farms in Arizona, Colorado, my home State of Maryland, Mississippi, Missouri, New York, Pennsylvania, Texas, and Vermont.

The 207-day public comment period on the proposed rule resulted in more than 1 million comments. All of this public input helped to shape the final clean water rule. The act does not require any new permitting from the agricultural community. There is an exemption under the existing Clean Water Act, which is preserved by this final rule. Normal farming, silviculture, and ranching practices—those activities that include plowing, seeding, cultivating, minor drainage, and harvesting for production of food, fiber, and forest products—are exempt. They are not covered under this final Clean Water Act. Soil and water conservation practices and dry land are exempt. Agricultural storm water discharges are exempt. Return flows from irrigated agriculture, construction, and maintenance of farm or stock ponds or irrigation ditches on dry land are not covered under the rule. Maintenance of draining ditches is not covered under the rule. Construction or maintenance of farm, forest, and temporary mining roads are not covered.

When my colleagues come in and say that this ditch is being regulated under the Clean Water Act, it is not the case. Only those flows of water that directly impact our streams, impact our wetlands—those you want to make sure we cover because they affect our drinking water supply for one out of every three Americans, because they affect our public health for those of us who swim in our streams and our lakes, and because they affect those of us who enjoy the recreation of clean water. That is why we have small business owners. That is why we have the businesses that depend upon clean water. That is why we have a lot of people around the country saying: Look, it is in our economic interest to make sure this rule goes forward.

The bottom line is, the stakeholders need clarity. This rule will allow that process to go forward so that we can get clarity in the implementation of the Clean Water Act, which was jeopardized not by Congress and not by EPA but by the Supreme Court's decisions. It is our responsibility to make sure that clarity exists.

If Congress blocks this clean water rule from going forward, we are adding to the uncertainty that is in no one's interest, whether it is a person who depends upon safe drinking water or the safe environment or a farmer who wants to know what is regulated and what is not. All of that very much depends upon clarity moving forward.

EPA listened to all the stakeholders, and it is important to allow this rule to go forward. I urge my colleagues to reject this effort to stop the final act from going forward. Let our legacy to our children and grandchildren be safe, clean water for drinking and recreational purposes for our economy. Since 1972, we have had a proud history of allowing and building upon safe and clean water. I urge my colleagues to reject this effort to stop this rule from going forward.

I yield the floor.

I yield back my time.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER (Mr. SASSE). The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

Mr. CORNYN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Florida (Mr. RUBIO), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—53

Alexander	Ernst	Moran
Ayotte	Fischer	Murkowski
Barrasso	Flake	Paul
Blunt	Gardner	Perdue
Boozman	Grassley	Portman
Burr	Hatch	Risch
Capito	Heitkamp	Roberts
Cassidy	Heller	Rounds
Coats	Hoeven	Sasse
Cochran	Inhofe	Scott
Corker	Isakson	Sessions
Cornyn	Johnson	Shelby
Cotton	Kirk	Sullivan
Crapo	Lankford	Thune
Cruz	Lee	Tillis
Daines	Manchin	Toomey
Donnelly	McCain	Wicker
Enzi	McConnell	

NAYS—44

Baldwin	Gillibrand	Peters
Bennet	Heinrich	Reed
Blumenthal	Hirono	Reid
Booker	Kaine	Sanders
Boxer	King	Schatz
Brown	Klobuchar	Schumer
Cantwell	Leahy	Shaheen
Cardin	Markey	Stabenow
Carper	McCaskill	Tester
Casey	Menendez	Udall
Collins	Merkley	Warner
Coons	Mikulski	Warren
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden
Franken	Nelson	

NOT VOTING—3

Graham	Rubio	Vitter

The joint resolution (S.J. Res. 22) was passed, as follows:

S.J. RES. 22

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Corps of Engineers and the Environmental Protection Agency relating to ''Clean Water Rule: Definition of 'Waters of the United States' '' (80 Fed. Reg. 37054; June 29, 2015), and such rule shall have no force or effect.

The PRESIDING OFFICER. The majority leader.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2016—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to H.R. 2685.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 118, H.R. 2685, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2016, and for other purposes.

The PRESIDING OFFICER. The Senator from Texas.

UNANIMOUS CONSENT REQUEST—S. 2193

Mr. CRUZ. Mr. President, our country does many things well, but our government in Washington often fails the people whom it exists to protect. One of the best examples is the Obama administration's failure to enforce our Nation's immigration laws, despite the American people's continued demands that the Federal Government follow its duty to do so.

It is worth noting that just yesterday the voters of San Francisco voted to replace the sheriff who had defended the sanctuary city policy. That is a striking statement of where the American people are on this issue.

Unfortunately, the Democrats in the Nation's Capitol refuse to listen to the American people. Just 2 weeks ago, Senate Democrats blocked a bill that would have imposed a 5-year minimum mandatory sentence on criminal aliens who have illegally reentered the country. This issue is too important to give up and this fight is far from over. That is why I intend to call up Kate's Law for its urgent and immediate passage in the Senate. This bill is named in honor of Kate Steinle, who died tragically in the arms of her father on a San Francisco pier after being fatally shot by an illegal alien who had been deported from the United States multiple times.

When it comes to stopping sanctuary cities and protecting our safety, we need governing, we need leadership, and we need elected officials in Washington to listen to the people we are elected to represent. We need to actually fix the problem. Enough hot air, let's demonstrate we can come together and solve this problem. This ought to be a clear choice. With whom do you stand? Do you stand with violent criminal illegal aliens or do you stand with American citizens? Do you stand with our sons and daughters and those at risk of violent crime? I hope my colleagues in the Senate will come together and stand in bipartisan support that we stand with the American people.

I will note that Bill O'Reilly has been tremendous, calling over and over again on leaders of this body simply to pass Kate's Law. This is not a partisan

issue, at least it should not be. We should stand with American citizens. I am reminded of the heartbreaking words of Kate Steinle as she lay in her father's arms. She simply said: ''Dad, help me.'' Well, we have an opportunity to determine if we are willing to listen to her dying words, if we are willing to stand with her. I would note, by the way, this should not be a red State-blue State issue.

For the people of San Francisco to throw out of office the sheriff responsible for the policies that led directly to Kate Steinle's murder indicates that even in the bluest of blue cities and the bluest of blue States, the American people are tired of politicians standing with violent criminal illegal aliens. This should bring us together. We should stand together and say we will protect the American citizens.

I will tell you, the Obama administration's record on this is shocking. In 2013, the Obama administration released from detention roughly 36,000 convicted criminal aliens who were awaiting the outcomes of deportation proceedings. These criminal aliens were responsible for 193 homicide convictions. They were responsible for 426 sexual assault convictions. They were responsible for 303 kidnapping convictions. They were responsible for 1,075 aggravated assault convictions. They were responsible for 16,070 drunk driving convictions.

On top of that, the Obama administration had another 68,000 illegal immigrants with criminal convictions whom the Federal Government encountered but never even bothered to take into custody for deportation. That is over 104,000 criminal illegal aliens the Obama administration is responsible for releasing to the public.

I ask my friends on the Democratic side of the aisle how you look in the eyes of a father or mother who has lost their loved one because of a violent criminal illegal alien, who has murdered, who has raped, who has assaulted, who has kidnapped, who has brutalized your child? We are responsible for the consequences of our actions. Kate's Law is commonsense legislation. It is legislation that says: If a criminal illegal alien who is an aggravated felon—who is the worst of the worst—illegally reenters this country, comes in a second time, that criminal illegal alien will face a mandatory minimum of 5 years in prison.

If Kate's Law had been passed 5 years ago, Kate Steinle would still be alive. That means every Democrat who stands up and blocks Kate's Law needs to be prepared to explain why standing with violent criminal illegal aliens is more important than protecting American citizens.

I am proud to have joining me as cosponsors of Kate's Law Senator GRASSLEY, Senator VITTER, Senator RUBIO, and Senator PERDUE. They are all coming together in what should be bipartisan leadership to protect the American citizens.

Mr. President, accordingly, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2193; further, that the bill be read a third time and passed and the motion to reconsider be made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. CRUZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. CRUZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A unanimous consent request is pending before the body. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, the new mandatory minimum sentences this bill would create would have a crippling financial effect—that is an understatement—with no evidence that they would actually deter future violations of law. This legislation would require about 20,000 new prison beds—20,000—12 new prisons and cost over $3 billion.

This is yet another attack on the immigrant. The reason this bill did not go through the Judiciary Committee is because Republican Senators objected to it going through the committee. In the House, Speaker RYAN said he cannot trust the President to do immigration reform. In the Senate, after passing a bipartisan bill in 2013, all we have seen from Republican leaders and their caucus are bills to attack immigrants and to tear families apart. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRUZ. Mr. President, you know I will tell you it is sad that the Democratic leader chooses to stand with violent criminal illegal aliens instead of American citizens, but even sadder is that he impugns legal immigrants. When the Democratic leader suggests that incarcerating aggravated felons, murderers, and rapists who illegally enter the country is somehow a slight to immigrants—I am the son of an immigrant who came legally from Cuba. There is no one in this Chamber who will stand and fight harder for legal immigrants than I will. For the Democratic leader to cynically suggest that somehow immigrants should be lumped into the same bucket as murderers and rapists, it demonstrates the cynicism of the modern Democratic Party, it demonstrates just how out of touch the modern Democratic Party is.

You know who does not agree with the Democratic leader? The voters of San Francisco—I would venture to say almost all of whom consider themselves Democrats. Yet they just voted out the sheriff for saying basically the same thing the Democratic leader did, for saying that the Democratic Party stands with violent felon illegal immigrants instead of the American citizens.

Let's listen to what the Democratic leader just said: Gosh, it would cost too much to incarcerate aggravated felons who illegally reenter the country. If it costs too much to lock up murderers, rapists, kidnappers, then you know what, we need to spend the money it needs to lock up every single murderer we can. I am sorry the Democratic Party does not want to spend the money to lock up murderers, and instead apparently it is cheaper to lose our sons and daughters. I think we have the resources to lock up murderers. There should be no confusion where the parties stand.

The Democratic leader suggested that locking up aggravated felons is somehow disrespectful to immigrants. With all respect, as the son of an immigrant, I believe immigrants who come here legally, who are not criminals, should be treated markedly different from murderers and rapists. Yet the Democratic Party chooses to stand with the murderers, rapists, and violent criminals. That is unfortunate, indeed.

UNANIMOUS CONSENT REQUEST—S. RES. 224

Mr. President, I would now like to turn to a second matter. This is a matter I have raised a number of times on the Senate floor and intend to continue raising. It is the matter of the human rights abuses in the People's Republic of China. I would like to talk about some specific examples, starting with the one-child policy. I want to talk to you about Feng Jianmei.

PRC officials forced Feng Jianmei, who was 7 months pregnant with her second daughter, to undergo an abortion. While her husband Deng Jiyuan was at work, five family planning officials abducted Ms. Feng on June 2, 2012. When she could not pay the fine of 40,000 RMB, they restrained her and forcibly aborted her daughter.

As her husband recounted, ''At the hospital, they held her down. They covered her head with a pillowcase. She could not do anything because they were restraining her.'' The so-called ''medics'' forced her to ''sign'' an abortion consent form by inking her thumb and pressing it against the paper. Then they proceeded to inject toxins into the brain of her unborn daughter.

After the injection, Jianmei suffered excruciating contractions until 3 a.m. on June 4. Then, having received no anesthesia, she gave birth to her deceased child. Jianmei said:

> I could feel the baby jumping around inside me all the time, but then she went still. It was much more painful than my first childbirth. The baby was lifeless. She was all purple and blue.

In an act of heartlessness that is difficult to comprehend, the so-called doctors who performed this abortion left the lifeless body of Feng's 7-month-old

baby on her bed beside her, leaving a bereaved mother with nothing but the sight of what could have been. Feng Jianmei's father-in-law rushed to the hospital, but family planning officials prevented him from seeing Jianmei until after the abortion.

After seeing her mother for the first time after her forced abortion, Feng's elder daughter innocently inquired, ''What happened to your tummy? Where did the baby go?''

Reggie Littlejohn, a world-renowned human rights activist who broke this story in the United States, stated in the wake of this tragic story: ''This is an outrage. No legitimate government would commit or tolerate such an act.''

China is among the leading nations in suicide rates. It is the only nation where more women commit suicide than men. A large contributing factor to this morose distinction is the totalitarian one-child policy.

Another example is the crackdown on lawyers. When the United States engages with China in any sort of bilateral negotiation or agreement, we have to understand that the rule of law is not a reality in the PRC. Despite laws duly passed by the National People's Congress, and a supposed Constitution, the reality since 1949 remains unchanged: China has a ''rule of the party''—the Communist Party—and it is ready to punish anyone who challenges its violation of the law within the legal system.

The latest example is human rights lawyer Pu Zhiquiang. In early May 2014, Pu attended a small, private seminar where the participants discussed the Tiananmen Square Massacre and the party's violent suppression of students. Pu was a student leader during the infamous 1989 protests, so marking the auspicious occasion was no doubt of personal importance to him.

The following month Pu was arrested and charged with ''illegally obtaining personal information of citizens'' and ''picking quarrels and provoking trouble.'' As the year progressed, PRC authorities added additional charges ''inciting splittism'' and ''inciting ethnic hatred.'' In May 2015, a Beijing court officially indicted Pu on two of these charges, and he remains in custody today.

While legal officials cited Pu's criticisms of the PRC's treatment of the Uighur ethnic minorities, his real offenses were taking cases and representing victims of forced eviction and shining a light on China's labor camps. His defendants included a who's who of China's prominent political dissidents, including Liu Xiaobo—a brave, selfless action that undoubtedly painted a target on Pu's back.

Prior to his arrest, the PRC praised Pu as a paragon of social justice. The state-run China Newsweek magazine named Mr. Pu the most influential person in promoting the rule of law in 2013. This is a microcosm of life in authoritarian China: Compliance with the party and compliance with the law are often at odds, and the party always wins.

In the past year, Beijing has detained and jailed hundreds of activists standing for the rule of law, ideals the party ostensibly espouses. Words are one thing; public embarrassment of public officials is quite another. Xi Jinping and his cohorts cannot abide the erosion of their credibility or anything that would threaten their legitimacy.

A third example is Pastor Zhang Shaojie. Under President Xi, the atheist Communist Party of China has targeted Christianity for special oppression. Using a campaign in Zhejiang—a province which President Xi ran earlier in his career—to forcibly remove crosses from churches, in some cases, the PRC has gone on to bulldoze entire churches and to arrest pastors and congregants for standing boldly for their faith.

Persecution of Christianity is not confined to Zhejiang. One such victim of this crackdown is Pastor Zhang Shaojie. On July 24, 2014, the Nanle County People's Court, ignoring domestic and international due process provisions, sentenced Pastor Zhang Shaojie to 12 years in prison on a count of ''fraud'' and ''gathering a crowd to disrupt public order.''

Again, arrest charges in China do not reflect reality. Prior to his arrest, Pastor Zhang was defending the rights of his church in regard to the land they had purchased. Pastor Zhang and his parishioners traveled to Beijing three times in November 2013 seeking resolution of the land dispute. Maybe this is what the People's Court meant by ''fraud.'' According to his congregants, the minister also had a ministry of helping victims of legal injustice seek restitution. Perhaps this is what the Communist Party referred to in its charge of ''disrupting public order.''

The following month, the Puyang Municipality Intermediate People's Court rejected Zhang's appeal.

In October, the Nanle County Court threatened to auction off Zhang's house to pay for a court-ordered fine, ordering Zhang's family to leave the house by October 26. In response, Zhang's mother physically stood between the Chinese officials and her home, holding gasoline in one hand and a lighter in the other.

It is a sad reflection of China's supposed progress on human rights when a citizen feels her only recourse against a dictatorial regime is the threat of self-immolation.

His sister, having been detained, along with several of Pastor Zhang's parishioners, suffered in one of China's most infamous black prisons for 1½ years. Her words, penned in this letter, require no substitute:

I am Zhang Cuijian, one of the Nanle County Christian Church members detained in 2013. When my brother was kidnapped, I went with other church members to the public security bureau for information about his detention. Unexpectedly, I became the target of arrest, as well as more than a dozen other church members. We became prisoners who were unprepared and innocent. The prison was hell on earth; no other words can describe it.

In prison, I was very grateful. I truly felt that God was with me, even though I suffered punishment in prison. I had a thankful heart; I had joy from God. I deeply know my true and living God. While my body suffered, my heart was free. God let me learn different life lessons. I know that the more persecution I endure, the greater the blessing.

In America, we should stand with victims of oppression. In America, we should stand with Christians being persecuted by the brutal Communist totalitarian dictatorship. In America, we should stand for women's rights. Women being forced to have abortions are horrific acts of brutality. They are inhumane. They are contrary not only to American values but to human rights across the globe, and they are carried out as a matter of policy in the People's Republic of China.

When it comes to Chinese oppression, when it comes to Communist oppression, this is not an abstract or academic matter for me. My family has been tortured at the hands of Communists in Cuba. My father was imprisoned and tortured by Batista in Cuba, and my aunt was imprisoned and tortured by Castro's Communist goons in Cuba.

Communist oppression is real, and we have a powerful example of what America could do. When the Soviet Union was in power, this body renamed the street in front of the Soviet Embassy ''Sakharov Plaza.'' Renaming that was done by President Reagan.

Iowa Senator CHUCK GRASSLEY introduced the resolution in this body. Every day the Soviet officials had to write on the address of their Embassy: ''Sakharov Plaza,'' honoring the imprisoned dissident. This resolution is to use the same power of moral clarity, the same power of shaming, and the same power of speaking the truth to shine a light on the oppression in China.

When Senator GRASSLEY took the lead with Sakharov Plaza, that helped shame the Soviet Union into changing their conduct. We should use the same moral authority with respect to the People's Republic of China.

My resolution is cosponsored by Senator RUBIO, Senator TOOMEY, and Senator SASSE. It was on a path to being unanimously approved in this body. Every Republican had signed off on it and initially every Democrat had as well. Yet moments before it was about to pass the Senate, unfortunately the senior Senator from California decided to come to the floor and object.

After objecting, after blocking its passage, Senator FEINSTEIN put out a press release, a press release with which I agree emphatically. Senator FEINSTEIN observed, powerfully, that ''we urgently request the Chinese government to allow Liu Xia to seek medical treatment abroad and release Liu Xiabo, the world's only jailed Nobel Peace Prize laureate.''

Senator FEINSTEIN was exactly right. If anything should bring us together in

bipartisan agreement, it should be against the Communist Party's wrongful imprisonment and oppression of a Nobel Peace laureate. Yet sadly, each time I have attempted to follow the successful pattern of Sakharov Plaza, to rename the street in front of the Chinese Embassy ''Liu Xiabo Plaza,'' the senior Senator from California stood and objected.

For the life of me I cannot understand why any Member of this body would choose to stand with Communist Party oppressors against dissidents, against human rights, against women's rights, against the rights of those standing to speak for freedom.

Yes, we have to negotiate with the Chinese. Yes, we have to talk to them. Just like in the Cold War, we negotiated at Reykjavik with Gorbachev, but we did it from moral authority and truth.

If we are afraid of even embarrassing the Communist Party, if their conduct doesn't embarrass them, we shouldn't shy away from speaking the truth.

Mr. President, I ask unanimous consent that the Homeland Security and Governmental Affairs Committee be discharged from further consideration of and the Senate now proceed to the consideration of S. Res. 224. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER (Mr. PERDUE). Is there objection?

The Senator from California.

Mrs. FEINSTEIN. Mr. President, reserving the right to object, and this is the first time I will have objected, I would like—since my name was raised and a communication of mine was read—to explain the circumstances.

Yes, this is a press release that I wrote, and, yes, I do feel that the wife of this man should be released from house arrest and the man himself, the Nobel laureate, should be released by the Chinese. He has certainly served time for a substantial period, and more than that I do not believe it works to the benefit of China, the family, human rights or the progress of the country.

Unlike the Senator from Texas, I have had a long experience with the Chinese, going back more than 30 years. I know what can convince them to move toward a goal and I know what will become a real stumbling block and a point of opposition. To change the name of a street on which the Chinese Embassy in the United States rests will only be a greater stumbling block to achieving this goal, so I will object to that.

Since my name was also raised—or San Francisco's name was raised in his prior discussion, I would respectfully ask if I could make a few remarks about Kate Steinle and the situation the Senator from Texas has raised.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Thank you very much.

Respectfully, Senator, I do not believe that you know much about San Francisco. I am a lifelong San Franciscan. I served the city as a mayor for 9 years, president of the board of supervisors for 7 years, and another 8 years as supervisor. I believe I know something about the city of my birth, my education.

The reason for the defeat of the sheriff is multifaceted. It doesn't just begin with one thing, and I want you to know that.

With respect to the situation we spoke about, which is whether a local sheriff should in fact respond to a Federal Government request, if that request is for a detainer, if that request is for a communication, I believe very strongly that sheriff should do that. And was that part of the campaign of the sheriff that is going to be the sheriff-elect? I can't say with any specificity, but I can say that is my belief.

I think going overboard and punishing everybody makes very little sense. So I am hopeful the Department of Homeland Security, through its efforts with the PEP program, will be able to secure cooperation from the city and county of San Francisco. If it does not, then that is another story. But I believe the Department is making headway in discussions with other communities that are in fact sanctuary cities.

Since we are on the subject, in 1985, as mayor of the city, I was the first person to be sought out by the archbishop who asked for a brief reprieve or a reprieve for nuns from El Salvador, and that was the first piece of legislation. It was small and it was restricted to a country that was in a civil war with some terrible things happening. Since that time, the sanctuary concept has expanded considerably and, to some extent, I think far beyond what it should be. But I think the way to do this is through hearings and discussion among the Members and not with over-the-top rhetoric that moves visceral impulses—because we have to live, Senator, by the public policy we espouse, and we have to know that it is wise and prudent. I deeply believe that.

So I just wanted to clarify the record, and I thank the Senator for allowing me to do so.

I yield the floor, and I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Texas.

Mr. CRUZ. Mr. President, I would note with regard to Kate's Law, the senior Senator from California just said that going overboard and punishing everyone is not something we should do. This is reprising the same thing the Democratic leader said—that somehow incarcerating aggravated felons is punishing everybody.

As the son of an immigrant, I take offense at the suggestion from the Democratic Party that every immigrant is somehow an aggravated felon. Incarcerating murderers and rapists is not punishing everybody.

Mrs. FEINSTEIN. Will the Senator allow a question?

Mr. CRUZ. I will be happy to.

Mrs. FEINSTEIN. I don't believe there is anything I said that related to our letting aggravated murderers and others who would reap great harm to our society. I do not favor that, and I would like the record to clearly reflect that.

Mr. CRUZ. I would note the senior Senator from California characterized Kate's Law—and this is a verbatim quote—as ''going overboard and punishing everyone.'' Kate's Law is targeted only to aggravated felons. It is only murderers and rapists and other violent criminals—those who have committed aggravated felonies and have reentered the country illegally.

So what the Democratic Party has attempted to do, what the Democratic leader has attempted to do is to suggest that incarcerating illegal immigrants who are murderers and rapists is somehow maligning or impugning immigrants. To the contrary, it is targeting violent criminals. I do not believe the millions of legal immigrants who followed the rules, like my father did, are in any way swept into a law that is targeting aggravated felons.

Aggravated felons is a discreet category. Had Kate's Law passed 5 years ago, Kate Steinle would still be alive today.

Mrs. FEINSTEIN. If I might respond—I think the Senator from Texas is a member of the Judiciary Committee, I am a member of the Judiciary Committee, and the chairman of the Judiciary Committee is on the floor. It is something we ought to take a look at. I haven't reviewed the case law, I don't think ever on this specific point, and I would like an opportunity to do so. But what I really bristle to is the extreme rhetoric and throwing everybody into the same basket as somebody who is a violent criminal, because the immigrants whom I know in California by and large are not violent criminals. They are family people. They sustain the No. 1 agricultural industry in America. They work hard, they pay their taxes, they get in line for legalization, they are good citizens, and our economy is better for them, not worse. So I don't want to impugn everybody, which your broad, sweeping language, candidly, does.

Mr. CRUZ. With respect, I would note that the only overreaching rhetoric that has been heard on this floor has come from the Democratic leader, suggesting somehow that targeting violent criminals is targeting all immigrants.

It is worth noting that Kate's Law addresses only aggravated felons. So the suggestion of the senior Senator from California that we should not assume aggravated felons are criminals is a statement that, on its face, makes no sense. They are by definition. It is only the violent criminals—the aggravated felons—that this is targeted to.

I will say I am encouraged, though, that the senior Senator from California

stated she would become interested in the Judiciary Committee taking this up. As she noted, the chairman of the Judiciary Committee is here. There is unanimous support on the Republican side of the aisle, and it would truly be significant if the senior Senator from California were willing to join with Republicans in targeting actual aggravated felons, which is what Kate's Law does.

The Senator from California says she doesn't want overheated rhetoric. The rhetoric has been coming from the Democratic side. What I have been saying is we should not be releasing violent criminal illegal aliens. That is a commonsense proposition that the overwhelming majority of the American people agree with.

Let me also make a point about the objection of the senior Senator from California—for the third time now—to my effort to stand up to Communist Chinese oppression. It is one thing for Members of this body to give a good speech, to send a letter, and to put out a press release. That is something Washington does a lot. It is something we are really quite good at. It is another thing to act. We should be acting. We should be leading.

Now, the Senator suggested this would be counterproductive. I would note that the senior Senator from California did not address the fact that when we followed the exact same strategy in the 1980s under President Reagan, with Senator GRASSLEY's leadership, in renaming the street in front of the Soviet Embassy Sakharov Plaza, it had a very positive effect. Now, the Soviets didn't like it. They howled mightily. But the heat and light and attention of world scrutiny helped to change their behavior and helped to win the Cold War.

To Liu Xiaobo, to Liu Xia, to all the human rights dissidents imprisoned in China, to the mothers who faced forcible abortions, I hope my words penetrate the dark prisons in which they are sitting. I hope my words serve as light and encouragement to each of them.

I think back to when my father and my aunt were in Cuban prisons, and how much I would have liked leadership in the United States to shine a light of hope and encouragement.

Some months ago, I met with Natan Sharansky in Jerusalem. He described how, in the dark of a Soviet gulag, President Ronald Reagan's words shined into that darkness and prisoners passed from cell to cell: Did you hear what President Reagan said? Evil empire, ash heap of history, tear down this wall. Those words, that moral clarity, that American leadership for human rights changed the world. If we stand together, we can do the same thing with regard to China.

As much as I hope my words penetrate those cells, I pray the words and actions of the senior Senator from California do not penetrate those cells. It saddens me that, in the face of unspeakable brutality and evil, the Democratic Senator chooses to align herself with the Communist Party dictators rather than a Nobel Peace laureate.

My hope is that time and reflection will cause the senior Senator from California to recognize that we should be united in a bipartisan manner in support of human rights. It is my hope that we stand together.

I intend to continue to submit this resolution over and over and over, because every time the light is shined on the grotesque evil of what China is doing, we are vindicating our values of who we are as Americans. It is my hope, as I speak out to the Chinese American citizens in California, in Texas, and across this country, that their voices are heard by their senior Senator from California, that the Chinese American citizens ask their senior Senator: Why is it that you are standing and defending the Communist Government in China for its human rights abuses?

That is not a question I would want to answer to my constituents whom I am charged with representing. It is my hope that all of us say: Listen, we can disagree on all sorts of political matters. We can disagree on marginal tax rates. But when it comes to forced abortions, when it comes to imprisoning and mistreating and torturing political prisoners, including a Nobel Peace laureate, the United States Senate stands in unanimity, 100 to nothing. That is my hope—that, in time, truth will prevail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Before I speak on the main subject for which I came to the floor, I want to compliment the Senator from Texas for both of the points he has made about the renaming of the street by the Chinese Embassy and also for what he has done in regard to Kate's Law today.

Maybe something good has come out of his presentation on the floor, even though he wasn't able to proceed, in that if there is a real desire in the Judiciary Committee, which I chair, for a bipartisan approach to getting mandatory sentences for criminal felons who have been deported and have come back into the country, so that we don't have 121 people murdered in the future, as we have had in the last 5 years—because of mandatory sentencing under Kate's Law—I would be glad to pursue that.

The reason this bill didn't go through the committee in the first place is that we felt there would be every effort to stop it from getting out of committee.

INSPECTOR GENERAL EMPOWERMENT ACT

Before I go to my full prepared remarks, I want to tell my colleagues why we ought to pass the legislation I am going to refer to. I will summarize by saying that the 1978 inspectors general law says that an inspector general is entitled to all material he needs in each agency to do the work that he has to do.

Well, about 3 months ago, probably at the behest of the FBI, a single person in the Justice Department, in the Office of Legal Counsel, issued an opinion that said ''all'' doesn't mean all. So that means an inspector general has to go through a lot of redtape in order to get the material he or she needs to do their job.

I don't need to tell my colleagues how important inspectors general are. They are important because they help us do our congressional job of oversight to ferret out waste, fraud, and mismanagement.

Americans have a right to know when our government is misbehaving or wasting taxpayer dollars. To ensure accountability and transparency in government, Congress created inspectors general, sometimes referred to as IGs, as their eyes and ears within the executive branch.

Those independent watchdogs are uniquely positioned to help Congress and the public fight waste, fraud, and abuse in government. But IGs cannot do their job without timely and without independent access to all agency records. That is why ''all'' means all.

Agencies cannot be trusted to restrict the flow of potentially embarrassing documents to the IGs who oversee them. Watchdogs need access to those documents to do their job. They are mandated by law to keep Congress fully informed about waste, fraud, and abuse problems. If the agencies can keep IGs in the dark, then this Congress will be kept in the dark as well. If given the chance, agencies will almost always choose to hide their problems from scrutiny. In other words, the public's business that ought to be public sometimes does not become public and there is less accountability.

Getting back to the 1978 act, when Congress passed this act, we very explicitly said that IGs should have access to all agency records. Let's get back to what happened. What happened was one person in the Department of Justice said that ''all'' doesn't mean all. Does it make sense to have one person out of the entire bureaucracies of the United States make a ruling that when Congress says ''all'' means all, all of a sudden ''all'' doesn't mean all?

If inspectors general deem a document necessary to do their job, then the agency should turn it over immediately. Inspectors General are designed to be very independent but also to be a part of the agency. They are inside so they can see when the laws aren't being followed, when the money isn't being spent according to law. They are there to help agency leadership identify and correct waste, fraud, and abuse. I would hope every agency head appreciates a person whose main responsibility is to help see that the law is followed.

Fights between an agency and its own inspector general over access to documents are a waste of time and a

waste of taxpayers' money. The law of 1978 requires that inspectors general have access to all agency records precisely to avoid these costly and time-consuming disputes. However, since 2010 a handful of agencies—led by the FBI, the law enforcement agency of the U.S. Government—has refused to comply with this legal obligation that ''all'' means all. Agencies started to withhold documents and argued that IGs are not entitled to ''all records'' even though that is exactly what the law says.

In other words, it is pretty simple: ''All'' means all. But on this island of DC, surrounded by reality, maybe common sense doesn't prevail and maybe ''all'' doesn't mean all. The law was written to ensure that agencies cannot pick and choose when to cooperate with the IGs and when to withhold records. Unfortunately, that is precisely what several agencies started doing after this single person in the Department of Justice made this ruling.

The Justice Department claimed that the inspector general could not access certain records until Department leadership gave them permission. Requiring prior approval from any agency leadership for access to agency information undermines the inspector general's responsibilities and, most often, his independence. That is bad enough, but it also causes wasteful delays. It effectively thwarts inspector general oversight. This is exactly the very opposite of the way the law is supposed to work.

After this access problem came to light, Congress took action. The 2015 Department of Justice Appropriations Act declares that ''no funds provided in this Act shall be used to deny the Inspector General of the Department of Justice timely access to all records, documents, and other materials. . . . ''

The new law also directed the inspector general to report to Congress within 5 days whenever there was failure to comply with that statutory requirement. In other words, these people take an oath to uphold the laws. The law says ''all'' means all, and somehow they can ignore it.

In February alone, the Justice Department's inspector general notified Congress on three separate occasions in which the FBI failed to provide access to records requested for oversight investigations. IGs for the Environmental Protection Agency, for the Department of Commerce, and for the Peace Corps have experienced similar stonewalling. Then, in July, the Justice Department's Office of Legal Counsel released a memo arguing that we did not really mean all records when we put those words in the law of the United States of America. That is the one person I am talking about. The Office of Legal Counsel released this memo that says ''all'' doesn't mean all even though the law says ''all'' means all. So let me be clear. We meant what we said in the IG Act: All records really means, pretty simply, all records.

In early August, I chaired a hearing on this opinion and the devastating impact it is already having on the work of inspectors general across government. Multiple witnesses described how the opinion handcuffed inspectors general and brought their important work to a standstill. In fact, the Internal Revenue Service had already cited the misguided Office of Legal Counsel opinion in order to justify stiff-arming its IG access to all records.

Even the Justice Department's witness disagreed—get this—we had a Justice Department official testify, and that witness disagreed with the results of the Office of Legal Counsel opinion and directly told us that we ought to support and initiate legislative action to solve the problem.

Now, here is a high-level person, above the Office of Legal Counsel, saying we ought to pass a bill to correct what that agency says had had an impact that wasn't surmised would happen—that we ought to pass a bill when they could just withdraw the Office of Legal Counsel ruling.

As a result of that testimony, following that hearing, 11 of my colleagues and I sent a bipartisan, bicameral letter to the Department of Justice and to the inspector general community of the various agencies. In that letter, the chair and ranking member of the committees of jurisdiction in both the House and Senate asked for specific legislative language to reaffirm that ''all'' means all for all inspectors general, every one of them.

It took the Justice Department 3 months to respond to that letter for the very same thing they had testified about—that we ought to pass a law to do it, and we asked them for their help. The language it provided, however, fails to address the negative effects the Office of Legal Counsel's opinion is already having on the ability of IGs to access their agency records all across government. However, the inspector general community throughout our bureaucracy responded to our letter within 2 weeks and provided language that is actually responsive to our request.

In September, a bipartisan group of Senators and I incorporated the core of this language in S. 579, called the Inspector General Empowerment Act of 2015—a bill we shouldn't even have to pass, if Justice would just withdraw this Office of Legal Counsel opinion that causes this problem in the first place.

Specifically, I was joined in this effort on this bill by 11 other Members, including Senators MCCASKILL, CARPER, BALDWIN, and MIKULSKI. Senator MIKULSKI serves as vice chair of both the Appropriations Committee and the subcommittee which has jurisdiction over appropriations for the Justice Department. She and Chairman SHELBY were the authors of the appropriations rider I recently spoke about.

In July, 1 week after the Office of Legal Counsel issued its awful legal opinion, Senators MIKULSKI and SHELBY sent a letter to the Justice Department correcting the Office of Legal Counsel's misreading of that appropriations rider, also known as section 218. I will read a few excerpts from that letter from the two highest people on the Appropriations Committee, who are in a pretty good position to tell these bureaucrats where to go and particularly where to go when the law is very clear and the Appropriations Committee is very clear that some opinion by the Office of Legal Counsel isn't even justified. Quote:

> We write to inform you that Office of Legal Counsel's interpretation of Section 218—and the subsequent conclusion of our Committee's intention—is wrong.
>
> Surmising that multiple interpretations of section 218 created uncertainty, Office of Legal Counsel chose one of the three rationales that most suited its own decision to withhold information from the Office of Inspector General.
>
> This conclusion was not consistent with the Committee's intention at all. Rather, the Committee had only one goal in drafting section 218. . . . to improve OIG access to Department documents and information.
>
> We expect the Department and all of its agencies to fully comply with section 218, and to provide the Office of Inspector General with full and immediate access to all records, documents, and other material in accordance with section 6(a) of the Inspector General Act. End Quote.

So there we have the appropriators saying what our bill is trying to do, saying that it is wrong for one person in the Office of Legal Counsel to overturn 30 years of law that we have had in the inspector general's office.

I applaud my colleagues on this very important Appropriations Committee for standing up for inspectors general, and I applaud my colleagues who have joined me in sponsoring the legislation entitled The Inspector General Empowerment Act of 2015.

I especially thank Senators JOHNSON and MCCASKILL for working with me on this legislation from the very beginning and for their work in getting this bill through their committee. Apparently the plain language of the IG Act and the 2015 appropriations rider was somehow not clear enough for the Office of Legal Counsel to understand, so the Inspector General Empowerment Act includes further clarification that Congress intended IGs to access all agency records—and these next words are very important—notwithstanding any other provision of law unless other laws specifically state that the IGs are not to receive such access.

This ''notwithstanding any other provision of law'' language is what the OLC opinion indicates would be necessary before OLC would believe that Congress really means to ensure access to all records. But overturning an OLC opinion that was roundly criticized by both sides of the aisle is just the beginning. In addition, the legislation also bolsters IG independence by preventing agency heads from placing them on arbitrary and indefinite administrative leave.

The bill would also promote greater transparency by requiring IGs to post

more of their reports online. The bill would increase accountability by equipping IGs with tools to require testimony from contractors, grantees, and other employees who have retired from the Government, often while under investigation by an IG.

In September, we attempted to pass this bill via unanimous consent. It has been more than a month since the leadership asked whether any Senator would object. Not one Senator has put a statement in the RECORD or come to the floor to object publicly. At the August Judiciary Committee hearing, there was a clear consensus that Congress needed to act legislatively and needed to overturn the Office of Legal Counsel opinion as quickly as possible.

Senator CORNYN noted that the Office of Legal Counsel opinion is ''ignoring the mandate of Congress'' and undermining the oversight authority that Congress has under the Constitution.

Senator LEAHY said that this access problem is ''blocking what was once a free flow of information'' and called for a permanent legislative solution.

Senator TILLIS stated that the need to fix this access problem was ''a blinding flash of the obvious'' and that ''we all seem to be in violent agreement that we need to correct this.''

However, some have raised concerns about guaranteeing IG access to certain national security information. I wish to explain why this bill should not be held up for that reason.

First, this bill is cosponsored by a bipartisan group of Senators, including Democrats and Republicans on the Intelligence Committee. These people know something about the protection of national security. These Senators are Senator MIKULSKI, Senator LANKFORD, and Senator COLLINS.

Second, the inspector general of the intelligence community supports the bill.

Third, the bill would not affect intelligence agencies under title 50, such as the CIA and the Office of the Director of National Intelligence.

Fourth, the Executive orders restricting and controlling classified information are issued under the President's constitutional authority. This bill does not in any way attempt to limit that constitutional authority at all. It clarifies that no law can prevent an IG from obtaining documents from the agency it oversees unless the statute explicitly states that IG access should be restricted. No one thinks this statute could supersede the President's constitutional authority.

Fifth, there is already a provision in the law that allows the Secretary of Defense and the Director of National Intelligence to halt an inspector general review to protect vital national security interests.

Nothing in the bill would change that already existing carve-out for the intelligence community. All IGs should have the same level of access to records that their agencies have, and all IGs are subject to the same restrictions and penalties for disclosure of classified information. No inspector general's office has ever violated those restrictions. They have an unblemished record of protecting national security information.

If there are changes that can be made to the bill so that it can pass by unanimous consent, I am ready to consider those. However, any changes or carveouts for the intelligence community should not impact other IGs. The point of the bill is to overturn the Office of Legal Counsel opinion and restore complete, timely, and independent access for IGs to agency records. That goal must be preserved.

We all lose when inspectors general are delayed or prevented in doing their work. Every day that goes by without a fix is another day that watchdogs across the Government can be stonewalled. I urge my colleagues to support this bill.

Finally, I ask unanimous consent to have printed in the RECORD letters that I mentioned earlier and a letter I received from the inspector general community today showing why the Department of Justice's proposed language is insufficient to solve the problem at hand. I also ask unanimous consent to have printed in the RECORD an op-ed that was recently published in the Washington Post in support of this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, July 30, 2015.

Hon. SALLY QUILLIAN YATES,
Deputy Attorney General, U.S. Department of Justice, Washington, DC.

DEAR DEPUTY ATTORNEY GENERAL YATES: This letter is in response to the Department's Office of Legal Counsel's (OLC) memorandum dated July 20, 2015, that provides a legal opinion on the Office of Inspector General's (OIG) access to sensitive information throughout the Department. On July 23, 2015, the Department provided our Committee with a copy of the memo, which includes an opinion on Division B, section 218 of the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113–235). We write to inform you that OLC's interpretation of section 218—and the subsequent conclusion of our Committee's intention—is wrong.

Specifically, OLC erroneously speculated that section 218 held one of three possible interpretations, one of which included the supposed conclusion that Congress intended to permit the Department to withhold information from the OIG. Surmising that multiple interpretations of section 218 created uncertainty, OLC chose one of the three rationales that most suited its own decision to continue to withhold information from the OIG.

This conclusion was not consistent with the Committee's intentions at all. Rather, the Committee had only one goal in drafting section 218; therefore, there is only one correct conclusion. As the explanatory statement accompanying the fiscal year 2015 bill simply states, ''The Inspector General shall report to the Committees on Appropriations not later than 180 days after the date of enactment of this Act on the impact of section 218 of this Act, which is designed to improve OIG access to Department documents and information,''

Throughout this ongoing dispute between the Department and the OIG about access to information, the Senate Committee on Appropriations has shown clear concerns about the frequency and abundance of material that the Department has chosen to withhold from the OIG. In addition to the fiscal year 2015 language, the Committee raised concerns with the Attorney General during a fiscal year 2016 hearing, which occurred well in advance of OLC issuing its recent opinion. For OLC to determine our intentions as anything other than supporting the OIG's legal right to gain full access to timely and complete information is disconcerting.

While the issue of the Inspector General's access to information covers many areas of the law, and OLC's memo is equally expansive on the matter, we feel compelled to set the record straight regarding section 218. We were not contacted by OLC to solicit our feedback in the formulation of their memo to you. However, should you or anyone in the Department request further information about this section or any other areas of our fiscal year 2015 spending bill, we, and our staff will be glad to assist.

Regardless, we expect the Department and all of its agencies to fully comply with section 218, and to provide the OIG with full and immediate access to all records, documents and other material in accordance with section 6(a) of the Inspector General Act.

Sincerely,

RICHARD C. SHELBY,
Chairman, Senate Subcommittee on Commerce, Justice, Science and Related Agencies.

BARBARA A. MIKULSKI,
Vice Chairwoman, Senate Subcommittee on Commerce, Justice, Science and Related Agencies.

CONGRESS OF THE UNITED STATES,
Washington, DC, August 13, 2015.

Hon. SALLY QUILLIAN YATES,
Deputy Attorney General, U.S. Department of Justice, Washington, DC.

Hon. MICHAEL HOROWITZ,
Inspector General, U.S. Department of Justice, Washington, DC.

DEAR DEPUTY ATTORNEY GENERAL YATES AND INSPECTOR GENERAL HOROWITZ: Last month, the Department of Justice (DOJ) made public an Office of Legal Counsel (OLC) opinion that allows DOJ to withhold access to certain records sought by DOJ's Office of Inspector General. Under the OLC opinion, and subsequent guidance provided by the Office of the Deputy Attorney General, the DOJ Inspector General must now obtain agency permission to access certain documents related to grand jury testimony, Title III wiretaps, and the Fair Credit Reporting Act. This opinion undermines the longstanding presumption that Inspectors General have access to any and all information that they deem necessary for effective oversight, as specified in the Inspector General Act of 1978.

On August 5, 2015, the Senate Judiciary Committee convened a hearing entitled, '''All' Means 'All': The Justice Department's Failure to Comply with Its Legal Obligation to Ensure Inspector General Access to All Records Needed for Independent Oversight.'' This hearing brought to light serious questions about the effect the OLC opinion would have on the independence and effectiveness of the Office of Inspector General, not just at the Department of Justice but also across

the federal government. The opinion has already been relied on by other federal agencies to prevent their Inspectors General complete and timely access to documents necessary to conduct audits and investigations. It is apparent that Congress needs to act to ensure that Inspectors General have complete and immediate access to all records in the possession of their respective agencies, unless a statute restricting access to documents expressly states that the provision applies to Inspectors General.

We understand the Office of the Deputy Attorney General and the Office of Inspector General have been working collaboratively on legislative language to address this issue. Accordingly, by no later than August 28, 2015, please provide your recommended legislative language that would ensure Inspectors General have access to all Department records, notwithstanding limitations contained in any of the potentially hundreds of provisions of law or any common-law privilege that might otherwise arguably limit such disclosure.

Thank you for your immediate attention to this matter.

Sincerely,

Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary; Patrick Leahy, Ranking Member, U.S. Senate Committee on the Judiciary; Ron Johnson, Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs; Tom Carper, Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs; Bob Goodlatte, Chairman, U.S. House of Representatives, Committee on the Judiciary; John Conyers, Ranking Member, U.S. House of Representatives, Committee on the Judiciary; Jason Chaffetz, Chairman, U.S. House of Representatives, Committee on Oversight and Government Reform; Elijah Cummings, Ranking Member, U.S. House of Representatives, Committee on Oversight and Government Reform; John Cornyn, U.S. Senate Committee on the Judiciary; Claire McCaskill, U.S. Senate Committee on Homeland Security and Governmental Affairs; Thom Tillis, U.S. Senate Committee on the Judiciary; Amy Klobuchar, U.S. Senate Committee on the Judiciary.

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY,

November 4, 2015.

Hon. CHARLES E. GRASSLEY,
Chairman, U.S. Senate Committee on the Judiciary.
Hon. RON JOHNSON,
Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs.
Hon. BOB GOODLATTE,
Chairman, U.S. House of Representatives Committee on the Judiciary.
Hon. JASON CHAFFETZ,
Chairman, U.S. House of Representatives Committee on Oversight and Government Reform.
Hon. JOHN CORNYN,
U.S. Senate Committee on the Judiciary.
Hon. THOM TILLIS,
U.S. Senate Committee on the Judiciary.
Hon. PATRICK LEAHY,
Ranking Member, U.S. Senate Committee on the Judiciary.
Hon. TOM CARPER,
Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs.
Hon. JOHN CONYERS,
Ranking Member, U.S. House of Representatives Committee on the Judiciary.
Hon. ELIJAH CUMMINGS,
Ranking Member, U.S. House of Representatives Committee on Oversight and Government Reform.
Hon. CLAIRE MCCASKILL,
U.S. Senate Committee on Homeland Security and Governmental Affairs.
Hon. AMY KLOBUCHAR,
U.S. Senate Committee on the Judiciary.

DEAR CHAIRMEN, RANKING MEMBERS, AND DISTINGUISHED SENATORS: On behalf of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), we write to express our strong opposition to the proposal of the Department of Justice (DOJ), sent to you in a letter dated November 3, 2015. The DOJ proposal would amend Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) in response to the July 2015 opinion of the DOJ's Office of Legal Counsel (OLC). While the DOJ agrees with CIGIE that legislation is needed and should be passed by Congress to reverse the impact of the OLC opinion, the DOJ's proposal only applies to the DOJ Inspector General's access to records and fails to ensure that all other federal Inspectors General have the same independent access at their respective agencies. As such, DOJ's proposed legislative language is not acceptable. Effective and independent oversight is the mission of all Inspectors General and, therefore, all Inspectors General require timely and independent access to agency information necessary to carry out that responsibility. This is a bedrock principle of the IG Act.

Three months ago, an OLC opinion determined that the words ''all records'' in Section 6(a) of the IG Act does not mean ''all records'' and therefore the IG Act did not give the DOJ IG independent access to all records in the DOJ's possession that are necessary to perform its oversight work. Section 6(a) is the cornerstone of the IG Act for federal Inspectors General, and an opinion that undercuts its broad access provision places our collective ability to have timely and independent access to agency records and information at risk. Yet the DOJ's proposal would restore access authority to only one Office of Inspector General. The DOJ's proposal is clearly inadequate and would leave in place a threat to the independence of all other Offices of Inspector General. Indeed, we have seen the impact of this threat at both the Peace Corps and the Commerce Department. Inspectors General at both agencies have faced claims by their agency's counsel that they are not entitled to access all records in their agency's possession.

We urge you and your colleagues to reject the DOJ's proposal and proceed with the bipartisan substitute amendment to Senate bill S. 579, the ''Inspector General Empowerment Act of 2015.'' This bill amends Section 6 of the IG Act and makes clear that no law or provision restricting access to information applies to any applicable IG unless Congress expressly so states, and that such IG access extends to ''all records'' available to the agency. This is the only way to effectively restore to all IGs the independence that has been the lynchpin to our success for more than 35 years, and ensure that we can continue to conduct effective oversight on behalf of the American people.

Sincerely,

MICHAEL E. HOROWITZ,
Inspector General, U.S. Department of Justice; Chair, CIGIE.
KATHY A. BULLER,
Inspector General, The Peace Corps; Chair, CIGIE Legislation Committee.

[From the Washington Post, Oct. 31, 2015]

LET INSPECTORS GENERAL DO THEIR JOBS

(By Editorial Board)

A few years ago, the Justice Department's Office of Inspector General was looking into how the department had handled people detained as material witnesses after the 9/11 attacks. There had been complaints that civil liberties were abused in some detentions. The inspector general made a request for documents from the FBI that included grand jury testimony by those detained—and hit a roadblock. In 2010, the FBI refused to turn over the documents.

The Justice Department inspector general, Michael E. Horowitz, has pointed to this refusal in appealing to Congress to rectify a larger problem: Not only at Justice but in other agencies, inspectors general are coming up against hurdles to their independent investigations created by the very departments they are supposed to keep an eye on. Inspectors general, created by a 1976 law to be independent watchdogs over government, are finding it increasingly difficult to carry out their vital mission.

The original law said that inspectors general must have access to ''all records, reports, audits, reviews, documents, papers, recommendations or other material available'' for their work. But the ''all'' in this language has been thrown into doubt by the FBI's actions and by a subsequent opinion by the department's Office of Legal Counsel, which suggested that, in certain conditions, the inspector general should not get ''all.'' According to Mr. Horowitz, every time he was blocked, he turned to the attorney general or deputy attorney general and asked for an override, which they provided. But the result has been significant delays in the investigations, including the probe into the use of the material witness statute and another looking at Operation Fast and Furious, the failed weapons sting operation. Mr. Horowitz has pointed out that such objections to the release of documents for investigations were not raised for many years after the creation of his office, only beginning in 2010.

The inspector general should not have to pester the attorney general for access that is already provided in the law. As Mr. Horowitz argued recently in these pages, such foot-dragging turns statutory language on its head, so that the words ''all records'' do not mean all. This is ''fundamentally inconsistent with the independence that is necessary for effective and credible oversight,''

he wrote. In August 2014, 47 inspectors general told Congress that such roadblocks to independent probes had cropped up elsewhere, too, including at the Environmental Protection Agency and the Peace Corps. They said withholding documents ''risks leaving the agencies insulated from scrutiny and unacceptably vulnerable to mismanagement and misconduct.''

Legislation pending in both chambers of Congress would clarify this by making clear that all records mean all records—and that inspectors general remain an important mechanism of accountability and oversight. The legislation has bipartisan support and deserves to be passed.

Mr. GRASSLEY. Mr. President, I see Senator JOHNSON on the floor. I thank him very much for his leadership in this area.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. JOHNSON. Mr. President, I rise today to urge passage of S. 579, the Inspector General Empowerment Act of 2015. I want to thank my friend, Senator GRASSLEY, who just spoke, for his work on this bill and for his longstanding commitment and dedicated promotion of accountability and transparency for efficient government.

It is an unfortunate reality that the executive branch today is more powerful, more expansive, and less transparent than it has ever been. Senator GRASSLEY and I are privileged to be the chairmen of committees that have expansive authorities and responsibilities to oversee the executive branch and all of its programs. But we need help in our efforts.

We are fortunate that Congress in 1978 created crucial partners for us: independent watchdogs embedded in each agency, accountable only to Congress and the American people. They are the American people's eyes and ears, and they are our best partner in rooting out waste, fraud, and abuse of taxpayers' hard-earned money.

This bill is about increasing agency accountability and transparency. It exempts IGs from time-consuming and independence-threatening requirements such as the computer matching and paperwork reduction statutes.

The bill also allows inspectors general, in limited circumstances, to compel the testimony of former agency employees or Federal contractors whose information they need to pursue cases of fraud and abuse. But the bill also ensures that inspectors general are made accountable to the public and to Congress.

Earlier this year, I issued a subpoena to the inspector general of the Department of Veterans Affairs, in part to produce the over 100 reports the inspector general had completed but not made public. One report that the VA inspector general kept from the public was a report on dangerous overprescription of opiates at the Tomah VA Medical Center in Tomah, WI—practices that resulted in the death of at least one Wisconsin veteran.

This is how important transparency is. The daughter of the Wisconsin veteran who died from substandard care at that facility told me that had she known about the practices at the facility—in other words, if the report had been made public—she never would have taken her father there, and he could be alive today.

I want that to sink in. The bottom line is transparency and accountability in government can literally be a matter of life and death. The VA inspector general is not the only offender. In 2013 the Department of Interior Office of Inspector General closed over 400 investigations but released only 3 of those to the public. This should not happen. The public deserves transparency and accountability.

An amendment that I offered in committee, and that was accepted unanimously, requires inspectors general to publicly post their work on their Web site within 3 days of providing the final report to the agency. So this bill will ensure that findings of misconduct, waste, and fraud are exposed to the public and to Congress.

The public also deserves an inspector general that is independent. One of the greatest threats to inspector general independence is when the President fails to nominate a permanent inspector general and leaves an acting IG in place who wants the permanent job.

In 2014, when I was ranking member of the Financial and Contracting Oversight Subcommittee, we found that the former acting inspector general for the Department of Homeland Security, Charles Edwards, was compromised because of his desire to curry favor with the administration to get the permanent inspector general's job. We found he changed and delayed findings of reports to protect senior officials. That type of behavior is completely unacceptable.

In addition to using our powers as Members of Congress to call upon the President to nominate permanent inspectors general, as I have done for the Veterans Administration, this bill requires an independent study of problems with acting IGs and recommends ways to address them.

We know that many agencies are not in the business of transparency, and they often try to restrict their inspector general's work. As Senator GRASSLEY already explained so well, we shouldn't have to clarify what was meant when we said IGs shall have access to all their agency's documents so they can do their work. Nonetheless, this bill will make it even clearer that ''all'' really does mean all.

This is a bipartisan cause. We want all inspectors general to be able to do their jobs well. That is why the substitute amendment I filed in September has 11 bipartisan cosponsors, spanning members of my committee, the Committee on Homeland Security and Governmental Affairs, the Judiciary Committee, the Armed Services Committee, and the Intelligence Committee.

I want to thank my ranking member, Senator TOM CARPER, for his support and the other cosponsors for their assistance in getting this bill passed. I urge my colleagues to support S. 579 and to support the work our IG partners do every day to try to keep our Nation safe, our agencies accountable, and our taxpayer dollars spent efficiently.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

JUSTICE FOR FORMER AMERICAN HOSTAGES IN IRAN ACT

Mr. ISAKSON. Mr. President, 36 years ago today, 53 Americans in the American Embassy in Tehran were captured, beaten, held hostage, and tortured. As I speak on the floor of the Senate today, in the streets of downtown Tehran, Iranian people are marching in the streets, burning American flags, yelling ''Death to America'' and celebrating the capture of our citizens 36 years ago today.

From the moment of their release in January of 1981, they have been promised justice and compensation. But 5 administrations and 17 Congresses have gone by, and there has been no justice and there has been no compensation. Unfortunately, cynicism has set in, and the remaining 38 of the 53 who were originally held hostage wonder when their justice is coming.

Many have suffered. One, a former CIA agent, committed suicide. Another attempted suicide but failed. Many families have been torn apart and asunder by PTSD and other ramifications of torture and capture. It is a sad chapter in the history of our country, at the hands of a tyrannical dictatorship in the nation of Iran. But don't just take my word for it. Let me read you the words of two American citizens who were taken hostage in Tehran 36 years ago.

William Daugherty from Savannah, GA, said the following:

> I'd like to remind the Congress that the corporations and banks have long ago received their ''compensation'' in whatever form it took. I'd like to remind the Congress that the Carter administration intended for us to be compensated. They told us we would be, and today it's pretty much now or never for many of us.

Their lives are passing.

Or there is Joe Hall of Lenox, GA, who told me:

> 35 years after our release from confinement, one fourth of our group has passed away. Those who remain are aging, ailing, and frustrated. Yet, they remain loyal, law-abiding, and patriotic; the very characteristics they took to Iran when they [were captured and] stepped forward to serve their country, so many years ago.

Still there is no justice, still no reward.

Four years ago I introduced the Iranian Hostage Compensation Act. To this date, it has been supported by every Member of the Senate and House who I have talked to. Minority Leader HARRY REID came to me the other day seeking help to make sure we get this bill passed. BEN CARDIN, the ranking member of the Foreign Relations Committee, BOB CORKER, the chairman of

the Foreign Relations Committee, the members of the House Foreign Relations Committee—everyone I have talked to has said: Yes, it is right for us to do this. The money is in the bank in the control of the Department of Justice—Iranian money that is available to pay the hostages the compensation they deserve. The amounts have been negotiated—$6,750 per hostage per day of captivity. They are the only American hostages ever held captured and never been recompensed for the tragedy they suffered.

It is time for America to act now. While the Iranians celebrate in the streets and burn our flag and say ''Death to America,'' we should say to the survivors of the Iranian hostage crisis: We are going to see to it that you get the compensation and the justice you deserve.

In the weeks ahead before this year ends, I will talk to each Member of the Senate and to each Member of the House to find a way—whatever way we can and whatever vehicle is necessary—to get that authorization out of Congress and in the hands of the Justice Department and the administration so each and every one of those survivors can be compensated because they deserve it. They risked their lives for the United States of America just as every State Department employee and every Ambassador does around the world. We never need the State Department employees or our Ambassadors to think that one day America might look the other way if they are ever captured or taken hostage.

I appeal to my colleagues in the Senate and the House and to all the people in the United States of America to come together and see to it that those remaining hostages who have survived so far are compensated for the horror and the terror they endured. While the Iranians celebrate the capture and the horror they administered to their victims in the streets, let's do what we as Congressmen and as Members of the Senate came here to do and see to it that they get their justice and compensation and that we do what America always does: stand by our citizens who went in harm's way to protect our country.

I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SCOTT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIGIOUS LIBERTY IN AMERICA

Mr. HATCH. Mr. President, freedom of religion is one of the foundational principles of the Republic. It has long been central to our identity as a self-governing people, and as a cause, it has long enjoyed wide support across partisan and ideological divides for generations.

Recently, however, religious liberty has come under coordinated assault by those who would hastily discard one of our founding principles to serve a narrow, transient political agenda. Given how defending religious liberty has been one of the animating goals in my public life, I feel compelled to speak out against this disturbing development.

Since the end of the August recess, I have endeavored to speak regularly on the subject to remind my colleagues of the need to maintain our historic allegiance to this most American of values. So far, I have addressed the first principles of why we should protect religious freedom, as well as the legal and political history of the concept. Today I aim to address the role of religion in public life and its critical contribution to the preservation of freedom of religion.

One particular phrase has come to describe the relationship between faith and public life in this country: ''the separation of church and state.'' Over the years, the invocation of this phrase has become so rote that many consider it axiomatic. While the phrase itself is quite terse, it has become shorthand for a particular narrative about the history and status of religion in American life. This narrative traces back to Thomas Jefferson, who famously advocated for a ''wall of separation between church and state.'' Under Jefferson's leadership, Virginia passed the Law for the Establishment of Religious Freedom in 1786, which aimed to end state prescription and proscription of any particular religion.

Anchored in a cursory reference to Jefferson, generations of Americans have been brought up to believe that our founding principles demand that faith be driven out of government and kept contained to a private sphere with no role in public life and no semblance of interaction with the state. This narrative is flatly inconsistent with our history and our Constitution. Put plainly, the Jeffersonian model of strict separation was a novel experiment that constituted a decidedly minority viewpoint in the early Republic.

The dominant model at the time was embodied by the 1780 Massachusetts Constitution drafted by John Adams, which largely protected religious liberty but also instituted a ''mild and equitable establishment of religion'' that enshrined Christian piety and virtue. In Adams' view, as articulated by one scholar, ''Every polity must establish by law some form of public religion, some image and ideal of itself, some common values and beliefs to undergird and support the plurality of protected private religions. The notion that a state could remain neutral and purged of any public religion was [neither realistic nor desirable].''

Jefferson himself acknowledged that the statute he crafted in Virginia was a ''novel experiment'' that broke with practice not only in the American colonies but also in the United Kingdom and the wider Western world.

At the outbreak of the Revolution, the Anglican Church enjoyed official established status in Georgia, Maryland, North Carolina, South Carolina, Virginia, as well as in the New York City area. In Connecticut, Massachusetts, and New Hampshire, the system of municipal government empowered individual towns to choose a church to establish, resulting in Congregationalism as the established religion throughout most of New England. Only Delaware, New Jersey, Pennsylvania, and Rhode Island lacked officially established churches. Nevertheless, even these states without officially established churches—including famous havens for religious dissenters, such as Pennsylvania and Rhode Island—maintained significant ties between church and state, including in matters of church finances, religious tests for public office, and blasphemy laws.

While the Revolution brought about a number of new state constitutions that officially disestablished a number of state churches—particularly the Church of England after the severing of political ties to the Crown—the advent of the new Republic did not bring about universal disestablishment or adherence to the model of strict separation.

At the time of the adoption of the First Amendment in 1791, about half—depending on one's exact definition—of the 14 States then admitted to the Union had an established church or allowed municipal governments to establish such a church. Moreover, every single state sponsored or supported one or more churches at the time. In the words of Notre Dame's Gerard Bradley, even ''Rhode Island, that polar star of religious liberty, maintained'' what would today constitute ''an establishment at the time it ratified the First Amendment.''

My purpose for bringing up this history is not to advocate for states to return to the era of officially established churches or to advocate for any of the restrictive measures of that time. Indeed, as a Mormon, I am keenly aware both of how the machinery of government can be used to oppress religious minorities and of how a faith's flourishing comes not from the State's sanction or promotion but rather from the dedication and devotion of individuals, families, and communities. Instead, my purpose is to note the plain incongruity between the conventional wisdom of rigid separation between church and state supposedly commanded since the founding by the establishment clause and the actual history of religion in public life in the days of the early Republic.

This apparent disconnect can be resolved by an examination of the text of the Constitution. The text of the First Amendment reads: ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.'' Note the exact formulation: ''Congress shall make no law regarding the establishment of religion. . . .'' On its face, the language

affects only one actor—Congress—not States and local governments and not individual citizens. Put another way, at the time of its adoption, the First Amendment neither created an individual right to be free from religion nor limited the power of the States to establish religion; it simply created a structural limit on Federal power.

The debates over the ratification of the Bill of Rights confirmed this interpretation. As a general matter, the Establishment Clause received relatively little attention in the ratification debates in the state legislatures and among the public. Indeed, it hardly seems tenable that States would have adopted a measure at odds with their ongoing practices with little discussion or dispute. What attention the establishment clause did receive made it clear that its language was intended to prevent the Federal Government from choosing a preferred religious secret—a logical move befitting a new nation made up of states with a wide variety of religious traditions and approaches to established religion.

Furthermore, the ratification debates clarify that the ratifiers viewed official establishment of a particular church as direct financial support for a preferred sect, wholly distinct from the nondiscriminatory support and establishment of religion in general, which the Establishment Clause was not thought to limit.

For a century and a half, this misunderstanding of the Establishment Clause endured with little challenge. Before the Civil War, the Supreme Court decided only three Establishment Clause cases of any significance. Indeed, the major debate on the subject during the intervening years revolved around a proposed change to the Constitution: the 1875 Blaine amendment that sought to extend the application of the Establishment Clause to the states and to ban explicitly any church's access to public funds. This legislative effort, borne largely out of anti-Catholic prejudice, failed—a failure that further underscored the settled nature of the Establishment Clause at that time.

Unfortunately, religion was not spared from the destructive judicial activism of a Supreme Court that spun wildly out of control in the mid-20th century. A new crop of justices, disinclined to follow the traditional judicial role of applying the law as written, instead sought to remake the law according to their left-wing worldview. From inventing new rights for criminals to mandating nearly unlimited access to abortion on demand, the Court in this period left few stones unturned in its radical rewriting of the Constitution.

The longstanding understanding of the Establishment Clause was one of the mid-century Court's first victims. Abandoning the understanding of the clause I have previously detailed—an understanding that was clearly supported by text, structure, history, and precedent—the Court turned the Establishment Clause on its head.

In the error-filled words of Justice Black, the Court said in Everson v. Board of Education that ''the establishment of religion clause of the First Amendment means at least this: Neither a State nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another.'' This pronouncement had no basis in text, history, or law. To the contrary, it was diametrically opposed to the understanding of the relationship between government and religion and between the federal government and the states that had endured for much of America's history. Justice Black justified the Court's entirely novel, ahistorical view by turning to Jefferson: ''In the words of Jefferson, the clause against establishment of religion by law was intended to erect a wall of separation between church and state.'' Thus was born the now-commonplace view that the establishment clause was meant to create a high wall separating church and state.

This decision represents a complete inversion of the previously settled, proper understanding of the establishment clause. The command that Congress should make no law regarding an establishment provision is turned from a structural protection against federal power into an individual right to be free from religion. The text protecting the states' power to decide whether and what church to establish is, in the words of one scholar, paradoxically and perversely transformed into a limitation on states' authority to make such a decision. The critical distinction between official establishment of a particular church and general support of religion without regard to particular sects is casually discarded in favor of a blanket prohibition on religious involvement in public life. In the words of two scholars, throughout its decision, the Court ''not only ascribed to the establishment clause separationist content; it imagined a past to confirm that interpretation. Both majority and dissent treated the history of the United States as if it were the history of Virginia. Despite dissimilarity of language, the justices equated the establishment clause with Virginia's statute on religious freedom, thereby appropriating for the federal provision the separationist message and rhetoric of the state enactment.''

As I have explained, the history of Virginia on the subject of state establishment of religion is not the history of the United States. Rather, Virginia was, as Jefferson said, a ''novel experiment'' on the issue. Other states continued to support state-established churches. The wall-of-separation doctrine, which the Court created out of whole cloth in Everson, was not the American tradition. It was an idiosyncrasy of Jefferson's.

Upon this fundamentally flawed foundation, the federal courts have constructed a jurisprudence that threatens any place for religion in the public sphere. Embracing the demonstrably false notion that ''the three main evils against which the establishment clause was intended to afford protection [were] sponsorship, financial support, and active involvement of the sovereign and religious activity,'' the Supreme Court soon adopted the so-called Lemon test for any law to withstand: ''First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . . finally, the statute must not foster an excessive government entanglement with religion.''

In announcing this test, the Supreme Court sounded the note of modesty, noting that the justices could ''only dimly perceive the lines of demarcation in this extraordinarily sensitive area of Constitutional law.'' This admission—though ironic, given the Court's ambition to complete the transformation of the establishment clause away from its historical and textual foundation—was, if anything, an understatement. The Court's efforts to draw a line between the permissible and the impermissible have completely failed. Justice Rehnquist rightly diagnosed the cause of these bizarre results:

These difficulties arise because the Lemon test has no more grounding in the history of the First Amendment than does the wall theory upon which it rests. The . . . test represents a determined effort to craft a workable rule from a historically faulty doctrine; but the rule can only be as sound as the doctrine it attempts to service.

The Court has responded to these acknowledged difficulties not by abandoning its flawed establishment clause jurisprudence but by inventing new tests while never overturning Lemon or the flawed understanding that undergirds it. By one scholar's estimation, the Supreme Court has employed 9 alternate tests of impermissible establishment of religion; another scholar identified 16. While the exact count understandably varies, the result is the same: muddled law that lacks any principled means of application. This lack of clarity enables judicial activism. By liberating the judiciary from the obligation to apply a clear rule, this muddied framework invites judges and justices to implement their own policy views as law.

While this framework shows confusion in marginal cases, its overall effect is clear: to squeeze religion out of government and to deny religious organizations the opportunities afforded to secular counterparts. While the addition of principled jurists to the Court has turned momentum against previous excesses, the thrust of the Court's misguided establishment clause jurisprudence remains dominant.

The Court's flawed wall-of-separation jurisprudence has kept religion out of the public square and fed the idea that

religion is a private matter to be practiced within the confines of one's church or home. Legal and social pressures have taken their toll, and the results are stark: no prayer in school; no new Ten Commandments displays—or even Christmas or Hanukkah displays—unless carefully secularized; a widespread prejudice in many quarters against public officials talking about God or about their beliefs in public; and even the crusade every December to replace the phrase ''Merry Christmas'' with ''Happy Holidays.''

The conventional wisdom peddled by advocates for stringent exclusion of religion from the public sphere is that aggressive enforcement of their vision of the establishment clause enhances religious freedom. Unfortunately, nothing could be further from the truth. The erroneous wall-of-separation doctrine has narrowed the role of religion in public discourse, fueling the view that religion is a private matter rather than a fundamental precept of American civil society. Even members of this esteemed body have fallen prey to the disturbing claim that religious freedom does not extend much further than the church door. Such an approach undermines religious liberty in numerous ways. It counsels government to avoid any perceived entanglement with religion—even accommodation of religious practice, at the core of the right to free exercise. It tells the religious believer that in order to participate fully in public life, he should cabin and hide his religious devotion: Just abandon your religious affiliation, and the government will partner with your school or charity. Just muzzle your faith, and you can fully participate in representative government and lawmaking. Just keep your religion private, and you won't face a swarm of litigation.

Indeed, despite the hard-fought progress in recent years both in protecting religious liberty and in restoring sanity to the courts' approach to the establishment clause, this notion of strict separation continues to exert a pernicious influence, shrinking the sphere of acceptable religious exercise. In so doing, it undermines religious liberty and limits the ways in which faith enriches our society. Restoring a proper relationship between faith and public life must continue to be a top priority as a key component of our broad reference to protect religious liberty for future generations.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOOZMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WATERS OF THE UNITED STATES RULE

Mr. BOOZMAN. Mr. President, I rise today as a strong supporter of the resolution of disapproval we passed today. The WOTUS rule is a classic example of overreach. Arkansans understand that we don't need DC bureaucracies controlling our lands. That is why I stand with homeowners, small businesses, and family farmers in Arkansas in opposition to the WOTUS mandate.

Passage of this resolution today reflects the American people's rejection of this heavyhanded mandate and shows our commitment to a balanced and thoughtful approach to water quality protection. Congress needs to send this resolution to the President. The President needs to understand the opposition this power grab is facing is very real. Not only is there strong bipartisan opposition to this mandate in Congress but also in the courts and most importantly with the American people.

Last week I got an email from David in North Little Rock. David told me that he works in construction, and his email was clear. He supports protecting our Nation's waters, but David believes the Obama administration's rule will create huge problems and uncertainty for the construction industry. He said costs will increase, the industry will lose jobs, and he and others will face unnecessary delays as a result of the mandate that has nothing to do with protecting our waters.

Legal experts within the executive branch have doubts about this rule too. At a recent EPW hearing, we heard that many career experts inside the agencies, particularly the Corps of Engineers, believe this rule is wrong, but each time the Corps expresses concern that the rule went too far, the EPA and the rest of the administration refuse to make changes.

From puddles to irrigation ditches, the EPA wants jurisdiction over every body of water in Arkansas, no matter the size. These are not scare tactics, they are very real truths. In fact, the White House and the EPA are the ones engaging in scare tactics to defend this power grab. They falsely claim that this mandate is necessary to protect drinking water.

Those protections are already in place with laws like the Safe Drinking Water Act. For more than 40 years, the Safe Drinking Water Act has fostered Federal-State cooperation. It has kept our drinking water clean. It is an effective law, one I support. It does far more to protect distribution water than anything in the EPA's power grab. In case these false claims don't scare enough people into supporting this unjustified power grab, the EPA has invoked rhetoric about rivers catching on fire and claim there is rampant toxic pollution in our waterways. Again, this is simply false.

Without waters of the United States, major rivers will continue to receive Federal and State protection just as they have for decades. Isolated nonnavigable waters will continue to be protected by State and local efforts as they have in the past. The courts recognized how misguided this mandate is and have issued a temporary halt to the implementation of WOTUS. That injunction now extends to all 50 States.

I applaud the Arkansas attorney general, Leslie Rutledge, for helping to lead that challenge in the courts. Senator COTTON and I stand arm in arm with our State's attorney general in this fight. We are committed to fighting this mandate legislatively, while supporting efforts to stop it in the courts. That is why today's vote is so very important. The resolution of disapproval will nullify the waters of the United States mandate.

Arkansans understand how unnecessary this heavyhanded mandate is. We already go to great lengths to protect our State's natural resources. We must ensure that States, local communities, and private citizens remain a vital part of the process instead of giving all of the power to Washington. That is what this resolution of disapproval aims to do. I am pleased we passed it today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

(The remarks of Mr. MERKLEY pertaining to the introduction of S. 2238 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from North Carolina.

WATERS OF THE UNITED STATES RULE

Mr. TILLIS. Mr. President, I hate to sound like a broken record, but unfortunately that is the scenario the Obama administration and the minority leader have led me to today. When I sought this position as a Senator from North Carolina, I promised the voters back in my home State that I was going to come up here and fix problems, fix Washington, and get us back to work.

Yesterday an attempt to rein in the President and the EPA failed. It failed along party lines. Today we had another chance to come together and help protect Americans from Washington's continual power grab, to ensure they are not subject to illegal Executive overreach, and to take control of a bloated bureaucracy. Today's effort passed but only by a slim margin. We must stand up to the President and to the Senate minority leader and their efforts to continue implementing policies that destroy our Nation's economy and in this case harm farmers and small businesses in a variety of ways.

I want the voters to remember this day. I want them to remember who stood against the illegal expansion of Federal control over their land and their livelihood and remember those who did not. The waters of the United States—we have acronyms for everything, it is called WOTUS—is just another Washington power grab that has more to do with controlling your property than ensuring access to clean water.

Leaders at the EPA claim that those who oppose WOTUS oppose clean

water. That seems like an absurd notion for anybody who is in this body. This is a completely false and elitist claim. I firmly believe that Members on both sides of the aisle can all agree we value clean water. I love nothing more than going out on Lake Norman back in my home State or spending time fly-fishing in the mountains of North Carolina or spending time on the rivers near our coast, but under this rule virtually every nook and cranny of the country would be subject to EPA control. There is a risk that puddles in our backyards and ditches and crop fields will be regulated in the same manner our States regulate—properly—our beautiful lakes and rivers.

One thing is clear under the waters of the United States, WOTUS, there is no clarity. There is complete uncertainty and layer upon layer of bureaucratic redtape. Our landowners, our farmers, our ranchers, and business owners across the country will be subject to compliance costs, new fines, and the risk of litigation—all at the discretion of the Environmental Protection Agency.

In March, the Senate agriculture committee held a hearing on the waters of the United States, inviting stakeholders to discuss their concerns. We were proud to have the secretary of the North Carolina Department of Environment and Natural Resources, who told us in regard to the rule: ''It's not absolutely clear what in the world it does say, other than providing the EPA with a lot of discretion when determining navigable waters.''

Navigable waters—not a ditch, not a depression that gets filled up when it rains but navigable waters. How on Earth are Members of this body, Senators, willing to allow such a horrible policy to plague our farmers, our businesses and, I might add, our cities and towns that on a bipartisan basis have expressed concern to me in my home State. It is clear to me the Obama administration did not consult with our State leaders, county leaders, and city leaders when choosing to redefine the rule. We are at a moment where we must prevent this policy, putting our landowners and job creators ahead of partisan politics.

It is not my goal to focus simply on North Carolina in this speech. I know my colleagues from Colorado, Florida, Indiana, Iowa, Minnesota, Missouri, Montana, New Mexico, Nevada, North Dakota, a number of States have family and friends who will endure burdens if this bad policy stands.

My State is a great example of just how detrimental this rule is to our farmers and to families in North Carolina. North Carolina has over 300 miles of coastline, 17 major river basins, and roughly 37,000 miles of freshwater streams—all places that North Carolina residents, farmers, and businesses call home. Much of the eastern part of the State, which runs along the Atlantic Ocean, is susceptible to flooding, even after the lightest rainfall.

Earlier this week parts of the State were again hit hard with heavy rainfall, compounding the effects of last month's historic flooding associated with the hurricane. If the Environmental Protection Agency moves forward with waters of the United States, it will severely restrict the local government's ability to quickly react when we are recovering from events.

Imagine this. Imagine a water event or a hurricane or a rain like we had in South Carolina, which dumps 1 foot or 2 feet of water on an area that has been cropland, cultivated, and harvested by farmers—let us say in North Carolina or South Carolina. This rule is going to make it almost impossible for that farmer to begin recovering immediately because of the uncertainty of the regulations that come with waters of the United States. Not only will they suffer the ravages of the storm, they will also suffer the ravages of this poorly thought-out policy overreach.

The policy raises many questions. For example, is a flooded ditch considered a navigable water under waters of the United States? Many people believe it is. What about a crop field that just had 2 feet of rain? A standing pothole may actually be subject to waters of the United States, which puts a farmer in the position where they may get punitive measures imposed upon them by the EPA.

Don't get me wrong. I am a firm believer in ensuring clean water. It is imperative to a flourishing agriculture industry and our local State and national economies. In North Carolina we have a thriving brewery industry out in the beautiful mountains of Asheville. They need access to abundant, clean water.

In Eastern North Carolina, we have a thriving pharmaceutical industry. They need access to abundant, clean water. There are a variety of reasons why we have to make sure our water resources are clean and abundant.

How can I tell our farmers that in ensuring clean water, we may fine them for small flood puddles such as the one shown here? We need fair practices that will help turn our economy around, not hinder the hard work of our farmers, our ranchers, and small businesses across this country. We need policies that will help families put food on their kitchen tables and not penalize our land and homeowners.

Americans need clarity and they need fairness, not vague, ambiguous rules such as the WOTUS, waters of the United States, which undercut State authority, undercut local authority, and promote what I believe is an illegal government overreach.

The Supreme Court has tried to rein in the EPA's misinterpretation of ''navigable water'' several times. Based on the result of our vote earlier today, the majority of this Chamber and the House believe the EPA has overreached—and the courts agree. Yet the President said he will veto the bipartisan resolution that just passed out of this Chamber today. This administration continues to disregard the will of the Congress, the warnings of the courts, and the preferences of the American people. How long will we continue to let the partisan Obama administration dictate our course of action in the Congress and for the country? We must stop this unfunded mandate and alleviate the burdens on our farmers and business owners, not punish them.

If we do not stop the implementation of this egregious rule right now, we are setting a dangerous precedent and we are betraying the trust of many Americans. I urge my fellow colleagues today: Let us stay strong on this bill. Let us send a message to the President that he should sign this resolution into law and get back to healing this economy.

Thank you.

The PRESIDING OFFICER (Mr. SCOTT). The Senator from Missouri.

Mr. BLUNT. Mr. President, I ask unanimous consent that the cosponsors of the resolution I am about to call up and I be allowed to engage in a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING AND CONGRATULATING THE KANSAS CITY ROYALS ON THEIR 2015 WORLD SERIES VICTORY

Mr. BLUNT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 305, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 305) commending and congratulating the Kansas City Royals on their 2015 World Series Victory.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BLUNT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 305) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

Mr. BLUNT. Mr. President, it may be obvious that my colleagues and I, here in the back of the room—even during a serious debate—are a little happier than the Senate usually finds itself. Of course, we are very pleased to be able to commend our baseball team.

While Senator MCCASKILL and I wish to quickly point out that the team is located in Kansas City, MO, certainly Kansans and Missourians join together to support the Royals, support the Royals in the American League, and in this case support the Royals in the