need to work together, as the States of California, Arizona, Nevada, Utah, and even Wyoming, which is a long way away, have worked to solve the issues.

Today the Senate continues deliberation on the Energy and Water bill. Later this morning we will consider three amendments. One is a Reid-Heller amendment, which seeks to address drought conditions throughout the West. Our amendment would build on that spirit of collaboration by trying to address the fact that we need to stretch every drop of water as far as it will go.

This legislation isn't for any one city or region. It will help every State that relies upon the water in the Colorado River system: Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming.

I hope this amendment will be adopted. I urge my colleagues to support it.

Mr. President, will the Chair announce the business of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2016

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2028, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (H.R. 2028) making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2016, and for other purposes.

Pending:

Alexander/Feinstein amendment No. 3801, in the nature of a substitute.

Alexander amendment No. 3804 (to amendment No. 3801), to modify provisions relating to Nuclear Regulatory Commission fees.

The PRESIDING OFFICER. Under the previous order, the time until 11 a.m. will be equally divided between the two managers or their designees.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ZIKA VIRUS

Mr. DURBIN. Mr. President, by now we have all seen reports of the neurological damage that is done by the Zika virus. We have seen the damage it can do to newborn infants. It has been clinically linked to serious birth defects in pregnant women who contract it.

Since the start of the outbreak, nearly 900 Americans in 41 States, Washington, DC, and 3 U.S. territories—including over 80 pregnant women—have already contracted Zika. In my State of Illinois, 13 people have already tested positive, including at least two pregnant women.

But because we have the best scientists and researchers in the world at the Centers for Disease Control and Prevention, we know more today about the virus and prevention measures than we did when most of us first heard the word ''Zika'' a few months ago.

We know that mosquitoes spread the disease. We know that the arrival of warm weather signals the start of mosquito season, but America is currently unprepared to deal with an outbreak of this dangerous virus. We must improve vector control. We must expand access to family planning, education, and contraception. We must accelerate efforts to develop a vaccine as quickly as humanly possible.

The Centers for Disease Control and Prevention desperately needs funding to deal with this crisis, and they need it now before the summer months, when mosquitoes spread north across the United States.

Congress has failed to even consider President Obama's emergency Zika funding request. What on Earth is Congress waiting for?

Last week Senate Democrats sent a letter to Senate Republican leadership calling for immediate action to pass the Zika supplemental request. I hope this call for action will be heard by all of my Republican colleagues, but I especially hope that it resonates with my colleagues from the Southern States. These are the States that are the most likely to be hit first and hardest by the Zika mosquito virus: Florida, Mississippi, Louisiana, Texas, Alabama, Arkansas, and the list goes on.

In the absence of congressional action—immediate congressional action—the administration has been forced to divert funding and resources away from other important public health efforts in order to respond to Zika.

This morning's Washington Post headline in a few words tells the story: ''Zika crisis costs states funds for emergency preparedness.'' What does that mean? The President asked for this supplemental request weeks ago. The refusal of the Republican-led Congress to respond to the President's request for emergency public health funds to fight Zika means that we are cutting back on public health preparedness in States all across the Nation. Frankly, we are endangering people whom we represent because the Republican majority in Congress refuses to give the President his supplemental request to deal with the Zika virus. For instance, the administration just had to divert $2 million in public health emergency preparedness grants away from Illinois in order to fight Zika in Southern States.

Well, let me tell you, I want to help people everywhere, including those in Southern States who are likely to be hit first, but not at the expense of the public health of the people I represent.

There is an answer. President Obama suggests it—an emergency public health supplemental for the Zika virus.

The Republican majority in Congress has refused to act. Both the Illinois Department of Public Health and the Chicago Department of Public Health received grants to prepare for and to respond to all kinds of public outbreaks, such as Ebola, Zika, and Elizabethkingia, which I will talk about in a moment. These cuts, which are being proposed in order to have the administration have enough resources to respond, are unacceptable and unexplainable.

They come at a time when Illinois, my State, is in the middle of the longest budget crisis in our State's history. This current Governor has been unable to reach an agreement on a budget for almost 11 months, making it difficult for Illinois families and State agencies in ordinary circumstances.

But because congressional Republican leaders have failed to pass a Zika emergency public health supplemental requested by President Obama, the administration has had to divert money away from States such as Illinois to respond to the threat of the Zika virus in other States. Is this any way to govern a great Nation?

Illinois should not have to lose precious funding to deal with public health threats because Republican congressional leaders—from Southern states, I might add—have refused to pass the necessary additional funding to deal with Zika, a virus that will likely impact their States first and hardest.

We have to do both. We should pass the Zika supplemental so Illinois and other States can keep the funding they need to deal with current public health threats and receive additional funding to deal with Zika.

Let me talk about why diverting $2 million from my State of Illinois to Southern States for Zika is a challenge.

Last week the Illinois Department of Public Health and the Centers for Disease Control and Prevention confirmed 10 cases of a bacterial infection known as Elizabethkingia. It has resulted in six deaths in my State. This bacterial outbreak is separate from an outbreak in Wisconsin that resulted in over 60 cases of this infection. So in the middle of this outbreak, Illinois is losing 8 percent in core funding for public health contingencies because of the failure of Republican leaders in Congress to pass President Obama's emergency public health supplemental appropriation.

This means that the Illinois State Department of health is not going to be as prepared as it should be to conduct the needed epidemiology, laboratory testing, and outbreak control. And four of our health experts say there will be major cuts that hurt our ability to respond to public health crises. What happens tomorrow if there is another outbreak?

Last year our State dealt with unexpected serious outbreaks of Legionnaires' disease. Taking money from one State's public health defense effort to give it to another to deal with a public health threat makes no sense in a great nation, particularly when the President showed the appropriate leadership in asking for the $1.9 billion emergency supplemental to deal with the Zika crisis, and the President asked over 2 months ago.

I know many Republicans are in denial when it comes to climate change, but if they would have been in Springfield, IL, my home, last Sunday—just 2 days ago—sitting out on the deck in 80-degree weather in April, they might understand warm weather is coming sooner across the United States and with that warm weather, mosquitoes, and with those mosquitoes, the threat of the Zika virus.

I don't come to raise an alarm that is unmerited and unwarranted. I believe this is a serious public health challenge, so serious we should not leave Congress this week and take a recess without passing the President's emergency budget supplemental for public health and the Zika virus. The mosquitoes are not going to be on recess next week, they are going to be working, and sadly they are going to be infecting people across the South and across the United States while congressional leaders dither.

The supplemental request would provide more than $1.8 billion in emergency funding to improve CDC vector control to control the mosquitoes that threaten us. It would accelerate efforts at the National Institutes of Health to develop a vaccine. I have heard testimony, so I know it takes time to develop a vaccine. Let's do it in an expeditious, safe, thoughtful, and professional way, but let us not shortchange NIH or any other agency that is facing this crisis.

We need to expand education. We need to expand access to women's health planning services. The administration provided a comprehensive plan. It cannot be implemented successfully without resources, and we should act on it this week—get it done before we leave.

I joined my colleagues Senator NELSON, Leader REID, Senator SCHUMER, and Senator HIRONO in introducing a bill to fully fund the administration's request. I am pleased to hear my Republican colleagues on the Committee on Appropriations are interested in working with Democrats to reach a deal. I see Senator ALEXANDER on the floor. I know he is sensitive to this, and I hope he will join in calling for leadership on both sides of the Rotunda to move on this issue before we take our recess.

Let us not delay this any longer. We need to ensure we aren't diverting necessary Ebola money to be used for the Zika virus. It is naive to believe the Ebola threat is gone and we can ignore the possibility of its reemergence. In my State and others, we know all too well what happens when you divert money from one public health fund to another.

This brings to mind the Biblical story of Noah and the great flood. Noah built the arc before the rain, not after it started. It is reckless, it is dangerous to delay. The cases of Zika are continuing to grow, and inaction and further delay put many families, pregnant women, and children in jeopardy.

We have seen the Zika threat coming for many months. We have had the President's request for over 2 months. I urge my colleagues this week, before we go home, to take this appropriate action to begin to protect Americans in every State.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, at 11 a.m. we will have three votes on the Merkley, Flake, and Reid amendments. That will bring to a total of 17 the number of amendments we will have disposed of on the floor.

Senator FEINSTEIN and I have worked with Members on both sides of the aisle to include many of their policy suggestions and requests in our basic bill. The last count I saw said 77 Members of the Senate had at least part of their requests or policy suggestions in our basic bill. So we are doing very well. Cloture has been filed. There are only a few amendments remaining that are in question. We hope to conclude that quickly and bring the bill to a conclusion.

My hope is that when a Senator has a germane amendment, we can have a vote. Sometimes, if they are controversial, they will be at 60. We have done pretty well with that so far—giving Senators a chance to have a say and to have a vote.

I would like to spend about 4 or 5 minutes on an amendment we will be voting on at 11, when we will have limited time to talk—unless Senator FEINSTEIN has something she would like to say before I do that.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, as I understand it, the filing deadline for first-degree amendments is this afternoon at either 1:30 p.m. or 2:30 p.m. So everybody should get their amendments in.

I thank Senator ALEXANDER again for the cooperative spirit with which he is working on this bill. It is very much appreciated.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I want to speak to the amendment from the Senator from Oregon, which would increase the funding for the wind energy program by $15.4 million. This is in addition to the $30 million that our subcommittee has recommended at the request of Senator GARDNER of Colorado for the National Renewable Energy Laboratory and the $50 million Senator COLLINS of Maine has recommended for offshore wind research. Within the priorities in the bill, we have already put $80 million, and this would add $15 million more.

That may not seem like much, but here is my question: I wonder if the American taxpayers wouldn't think that $23 billion is enough to spend on giant windmills—$23 billion. That is the amount the Congressional Research Service has said Congress has spent of taxpayer money to subsidize wealthy people so they can build giant wind turbines across America. That money has been spent from 1992 through 2016 this year. It started out as an effort to help wind turbines get started in 1992, and it has been renewed 10 times. You would think this is a mature industry. In fact, the previous Energy Secretary said it was.

What do we get for this $23 billion? Four percent of our electricity is produced by wind turbines in the United States. This is a country that uses 25 percent of all the electricity in the world, and we spend $23 billion for 4 percent of our electricity. Thirty-seven percent of all the subsidies, all the spending we have for different forms of energy produces 4 percent of the electricity.

The President of the United States and a number of private people in the United States, such as Bill Gates, have announced they would like to double energy research. I support that. The Senator from Illinois, Mr. DURBIN, and I introduced legislation that would authorize increased funding at the level of 7 percent for energy research this year so we can move more rapidly toward the goal of doubling research for energy.

We spend $5 billion a year for energy research for the U.S. Government. We spend nearly $5 billion a year on subsidizing wealthy people so they can build giant wind turbines. We spend as much subsidizing windmills as we spend on all our energy research. If we stop the subsidies, we could double the research, which is what we should be doing.

What are we getting for this? We are getting energy—electricity—that is true, but it mostly blows at night, when we don't need it. It can't be stored for use when we do need it. So it is unreliable. The wind only blows about one-third of the time. In Tennessee it is 18 percent of the time. It can't be stored and we don't need it. We don't need it. At the same time, it destroys the landscape.

I am astonished at the environmental groups that would support putting

these huge giant turbines in the most beautiful part of our country and then building transmission lines across the country through everybody's backyard.

If we replace the 100 nuclear reactors in this country that produce 60 percent of the carbon-free electricity we have—60 percent of the carbon-free electricity—it would take enough windmills to cover a State the size of West Virginia, and I think you would have to have about 17,000 miles, 19,000 miles of new transmission lines.

The Presiding Officer is the Senator from Arkansas. In Arkansas, a windmill company is building 700 miles of transmission lines across Arkansas that the State doesn't want and has objected to. Yet the administration is allowing the wind mill company to use Federal preemption for the first time to build transmission lines where people don't want them.

Not only is this a wasteful amount of money, not only is it a kind of energy that a country this big cannot rely on, the size of the subsidies create preposterous results. For example, in some cases the subsidy is so large the windmill-producing companies pay the utilities to take their power and they still make a profit. They can pay the utilities to take their power and still make a profit because the taxpayers have spent $23 billion subsidizing wealthy people so they can build windmills.

These aren't your grandma's windmills. You can see them for 20 miles away—the flashing lights. They are twice as tall as the football stadium at the University of Tennessee, and only one of these would fit within the football stadium at the University of Tennessee.

It would take four nuclear reactors, each taking about 1 square mile, to produce enough electricity to equal the same amount of electricity produced by wind if you strung 45-foot windmill towers along the entire 2,178-mile stretch of the Appalachian Trail. You may say that is a stretch, that will not happen, except that is exactly where the wind towers would be most likely to go—on our scenic mountain tops where more wind blows, and then the transmission lines come down the mountain tops through your backyard.

My objection is a very simple one. I think $23 billion is enough to spend on windmills. I have other objections to wind. I think we should focus on nuclear power instead of unreliable wind power. I believe trying to use wind turbines to power a country that uses 25 percent of all the electricity in the world is the energy equivalent of going to war in sailboats when the nuclear navy is available, but I certainly think there is no need at all for Senators to say yes to an amendment that spends more money for wind than our subcommittee recommended. We are already spending $23 billion. The taxpayers have been bamboozled into allowing that to happen, and I don't think they would want us to spend more.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. FLAKE. Mr. President, I rise to speak in support of Flake amendment No. 3820, which would lower the construction appropriation for the U.S. Corps of Engineers by just under $69 million and eliminate funding for environmental infrastructure projects.

Ostensibly, the Corps of Engineers uses these funds to build water supply, water treatment, and wastewater projects. I am not here to argue against the need for environmental infrastructure projects. There are a great many municipalities that consider these projects essential and have made an effort to fund them on their own. That is usually done through a combination of utility bills and municipal bonds. Typically, the users pay for this.

However, despite the fact that these projects have traditionally been funded by State and local governments, Federal support is actually duplicative. The Federal Government already offers resources for similar projects through the EPA. Specifically, the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund programs provide States with low-interest loans based on the merits of these projects and the needs of the communities.

Taxpayers deserve better than to be expected to provide the U.S. Corps of Engineers $69 million it never asked for to fund projects they already support in a program that has been described by many as a slush fund for parochial interests. That is certainly how the program started years ago. Frankly, it has never seemed clear that the Corps of Engineers understands how these projects fit into its mission. Because of a years-old congressional carve-out, these environmental undertakings are not subject to the environmental studies, economic analyses, and cost-effectiveness standards that are required for more traditional Corps projects. As far as I can tell, there is really no rhyme or reason as to how one project gets funding over another.

With a national debt of over $19 trillion, it is time that we get a little more serious about putting our fiscal house in order. I urge my colleagues to support this amendment and eliminate this duplicative funding.

Mr. President, I wish to say a couple words about Reid-Heller amendment No. 3805.

I support the Colorado River System Conservation Program. Voluntary efforts like these in Arizona are estimated to have kept Lake Mead at about 3 feet higher than it would have been otherwise. Not coincidentally, last week the Bureau of Reclamation announced that at the end of this year, Lake Mead is predicted to be 3 feet above the level that would trigger a shortage declaration. What I want to make sure happens is that any conserved water actually stays in Lake Mead and keeps these levels up above the shortage declaration area.

I note that this amendment simply authorizes funds to go to the conservation program. I hope that before this money is actually spent, we can develop assurances that the water will go to its intended purpose. The Lower Colorado River Basin States have developed such language, and I look forward to ensuring that our Federal dollars are well spent in this area.

AMENDMENT NO. 3820 TO AMENDMENT NO. 3801

Mr. President, I call up my amendment No. 3820 and ask unanimous consent that it be reported by number.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment by number.

The senior assistant legislative clerk read as follows:

The Senator from Arizona [Mr. FLAKE] proposes an amendment numbered 3820 to amendment No. 3801.

The amendment is as follows:

(Purpose: To withhold certain funds for the construction of environmental infrastructure)

On page 3, line 11, strike ''$1,813,649,000'' and insert ''$1,744,699,000''.

Mr. FLAKE. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 3812 TO AMENDMENT NO. 3801

(Purpose: To provide for funding for wind energy)

Mr. MERKLEY. Mr. President, I call up my amendment No. 3812.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Oregon [Mr. MERKLEY] proposes an amendment numbered 3812 to amendment No. 3801.

On page 23, line 15, strike the period at the end and insert the following: '': *Provided further*, That of such amount, $95,400,000 shall be available for wind energy.''.

Mr. MERKLEY. Mr. President, I wish to add a few remarks about this, as we are preparing shortly to consider a number of amendments.

This particular amendment is a bipartisan amendment, which I am pleased to sponsor with my partner from Iowa, stating that wind energy is particularly important. This amendment would restore funding for wind energy research to fiscal year 2016 levels of $95.4 million. Otherwise, research in wind energy would suffer a substantial reduction.

This program is indispensable to the success of wind energy in the United States. The wind energy program works to advance innovations in the grid integration, manufacturing, and deployment that are key to reducing the cost of wind energy. For example, the Wind Program helps to address market barriers through including wind-forecasting tools in power system operations, which helps utilities and regulators better integrate large amounts of wind energy into the grid.

The Wind Program provides research, development, and technical support to manufacturers and distributors of wind technologies that are still emerging. This enhances small wind manufacturing, supports offshore demonstration projects, and will improve the economic viability of distributed wind.

Currently, eight National Laboratories across our Nation conduct research or testing related to wind energy. The proposed fiscal year 2017 funding level is only $80 million, which is over $15 million less than last year's funding—thwarting our ability to realize the true potential for wind energy.

During debates, we have sometimes heard that wind is a mature industry and that is why the funding for research should be revoked or lowered. But in fact, as wind is emerging, we are seeing continuous innovations resulting in different designs and different strategies for integrating intermittent wind energy into the grid. As that wind component becomes substantially larger, we need to understand the details of how we accommodate it effectively. If we were to talk about mature industries, then we wouldn't be doing studies for the fossil fuel industry, which is about as mature as an industry can get. Clearly, this is an evolving industry with great potential to assist us with clean energy and, moreover, a program that can affect the economy of rural America.

In 2015 wind energy supplied about 5 percent of the total electricity generated in the United States. So it is no longer just a fraction of a percent; it has grown enormously in the last few years. But the Department of Energy estimates that wind could provide as much as 35 percent—or more than one-third—of the electricity generated in our country by the year 2050.

As my colleague and partner on this bill, the Senator from Iowa, knows, wind energy can be a huge boon to a State's economy. Iowa is already getting over 30 percent of its electricity from wind. And because wind energy is less expensive in the forecast of potential other sources, it could result in billions of dollars of savings to energy consumers in that State.

In my home State of Oregon, we already have over 10 percent of our electricity being generated from wind energy. The savings for our State down the road could be enormous, but we can only reach these goals if we support wind energy research.

With the development of wind energy comes hundreds of thousands of jobs in manufacturing, in installation, in maintenance, and in supporting services. The estimate is around 600,000 jobs—generally good-paying jobs—by the year 2015.

I do a lot of townhalls back home in Oregon, one in every county every year. Much of Oregon is very rural. I hear about the impact property taxes on these wind installations have on our rural counties, enabling them to do things—for example, to build libraries or assist in the development of their local schools. There is no question that this is a boon to the rural economy.

It is our job in Congress to look at what policies will be the most successful and give the most bang for the buck in terms of creating jobs now and in the future. We should be supporting programs that spur economic development and support families in rural areas. That is what this amendment calls for. When we create jobs, local communities benefit, certainly the energy industry benefits, and our environment benefits. All of this depends upon robust research, and we are simply asking that research continue at the same level it did in fiscal year 2016.

Let's back red, white, and blue, American-made wind energy and support this bipartisan amendment. I urge my colleagues to support it.

I yield the floor.

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

The PRESIDING OFFICER (Mr. FLAKE). Without objection, it is so ordered.

There are now 2 minutes equally divided on amendment No. 3812.

The Senator from Oregon.

Mr. MERKLEY. Mr. President, we will be voting on amendment No. 3812, which my colleague from Iowa and I have put together to restore research on wind development to the level it was last year. When you see these wind turbines, what you should see is economic development in highly deserving rural communities, putting clean electrons onto the grid, putting jobs into the community, and putting money into the property tax coffers in local communities to do good work.

I wish to reserve the rest of my time.

The PRESIDING OFFICER. Who yields time?

Does the Senator from Tennessee wish to use his time on the amendment?

Mr. ALEXANDER. I do, but I will wait until the end.

The PRESIDING OFFICER. If no one uses time, time will be charged equally to both sides.

Mr. ALEXANDER. Mr. President, can I not reserve the rest of my time?

The PRESIDING OFFICER. Not at this point.

Mr. ALEXANDER. Mr. President, don't you think $23 billion is enough to spend on windmills? That is what we have spent since 1992—$23 billion for 4 percent of America's electricity. This is electricity that is unreliable. The windmills blow about one-third of the time, often at night, and it can't be stored. We will spend $5 billion this year and $4.4 billion next year. We could double our energy research spending if we would stop subsidizing wealthy people to build giant wind turbines. Sixty percent of our carbon-free electricity comes from nuclear reactors. Relying on giant wind turbines and new transmission lines to power a country that uses 25 percent of all the electricity in the world is like going to war in sailboats when the nuclear Navy is available.

We already have $80 million going to research, which Senator GARDNER and Senator COLLINS have asked us to include in the legislation. It is in the bill. We don't need to spend more.

We have already spent $23 billion since 1992. Spending $4 or $5 billion a year is more than enough to spend on giant wind turbines.

I urge a ''no'' vote on the Merkley amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, these subsidies are a tiny dot compared to the $52 billion spent annually on fossil fuel subsidies and the massive subsidies spent on nuclear. Yet these subsidies are creating jobs in rural America, and that matters. These communities need these jobs. These are clean electrons, these are terrific middle-class jobs, and this is an industry that is still on a curve where research is truly beneficial in making it a success.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment.

Mr. ALEXANDER. 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 legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ) and the Senator from Pennsylvania (Mr. TOOMEY).

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

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

The result was announced—yeas 54, nays 42, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—54

Baldwin	Graham	Murphy
Bennet	Grassley	Murray
Blumenthal	Heinrich	Nelson
Booker	Heitkamp	Peters
Boxer	Heller	Portman
Brown	Hirono	Reed
Cantwell	Hoeven	Reid
Cardin	Kaine	Rounds
Carper	King	Schatz
Casey	Kirk	Schumer
Collins	Klobuchar	Shaheen
Coons	Leahy	Stabenow
Donnelly	Markey	Tester
Durbin	McCaskill	Thune
Ernst	Menendez	Udall
Franken	Merkley	Warren
Gardner	Mikulski	Whitehouse
Gillibrand	Moran	Wyden

NAYS—42

Alexander	Daines	Murkowski
Ayotte	Enzi	Paul
Barrasso	Feinstein	Perdue
Blunt	Fischer	Risch
Boozman	Flake	Roberts
Burr	Hatch	Rubio
Capito	Inhofe	Sasse
Cassidy	Isakson	Scott
Coats	Johnson	Sessions
Cochran	Lankford	Shelby
Corker	Lee	Sullivan
Cornyn	Manchin	Tillis
Cotton	McCain	Vitter
Crapo	McConnell	Wicker

NOT VOTING—4

Cruz	Toomey
Sanders	Warner

The amendment (No. 3812) was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3805 TO AMENDMENT NO. 3801

Mr. HELLER. Mr. President, on behalf of Senator REID, I call up the Reid-Heller amendment No. 3805 and ask unanimous consent that it be reported by number.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment by number.

The legislative clerk read as follows:

The Senator from Nevada [Mr. HELLER], for Mr. REID, proposes an amendment numbered 3805 to amendment No. 3801.

The amendment is as follows:

(Purpose: To make funding for water management improvement subject to a condition)

In section 204, strike ''and inserting '$400,000,000' '' and insert ''and inserting '$450,000,000, on the condition that of that amount, $50,000,000 is used to carry out section 206 of the Energy and Water Development and Related Agencies Appropriations Act, 2015 (43 U.S.C. 620 note; Public Law 113–235)' ''.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HELLER. Mr. President, the Colorado River is the lifeblood of the West. It supplies many of our communities with the majority of its water. The ongoing drought is threatening shortages, reviving the old Mark Twain saying that ''whiskey is for drinking; water is for fighting over.''

In response, the West has teamed up to establish the Colorado River System Conservation Pilot Program, an innovative effort to improve levels in our reservoirs. It is very clear the program is working well. Nineteen agreements have come together, saving 80,000 acre-feet, enough western water for 160,000 households. Increasing our region's water security is essential to Western States.

Without water, we cannot grow. I would urge this body to support this extremely important western initiative.

I yield the floor.

I yield back my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, this amendment does not increase funding in the bill and the Senator from California, Mrs. FEINSTEIN, and I intend to vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRASSLEY. 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 bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ) and the Senator from Pennsylvania (Mr. TOOMEY).

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

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

The result was announced—yeas 73, nays 23, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—73

Alexander	Feinstein	Menendez
Ayotte	Fischer	Merkley
Baldwin	Flake	Mikulski
Barrasso	Franken	Murphy
Bennet	Gardner	Murray
Blumenthal	Gillibrand	Nelson
Blunt	Graham	Peters
Booker	Grassley	Portman
Boozman	Hatch	Reed
Boxer	Heinrich	Reid
Brown	Heitkamp	Rubio
Burr	Heller	Schatz
Cantwell	Hirono	Schumer
Capito	Inhofe	Shaheen
Cardin	Isakson	Stabenow
Carper	Kaine	Sullivan
Casey	King	Tester
Cassidy	Kirk	Udall
Cochran	Klobuchar	Vitter
Collins	Leahy	Warren
Coons	Manchin	Whitehouse
Daines	Markey	Wicker
Donnelly	McCain	Wyden
Durbin	McCaskill	
Enzi	McConnell	

NAYS—23

Coats	Lankford	Rounds
Corker	Lee	Sasse
Cornyn	Moran	Scott
Cotton	Murkowski	Sessions
Crapo	Paul	Shelby
Ernst	Perdue	Thune
Hoeven	Risch	Tillis
Johnson	Roberts	

NOT VOTING—4

Cruz	Toomey
Sanders	Warner

The amendment (No. 3805) was agreed to.

AMENDMENT NO. 3820

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 3820, offered by the Senator from Arizona, Mr. FLAKE.

The Senator from Arizona.

Mr. FLAKE. Mr. President, this amendment would simply cut $69 million in unrequested funding for Corps of Engineers projects. This is kind of the outgrowth of the bad old days when we had earmarks, when all of this funding came about. We now have an earmark ban, but some of the funding still goes to some projects that have not even been requested.

If we have a debt of $19 trillion and a deficit of $500 billion, it is time that we actually make some cuts somewhere. I would submit that this is a place ripe for cutting.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I am going to oppose the Flake amendment. The Army Corps of Engineers rebuilds locks and dams, dredges our rivers and harbors, works to prevent floods and storm damage, and builds environmental restoration projects. There is not a funding line in the budget that more Senators seek for their States.

Our spending is under control on the discretionary side. It is the mandatory spending, the entitlement spending, that is out of control.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I also strongly oppose this amendment. This would eliminate funding for our environmental infrastructure projects of the Army Corps of Engineers. Funding for these projects enables communities to solve local problems in a way that protects the environment.

Problems are being solved, such as upgrading wastewater treatment facilities, so that our drinking water and marine resources are protected, and replacing deteriorated distribution systems with efficient systems that help conserve water.

I hope we will vote this amendment down.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3820.

Mr. FLAKE. 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 legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ) and the Senator from Pennsylvania (Mr. TOOMEY).

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

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

The result was announced—yeas 12, nays 84, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—12

Barrasso	Gardner	Lee
Coats	Heller	McCain
Enzi	Johnson	Moran
Flake	Lankford	Sasse

NAYS—84

Alexander	Boxer	Cassidy
Ayotte	Brown	Cochran
Baldwin	Burr	Collins
Bennet	Cantwell	Coons
Blumenthal	Capito	Corker
Blunt	Cardin	Cornyn
Booker	Carper	Cotton
Boozman	Casey	Crapo

Daines	Klobuchar	Roberts
Donnelly	Leahy	Rounds
Durbin	Manchin	Rubio
Ernst	Markey	Schatz
Feinstein	McCaskill	Schumer
Fischer	McConnell	Scott
Franken	Menendez	Sessions
Gillibrand	Merkley	Shaheen
Graham	Mikulski	Shelby
Grassley	Murkowski	Stabenow
Hatch	Murphy	Sullivan
Heinrich	Murray	Tester
Heitkamp	Nelson	Thune
Hirono	Paul	Tillis
Hoeven	Perdue	Udall
Inhofe	Peters	Vitter
Isakson	Portman	Warren
Kaine	Reed	Whitehouse
King	Reid	Wicker
Kirk	Risch	Wyden

NOT VOTING—4

Cruz	Toomey
Sanders	Warner

The amendment (No. 3820) was rejected.

The PRESIDING OFFICER. The Senator from Hawaii.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Ms. HIRONO. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 307, 357, 358, 359, 362, 363, 364, 459, 460, 461, and 508; that the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The majority leader.

Mr. MCCONNELL. Mr. President, reserving the right to object, I understand our Democratic friends are going to propound a number of different unanimous consent requests here with regard, I assume, to the judiciary. The core question here is whether President Obama has been treated fairly, and I think it is noteworthy that at this point in President Bush's 8 years, 303 of his judicial nominees had been confirmed. At this point in President Obama's term, the number is 324. That is 21 more judges the current President has gotten at this point than President Bush.

Clearly, President Obama has been treated fairly and, therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Hawaii.

Ms. HIRONO. Mr. President, I am very disappointed the Republicans are blocking dozens of qualified nominees—nominees who have been reported to the Senate floor on a bipartisan basis. This is certainly, in my view, not about whether the President is being treated fairly, but it is about the Senate doing its job. The Senate is on track to confirm the lowest number of judicial nominees in our history.

Let me mention a nominee from Hawaii: Clare Connors. She was confirmed or voted on unanimously by the Judiciary Committee last month, a statement to her qualifications. Her wide-ranging experience includes district and appellate venues, criminal and civil arenas, and litigation on issues ranging from tax law to tough cases such as crimes against children.

Clare and the other nominees before us today will be kept from serving on the Federal bench because of Republican inaction. My Republican colleagues intend to stop all judicial nominations in July, although there are 79 vacancies pending, 28 of which are considered emergencies. If Ms. Connors is not confirmed, the Hawaii district court seat will be left vacant for over a year.

Our judiciary should be composed of the full complement of judges accorded to each district court. One of the fundamental jobs of the Senate to engage in is its advice and consent function with regard to these judicial nominees, and we are not doing that.

I call upon my colleagues, my Republican friends, to enable all of us to do our jobs and begin again the advice and consent process which we are, under the Constitution, required to do.

I see some other colleagues on the floor, so I yield to my good friend from New York.

The PRESIDING OFFICER. The Senator from New York.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. SCHUMER. Mr. President, I will have a unanimous consent request after I make a few brief remarks. I thank my friends, the Senators from Hawaii and Maryland, for joining me here today.

We all know it is the job of the Senate to keep up with the need to confirm judges, but our friends on the other side of the aisle aren't holding up their end of the bargain. The judicial confirmation process has been at a crawl for years. Now it has come to a functional standstill, as noncontroversial nominations—some of which were approved out of committee by overwhelming votes, the majority of Republicans and the majority of Democrats—languish on the Executive Calendar.

Our colleagues on the other side of the aisle did their best to slow the pace of confirmations when the Senate was under Democratic leadership, and now they are sluggishly moving nominations under a Senate they control. That has culminated in an irresponsible partisan blockade of President Obama's Supreme Court pick.

Let's talk about some real numbers. More than 1 year into this new Congress, the Republican leadership has allowed only 17 judges to be confirmed. How many months do we have here? We had 12 in the last year of this Congress, and we are now at the end of April, so that is 4. So that is 16—1 a month.

Let me show the contrast. I say to my dear friend, our majority leader, this is the number that counts because the analogy was the last 2 years of the Bush administration when there was a Democratic majority. Then, a Republican President and a Democratic majority; now, a Democratic President and a Republican majority. They confirmed 17 and we confirmed 68. This has consequences—real consequences.

The number of vacancies has risen from 43 to 79 since the Republicans took over the majority. That didn't happen when President Bush was President and made nominations. Twenty-eight judicial emergencies. For people seeking justice—they can't get it very speedily because of the obstruction of judges.

There are 20 noncontroversial judges on the Executive Calendar. We are urging our colleagues to let these noncontroversial judges go through. Very simply, we are urging our colleagues to do their job.

I know the leader wants to have the Senate move along, and we have tried to go along whenever it is possible. But this is a glaring example where it is easy to do your job, where it is easy to move things forward, and all we face is obstruction and for no voiced reason.

I would like to know why the judges who I will ask for unanimous consent—it is a smaller list than my colleague from Hawaii has asked to go forward with. I would love to know a single reason why any of them shouldn't be sitting on the bench.

I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 307, 357, 358, 359, 362, and 363; further, that the Senate proceed to vote without intervening action or debate on the nominations; that if confirmed, the motions to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The majority leader.

Mr. MCCONNELL. Mr. President, reserving the right to object, I would say to my Democratic friends that no effort to redefine what this is about will be successful.

The issue before the Senate is, has President Obama been treated fairly with regard to the confirmation of judges during his tenure in office? We are to a point where we know that so far during the Obama years, he has gotten 23 more judges than President Bush got to this point. That is the fundamental question. Has President Obama been treated in some way differently from President Bush? The answer, of course, is no. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Maryland.

UNANIMOUS CONSENT REQUESTS—EXECUTIVE CALENDAR

Mr. CARDIN. Mr. President, I will continue to try here, and I thank the Senate majority leader for his patience.

This is really not a matter of fairness to the President but fairness to the

American people. As my colleague Senator HIRONO pointed out, this is a matter of justice delayed is justice denied. We have judicial emergencies—many on our list—that have not been filled.

As Senator SCHUMER pointed out, this is about comparing what has been done on the workload of this Congress to any previous Congress on the confirmation of judges, and we are dead last as far as action that has been taken.

I think the critical number is the number of vacancies. Compare the number of vacancies. When the Republicans took the majority, there were 43 vacancies in our courts. That number has almost doubled to 79 vacancies.

When we take a look at the pace of confirmation—because we could say maybe there were a lot that had to be taken up over a President's term. But, as Senator SCHUMER pointed out, there have been only 17 judges confirmed to date. That is one of the lowest numbers in the modern history of our country. In the last year of President Bush's administration, in the same period of time of that 2-year cycle, 68 judges had been confirmed by a Democratically controlled Senate.

What makes matters more difficult for the American people to understand is that 20 judicial nominations have currently passed the Senate Judiciary Committee. I believe every one has been passed by unanimous voice vote, so they are not controversial. It is just a matter of getting them up for confirmation—20 of them that have yet to be acted on the floor of the Senate.

I will make two unanimous consent requests that will deal with 4 of these 20 currently pending. All passed the Judiciary Committee by unanimous voice votes. Two are from States that have Democratic Senators and two are from States that have Republican Senators.

I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 307, Xinis of Maryland; Calendar No. 357, Martinotti of New Jersey; Calendar No. 358, Rossiter of Nebraska; and Calendar No. 359, Stanton of Tennessee; that the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Texas.

Mr. CORNYN. Mr. President, for the reasons previously expressed by the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Maryland.

Mr. CARDIN. Mr. President, I want to make one further request in the series with Senator HIRONO and Senator SCHUMER, and that is to deal with the next nominee who would be up, considering the length of time she has been on the calendar. It is the nomination of Paula Xinis of Maryland made in March 2015—over 1 year ago—by President Obama. She was recommended by Senator MIKULSKI and me after an exhaustive vetting process that we go through before making recommendations to the President of the United States. She was nominated over 1 year ago. She had a hearing in the Judiciary Committee in July of 2015. As I said earlier, she was reported out of the committee by unanimous voice vote in September of last year, and she has been waiting all this time for action on the Senate floor.

We need this vacancy filled. We now have two vacancies in the Maryland District. The chief judge has related to us several times that this position is critical for the administration of justice for the people of Maryland and our Nation. Therefore, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 307, Xinis of Maryland; that the Senate proceed to vote without intervening action or debate on the nomination; that the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nomination; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Texas.

Mr. CORNYN. Mr. President, for reasons previously given, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I wish to inject a few comments in this discussion too. This isn't all about Republicans. This isn't all about Democrats.

I had a nominee from Wyoming. Incidentally, he wasn't nominated by me; he was nominated by our Democratic Governor. It took me about 9 months to get a hearing in committee. This was for a district judge. This wasn't for the Supreme Court. This wasn't for a circuit court. This was for a district court. It took me about 9 months to get a hearing for him. At the end of 2 years, he had not gotten a vote in committee. His life was in suspense for 2 years. That is not right. Neither party should do that. But as long as the other side is saying that we are holding things up, I have to point out that it is not just a one-sided thing.

I hope some of the criticism can end and some of the work can be done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I just want to share in the frustration of my colleague from Wyoming. This should not be a partisan issue. I agree, it is wrong to hold people's lives in abeyance. We are trying to get the very best people to serve on our courts. If they have to put their lives on hold for a year or two, will they come forward and seek to serve as a judge?

We know that for the ones we are trying to get on the bench, it is going to be a financial sacrifice. They can make more money in the private sector. We want the very best on our courts. If someone is put on hold for 2 years or for 1 year, it compromises their ability if they are in the private practice of law, and it is not the right thing to do—whether it is a Democrat or a Republican in the White House. We have to act on these appointments a lot faster.

The point I raised is that during this term of Congress, during this year and a half, we have seen the number of judicial vacancies go up from 43 to 79. At this particular moment, there are 20 nominees on the Executive Calendar who have cleared the committee by voice vote and who are not controversial. Some have been waiting over a year since their nomination.

We can do something about it right now, and we should do something about it right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Mr. President, I wish to say a few more things regarding our request for action on these judicial nominations.

The group of nominations on which I requested action includes nominees from Maryland, New Jersey, Nebraska, Tennessee, New York, California, Rhode Island, Pennsylvania, and Hawaii. They are all waiting.

I have just one comment about the Supreme Court vacancy. The last time the Senate refused to deal with a Supreme Court vacancy was during the Civil War. They so objected to dealing with the President's nomination that the Congress actually changed the number of Justices on the Supreme Court. The number of Justices is set by law, so the Congress changed the law and changed the number of Justices from 10 to 7 so that they would not have to deal with the President's nominee to the Supreme Court vacancy. The President vetoed that bill, the Congress overrode that veto, and so they changed the makeup and number of Justices on the Supreme Court. Certainly that is not what I am suggesting Republicans should do. In fact, we have had a nine-member Supreme Court for almost 150 years.

I agree with my friend, the Senator from Wyoming, that this should not be a partisan issue. Certainly, I agree with my friend from Maryland that we should get on with it. We should get on with these judicial nominations. We should do our advice and consent role, and clearly with regard to the Supreme Court vacancy, where, with this inaction, we are going to leave that Court

with eight members for a year. That is not acceptable to the people of our country. We need to do our job.

I ask my Senate colleagues, my Republican friends, to enable the Senate to do our advice and consent role and do our job as set forth in the U.S. Constitution.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:45 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2016—Continued

The PRESIDING OFFICER. The Senator from Colorado.

NOMINATION OF MERRICK GARLAND

Mr. BENNET. Mr. President, I rise to discuss the vacancy on the Supreme Court and the majority's ongoing refusal to consider the nomination of Chief Judge Merrick Garland. Forty days have passed since the President of the United States nominated Judge Garland to fill Justice Scalia's seat. This is longer than it took for the Senate to confirm Justice Sandra Day O'Connor in 1981. In fact, 75 percent of all Supreme Court Justices have been confirmed within 31 days, but today—40 days after his nomination—many Senators haven't even extended Judge Garland the simple courtesy of a meeting. The majority's refusal to hold a vote is without precedent, and the majority has cited none. Instead, the majority is trying to shift the blame.

Incredibly, the chairman of the Judiciary Committee recently came to the floor to blame, of all people, not other Senators, not other politicians, but the Chief Justice of the United States of America for politicizing the Court. Ten days before Justice Scalia's death, the Chief Justice said: ''The process is not functioning very well.'' That turns out to have been something of an understatement. The Chief Justice went on and said that the process ''is being used for something other than ensuring the qualifications of the nominees.'' Again, he was not referring to what is going on now in the Senate. This happened before Justice Scalia passed away. There was no way that the Chief Justice could have known there was going to be a vacancy. He continued: ''[Supreme Court Justices] don't work as Democrats or Republicans . . . and I think it's a very unfortunate impression the public might get from the confirmation process.''

His words struck me—particularly given what has gone on since then—as a candid expression of his concern for the Court as an institution. This concern apparently upset the chairman of the Judiciary Committee. He took to the floor and said:

> The Chief Justice has it exactly backwards. The confirmation process doesn't make the Justices appear political.

He continued:

> The confirmation process has gotten political precisely because the Court has drifted from the constitutional text, and rendered decisions based instead on policy preferences.

It is absolutely breathtaking that the Chief Justice would be criticized for ''drifting from the constitutional text'' when, for the past 10 weeks, the majority has drifted from article II, section 2, clause 2, which sets out our constitutional responsibility to advise and consent in very clear terms. Worse, the majority's drift isn't even about policy; it is about politics. It is about rolling the dice on an election instead of following the plain text of the Constitution.

This is absolutely unprecedented in the history of the Senate. Throughout our history, the Senate has confirmed 17 nominees in Presidential election years to serve on the Supreme Court. The last of these was Justice Kennedy in 1988. When the President made this nomination, he had more than 340 days left in his term. We are talking almost a quarter of the President's term. That is a lot more time than most of those 17 Justices had before this Senate.

In the last 100 years, every nominee to a Supreme Court vacancy who did not withdraw—and a couple did—received a timely hearing and vote. On average, the Senate has begun hearings within 40 days of the President's nomination and voted to confirm 70 days after the President's nomination. There is no excuse for not holding a hearing and a vote.

If that is what we are going to pay attention to in this Chamber and if that is what we are going to argue for—originalism, strict constructionism—the plain language of the Constitution is clear. There is a reason why no Senate has ever had the audacity to do what this Senate is doing right now—because of how clear that mission is and because there is no one else to do it. The Constitution says: The Senate shall advise and consent. It doesn't say: The House of Representatives shall have a role. It doesn't say: Let the people decide. It says that this is the Senate's job. We should do our job just as every Senate, until now, has done its job since the founding of the country, including the Senate that was there when George Washington was in office. Three of those 17 appointments were confirmed by a Senate that actually contained people who had been at the constitutional convention, and they were consistent with their understanding of what the Founders had agreed to. They had a vote on the floor of the Senate.

I am not saying how people should vote. They should vote their conscience, but we should have a vote. The American people expect us to do our job.

I want to be clear that I believe there should be hearings. I think we should go through hearings to establish the qualifications of the nominee. I think that is really important. The point I am making about having this vote does not have to do with whom the President nominated. It has to do with our institutional responsibility. It has to do with the rule of law and the image we want to project to our country and overseas.

Finally, I have a word to say about the President's nominee. Merrick Garland is an honored and accomplished judge. Two weeks ago I had the opportunity to meet with him and learn about his judicial record and philosophy. I have known Chief Judge Garland for more than 20 years. I have actually worked for him at the Justice Department when we both worked for the Deputy Attorney General of the United States. I was fresh out of law school, but even then Judge Garland's humility, work ethic, and commitment to the rule of law inspired me and continue to inspire me.

Our meeting last week confirmed what I already know. Judge Garland is an intelligent and pragmatic judge who is extraordinarily well-qualified to serve on the Supreme Court. I have wondered whether that is the reason the majority is not holding hearings. They could simply hold the hearings and vote against Judge Garland, which is their prerogative. Why not hold hearings? Maybe they know that the American people, given the opportunity to hear directly from Judge Garland, would see that he is precisely the type of judge who should serve on the Court.

A vacancy on the Supreme Court is a rare thing. It doesn't come around very often. For those of us in this country, whether we are in the Senate or in a classroom somewhere, those vacancies, hearings, and debates on the floor present an unparalleled opportunity—a remarkable opportunity—for the American people to engage in a debate about the Court, the Constitution, and all kinds of issues that the Court will consider. That is what these hearings are about. That is what could be going on this summer during this Presidential election year, and we would have a discussion about where we want to head as a country. We are not having it. We are not having it because of this unprecedented action.

Because of what the majority has done here, by not meeting with the nominee or holding a hearing, they are denying him the opportunity to make his case to the American people. In the meantime—and this is really critical—the Court will continue to be impaired. Impaired is the word that Justice Scalia himself used when he was asked to recuse himself from a case involving Dick Cheney, then the Vice President of the United States. In that case, he was asked if there would be a presumption of recusal. Justice Scalia's answer