be accorded to women who are coming after us, and that it's our responsibility, if we've had those personal experiences particularly, to make sure that we are part of the battle to make sure that the women that come after us are going to have them as well.

Jenn Stanley: The attentions in the filibuster gave her the momentum to run for Governor of Texas, a position that hadn't been filled by a Democrat since Ann Richards lost her run for a second term in 1994 to George W. Bush. But Wendy's bid for Governor was unsuccessful, and an anti-choice Republican, Greg Abbott, won. He's since signed a sweeping anti-abortion law, which, among other things, forces people who've miscarried or had abortions to make arrangements for fetal burials.

Wendy Davis: By the time we got to election day, we knew that we weren't going to win. I didn't write a victory speech. I wrote a concession speech. But, still in that moment of conceding, I was overcome with emotion, not for me, but for everything that we were fighting for, and all the people on our state who were going to go without a voice. I'm looking at this legislative session right now. It's been the most cruel session. People are being hurt so dramatically here, and there's no one with a veto pen in their hand. There's someone who applauds it and welcomes it, and it's bad for our state.

Was the fight worth it? Absolutely. Would I do it again? I get asked that a lot.

Jenn Stanley: Senator Davis says she is considering running for office again. But, for now, she has her attention focused on inspiring young women and girls to take political action and get involved in their communities through her nonprofit, Deeds Not Words.

Wendy Davis: After I lost my gubernatorial race, and I no longer had my Senate seat, I started thinking about how I wanted to spend my energy, and I was trying not to rush into anything too quickly, but, of course, I went into it headlong really fast. The election took place in November of 2014. I officially launched the nonprofit in March of 2016, but had decided that I was going to do this many, many months prior, and had been really working on the lead up to the official launch.

The decision was formed because I knew I wanted to stay involved in the conversation about gender equality, and wanted to play an important role in that. I started traveling around the country and meeting with all these different organizations that are doing work in the reproductive rights space, and the

economic justice space, and sexual assault and sex trafficking space, and trying to fit into that somehow, without replicating it or competing with what someone else was already doing. Then simultaneously, I was being invited to speak all over the country, and to my surprise, I still had this remarkable audience of young women who looked up to me. I didn't think that was going to happen after losing my gubernatorial race.

So many of them asked me the same or similar question. It was some version of, "What do we do?" It was clear that there was incredible passion and understanding about the challenges that face us, but not really the understanding of how to plug in a way that would be effective.

That was my light bulb moment. There were all these organizations out there doing great work. Here was this massive number of young women, who really wanted to get involved and connecting them made a lot of sense, and so Deeds Not Words started really as an aggregator, a platform where young women can go to our site and find ways that these organizations need their help.

Jenn Stanley: Senator Davis is a Democrat, but she says that Deeds Not Words is nonpartisan. You can check out their website at [DeedsNotWords.com](http://DeedsNotWords.com). They, also, put up a newsletter that you can sign up for there.

Wendy says that she wants young people to be informed about what's happening legislatively to control women, LGBTQ people, and people of color. But she, also, wants them to see how individuals and small grassroots organizations can make a big difference and create positive change, so Deeds Not Words aims to highlight these successes as well.

Wendy Davis: I guess I just want to say to all the young women who are listening, I'm sending you love. I'm sending you energy. I want you to own your power, to feel how beautifully strong you are, and I want you to know when you've had a tough day, and you had some dirt kicked in your face, and you're feeling low, around the bend is a better one. You'll make it a better one, and I'm going to do everything I can to help make that happen for you as well.

Jenn Stanley: Choice/Less is produced by me, Jenn Stanley, for Rewire Radio, with editorial oversight by Marc Faletti, our Director of Multi-Media and Executive Producer. Jody Jacobson is our Editor-in-Chief. Brady Swenson is our Director of Technology. Music for this episode is by Doug Helsel and Bruce Robison. Thank you to all the staff at Rewire, especially Rachel Perrone, Lauryn Gutierrez, and Stacey Burns, our Communications and Social Media team for getting the word out about Choice/Less.

You, too, can get the word out about Choice/Less by rating and reviewing us on iTunes. I know this is super annoying and I say it all the time, but it really does make a big difference. The more ratings we get, the more likely it is that other people will see the show, and we want to reach a wide audience of people, who maybe don't know yet how they feel about abortion rights or other issues we cover, and maybe

they need some more information about what effects these laws have on the lives of people across the country.

Please tune in next week to hear from Stephanie Toti, the lead attorney in the Supreme Court case that struck down some of the provisions in this law, *Whole Women's Health versus Hellerstedt*.

Thanks for listening.