The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table and the President will be immediately notified of the Senate's action.

RECESS

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

Thereupon, the Senate, at 12:33 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

The PRESIDING OFFICER. The majority leader.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

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

The motion was agreed to.

MOTION TO PROCEED TO EXECUTIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Executive Calendar No. 33, the nomination of Neil Gorsuch to be Associate Justice of the Supreme Court of the United States, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Georgia (Mr. ISAKSON).

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—55

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

NAYS—44

Baldwin	Cardin	Duckworth
Blumenthal	Carper	Durbin
Booker	Casey	Feinstein
Brown	Coons	Franken
Cantwell	Cortez Masto	Gillibrand
Harris	Menendez	Shaheen
Hassan	Merkley	Stabenow
Heinrich	Murphy	Tester
Hirono	Murray	Udall
Kaine	Nelson	Van Hollen
King	Peters	Warner
Klobuchar	Reed	Warren
Leahy	Sanders	Whitehouse
Markey	Schatz	Wyden
McCaskill	Schumer	

NOT VOTING—1

Isakson

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Neil M. Gorsuch, of Colorado, to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before I start, I ask unanimous consent that the debate time on the nomination of Judge Gorsuch during Tuesday's session of the Senate be divided as follows: the time until 3:30 p.m. be under the control of the chairman of the Judiciary Committee; the time from 3:30 p.m. until 4:30 p.m. be under the control of the minority; the time from 4:30 p.m. until 5:30 p.m. be under the control of the majority; the time from 5:30 p.m. until 6:30 p.m. be under the control of the minority; and finally, that the time from 6:30 p.m. until 6:45 p.m. be under the control of the majority.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, today we will continue to debate the nomination of Judge Neil M. Gorsuch to serve as Associate Justice of the Supreme Court of the United States.

The Judiciary Committee held four full days of hearings last month. The judge testified for more than 20 hours. He answered more than 1,000 questions during his testimony and hundreds more questions for the record. We have had the opportunity to review the 2,700 cases he has heard, and we have had the opportunity to review the more than 180,000 pages of documents produced by the Bush Library and the Department of Justice. Now, after all of this, my Democratic colleagues unfortunately appear to remain committed to what they have been talking about for a long period of time: filibustering the nomination of this very well qualified jurist.

Even after all of this process, there is no attack against the judge that sticks. In fact, it has been clear since before the judge was nominated that some Members in the Democratic leadership would search desperately for a reason to oppose him.

As the minority leader said before the nomination: ''It's hard for me to imagine a nominee that Donald Trump would choose that would get Republican support that we could support.'' That is the end of the quote from the minority leader.

He said later, and I will continue to quote him: ''If the nominee is out of the mainstream, we'll do our best to hold the seat open.''

Then the President nominated Judge Gorsuch. This judge is eminently qualified to fill Justice Scalia's seat on the Supreme Court, and there is no denying that whatsoever.

Let me tell you some things about him. He is a graduate of Columbia University and Harvard Law School. He earned a doctorate in philosophy from Oxford University and served as a law clerk for two Supreme Court Justices.

During a decade in private practice, he earned a reputation as a distinguished trial and appellate lawyer. He served with distinction in the Department of Justice. He was confirmed to the Tenth Circuit Court of Appeals by a unanimous voice vote in this body.

The record he has built during his decade on the bench has earned him the universal respect of his colleagues both on the bench and the bar. This judge is eminently qualified to do what the President appointed him to do.

Faced with an unquestionably qualified nominee, my friends on the other side of the aisle, my Democratic colleagues, have continually moved the goalpost, setting test after test for this judge to meet. But do you know what? This judge has passed all of those tests, all with flying colors, so the people on the other side of the aisle—the Democrats in the minority—are left with a ''no'' vote in search of a reason.

Let's go through some of their arguments. First, the minority leader announced that the nominee must prove himself to be a mainstream judge. Is he a mainstream judge or not? Well, consider his record: Judge Gorsuch has heard 2,700 cases and written 240 published opinions. He has voted with the majority in 99 percent of the cases, and 97 percent of the cases he has heard have been decided unanimously. Only one of those 2,700 cases was ever reversed by the Supreme Court, and it happens that Judge Gorsuch did not write the opinion.

Then consider what others say about him. He has been endorsed by prominent Democratic members of the Supreme Court bar, including Neal Katyal, President Obama's Acting Solicitor General. This Acting Solicitor General wrote a New York Times op-ed entitled ''Why Liberals Should Back Neil Gorsuch.'' Mr. Katyal wrote: ''I have no doubt that if confirmed, Judge Gorsuch would help to restore confidence in the rule of law.''

He went on to write that the judge's record ''should give the American people confidence that he will not compromise principle to favor the President who appointed him.''

Likewise, another well-known person, David Frederick, a board member

of the liberal American Constitution Society, says we should ''applaud such independence of mind and spirit in Supreme Court nominees.''

So after hearing what people on both the right and the left have said about the judge, it is clear that he is ''mainstream,'' but the goalpost seems to move. Next we hear that the judge doesn't care about the ''little guy'' and, instead, rules for the ''big guy.''

First of all, that is a goofy argument. Just ask liberal law professor Noah Feldman. If you ask Professor Feldman, he says this criticism is a ''truly terrible idea'' because ''the rule of law isn't liberal or conservative—and it shouldn't be.''

The strategy on this point became clear during our hearing: Pore through 2,700 cases, cherry-pick a couple where sympathetic plaintiffs were on the losing end of the legal argument, then find a reason to attack the judge for that result, and then, because of that case or two, label him ''against'' the little guy. As silly as that argument is, the judge himself laid waste to that argument during the hearing when he rattled off a number of cases where the so-called little guy came out on the winning end of the legal argument of a case.

At any rate, as we discussed at length during his hearings, the judge applies the law neutrally to every party before him, and that is what you expect of judges.

I disagree with some of my colleagues who have argued that judging is not just a matter of applying neutral principles. I think that view is inconsistent with the role our judges play in our system and, more importantly, with regard to the oath they take. That oath requires them to do ''equal right to the poor and the rich'' and to apply the law ''without respect to persons.'' Naturally, this is what it means to live under the rule of law, and this is what our nominee has done during his decade on the bench of the Tenth Circuit Court of Appeals. So the judge applies the law ''without respect to persons,'' as he promised in his first oath he would, and he will repeat the oath when he goes on the Supreme Court.

Then, of course, as they move these goalposts, the judge has been criticized for the work he did on behalf of his former client, the U.S. Government, when he was at the Justice Department.

Of course, we have had a lot of nominees over many years who have worked as lawyers in the government. Most recently, Justice Kagan worked as Solicitor General. As we all know, she argued before the Supreme Court that the government could constitutionally ban pamphlet material. That is a fairly radical position for the U.S. Government to take. When asked about that argument during her hearing, she said that she was a government lawyer making an argument on behalf of her client, the U.S. Government, and it had nothing to do with her personal views on the subject. Now, there is a whole different standard for some people of this body. That answer is apparently no longer good enough. To hear the other side tell it, government lawyers are responsible for the positions their client, the U.S. Government, takes and the positions they have to argue. I respect my colleagues who are making this argument, but this argument does not hold water.

What, then, are my colleagues on the other side left with after moving these goalposts many times, after making all of these arguments that don't stick? What are they left with? Because they can't get any of their attacks on the judge to stick, all they are left with are complaints about the so-called dark money being spent by advocacy groups. Yes, that is where the goalpost took them—to dark money.

As I said yesterday, that speaks volumes about the nominee, that after reviewing 2,700 cases, roughly 180,000 pages of documents from the Department of Justice and the George W. Bush Library, thousands of pages of briefs, and over 20 hours of testimony before our committee and hundreds of questions both during and after the hearing, all his detractors are left with is an attack on the nominee's supporters—people out there whom the nominee probably doesn't even know. They raise money to tell people about him, which they have a constitutional right to do under the First Amendment freedom of speech.

The bottom line is that they don't have any substantive attacks on this nominee that will stick, so they shifted tactics, yet again moving the goalpost, and are now trying to intimidate and silence those who are speaking out and making their voices heard in regard to this nominee.

Here is the most interesting thing about this latest development: There are advocacy groups on every side of this nomination. There are people out there for him, raising money and spending the money for him, and there are people out there against him who are raising and spending money so people know why they disagree with this nominee. Of course, that is nothing new. That has been true of past nominations, and there is nothing wrong with citizens engaging in the First Amendment freedom of speech and in the process of being for or against and encouraging public debate on whether a person ought to be on the Supreme Court. It was certainly true when liberal groups favoring the Garland nomination poured money into Iowa to attack me last year for not holding a hearing. For that reason, I didn't hear a lot of my Democratic colleagues complain about that money that could well be called dark money as well.

There are groups on the left who are running ads in opposition to this nominee and threatening primaries. They are actually threatening primaries against Democrats who might not tow the line and might not help filibuster this nomination. For some reason, I am not hearing a lot of complaints about the money that is being raised to make some Democrats who might support this nominee look bad.

As I have said, there is nothing wrong with citizens engaging in the process and making their voices heard. This is one of the ways we are free to speak our minds in a democracy. It has been true for a long, long time.

As I said yesterday in the committee meeting, if you don't like outside groups getting involved, the remedy is not to intimidate and try to silence that message; the remedy you ought to follow is to support nominees who apply the law as it is written and then, in turn, leave the legislating to a body elected to make laws under our Constitution—the Senate and the House of Representatives.

Regardless of what you may think about advocacy groups, about their getting involved, there is certainly no reason that they should go to great lengths to talk about this in our committee or talk about it to the nominee because he can't control any of that.

The truth is, the Democrats have no principled reason to oppose this nomination, and those are words from David Frederick that I have quoted before. It is clear instead that much of the opposition to the nominee is pretextual. The merits and qualifications of the nominee apparently no longer matter.

The only conclusion we are left to draw is that the Democrats will refuse to confirm any nominee this Republican President may put forth. There is no reason to think the Democrats would confirm any other judge the President identified as a potential nominee or any judge he would nominate. In fact, we don't even need to speculate on that point because the minority leader has spoken that point and made his point very clear. Before the President made this nomination, he said: ''I can't imagine us supporting anyone from his list.'' So it was very clear from the very beginning that the minority leader was going to lead this unprecedented filibuster. The only question was what excuse he would manufacture to justify it. The nominee enjoys broad bipartisan support from those who know him, and he enjoys bipartisan support in the Senate.

I recognize that the minority leader is under very enormous pressure from special interest groups to take this abnormal step of filibustering a judge, because filibustering the Senate is not unusual but filibustering a Supreme Court Justice is very unusual. I know other Members of his caucus are operating under those very same pressures as well. In fact, yesterday, while the committee was debating the nomination, a whole host of liberal and progressive groups held a press conference outside of the Democratic Senatorial Campaign Committee, demanding that the campaign arm cut off campaign funds for any incumbent Democrat who

doesn't filibuster this nominee. Those groups argue that because the Democratic Senatorial Campaign Committee had already raised a lot of money off the minority leader's announcement that he was going to lead a filibuster, the committee shouldn't provide that money to any Member who refused to join this misguided effort.

Well, all I can say is that it would be truly unfortunate for Democrats to buckle to that pressure and engage in the first partisan filibuster of a Supreme Court Justice nominee in U.S. history—another way to say that is, the first partisan filibuster in the 228-year history of our country since 1789. If they regard this nominee as the first in our history worthy of a partisan filibuster, it is clear they would filibuster anyone.

I have stated since long before the election that the new President would nominate the next Justice and the Judiciary Committee would process that nomination. That is just what we have done through the committee, and now we are doing it on the floor. So I urge my colleagues not to engage in this unprecedented partisan demonstration. Everyone knows the nominee is a qualified, mainstream, independent judge of the very highest caliber. Republicans know it, Democrats know it, and the left-leaning editorial boards across the country prove that even the press knows it. I urge my colleagues on the other side to come to their senses and not engage in the first partisan filibuster in U.S. history and instead join me and vote in favor of Judge Gorsuch's confirmation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. GARDNER. Thank you, Mr. President, for the opportunity to come to the floor today in support of Judge Neil Gorsuch's confirmation to the Supreme Court. As a Coloradan, it gives me great honor to be here to talk about his nomination, the exceptional qualities of Judge Gorsuch, and how he will make us proud from the bench of the U.S. Supreme Court.

I also commend my colleague, Chairman CHUCK GRASSLEY, for his work on the Judiciary Committee presiding over a very fair series of hearings, giving members on both sides of the aisle time to learn about Judge Gorsuch, to question Judge Gorsuch, and the time to present their side of the argument depending on whatever side that was going to be. Because of the fairness of the hearings, because of the fairness with which Chairman GRASSLEY executed the hearings, it is quite obvious that this Chamber is faced with a very exceptional judge, a very exceptional nominee, and a nominee there is really no excuse to vote against.

Neil Gorsuch really is about the story of the West. He is a fourth-generation Coloradan. It is nice to stand here and talk about somebody who shares so much of our western experience and western heritage and somebody who serves on the Tenth Circuit Court in Denver—a circuit court that represents 20 percent of the land mass of the United States.

Neil Gorsuch's background and upbringing in Colorado represent the hard work of westerners. His maternal grandfather, Dr. Joseph McGill, began his adult life by working in Union Station, the main railway terminal in downtown Denver. Dr. McGill put himself through medical school and went on to become a prominent surgeon. His grandmother, Dorothy Jean, raised seven children, all of whom he gave a better life and put through college because of his work in Colorado.

Neil's paternal grandfather, John Gorsuch, was his legal inspiration. After serving in World War I, John Gorsuch put himself through undergrad and law school at the University of Denver by driving a trolley car back in the trolley car days of Denver. John, his grandfather, helped to build a private law practice that focused on real estate law. He made time to help Denver's welfare department and participated in Kiwanis and numerous other civic organizations, building a legendary law firm in Denver known as Gorsuch Kirgis.

This is the kind of upbringing that made Neil Gorsuch who he is. In his younger days, Neil moved furniture, shoveled snow, like so many of us in Colorado, mowed lawns. It was the kind of upbringing that brings grit and determination to any person who knows hard work. It is that work ethic, combined with his family's appreciation of higher education, that helped Neil consistently realize academic excellence. It has been debated on this floor numerous times, his academic credentials that he would bring to the Supreme Court—his background and education at Columbia, law school at Harvard, his Ph.D. at Oxford, and of course, most importantly, the summer he spent at the University of Colorado and the teaching he carries out at the University of Colorado School of Law.

This week, we are going to see a lot of finger-pointing and hear a lot of accusations. We are going to hear a lot of blame. The one thing we may not hear too much about is the person we are debating—Neil Gorsuch. That is because when it comes to Judge Gorsuch, people understand the highly qualified judge that he is. People understand the incredible legal mind he would bring to the Supreme Court. Instead of debating the merits of the nominee, they are going to debate how we got to the place we are today, and by the end of this week, architects of obstruction may force this Chamber to vote along partisan lines on something that should be a bipartisan effort.

In Colorado, if you go to downtown Denver, you will see an area known as Confluence Park. Confluence Park is a great place in Colorado where people go to spend an afternoon and perhaps a weekend on a hot summer's day. It is where two rivers join together. There at Confluence Park, Colorado's poet laureate, Thomas Hornsby Ferril, has a poem inscribed on a plaque, which reads:

> I wasn't here. Yet I remember them, the first night long ago, those wagon people who pushed aside enough of the cottonwoods to build our city where the blueness rested.

It is a poem that reminds us in Colorado that we are always looking up, that we are always looking toward the mountains and to that great blue sky. That is what Neil Gorsuch has done his entire life. He is somebody who is forward-thinking, somebody who understands the optimistic sense of Colorado, who understands the majesty of our West, and who understands the majesty of our form of government—a system that has three separate but equal branches of power. He has led a life that is dedicated to the majesty of our Constitution. He is somebody who understands the pillars of our government in that no one branch of government should gain an unfair advantage over the other. That is what we ought to be debating this week. Instead, we are going to live the consequences of decisions that were made over a decade ago.

It is interesting that Judge Gorsuch serves on the Tenth Circuit Court because one of his fellow judges on the Tenth Circuit Court was nominated by President George Bush in the early part of 2001, 2002, 2003. It was Tim Tymkovich who was nominated by President Bush and who was caught up in the very first round of filibusters that changed the way this Chamber worked on nominations.

It was a calculated determination by some in this Chamber to use a tool that had never been used before in such a lethal, partisan fashion that it would bring down judges and ultimately lead to a corrosion of Senate custom—a corrosion of over 200 years of Senate practice—when it comes to judges' confirmations. Ultimately, this week, we will see whether it leads to the disruption of how we confirm Supreme Court Justices.

Make no mistake about it, over the past 200 years, we have not seen this moment before—a successful partisan filibuster of a Supreme Court Justice. People are going to talk about this around the country as they read the news, as they listen to the radio, as they watch on TV what is happening in the Senate. Most will just wonder, is the nominee qualified? If the nominee is qualified, then why are we trying to have an argument about ''he said, she said'' 15 years ago, 16 years ago? Because the nominee is well qualified, he should be confirmed. Why are we going to change 200 years of Senate practice and custom if the nominee is highly qualified, has what it takes to serve on the Supreme Court? That is the choice Members of this Chamber will have to make over the next several days as we work to confirm Judge Gorsuch.

In 2006 when Judge Gorsuch was confirmed to serve on the Tenth Circuit

Court in Denver, this Chamber did so unanimously by voice vote. There are a dozen Members in this Chamber who served then and did not oppose his nomination, many of whom seem willing today to block his nomination to the Supreme Court.

One thing has changed in the intervening years; that is, who serves in the Presidency, who serves in the White House, who serves as President, and whether that nomination came from a Republican or a Democrat. The nomination, of course, in 2006 came from a Republican. Still, he was confirmed unanimously. Judge Gorsuch, now nominated to serve on the Supreme Court, was appointed by a Republican. Yet those very same people who supported him 11 years ago are now objecting to his service on the High Court after his exemplary decade of service on the Tenth Circuit Court.

It was service that showed Judge Gorsuch's joining in over 2,700 opinions, and with the majority the vast number of times. It was service in which he got to know the Colorado legal community. As we have discussed over the past several days and several weeks and the past month, the people who know Judge Gorsuch the best are the people who served with him and who worked with him at the Department of Justice, who practiced law with him, and who serve in the Colorado legal community. I thought it was important that we spend some time in talking about the people who know Judge Gorsuch the best because I think their opinions matter in this—those of the people of Colorado who want Judge Gorsuch confirmed.

Let me start with a series of quotes from Judge Gorsuch's supporters back home in Colorado—again, those people who know him the best.

This particular quote comes not from a Republican, not from a conservative; this quote comes from Steve Farber, who served in 2008 as the Democratic National Convention cochair. Again, he is not a conservative and he is not a Republican; he was the cochair of the 2008 Democratic National Convention.

> We know Judge Gorsuch to be a person of utmost character. He is fair, decent, and honest, both as a judge and a person.

Steve Farber continues:

> We all agree that Judge Gorsuch is exceptionally well qualified to join the Supreme Court. He deserves an up-or-down vote.

This is not MITCH MCCONNELL who is saying this. It is not CORY GARDNER, Republican Senator from Colorado, who is saying this. This is a very prominent figure in Colorado's legal community and somebody who served in the 2008 Democratic National Convention.

One of those 12 people who supported Judge Gorsuch in 2006 was then-Senator Barack Obama, who was seeking the nomination at Mile High Stadium, at this very convention of which Steve Farber was cochair. Steve Farber says we should confirm Judge Gorsuch with an up-or-down vote.

Norm Brownstein said that Judge Gorsuch deserves a fair shake in the confirmation process. He is another very prominent Democratic lawyer in Denver.

We have heard a lot of people talk about the cases—those 2,700 opinions—that he was a part of. We have heard Senator GRASSLEY talk about arguments against Judge Gorsuch, people who have said that Judge Gorsuch was always against the little guy and that he was siding with corporations.

Here is a quote from a Denver lawyer and Democrat on representing underdogs before Judge Gorsuch:

> [Judge Gorsuch] issued a decision that, most certainly, focused on the little guy.

Why did Marcy Glenn say this? Marcy Glenn said this because she knows that Judge Gorsuch voted with the majority of the court in 99 percent of the cases. In those 2,700 opinions, 99 percent of the time, Judge Gorsuch ruled with the majority. That is not trying to look out for the big guy or the little guy. That is about following the law. That is about a court that recognizes it is not in the business of focus groups or policy preferences, popularity contests or poll testing. It is about a judge who recognizes that the rule of law matters and that you take an opinion where the law leads you and takes you, not where your personal opinion takes you. It was 99 percent of the time that Judge Gorsuch voted to side with the majority on the court, and 97 percent of the time, those rulings were unanimous. Those decisions were unanimous. Of those 99 percent in which he sided with the majority, 97 percent of them were unanimously decided.

This is a judge who is as mainstream as we have seen. He is somebody who understands the obligation and the duty he has to the law. He is somebody who understands what it means to be a good judge.

I want to read a letter Senator BENNET and I received from the Colorado legal community:

> As members of the Colorado legal community, we are proud to support the nomination of Judge Neil Gorsuch to be our next Supreme Court Justice. We hold a diverse set of political views as Republicans, Democrats, and Independents.

That is bipartisan support back home from those people who know the judge the best.

What does Neil Gorsuch think it takes to be a good and faithful judge? I will just read from Judge Gorsuch:

> It seems to me that the separation of legislative and judicial powers isn't just a formality dictated by the Constitution. Neither is it just about ensuring that two institutions, with basically identical functions, are balanced one against the other. To the Founders, the legislative and judicial powers were distinct by nature, and their separation was among the most important liberty-protecting devices of the constitutional design—an independent right of people essential to the preservation of all of the rights later enumerated in the Constitution and its amendments.
>
> Now, consider, if we allow the judge to act like a legislator, unconstrained by the bicameralism and presentment hurdles of Article I, the judge would need only his own voice or those of just a few colleagues to revise the law, willy-nilly, in accordance with his preferences, and the task of legislating would become a relatively simple thing.
>
> Notice too how hard it would be to revise this so easily made judicial legislation to account for changes in the world or to fix mistakes. Being unable to throw judges out of office in regular elections, you would have to wait for them to die before you would have any chance of change. Even then, you would find the change difficult, for courts cannot so easily undo the errors given the weight that they afford to precedent.
>
> Notice, finally, how little voice the people would be left in a government in which life-appointed judges are free to legislate alongside elected representatives. The very idea of self-government would seem to wither to the point of pointlessness. Indeed, it seems that, for reasons just like these, Hamilton explained, that liberty can have nothing to fear from the judiciary alone but that it has everything to fear from the union of the judicial and legislative powers.

That is what Judge Gorsuch said makes a good and faithful judge.

Over the course of the next week or over the course of the next several days, we are going to flesh out in detail some of the decisions people may find they disagree with. We will flesh out in detail Judge Gorsuch's temperament and his performance at the committee hearings. Yet there is no doubt that Judge Gorsuch has the support of the American people, who believe he should be confirmed. There is no doubt that Judge Gorsuch has the support of people who cochaired the Democratic National Convention and of prominent attorneys who know him best from Colorado. There is no doubt that his is an upbringing from the West. It is the story of how we built the West.

I hope that over the course of the next few days, Republicans and Democrats alike will come to the conclusion that we will do this country a service. Instead of having partisan fights, we will have the bipartisanship support for a judge who will truly make this country proud, a judge who will truly represent the law, not personal opinion.

I thank the Presiding Officer for this opportunity today. I look forward to being here for the rest of the week as we talk about Judge Gorsuch's qualifications and as we talk about the nomination.

More than anything, let's make it clear that for 200-plus years, we have allowed judges to come to this floor for the Supreme Court and to be confirmed by a simple majority—no threshold, no 60-vote requirement. We have done so without partisan filibusters. I think that if we can maintain that custom, that practice, this country will be better served. There is no reason to change two centuries of practice in this body simply because they have decided they do not like the person who made the nomination.

I yield the floor.

The PRESIDING OFFICER (Mr. HOEVEN). Under the previous order, the

time until 4:30 p.m. will be controlled by the Democrats.

The Senator from Hawaii.

Ms. HIRONO. Mr. President, over the next hour, a number of my colleagues and I will join together to speak in opposition to the nomination of Judge Neil Gorsuch to be an Associate Justice of the U.S. Supreme Court. We are joining together today because this nomination is not just about the future of the Supreme Court. It is about the future of our country.

There is no question about Judge Gorsuch's credentials or about his intellect. He is a graduate of Columbia and Harvard and has been a judge on the Tenth Circuit Court for more than a decade. In fact, his credentials are in stark contrast to so many of the dangerously unqualified individuals President Trump appointed to his Cabinet.

Judge Gorsuch should not get a pass simply because we are relieved that President Trump didn't nominate a member of his family or a reality television personality for this job. Credentials cannot and should not be the only points we consider when evaluating a lifetime appointment to the Supreme Court. In fact, we should expect that anyone nominated to the Supreme Court will at least have impressive credentials.

By many accounts, Judge Gorsuch would be the most conservative Justice on the Court—even more conservative than Justice Thomas or Justice Scalia. Rightwing advocacy groups cheered his nomination and have spent over $10 million to support his nomination. They spent this money because they have high confidence that he will rule in their favor on so many of the tough cases that will come before the Supreme Court. These groups, including the Heritage Foundation and the Federalist Society, selected Judge Gorsuch because he meets their litmus test for how they think a Justice should rule. They selected him because they understood Judge Gorsuch clearly met the litmus test the President outlined during his campaign.

To paraphrase, Donald Trump wanted a judge who would prioritize the religious freedom of a corporation over the rights of its employees, uphold an expansive view of the Second Amendment, making it much tougher to enact sensible gun legislation to protect our communities, and who would overturn Roe v. Wade—as Donald Trump put it—automatically.

Judge Gorsuch's credentials are just a starting point. For the people who need justice most urgently, Judge Gorsuch's view of the law and his judicial philosophy will make a world of difference. The working families, women, differently abled, people of color, the LGBTQ community, immigrants, students, seniors, and our Native peoples are the people who will be impacted by the decisions a Justice Gorsuch would make.

Today, April 4, is Equal Pay Day, which means that it took women until today to make the same amount that men made in 2016. Women have had to work more than 3 months longer to catch up, on average, to men.

This significant pay disparity has existed for centuries, but it has been illegal in the United States since the passage of the Equal Pay Act in 1963. Proving illegal pay disparity under this law has been challenging, as we all know.

Nationally, women are paid only 79 cents for every dollar a man is paid. In Hawaii, women are paid only 82 cents for every dollar a man makes. That is a little better than the rest of the country, but it is in no way good enough.

At the median salary, that 82 cents translates into about $8,000 less per year in wages for a woman in Hawaii. That is a lot of money in my State, where the high cost of living makes it even more difficult for working families to get ahead—not to mention that many working families in Hawaii, as well as in other States, are headed by women. My immigrant family was headed by my mother.

As we mark Equal Pay Day, I am well aware of the tremendous impact a single Justice can have on the lives and rights of millions of Americans.

Under Chief Justice John Roberts, the Supreme Court has issued numerous 5-to-4 decisions that have favored corporate interests over the rights of individuals—cases like Shelby County, Citizens United, and Hobby Lobby.

One of the most deeply flawed of these 5-to-4 decisions was in a 2007 case called Ledbetter v. Goodyear Tire & Rubber Co. That decision had the effect of denying justice to a woman who had suffered pay discrimination for more than a decade. The Court said, in effect, that because Lilly Ledbetter didn't learn of the pay discrimination until it was too late, our justice system could not help her.

Put another way, under the ruling, employers could discriminate against women so long as the employers made sure the women didn't find out about it.

This will not be hard to do, as employers are not likely to announce that they are providing discriminatory pay to their female employees. This is what happened to Lilly Ledbetter. She didn't know.

This decision was deeply wrong and surprised many Court watchers. It undid years of judicial precedent.

I remember learning of this decision in Hawaii. I was serving on the House Education and Labor Committee of the U.S. House of Representatives at that time.

The Supreme Court decision interpreted a Federal law that fell within the jurisdiction of the committee on which I sat. George Miller, then chair of the committee, immediately announced that we would change the law to be interpreted the way it had been before the Court applied their own narrow and wrong interpretation.

We passed the Lilly Ledbetter Fair Pay Act with a Democratic Congress in 2009. Frankly, I doubt a Republican-controlled House and Senate would have done the same. It was the first bill President Obama signed into law. I was there for that bill signing.

Though we could not retroactively help Mrs. Ledbetter, this law reversed the Supreme Court's decision and assured that the injustice she endured did not happen to other women or to anyone else. Clearly, the composition of the Court and the identity of the fifth Justice matters a great deal in the real world—the real world of 5-to-4 decisions.

Yet, during this hearing, Judge Gorsuch refused to even acknowledge the role that judicial philosophy plays in the role of a Justice, and he downplayed the impact the law could have on people's lives, repeatedly saying he merely applied the law.

If Justices merely applied the law and the law was so clear, we wouldn't have so many 5-to-4 decisions in the most critical cases.

Judge Gorsuch told me during our meeting in February that the purpose of title III courts—these are the Federal courts—is to protect minority rights. But I found through examining his writings and decisions that Judge Gorsuch's view of the law lacks an understanding of people, their lives, and how the courts' decisions would impact them.

This was particularly true in examining his ruling in the Hobby Lobby decision, where Judge Gorsuch demonstrated a cavalier attitude about how his decision would impact the thousands of women working at the Hobby Lobby company.

In that case, Judge Gorsuch decided that a corporation with tens of thousands of employees—many of them women—has rights to the exercise of religion protected by the Religious Freedom Restoration Act, and that it could use those rights to deny to the thousands of women in its employ access to contraceptive coverage.

During the hearing, I pressed Judge Gorsuch on whether he considered what would happen to the thousands of women who worked at Hobby Lobby, many of them working paycheck to paycheck who would now be denied access to contraceptive coverage. He responded by saying: ''I gave every aspect of that case very close consideration.''

I fail to see what consideration Judge Gorsuch gave to those female employees. It is certainly not evident in the record.

Justice Ginsburg's dissent, when this case reached the Supreme Court in Hobby Lobby, which Justices Kagan, Sotomayor, and Breyer joined, did assess the real world impact this decision would have on women. Justice Ginsburg wrote: ''The exemption sought by Hobby Lobby and Conestoga would . . . deny legions of women who do not hold their employers' beliefs access to contraceptive coverage.''

In the Tenth Circuit's opinion, which Judge Gorsuch joined, and in his own

concurrence, Judge Gorsuch showed grave concern with the potential ''complicity'' of the Hobby Lobby's owners—these are the corporate owners—in violating their beliefs, but he gave little or no consideration to the compelling interest of these women and the thousands of female employees in having access to contraceptive care.

Judge Gorsuch failed to address our concerns during this hearing. Rather than recognizing the impact of his decision on thousands of women who work at Hobby Lobby and millions more who work at companies all across the country, Judge Gorsuch repeatedly said that if we didn't like what the Court was doing, or what he was doing, then Congress could change the law—as though that is such a simple thing.

This is not an academic exercise. This is about the real world impact, not just of the Hobby Lobby decision but of decisions a Justice Gorsuch would make for the next 25 years, from which there is no appeal.

Judge Gorsuch's nomination raises so many serious concerns for women across the country that I look forward to addressing over the next hour.

During his hearing, Judge Gorsuch told us time and again to focus on his whole record as a judge and not on certain cases or things he wrote in books, articles, or emails.

In fact, my Republican colleagues have suggested that we are being unfair when we try to look at the things he has said and written in order to discern how Judge Gorsuch would approach cases if confirmed. We wanted to get at his heart. We wanted to get at his judicial philosophy.

Some of my colleagues have even gone so far as to suggest that by raising legitimate questions about Judge Gorsuch's record as part of our advice and consent responsibility, we are attacking judges in the same way President Trump has done during his 2½ months in office. This is fundamentally wrong and deeply misleading. It is like comparing apples and oranges. That comparison doesn't begin to describe the difference.

Two weeks ago, in the middle of Judge Gorsuch's confirmation hearing, President Trump renewed his vicious and unwarranted attack on Judge Watson of Hawaii for blocking the President's unconstitutional Muslim ban.

Although I wasn't then in the Senate, I recall that during Justice Sotomayor's confirmation hearing, Republican after Republican ignored almost the entirety of her 25 years on the Federal bench. Instead, they focused, in question after question at her confirmation hearing, on a gross misreading of one speech—one speech—she gave to a group of young women about the value of diversity on the bench.

Republicans on the Judiciary Committee and in the Senate twisted her phrase ''wise Latina.'' That is a term she used in her speech. They twisted her use of the phrase ''wise Latina'' well beyond meaning.

Looking at that speech, it is clear she meant to instill confidence in young women and a sense that they, too, needed to participate in a life of the law; that the law was not—is not—a place that excludes them. Senate Republicans turned these words into a baseless attack to undermine Justice Sotomayor's well-earned reputation of fairly applying the law in thousands of cases that had appeared before her. She had been on the bench for 25 years, but they focused on two words in one speech she gave during that time. Many Republicans then cited that speech to justify their opposition to her nomination.

So when I hear my Republican colleagues touting their fairness toward President Obama's Supreme Court nominee, I recall not just their omitting any mention of Justice Merrick Garland—the well-credentialed, well-respected moderate whom they blocked from even having a hearing—I also remember Justice Sotomayor. I remember my Republican colleagues ignored her unanimously ''well qualified'' rating from the American Bar Association, her long record, and the tremendous chorus from the right and the left supporting her historic nomination.

If confirmed, Judge Gorsuch's decisions will have a profound impact on the country, not just during his time on the Court but for generations to come. This is particularly true for women whose constitutional right to an abortion will be threatened by a Justice Gorsuch. During the Presidential campaign, Donald Trump laid out his litmus test for nominating a Justice. He said, for example, that overturning Roe v. Wade ''will happen automatically, in my opinion, because I am putting pro-life justices on the court.'' That was Candidate Trump's well-articulated litmus test, which he followed through on in his nomination of Judge Gorsuch.

During his hearing, my colleagues and I tried to get a better sense of how and whether Judge Gorsuch would follow the President and uphold this constitutionally protected right. Based on his lack of response, I am skeptical that a Justice Gorsuch would uphold this critical right that generations of women fought to preserve.

In 1992, in Casey, the Supreme Court reaffirmed the core holding of Roe that the right to an abortion is constitutionally protected. The Court held that these decisions are protected because they are among ''the most intimate and personal choices a person makes in a lifetime.''

In his 2006 book on the future of assisted suicide, Judge Gorsuch argued that Casey should be read more as a decision based merely on respect for precedent rather than based on the recognition of constitutional protections for ''personal autonomy'' or for ''intimate or personal'' decisions. When I asked Judge Gorsuch about this, although he recognized that Roe and Casey are precedents of the Supreme Court, he did not go further and acknowledge that the Constitution itself protects the right to make intimate and personal decisions.

In the time since Casey, the Court has relied on the protection for intimate and personal choices to decide many nonabortion cases, such as the Obergefell case, which recognized the right to marriage equality. We need a Justice who understands and respects the importance of this right—that it is the Constitution that provides protections for intimate and personal decisions. Otherwise, I am concerned he will join the Court and chip away at those protections.

Judge Gorsuch said that the judicial robe changes a person. This was another way of telling us to ignore his own strongly held and frequently expressed personal views and, indeed, his judicial philosophy, which he continued to not discuss. Of course, if judicial philosophy didn't matter, Senate Republicans would not have engaged in the unprecedented act of blocking President Obama's nominee Merrick Garland, a well-credentialed, well-respected, moderate nominee, from even having a hearing. They held the seat open to be filled by the next President, preferably, a Republican one.

In Neil Gorsuch, the Republicans got a nominee selected by rightwing organizations that are counting on Judge Gorsuch to rule in accordance with their very conservative views, which put corporate interests over individual rights. That is why, to put it simply, who wears the judicial robe matters.

Just as the Federalist Society and the Heritage Foundation want Judge Gorsuch to wear the robe, the people who come before the bench—the millions of hard-working Americans whose lives will be affected by the Court's decisions—want a Justice who will protect their rights. They want a Justice who will wear the robe that protects their rights.

I note that I am joined by Senator DUCKWORTH of Illinois, and I yield time to her.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. DUCKWORTH. Mr. President, today on Equal Pay Day, we are reminded of the fact that women across the country still make less money for the exact same work as their male counterparts, which is especially problematic for women of color, for whom the gap is even wider. We are also reminded of how vital our court system is to the future of equal opportunity for women in America and to the future of our working families.

The next Supreme Court Justice will enter the Court at a critical moment for women's rights—a moment which could change the course of reproductive rights, voting rights, disability rights, and civil liberties in our Nation for generations to come. So naturally, I, much like my colleagues on the Judiciary Committee, wanted to know how these critical issues fit in Judge

Gorsuch's judicial philosophy. I have serious concerns with his record of failing to protect women's health—granting corporations and healthcare providers leeway to undermine women's access to care. I am also troubled by his rulings on disability rights that would jeopardize access to public education for students with disabilities, which is particularly alarming for the 27 million women in America who live with a disability.

It is personal for me. As an American living with disabilities, my life isn't like those of many of my colleagues in Congress. Getting around can be difficult. I can't always get into restaurants or other public spaces, even here in the Capitol. I have to spend a lot of time planning how to get from one place to another.

I understand that not everyone thinks about these things, and for most of my adult life, I didn't either. But after I became injured in combat in Iraq, I learned how important the protections of laws like the Americans with Disabilities Act and Individuals with Disabilities Education Act are to ensuring that millions of Americans with disabilities can live and thrive with dignity. Without them, Americans like me wouldn't be able to get to work, go to school, hold a job, pay taxes, go shopping, or do any of the things most of us take for granted. That is why I am speaking out today, because it matters deeply to me that our next Supreme Court Justice understand just how vital these protections are for Americans living with a disability. It is not just a disabilities rights issue; it is a civil rights issue.

Similarly, a woman's access to healthcare is also a civil rights issue, and it is an issue that affects every single American. When a woman can't get the care she needs, her family suffers, and when her family suffers, her community suffers and our Nation suffers. That is why I find it so deeply troubling that Judge Gorsuch has time and again actively worked against reproductive justice. In a dissenting opinion, he argued in favor of defunding Planned Parenthood in Utah based on evidence that other judges deemed as false. In the Hobby Lobby case, he made it clear that he favors the religious beliefs of corporations over the rights of women to make their own choices about their bodies.

What is worse, that isn't the only time Judge Gorsuch ruled to put corporate rights over human rights. You may have heard about a case in my home State of Illinois in which Judge Gorsuch ruled in favor of the rights of a trucking company over the rights of an employee in grave danger through no fault of his own. That is deeply troubling to me. He also dissented from a ruling giving a female UPS driver just the opportunity—the opportunity—to prove sex discrimination, and then again on a decision to fine a company that failed to properly train a worker, resulting in that worker's death.

Judge Gorsuch's record makes it very clear that he is willing to elevate large corporations at the expense of everyday Americans, jeopardizing our civil rights. That is why it is so important to me that he explain his judicial philosophy, that he explain to me his view on so many of these critical issues.

But then, during 4 days of hearings before the Judiciary Committee, Judge Gorsuch had the chance to clarify the philosophy behind his past rulings—to explain how his rulings may reveal his judicial philosophy as a Supreme Court Justice. However, instead of addressing these concerns, he dodged these questions—questions on some of the most important issues of our time. He wouldn't even express clearly his views on Roe v. Wade. The American people simply deserve better than that.

Earning a lifetime appointment to the Supreme Court requires much more than a genial demeanor and an ability to artfully dodge questions. It requires honesty in answering even the toughest questions. That is why I cannot vote to confirm Judge Gorsuch.

I take seriously my constitutional responsibility as a U.S. Senator to offer the President my informed consent, and it is clear that Judge Gorsuch has not provided some of the most essential information needed to grant him a lifetime appointment to our Nation's highest Court. Therefore, I am voting no on his nomination and supporting continued debate on the subject because I can't vote for a nominee when so many questions are left unanswered.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Mr. President, I am joined by my colleague from California, Senator HARRIS.

The PRESIDING OFFICER. The Senator from California.

Ms. HARRIS. Mr. President, I thank the Senator from Illinois for her important remarks just now and for her leadership and her friendship to so many of us. She has been an extraordinary hero of mine, personally, and so many of us look to her leadership. So I thank her—and for her speaking on the nomination of Judge Gorsuch.

Across the street from this Chamber stands the U.S. Supreme Court. Above its doors are the words ''Equal Justice Under Law.'' As Senators, we have a solemn responsibility to ensure that every man and woman who sits on that Court upholds that ideal. As a U.S. Senator, I take that responsibility extremely seriously.

Almost two decades after the Supreme Court's landmark ruling in Brown v. Board of Education, I was part of only the second class to integrate the Berkeley, CA, public schools. If the Court had ruled differently, I likely would not have become a lawyer or a prosecutor or a district attorney or the Attorney General of California, and I certainly would not be standing here today as a U.S. Senator.

I know from personal experience just how profoundly the Court's decisions touch every aspect of Americans' lives, and for that reason, I rise to join my colleagues in strong opposition to the nomination of Judge Neil Gorsuch to the U.S. Supreme Court.

As we know, Judge Gorsuch went through 4 days of hearings in front of the Senate Judiciary Committee, and here is what we learned: We learned that Judge Gorsuch refused to answer the most basic of questions. He initially even refused to share his views on Brown v. Board of Education. We learned that Judge Gorsuch has a deeply conservative worldview. And we learned that Judge Gorsuch interprets the law in a theoretical bubble, completely detached from the real world—as he puts it, ''focusing backward, not forward.'' If Judge Gorsuch joins the U.S. Supreme Court, his narrow approach would do real harm to real people, especially the women of America.

America deserves a Supreme Court Justice who will protect a woman's right to make her own decisions about her own health. Judge Gorsuch will not. Judge Gorsuch carefully avoided speaking about abortion, but he has clearly demonstrated a hostility to women's access to healthcare.

Last year, when the court he sits on sided with Planned Parenthood, Judge Gorsuch took the highly unusual step of asking the court to hear the case again.

Judge Gorsuch determined that a 13,000-person, for-profit corporation was entitled to exercise the same religious beliefs as a person. That meant the company did not have to provide employees birth control coverage and could impose the company's religious beliefs on all of its female employees. I ask my colleagues, why does Judge Gorsuch seem to believe that corporations deserve full rights and protections but women don't?

As we mark Equal Pay Day today, Americans deserve a Supreme Court Justice who will protect the rights of women in the workplace. Judge Gorsuch won't. In employment discrimination cases, Judge Gorsuch has consistently sided with companies against their employees. These employees include women like Betty Pinkerton. The facts of the case were undisputed. Her boss repeatedly asked her about her sexual habits and breast size and invited her to his home—then fired her when she reported his sexual harassment. Judge Gorsuch ruled against Betty. Why? Well, part of his justification that he offered was that she waited 2 months before reporting the harassment.

Americans deserve a Supreme Court Justice who upholds the rights of all women, including transgender women. Judge Gorsuch won't. When a transgender inmate claimed that the prison's practice of starting and stopping her hormone treatment was a violation of her rights, Judge Gorsuch disagreed.

As the National Women's Law Center observed, his ''record reveals a troubling pattern of narrowly approaching the legal principles upon which everyday women across the Nation rely.'' They write that his appointment ''would mean a serious setback for women in this country and for generations to come.''

But judging by his record, if Judge Gorsuch becomes Justice Gorsuch, women won't be the only ones facing setbacks. Take Luke, a young boy with autism whose parents sought financial assistance after switching him from public school to a school specializing in autism education. Judge Gorsuch ruled that the minimal support Luke received in public school was good enough. People in the autism community were up in arms. And in the middle of a Senate hearing 2 weeks ago, the Supreme Court unanimously ruled that Judge Gorsuch was wrong on the law.

Consider Alphonse Maddin. Maddin was a trucker who got stuck on the road in subzero temperatures—minus 27 degrees, as he recalls—and abandoned his trailer to seek help and save his life. For leaving the trailer, he was fired. Judge Gorsuch wrote that the company was entitled to fire Maddin for not enduring the cold and for not staying in his freezing truck.

Then there is Grace Hwang, a professor diagnosed with cancer. She sued when her university refused to provide the medical leave her doctor recommended. Judge Gorsuch called the university's decision ''reasonable'' and rejected her lawsuit. Sadly, Grace died last summer.

Judge Gorsuch has Ivy League credentials, but his record shows he lacks sound judgment to uphold justice. He ignores the complexities of human beings—the humiliating sting of harassment, the fear of a cancer patient or a worker who feels his life is in danger. In short, his rulings lack a basic sense of empathy. Judge Gorsuch understands the text of the law, to be sure, but he has repeatedly failed to show that he fully understands those important words: ''equal justice under law.'' For the highest Court in the land, I say, let's find someone who does.

I yield the floor.

The PRESIDING OFFICER (Mr. STRANGE). The Senator from Hawaii.

Ms. HIRONO. Mr. President, I thank my colleague from California, Senator HARRIS, for her eloquent and persuasive remarks.

I am now joined by my colleague, the Senator from Massachusetts. I yield to her.

The PRESIDING OFFICER. The Senator from Massachusetts.

Ms. WARREN. Thank you to the Senator from Hawaii for calling us here together today.

Mr. President, it is clear that President Trump's nominee to the Supreme Court, Neil Gorsuch, does not have enough support in the Senate to be confirmed under our rules. When a Supreme Court nominee does not have enough support to be confirmed, the solution is to pick a new nominee, but Republicans in the Senate are threatening to pursue a different path. They are considering breaking the Senate rules to force the nominee onto the Supreme Court anyway.

I will be honest. I think it is crazy that we are considering confirming a lifetime Trump nominee to the Supreme Court at a moment when the President's campaign is under the cloud of an active, ongoing FBI counterintelligence investigation that could result in indictments and appeals, that will go all the way to the Supreme Court, so that Trump's nominee could be the deciding vote on whether Trump or his supporters broke the law and will be held accountable. That is nuts. I believe we should tap the brakes on any nominee until this investigation is concluded.

But even if none of that were happening, I would still oppose the confirmation of Neil Gorsuch. My objection is based on Judge Gorsuch's record, which I have reviewed in detail. Judge Gorsuch's nomination is the latest step in a long political campaign by rightwing groups and their billionaire backers to capture our courts.

Over the last 30 years, as the rich have gotten richer and working families have struggled to make ends meet, the scales of justice have been weighted further and further in favor of the wealthy and the powerful. Those powerful interests have invested vast sums of money into reshaping the judiciary, and their investment has paid off in spades. Recent Supreme Court decisions have made it easier for corporate giants that cheat their customers to avoid responsibility. Recent Supreme Court decisions have let those same corporations and their billionaire investors spend unlimited amounts of money to influence elections and manipulate the political process. Recent Supreme Court decisions have made it easier for businesses to abuse and discriminate against their workers.

Giant corporations and rightwing groups have notched a lot of big wins in the Supreme Court lately, but they know their luck depends on two things—first, stacking the courts with their allies, and second, stopping the confirmation of judges who don't sufficiently cater to their interests. That is part of the reason they launched an all-out attack on fair-minded mainstream judges—judges like Merrick Garland, a thoughtful, intelligent, fair judge to fill the open vacancy on the Supreme Court.

These very same corporate and rightwing groups handed Donald Trump a list of acceptable people to fill the Supreme Court vacancy, and as a Presidential candidate, he promised to pick a Justice from their list. Who made it onto that rightwing list? People who, unlike Judge Garland, displayed a sufficient allegiance to their corporate and rightwing interests. Judge Gorsuch was on that list, and his nomination is their reward.

Even before he became a Federal judge, Judge Gorsuch fully embraced rightwing, pro-corporate views. He argued that it should be harder, not easier, for shareholders who got cheated to bring fraud cases to court.

On the bench, Judge Gorsuch's extreme views meant giant corporations could run over their workers. In Hobby Lobby, when he had to choose between the rights of corporations and the rights of women, Judge Gorsuch chose corporations. In consumer protection cases, when he had to choose between the rights of corporations and the rights of the consumers they cheated, Judge Gorsuch chose corporations. In discrimination cases, when he had to choose between the rights of corporations and the rights of employees who had been discriminated against, Judge Gorsuch chose corporations. Time after time, in case after case, Judge Gorsuch showed a remarkable talent for creatively interpreting the law in ways that benefited large corporations and that harmed working Americans, women, children, and consumers.

When it comes to the rules that prevent giant corporations from polluting our air and our water, from poisoning our food, from cheating hard-working families, Judge Gorsuch believes that it should be easier, not harder, for judges to overturn those rules—a view that is even more extreme than that of the late Justice Scalia.

Republicans assert that Judge Gorsuch is a fair, mainstream judge, but rightwing groups and their wealthy, anonymous funders picked him for one reason: because they know he will be their ally. And that is not how our court system is supposed to work. Judges should be neutral arbiters, dispensing equal justice under law. They should not be people handpicked by wealthy insiders and giant corporations.

For the working families struggling to make ends meet, for people desperately in need of healthcare, for everyone fighting for their right to vote, for disabled students fighting for access to a quality education, for anyone who cares about our justice system, there is only one question that should guide us in evaluating a nominee to sit on any court: whether that person will defend equal justice for every single one of us. Judge Gorsuch's record answers that question with a loud no.

Republicans have a choice. They can tell President Trump to send a new nominee—a mainstream nominee who can earn broad support—or they can jam through this nominee. If they do jam through Judge Gorsuch, the Republicans will own the Gorsuch Court and every extreme 5-to-4 decision that comes out of it. Republicans will own every attack on a woman's right to choose, on voting rights, on LGBTQ rights, on secret spending in our political system, and on freedom of speech and religion. Republicans will be responsible for every 5-to-4 decision that

throws millions of Americans under the bus in order to favor the powerful, moneyed few who helped put Judge Gorsuch on the bench.

Right now, the Presidency is in the hands of someone who has shown contempt for our Constitution, contempt for our independent judiciary, contempt for our free press, and contempt for our moral, democratic principles. If ever we needed a strong, independent Supreme Court with broad public support—a Supreme Court that will stand up for the Constitution—it is now.

If ever there were a time to say that our courts should not be handed over to the highest bidder, it is now. And that is why Judge Gorsuch should not be confirmed to sit on the Supreme Court of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Mr. President, I thank my colleague from Massachusetts for her impassioned, well-reasoned, persuasive remarks.

All too often, Judge Gorsuch fixates on what we call the plain meaning of a word in the law and decides on his own meaning that he would give to that word. Sometimes he will resort to the Dictionary Act or Webster's dictionary to ascertain what he would consider the plain meaning of the law, but what he doesn't do time and again in very important cases that impact lots of lives is that he doesn't look to the context or the purpose of the law, to the point where sometimes his decisions are just bizarre and lack common sense.

There was a reference made to the TransAm Trucking case where the truckdriver was in freezing weather. The brakes on his truck were not working properly, so he faced the choice of freezing to death or doing something about it but then risking being fired. So he did something about it. He got fired.

Judge Gorsuch, in his reading—a very, very narrow reading of a word in the applicable provisions—deemed that his firing was correct. He was asked by Senator FRANKEN at the hearing: What would you have done if you had been in that situation? There you are, you are about to freeze to death, and you have a truck that is not operable in a safe way unless you unhook the attachment to it. What would you have done?

Judge Gorsuch basically said: I don't know what I would have done. I was not in his shoes.

What any of us would have said—of course we would have done what the truck driver did. But in his very narrow reading of the words of the applicable provision, he came to the decision he did. That is why he could not respond to Senator FRANKEN.

It is particularly important that Judge Gorsuch explain to us how he would approach these kinds of cases. It is particularly important in what I would describe as remedial legislation, such as the Individuals with Disabilities Education Act, better known as IDEA. This is remedial legislation that protects the educational rights of special needs children. That is the population for which this law was enacted.

Judge Gorsuch had a case before him, and it was referred to by my colleague from California. A young boy was not getting the kind of educational opportunities that he should have gotten under IDEA, but Judge Gorsuch read that remedial legislation, which should be broadly interpreted to protect the class and the group that the law was passed to help—he read it very, very narrowly.

He said that the school needed only to provide ''merely de minimus'' education for this child. He put in the words ''merely de minimus'' effort on the part of the school to provide this young boy with educational opportunities. That was bad enough, but Judge Gorsuch added the word ''merely.'' So during the time of his hearing, the Supreme Court, in a related—basically the same law, IDEA, was at issue—and the Supreme Court, while we were having the hearing on Judge Gorsuch's nomination, unanimously overturned Judge Gorsuch's standard of ''merely de minimus.'' Even the Roberts Court found Judge Gorsuch's standard of review too limiting and too narrow.

So the young boy in question—his father testified at the confirmation hearing. I asked him what he was thinking as the decision of Judge Gorsuch came down. He said he knew that this decision would negatively affect hundreds and hundreds of special needs children all across our country.

This is why I sought assurance from Judge Gorsuch that he would be the kind of Justice who understands, as he told me when I met with him, that the purpose of title III, which are the Federal courts, is to protect the rights of minorities. So I wanted reassurance from Judge Gorsuch during his hearing. I tried time and again to get a sense of his heart, what his judicial philosophy was. I was looking for the reassurance that he was the kind of judge who understands the importance of assuring that victims of discrimination cannot only ask for but can also receive protections from the courts and who demonstrates a commitment to the Constitutional principles that protect the rights of women to make the intimate and personal decisions of what to do with their own bodies.

Mr. President, I note that I am joined by my colleague from Washington State, Senator MURRAY. I yield to her.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

I thank my colleague from Hawaii for her really important statement on this. I come to the floor today to express my serious concerns, along with other women from the Senate, about the nomination of Judge Neil Gorsuch for the Supreme Court, particularly about what it would mean for women across the country today and for generations to come.

Like the overwhelming majority of my Democratic colleagues, I have decided to vote against Judge Gorsuch's nomination, and I will be opposing a cloture motion ending debate. Now, I don't take this decision lightly, but with the future of women's health and rights and opportunity at risk, it is a decision I must make.

The Trump administration has broken nearly every one of its promises, but one it has certainly kept is its promise to turn back the clock on women's progress. It is clear that Republicans in Congress are committed to doing the same. Last week, just a few days ago, Senate Republicans, with the help of Vice President PENCE, overturned a rule that prevents discrimination against family planning providers based on the kinds of services they provide to women. It was shameful and unprecedented.

Now, not missing a beat, Congressional Republicans are already gearing up to attach riders to our coming budget bills in order to cut off access to critical services at Planned Parenthood for millions of patients. There are similar attempts to undermine women's access to healthcare in cities and States nationwide, and more often than we would like, the Supreme Court is going to be the place of last resort for protecting women's hard-fought gains.

If the buck has to stop with the Supreme Court on women's health and rights, I do not want Judge Gorsuch anywhere near the bench. Time and again, Judge Gorsuch has sided with the extreme rightwing and against tens of millions of women and men who believe that in the 21st century, women should be able to make their own choices about their own bodies.

Let me just give you a few examples. When the Tenth Circuit ruled in the case of Burwell v. Hobby Lobby that a woman's boss could decide whether or not her insurance would include birth control, Judge Gorsuch did not just agree; he thought the ruling should have gone further. Judge Gorsuch has argued that birth control coverage included in the ACA as an essential part of women's healthcare—one that has, by the way, benefited 55 million women—is a ''clear burden'' on employers that would not long survive.

When it comes to Planned Parenthood, he has already weighed in on the side of defunding our Nation's largest provider of women's healthcare. What was his reasoning? Judge Gorsuch thought that in light of completely discredited sting videos taken by extreme conservatives, women in the State of Utah should have a harder time accessing the care they need. I should note that just last week, the makers of those false videos received 15 felony charges.

I also want to be clear, as well, about what Judge Gorsuch's nomination could mean for a woman's constitutionally protected right to safe, legal

abortion services under the historic ruling in Rowe v. Wade, which was just reaffirmed last summer by this Court. In his nomination hearings, Judge Gorsuch would not give a clear answer on whether he would uphold that ruling, which has meant so much to so many women and families over the last four decades.

Judge Gorsuch has donated repeatedly to politicians who are dead set on interfering with women's constitutionally protected healthcare decisions. He has even made deeply inaccurate comparisons between abortion and assisted suicide.

I remember the days before Rowe v. Wade very clearly. I have heard the stories of women faced with truly impossible choices during that time. Women from all across the country have shared those deeply personal experiences because they know what it would mean to go backward.

Lastly, attempts to control women's bodies are not always about reproductive rights. Sure enough, Judge Gorsuch is on the wrong side here as well. He concurred in a ruling against a transgender woman who was denied regular access to hormone therapy while she was in prison. This ruling rejected the idea that under our Constitution, denying healthcare services is cruel and unusual punishment. That is not the kind of judgment I want to see on the bench, and I think most families would agree.

Families who have already done so much to lead the resistance against this administration and its damaging, divisive agenda are fighting this nomination as hard as they can. They know the Trump Presidency will be damaging enough for 4 years, but Judge Gorsuch's nomination will roll back progress for women over a lifetime.

I am proud to stand with them and do everything I can to make sure they are heard loud and clear here in the Senate. I oppose Judge Gorsuch's nomination in light of everything it would mean for women.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Mr. President, I thank my colleague, Senator MURRAY, our assistant Democratic leader, for her continuing, longstanding leadership on behalf of women and families in our country.

Over the past hour, my colleagues and I have laid out a fair case against confirming Judge Gorsuch to the U.S. Supreme Court. As we approach a vote on his confirmation, I encourage my colleagues to scrutinize Judge Gorsuch's judicial philosophy, even as he refused to outline for us or describe for us what that philosophy is. But we have come to certain conclusions based on 4 days of hearings. During his hearing, Judge Gorsuch refused, as they say, time and again to answer our questions on his judicial philosophy or his approach to the law. He insisted that he was merely a judge, as if the use of the word ended any discussion or scrutiny of his record.

Judge Gorsuch painted a picture for us of the Court that is really straight out of a Norman Rockwell painting. He said during his hearing: ''One of the beautiful things about our system of justice is that any person can file a lawsuit about anything against anyone at any time . . . and a judge, a neutral and fair judge, will hear it.''

Norman Rockwell painting—it is a wonderful idea that anybody can file a claim to protect their rights or interests. It is also a wonderful idea to assume that those claims will be heard and ruled upon by neutral judges, apparently uninfluenced by their own strongly held and frequently expressed personal views and judicial philosophy.

Many of my Republican colleagues have echoed this view and argued that Judge Gorsuch's credentials should be enough—Columbia, Harvard. They argue that it is wrong or even unfair to question how Judge Gorsuch might approach the kinds of difficult issues that come before the Supreme Court.

Of course, if judicial philosophy did not matter, then the Republicans would not have engaged in the unprecedented act of blocking President Obama's nominee—as I mentioned, Merrick Garland, a well-credentialed, well-respected moderate nominee—from even having a hearing. In fact, many of the Republican Senators did not even extend the courtesy of meeting with Judge Garland. They would not have held the seat open to be filled by the appointee of a Republican President, one selected for him by rightwing organizations.

When my colleagues and I asked Judge Gorsuch about his judicial philosophy, he said that his words, his views, his writings, and his clearly expressed personal views had no relevance to what he would do as a Justice. He told us to look at his whole record, so I examined his whole record. I saw in that record too little regard for the real-world impact of his decisions. I saw a refusal to look beyond the words to the meaning and intent of the law, even when his decisions lacked common sense, as in the frozen truck driver case, and far too often, to the benefit of big corporations and against the side of the little guy.

The decisions of judges have real-world impacts for millions of people beyond the parties in a particular case. This is especially true of the Supreme Court, which issues decisions that don't just reach those in the case in front of them—the frozen trucker, the women who work at Hobby Lobby faced with a lack of critical healthcare, the special needs child entitled to educational opportunities under the IDEA. The Supreme Court does not just interpret laws; the Supreme Court shapes our society.

Will we be just? Will we be fair? Will America be a land of exclusivity for the few or land of opportunity for the many? Will we be the compassionate and tolerant America that embraced my mother, my brothers, and me so many decades ago when we immigrated to this country? These values seem too often absent from Judge Gorsuch's record and from his view of the law and the Court.

The central question for me in looking at Judge Gorsuch and his record and listening carefully through 4 days of hearings was whether he would be a Justice for all of us, not just one for some of us. I came to the conclusion that he would not be a Justice for all of us, so I oppose his nomination.

I yield the floor.

The PRESIDING OFFICER (Mr. JOHNSON). Under the previous order, the time until 5:30 p.m. will be controlled by the majority.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I have several of my colleagues on this side of the aisle who want to speak, but I just want to take a minute and a half or so to clarify some things I have heard from the other side that need to be counteracted.

First of all, I don't know whether they mentioned the term ''Ginsburg rule,'' but we do have this Ginsburg rule that was set out a long time ago when Judge Ginsburg came before the Senate for her confirmation. She said that you can't comment on things that might come before the Court because obviously you would be violating judicial ethics. Then I will comment on some things people have said about Brown v. Board of Education.

The very fact that Judge Gorsuch has declined to offer his opinion on legal issues that are likely to come before the Supreme Court demonstrates what we should all expect of him: his judicial independence. That is what we expect of every judge. The judge's decision not to offer his opinion on issues that may come before him is consistent with judicial ethics rules and is consistent with what I have referred to already as the Ginsburg rule or the Ginsburg standard, which all Supreme Court nominees in recent memory have followed. As Justice Ginsburg said, commenting on these issues is not fair to parties who might come before the Court in future years. That is what Judge Gorsuch said as well.

Questions to this end are nothing more than an attempt to compromise the judge's independence, and he showed us that he wasn't going to have his independence compromised because he is going to do what judges should do: look at the facts of a case, look at the law, and make those decisions based only on that and send no signals whatsoever ahead of time of how he might view something.

Along these lines, my colleagues said that the judge should have announced that he agreed with the ruling in Brown v. Board of Education but didn't offer enough information about this opinion in an appropriate discussion of precedent.

I will quote our nominee. He said this: ''Senator, Brown v. Board of Education corrected an erroneous decision, a badly erroneous decision, and vindicated a dissent by the first Justice Harlan in Plessy v. Ferguson, where he correctly identified that separate to advantage one race can never be equal,'' end of the quote of our nominee. So the judge spoke about precedent very appropriately. He answered our questions in a manner consistent with his obligations and with past nominees.

One more point. I keep hearing complaints that the judge won't make a commitment to follow Roe v. Wade, but my colleagues' requests really boil down to a quest for a promise to reach results that they want. They demand adherence to Roe v. Wade on the one hand and a promise to overrule Citizens United on the other hand, as examples. Asking the judge to make commitments about precedent is inappropriate. I have said this so many times, and my colleagues will repeat it many times as well. It compromises the judge's independence.

Instead of being beholden to the President, my colleagues would have the judge be beholden to them. This nominee isn't going to be beholden to a President, and he is not going to be beholden to any Senator because if he did that, he would be compromising his views.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, 2 months ago, the President nominated Judge Neil Gorsuch, a judge on the Tenth Circuit Court of Appeals, to the Supreme Court. This week, we will be voting on his confirmation.

I want to say that I am grateful to my colleague, the senior Senator from Iowa, for his leadership during this process and for getting this nomination to the floor. We are fortunate to have him as chairman of the Judiciary Committee.

We have before us a supremely qualified candidate for the Supreme Court. Judge Gorsuch has a distinguished resume. He is widely regarded as a brilliant and thoughtful jurist. Most importantly, however, he is known for his impartiality and his absolute commitment to the rule of law. Judge Gorsuch understands that the job of a judge is to apply the law as it is written—and here is the fundamental thing—even when he disagrees with it.

''A judge who likes every outcome he reaches is very likely a bad judge.'' Judge Gorsuch has said that more than once. Why? Because a judge who likes every outcome he reaches is likely making decisions based on something other than the law. That is a problem because there is no such thing as equal protection or equal justice when judges make decisions based on their personal feelings about a case instead of based upon the law. A judge's job is to apply the law as it is written, whether he likes the result or not. Judge Gorsuch understands this.

A lot of people from across the political spectrum have spoken up in favor of Judge Gorsuch's nomination, and one thread that runs through their comments is their confidence that they can trust Judge Gorsuch to apply the law as it is written.

Here is what Neal Katyal, an Acting Solicitor General for President Obama, had to say about Judge Gorsuch:

> I have no doubt that if confirmed, Judge Gorsuch would help to restore confidence in the rule of law. His years on the bench reveal a commitment to judicial independence—a record that should give the American people confidence that he will not compromise principle to favor the president who appointed him.

A former law partner and a friend of Judge Gorsuch's—a friend who describes himself as ''a longtime supporter of Democratic candidates and progressive causes''—had this to say about Judge Gorsuch:

> Gorsuch's approach to resolving legal problems as a lawyer and a judge embodies a reverence for our country's values and legal system. . . . I have no doubt that I will disagree with some decisions that Gorsuch might render as a Supreme Court justice. Yet, my hope is to have justices on the bench such as Gorsuch . . . who approach cases with fairness and intellectual rigor and who care about precedent and the limits of their roles as judges.''

Again, that is from a self-described ''longtime supporter of Democratic candidates and progressive causes.''

During his years on the bench, Judge Gorsuch has had a number of law clerks. On February 14, every one of Judge Gorsuch's former clerks, except for two who are currently clerking at the Supreme Court, sent a letter on his nomination to the chairman and ranking member of the Senate Judiciary Committee. Here is what they had to say:

> Our political views span the spectrum . . . but we are united in our view that Judge Gorsuch is an extraordinary judge. . . . Throughout his career, Judge Gorsuch has devoted himself to the rule of law. . . . As law clerks who have worked at his side, we know that Judge Gorsuch never resolves a case by the light of his personal view of what the law should be. Nor does he ever bend the law to reach a particular result that he desires.
>
> For Judge Gorsuch, a judge's task is not to usurp the legislature's role; it is to find and apply the law as written. That conviction, rooted in his respect for the separation of powers, makes him an exemplary candidate to serve on the nation's highest court.

Again, that is the unanimous opinion of 39 of Judge Gorsuch's former law clerks whose political views, in their own words, ''span the spectrum.''

E. Donald Elliott, an adjunct professor at Yale Law School, had this to say about Judge Gorsuch:

> Judge Gorsuch's judicial philosophy isn't mine . . . but among judicial conservatives, Judge Gorsuch is as good as it possibly gets. . . . Judge Gorsuch tries very hard to get the law right. He is not an ideologue, not the kind to always rule in favor of businesses or against the government. Instead, he follows the law as best he can wherever it might lead.

I could go on. The voices raised in support of Judge Gorsuch are numerous.

Unfortunately, no amount of testimony in favor of Judge Gorsuch seems to be enough for Democrats. Senate Democrats are apparently determined to oppose Judge Gorsuch despite the fact that they are struggling to find any good reason to justify their opposition.

The Senate minority leader came down to the floor on March 23 to announce his determination to vote against Judge Gorsuch, and he urged his colleagues to do the same. Why? Well, apparently the Senate minority leader is not convinced that Judge Gorsuch ''would be a mainstream justice who could rule free from the biases of politics and ideology.'' That is right. Despite the fact that everyone—liberal and conservative—seems to describe fairness as one of Judge Gorsuch's distinguishing characteristics, the Senate minority leader is not convinced the judge will be able to rule without bias. He is worried that Judge Gorsuch won't be a mainstream judge.

Well, over the course of 2,700 cases on the Tenth Circuit, Judge Gorsuch has been in the majority 99 percent of the time—99 percent. In 97 percent of those 2,700 cases, those opinions were unanimous. I would like the minority leader to explain how exactly a judge who is in the majority 99 percent of the time is out of the judicial mainstream. Is the minority leader trying to suggest that all of the judges on the Tenth Circuit, including the ones appointed by Democrats—which, I might add, is a majority on the circuit—are extremists?

The fact is, Democrat opposition to Judge Gorsuch has nothing to do with his qualifications. Let's just get it out there. I doubt that any of my colleagues on the other side of the aisle really think that Judge Gorsuch is out of the mainstream or that he lacks the qualifications of a Supreme Court Justice. No, the truth is that Democrats are opposing Judge Gorsuch because they are mad that it is not a Democratic President making the nomination. They can't accept that they lost the election, so they are going to oppose any nominee, no matter how qualified.

It is extremely disappointing that Democrats plan to upend a nearly 230-year tradition of approving Supreme Court nominees by a simple majority vote simply because they can't accept the results of an election.

Democrats have no plausible reason to offer for opposing this supremely qualified nominee. I hope that a sufficient number of Senate Democrats will think better of their opposition and vote—when we have that opportunity later this week—to confirm Judge Gorsuch to the Supreme Court.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. KENNEDY. Mr. President, there are, of course, two issues before the Senate with respect to Judge Neil Gorsuch. The first issue is simply, should or should not Neil Gorsuch be confirmed as an Associate Justice to the U.S. Supreme Court? There is also a second issue, and the second issue is, Should the Senate even be allowed to vote?

Those two questions are both important and interrelated. I want to talk about the first one first.

I sit on the Judiciary Committee. We heard last week—2 weeks ago—about 20 hours of testimony from Judge Gorsuch. I think he answered about 200 questions in writing. One of the objections offered by our friends on the other side of the aisle, the Democratic Party, was that Judge Gorsuch refused to answer some of the questions. Now that is just not accurate.

Many of the questions that were asked of the judge by both Republicans and Democrats were fair questions—some of them, not so much.

Judge Gorsuch was asked, in effect: What is your position on abortion? How will you vote?

He was asked: How will you vote on gun control?

He was asked: How would you vote on cruel and unusual punishment, the Eighth Amendment?

He was asked how he would vote on questions dealing with the Tenth Amendment. He didn't answer those questions, and then he was criticized for not answering those questions. He didn't answer those questions because he couldn't. He is a sitting judge of the U.S. Court of Appeals for the Tenth Circuit. Let me read to you canon 3(a)(6) of the Code of Conduct for United States Judges. It states: ''A judge should not make public comment on the merits of a matter pending or impending in any court.''

Let me read you rule 2.10(B) of the American Bar Association Model Code of Judicial Conduct. It provides, and I quote: ''A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the judicial office.''

Now, say what you want about Mr. Gorsuch, but don't criticize him for not violating the oath of his office and not making promises, pledges, or commitments, like a politician, on how he would vote on the U.S. Supreme Court, because Justices are supposed to decide the case on the merits.

As I mentioned, I watched Judge Gorsuch answer questions personally for over 20 hours. He was asked some other questions other than the ones I have referenced, and I was intrigued by some of the questions that Judge Gorsuch was asked. My friends in the Democratic Party kept trying to draw distinctions with Judge Gorsuch between the parties in cases that he had decided. My friends kept talking about the ''big guy,'' the ''little guy,'' the corporation, the consumer, the employer, the employee. The suggestion was made that Judge Gorsuch didn't vote enough for the little guy or little gal, for whatever that means. What struck me when he answered those questions was that we were supposed to be talking about the faithful application of justice. Now, I was taught in law school that Lady Justice is supposed to be blind, that neither the wealth nor the power nor the status of the parties should matter. That is why, in the picture that we see so often of Lady Justice, she is blindfolded. She isn't looking at the parties at all to see whether they are wealthy or not so wealthy. She isn't looking at the parties to see whether they are a corporation or a consumer or what race they are or what gender they are or what part of the country they are from. Lady Justice is supposed to be blind because we are a nation of laws, not men.

Of all the places in our country, an American court of law—and I am very proud of this—is supposed to be the place of last resort, where you can come and get a fair shake. That is how good judges operate. They give everybody a fair shake. A good judge is supposed to make his or her decisions based on the law, not the parties. Good judges are supposed to be impartial—to call it like they see it, to call the balls and strikes—and that is exactly what Neil Gorsuch has done throughout his entire career.

I can promise that, as I sit on the Judiciary Committee, if any President, whether he is a Republican or Democrat, ever brings a nomination before the Judiciary Committee when I am on that committee and that nominee starts talking about the wealth or the status or the power of the parties and how it will influence or not influence his decision, suggesting that will make a difference, I will vote against that nominee—I don't care who nominates him—every single time, because that is not American justice.

We talked about two cases in particular, and the Presiding Officer has probably heard them talked about here on the floor. On the surface they don't seem to be related. Judge Gorsuch ruled in both of these cases, but I think they interact in a very important way. They tell us that he doesn't play politics and he doesn't rule for the big guy just because he is a big guy or the little guy just because he is a little guy.

The first case we heard a lot about was a decision by Judge Gorsuch called TransAm Trucking. You are going to hear a lot about that case. In that case, Judge Gorsuch made a decision that was unfavorable to a trucker, and he ruled in favor of the trucking company—little guy versus big guy. Judge Gorsuch ruled for the big guy, and it is important to know why and to look at the reasoning in that case and not just the result.

During the discussion on the case, Judge Gorsuch made it very clear that he only made that decision because he believed that was what the statute controlling the facts of the case required—a statute that was passed by a legislative body duly authorized by the people that make the law. Unlike our courts, which are supposed to interpret the law, Judge Gorsuch did not decide the case the way he did because he didn't sympathize with the trucker. He decided that case the way he did because he was doing his best to accurately apply the law, as best he understood it, to the facts before him. Once again, that is what is called justice—blind to the parties.

Actually, Judge Gorsuch has explained himself and what he thinks about decisions such as this. He did it in another case that I will talk about in a moment. Judge Gorsuch said:

> Often enough the law can be ''a[n] ass—a[n] idiot''—
>
> Quoting, of course, Charles Dickens—
>
> and there is little we judges can do about it, for it is (or should be) emphatically our job to apply, not rewrite, the law enacted by the people's representatives. Indeed, every judge who likes every result he reaches is very likely a bad judge, reaching for results he prefers rather than those the law compels.

Now, that statement came from the second case I referenced. It was a case called A.M. Holmes. In A.M. Holmes, a 13-year-old seventh grader was arrested for fake burping repeatedly in class. The majority said it was OK for him to be arrested and that, when his family sued the police officer, the police officer enjoyed qualified immunity.

Judge Gorsuch dissented. This time he ruled for the little guy, literally and figuratively. Judge Gorsuch said: ''In my opinion, reading the statute passed by the legislature, this young man's family can file this lawsuit because disciplining a 13-year-old 7th grader for fake burping in class by arresting him instead of disciplining him is a bridge too far.''

Now, once again, we had a little guy versus the big guy. This time Judge Gorsuch ruled for the little guy. But again, we have to look beyond the result. Even though he ruled for someone we can all sympathize with, Judge Gorsuch didn't base his decision on that. He based his decision on a good-faith application of the statutes of the facts controlling the case. He applied the law as written by the legislature. That is what legislatures do, and that is what Congresses do. They make the law and judges interpret the law. To be blunt, that is what we want in a judge.

I want a judge. I don't want an ideologue. I am not interested in a judge who will use the judiciary to advance his own personal policy goals. I want a judge who will apply the law as written by the legislature or, in the case of the Constitution, as written by the Framers of the Constitution, as best that judge understands the law, not to try to reshape the law as he wishes it to be.

To just comment about the last question that I raised earlier, again, one

issue is whether or not we should confirm Judge Gorsuch to the Supreme Court, but the second issue is whether the Senate should even be allowed to vote at all. That is what this is all about when you distill it down to its basic essence.

We are going to hear a lot about cloture, and we are going to hear a lot about the nuclear option. But this is what it boils down to: Should we or should we not even be able to be allowed to vote?

Now I understand that reasonable people can disagree. I also understand that unreasonable people can disagree, and everybody in this body has a vote, and we all represent States. There are two Senators from every State—big States and little States—and everybody is entitled to be able to vote his or her conscience. But it is very, very important not only for the American judicial system but for American democracy that the Senate be allowed to vote on Judge Gorsuch.

So to my friends on the other side of the aisle, I would say: Please allow us to vote. You can vote for or against Judge Gorsuch. I will not second-guess your judgment if you act sincerely, and I believe many of my colleagues are sincere. They are wrong, but they are sincere. But please allow the Senate to vote on this nomination. That is why I was sent to Washington.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. COTTON. Mr. President, this week the Senate will fulfill one of our most important responsibilities: advice and consent for a nominee to the Supreme Court. The stakes don't get much higher than a lifetime appointment to a court of final appeal, especially if the court has presumed over the last two generations to take more and more political and moral questions out of the hands of the people.

President Trump has nominated Judge Neil Gorsuch, a distinguished jurist who understands the critical but limited role of the Federal courts in our constitutional system. To my knowledge, no Senator genuinely disputes his eminent qualifications, his judicial temperament, and his outstanding record over the last decade on the Tenth Circuit Court of Appeals.

Indeed, Judge Gorsuch would appear headed toward an easy, noncontroversial confirmation based on the comments by Democratic Senators.

The senior Senator from Colorado introduced Judge Gorsuch at his confirmation hearings with this high praise:

> I have no doubt that . . . Judge Gorsuch has profound respect for an independent judiciary and the vital role it plays as a check on the executive and legislative branches. I may not always agree with his rulings, but I believe Judge Gorsuch is unquestionably committed to the rule of law.

The senior Senator from Indiana recently announced his support for Judge Gorsuch, saying:

> I believe that he is a qualified jurist who will base his decisions on his understanding of the law and is well respected among his peers.

The senior Senator from West Virginia has noted:

> [Judge Gorsuch] has been consistently rated as a well-qualified jurist, the highest rating a jurist can receive, and I have found him to be an honest and thoughtful man.

The junior Senator from North Dakota also praised Judge Gorsuch for his ''record as a balanced, meticulous, and well-respected jurist who understands the rule of law.''

Remember, these admiring statements all come from Democrats, and all of them support an up-or-down vote on confirming Judge Gorsuch.

Even those who oppose Judge Gorsuch used to sing a different tune about the standards for judicial confirmation.

For instance, the senior Senator from California put it best when she said:

> I think, when it comes to filibustering a Supreme Court appointment, you really have to have something out there, whether it's gross moral turpitude or something that comes to the surface.

Speaking of a previous Republican President's nominee, she further said:

> Now, I mean, this is a man I might disagree with. That doesn't mean he shouldn't be on the court.

In fact, President Obama filibustered a Supreme Court nomination while he was a Senator, yet later expressed regret over that decision. He said:

> I think that, historically, if you look at it, regardless of what votes particular Senators have taken, there's been a basic consensus, a basic understanding, that the Supreme Court is different. And each caucus may decide who's going to vote where and what but that basically you let the vote come up, and you make sure that a well-qualified candidate is able to join the bench even if you don't particularly agree with him.

Despite all of this, though, it appears that a radical Democratic minority intends to filibuster Judge Gorsuch's nomination. The minority leader is encouraging this extreme fringe, claiming, ''If Judge Gorsuch fails to earn 60 votes and fails to demonstrate he is mainstream enough to sit on the highest court, we should change the nominee, not the rules.''

I will return later to the minority leader's central and ironic role in all of this. For now, let's take a trip down memory lane so as to understand just how radical this partisan filibuster would be.

No Supreme Court nominee has ever failed because of a partisan filibuster—never, not once, ever—in the 228 years of our venerable Constitution. One nominee, Justice Abe Fortas—to be elevated to Chief Justice—lost one cloture vote in 1968 on a bipartisan basis. He then withdrew under an ethical cloud, but no Supreme Court nominee has ever been defeated by a partisan filibuster.

This historical standard has nothing to do with changes in the Senate rules. The filibuster has been permitted under Senate rules since early in the 19th century. It is not a recent or a novel power. The cloture rule was adopted 100 years ago. In other words, at any point in our history, a Senate minority could have attempted to filibuster a Supreme Court nominee. They had the tools. The rules permitted it. It would have only taken one Senator—just one. Yet it never happened for a simple reason: self-restraint. While written rules are important, sometimes the unwritten rules are even more so. Habits, customs, mores, standards, traditions, practices—these are the things that make the world go round, in the U.S. Senate no less than in the game of life. Our form of self-government depends critically on this form of self-government. Let's reconsider some recent nominees in light of these facts.

Justice Clarence Thomas was probably the most controversial nomination in my lifetime, perhaps ever. He was the subject of a vicious campaign of lies and partisan smears—a ''high-tech lynching'' in his words. He was confirmed in 1991 by a bare majority of 52-to-48. Yet Justice Thomas did not face a filibuster. Not a single Senator tried to block the up-or-down vote on his nomination—not Joe Biden, not Ted Kennedy, not Robert Byrd, not John Kerry—not one. Why? Any one Senator could have demanded a cloture vote, could have insisted on the so-called 60-vote standard and, perhaps, defeated Justice Thomas's nomination, but they did not because they respected two centuries of Senate tradition and custom.

It was likewise with Justice Sam Alito, whose nomination unquestionably shifted the Court's balance to the right in 2006. He, too, received fewer than 60 votes for confirmation—58 to be exact—but he received 72 votes for cloture. Here again, a large, bipartisan majority upheld the Senate tradition and custom against partisan filibusters of Supreme Court nominees. Even Judge Robert Bork, whose name is now used as a verb to mean the ''unfair partisan treatment of a judicial nominee,'' received an up-or-down vote in 1987. Yes, Judge Bork, who only received 42 votes for confirmation, did not face a partisan filibuster.

But let's not stop with Supreme Court nominations. Let's also consider other kinds of nominations so that we can understand just how radical is the Democratic minority's position.

To this day, there has never been a Cabinet nominee defeated by a partisan filibuster—never, not once, ever—in 228 years of Senate history. To this day, there has never been a trial court nominee defeated by a partisan filibuster—never, not once, ever—in 228 years of Senate history. Until 2003—just 14 years ago—there had never been an appellate court nominee defeated by a partisan filibuster.

That is just how strong the custom against filibusters was. It had never successfully happened in 214 years.

From our founding, through secession and civil war, through world wars, no matter how intense the feeling and how momentous the occasion, no matter how partisan the atmosphere, Senators always exercised self-restraint and allowed up-or-down votes on nominees for the Supreme Court, the court of appeals, the trial court, and the Cabinet.

But that changed in 2003, thanks in no small part to the senior Senator from New York, CHUCK SCHUMER, now the minority leader. With the help of leftwing law professors, he convinced extremists and the Democratic caucus to filibuster President Bush's appellate court nominees. For the first time in more than two centuries of the U.S. Senate, a radical minority defeated nominations with a partisan filibuster.

Why did the Senate start down this path? Some point to racial politics and Miguel Estrada, who was one of the most talented appellate litigators of his generation and President Bush's nominee to the DC Circuit. That court is often a proving ground for future Supreme Court nominees, and Mr. Estrada's confirmation might have enabled President Bush to nominate him, subsequently, to the Supreme Court. A Republican President appointing the first Hispanic Justice? Surely, the Democrats couldn't allow that.

Whatever the reason, there can be no doubt that the minority leader has set in motion a chain of events over the last 14 years and has brought us to the point he claims to deplore today. So the Democrats can spare me any handwringing about Senate traditions and customs.

The minority leader and like-minded extremists in the Democratic caucus can also spare us their exaggerated claims of the Republican obstruction of President Obama's judicial nominees. The Democrats, after all, were the ones who broke a 214-year-old tradition specifically to obstruct 10 of President Bush's nominees. Of course, the Republicans followed suit, though I would note that they have filibustered fewer judges over more years in their having been in the minority.

Put simply, the Democrats broke one of the Senate's oldest customs in 2003 so that they could filibuster Republican judges, and they subsequently filibustered more judges than did the Republicans. So it should come as no surprise that the Democrats took an even more radical step in 2013 when they used the so-called nuclear option to eliminate the filibuster for executive branch, trial court, and appellate court nominations. They broke the Senate rules by changing the Senate rules with a bare majority, not the effective two-thirds vote required under those rules.

The radical Democrats will accept no constraints on their will to power—when in power. Whatever it takes to pack the courts with liberal extremists or to block eminently qualified Republican nominees is exactly what they will do.

But don't take my word for it. Let's review what the Democrats were saying last year when they all believed they would be in power with Hillary Clinton as President and Democrats controlling the Senate. We did not hear much talk about the sacred 60-vote standard back then. On the contrary, the Democrats were promising to use the nuclear option again—this time to confirm a Democratic nominee to the Supreme Court.

Former Senate Minority Leader Harry Reid said:

> I have set the Senate so, when I leave, we're going to be able to get judges done with a majority. . . . If the Republicans try to filibuster another circuit court judge, but especially a Supreme Court Justice, I've told 'em how, and I've done it . . . in changing the rules of the Senate.

The junior Senator from Virginia, who would have been Vice President had Secretary Clinton won, said, quite frankly, about the Supreme Court vacancy:

> If these guys think they are going to stonewall the filling of that vacancy or other vacancies, then a Democratic Senate majority will say, ''We're not going to let you thwart the law.''

The junior Senator from Oregon warned ominously:

> If there's deep abuse, we're going to have to consider rules changes.

The senior Senator from New Mexico perhaps summed it up best of all when he said:

> The Constitution does not give me the right to block a qualified nominee no matter who is in the White House. . . . A minority in the Senate should not be able to block qualified nominees.

Do not think for a minute that the radical Democrats would not have made good on these threats. They have exercised little restraint on judicial nominations over the last 14 years. They have betrayed over 200 years of Senate tradition and custom. They would not start respecting those traditions now.

In reality, there were good reasons to respect and uphold the old Senate tradition against the filibusters of nominees before 2003.

First, our responsibility under the Constitution is not to choose but to advise and consent. A partisan filibuster would, essentially, encroach upon the President's power to nominate the person of his choice.

Second, nominations are not susceptible to negotiation. We cannot split someone down the middle, Solomon-like. We can vote yes or no. This is not the case with legislation, where differences can be split, compromises negotiated, and bipartisan consensus reached.

Third, when legislation fails to win 60 votes, it is not the end of the world; it can go back to the drawing board or be enacted through other legislative vehicles. But when nominations are long delayed or defeated, then real work is left undone, cases go unheard, disputes go unresolved, and the law remains unclear.

It would have been better for the Senate if the minority leader and the Democrats had recognized these things in 2003 and not started us down this path, the end of which we reach this week. It is rarely a good thing when an institution ignores or breaks its customs and traditions, its unwritten rules. They should have known better, and they should have acted better. But we have come to this point because the radical Democrats didn't act any better.

Now they propose to create a new standard never known to exist before: The Senate will not confirm a Republican President's nominees to the Supreme Court, because if the Democrats will filibuster Neil Gorsuch, then they will filibuster any Republican nominee. I will never accept this double standard, and neither will my colleagues. Republicans aren't going to be played for suckers and chumps.

After this week, the Senate will be back to where it always was and where it should have remained: Nominees brought to the floor ought to receive an up-or-down, simple-majority vote. And don't expect to hear regret from me about it.

There is no moral equivalence here between the two parties. To suggest any equivalence is to divorce action from its intent and aim. In 2003 and again at this moment, the radical Democrats overturned venerable Senate traditions. The Republicans are acting to restore them. Those who cannot see the difference, to borrow from Bill Buckley, would also see no difference between a man who pushes an old lady into the path of an oncoming bus and a man who pushes the old lady out of the path of the bus, because after all, both men push around old ladies.

So I am not regretful. I am not wracked with guilt. I am not anguished. I am really not even disappointed. There are no school yard taunts of ''you did it first.'' There are no charges of hypocrisy. There is no pox on both our houses. The Republicans are prepared to use a tool the Democrats first abused in 2013 to restore a 214-year-old tradition the Democrats first broke in 2003, and we are supposed to feel guilty? Please. The radical Democrats brought this all on themselves and on the Senate. The responsibility rests solely and squarely on their shoulders.

The minority leader is hoist with his own petard, the Senate is restored to a sensible, centuries-old tradition, and Judge Gorsuch is about to become Justice Gorsuch. Not a bad outcome. Not bad at all. Pretty good, in fact.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CRUZ. Mr. President, I come to the floor today to support the confirmation of Neil Gorsuch to serve as an Associate Justice on the Supreme Court of the United States. By any objective measure, Judge Gorsuch is impeccably qualified. He is a graduate of

Columbia University and the Harvard Law School and was awarded a doctorate from Oxford. He is a former law clerk for the legendary Justice Byron White, as well as for Justice Kennedy. He has been a respected Federal appellate judge for a decade. Judge Gorsuch has spent a lifetime in the law, and his record indicates he will make an exemplary Justice.

Just 2 weeks ago, Judge Gorsuch testified for 20 hours before the Senate Judiciary Committee. His conduct during the hearing only further confirmed what his record demonstrates: that Neil Gorsuch is a principled jurist and a good man. And I was glad for all of us to get that confirmation because Judge Gorsuch bears a heavy responsibility—he is being asked to fill the seat of Justice Antonin Scalia. In truth, I doubt anyone could truly fill Justice Scalia's shoes. Justice Scalia was one of a kind, and his enormous impact on the law and on the Court will impact this Nation for generations to come.

All of us miss him dearly, but I take solace in the knowledge that one of the ways in which I believe it will be easiest for Judge Gorsuch to imitate Scalia—perhaps the most important way—is judicial humility. Justice Scalia's greatest strength was not his amazing wit, his mighty pen, or his larger-than-life personality, as much as we loved those parts of him; rather, it was his consistent unwillingness to accumulate power to himself and to the courts. He refused to impose his own personal policy preferences on the law but instead understood that his role as a judge was simply to apply the law that the elected representatives of the people had enacted.

This type of judging doesn't take otherworldly talents, although Scalia had that in abundance; instead, it takes character, integrity, and humility. Judge Gorsuch's lengthy record and his hearing testimony demonstrate that he has those attributes as well. He understands that his role as a judge is to apply the words of the Constitution and the laws of the United States to the specific cases that come before him, and nothing more. This is critical in an era when the Supreme Court has come to be seen by many—for good reason—as an activist Court, as a superlegislature that seeks to impose its own will in the place of the written law.

It is this very humility that angers so many on the left. They don't want someone who humbly applies the law; rather, they demand nothing less than a person fully committed to enacting from the Supreme Court bench whatever policies the left is championing at that given moment, because they know their only refuge is the courts because the American people would reject the policies at the voting booth. Judge Gorsuch is clearly not that kind of person, so they have committed to opposing his confirmation by whatever means necessary, legitimate or not.

Indeed, if this were being decided on qualifications and record, Judge Gorsuch would be confirmed unanimously. We don't have to hypothesize about that because Judge Gorsuch has already been confirmed by this body a decade ago by voice vote, without recorded dissent. Not a single Senator objected—not Ted Kennedy, not Hillary Clinton, not Barack Obama, not Joe Biden, and not even Democratic Members who still serve in this Chamber, like CHUCK SCHUMER, DIANNE FEINSTEIN, PAT LEAHY, or DICK DURBIN. Not one of them spoke out against Gorsuch's nomination to the court of appeals—not one.

So what changed? The only thing that changed is that the radical left has become angry, extremely angry, and my Democratic colleagues are worried they will get opposed from their left in a primary. That is it. Their base demands total war, total obstruction, and they are begrudgingly bowing to this demand.

Unfortunately for them, it has proven difficult to invent attacks against an obviously well-qualified judge like Judge Gorsuch. My Democratic colleagues couldn't get any legitimate grievance to stick at the hearings last week, despite their best efforts, but it hasn't stopped them from repeating their outlandish attacks over and over again. If the stakes weren't so high, it might even be humorous, but it isn't really funny because the primary argument the Democrats have made is dangerous. Their attack on Neil Gorsuch is a direct attack on the rule of law itself.

Contrary to the very foundations of our government and legal system, my colleagues from across the aisle are arguing that Judge Gorsuch is unqualified to be a Justice because he allegedly failed to side with the ''little guy'' over the ''big guy.'' In their view, it is now the job of judges to reject equal protection, to take the blindfold off of Lady Justice, and instead judges should put their thumbs on the scales to actively discriminate against parties based on their identity.

This notion of partisan, results-oriented judging is directly contrary to the constitutional system we have in this country. My Democratic colleagues are openly calling for judges to enforce their own political preferences from the bench, and they want to use a person's willingness or unwillingness to do so as a litmus test for who gets on the Court. This isn't even a jurisprudential position, it is a political position. And it is difficult to imagine a more effective way to destroy our judicial system—the best in the world, despite its flaws—than to adopt this results-oriented approach.

Make no mistake, the Democrats' trumpeting of outcome-based judging will have consequences. Judges and potential judges nationwide will now have heard their siren call. You want smooth sailing in a confirmation hearing from the Democrats? Ignore the law, ignore the facts, and pick sides based upon whom you sympathize with—whoever is politically correct at that moment in time. My Democratic colleagues claim to detest attacks on the independent judiciary, but there aren't many attacks more dangerous and chilling of true independence and impartiality than the one they are making now.

The public—the people who appear in court seeking an honest tribunal—have also heard this open call for bias, for prejudice, for discrimination, and I doubt they will soon forget.

Luckily, Judge Gorsuch stood firm in his confirmation hearing. He reaffirmed what was clear from his record—that he will not legislate his own policy preferences from the bench and that he will respect the limited role a judge plays in our constitutional structure. He did all of this in the face of unrelenting opposition from my Democratic colleagues who demanded that he violate his judicial oath and swear to decide certain cases and political questions in a way that they would prefer. No recent nominee to the Supreme Court has ever made such pledges, and Judge Gorsuch rightfully refused to do so last week.

Their demands of Judge Gorsuch were particularly galling given that this was the most transparent process in history for selecting a Supreme Court Justice. During the campaign, Donald Trump promised the American people that, if elected, he would choose a Justice in the mold of Justice Scalia. He laid out a specific list of 21 potential nominees, including Judge Gorsuch. The voters were able to see precisely whom President Trump would nominate, and they were able to decide for themselves if that was the future they wanted for the Supreme Court.

Hillary Clinton, on the other hand, promised a very different kind of Justice. She promised a liberal judicial activist who would vote to undermine free speech, to undermine religious liberty, and to undermine the Second Amendment right to keep and bear arms.

In a very real sense, this election was a referendum on the Supreme Court. The American people could decide for themselves between a faithful originalist vision of the Constitution or a progressive, liberal, activist vision, and the voters chose.

Donald Trump is now President Trump, and he has kept his promise to the American people, selecting Judge Neil Gorsuch from that list of 21 judges. Judge Gorsuch is no ordinary nominee. Because of this unique and transparent process, unprecedented in our Nation's history, his nomination carries with it a kind of super-legitimacy in that it has been ratified by the American people at the voting booth. Neil Gorsuch is not simply the President's nominee. It is the direction chosen by the American people, and I urge my colleagues to confirm him.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BOOKER. Mr. President, I rise today to voice my opposition to the

nomination of Judge Neil Gorsuch to be an Associate Justice on the Supreme Court of the United States.

The nomination of an individual to serve on the Supreme Court is a matter of tremendous importance. Supreme Court justices have the opportunity to shape, literally, and even to define American history for decades to come. Even more importantly, they have the opportunity to affect the lives and livelihoods of everyday Americans, now and in generations yet unborn.

Few decisions in the Senate have a more profound consequence than the confirmation of a nominee for a lifetime seat on the highest Court in the land. I recognize that this is one of the most critical votes that I will take or that any Senator will cast.

After reviewing Judge Gorsuch's record, I have decided to uphold my constitutional duty of service to advise and consent by opposing Judge Gorsuch's nomination at all stages of the confirmation process, including a vote on cloture or an up-or-down vote. I didn't come to this decision lightly. I arrived at this conclusion because I believe the next Associate Justice to the Supreme Court must be someone who understands the importance of judicial restraint, someone who will adhere to precedent, someone who will respect and has respect for all coequal branches of government, someone who views the Constitution as a living—not a static—document, someone whose judicial views actually fall within the mainstream of judicial thought and jurisprudence, and someone who has a deep understanding of the law, the Constitution, and its applications. Critically, I believe the next Supreme Court justice must be someone who understands the gravity of their work—that their decisions will affect livelihoods, will affect lives, and will affect the liberties and the rights that we value—not just for those in places of privilege and power but for all American citizens, for all of the people, now and for decades to come.

The American people need the next Justice on the Nation's highest Court to be someone who will protect the rights for all—for everyone—and who will ensure that the words literally inscribed above the Supreme Court—''Equal Justice Under Law''—are made manifest in everyone's life.

After careful consideration of Judge Gorsuch's record, his judicial philosophy, and after meeting with the nominee and examining remarks and answers to questions in his confirmation hearing, I do not believe Judge Gorsuch meets this high standard, and I cannot support his nomination to be a Supreme Court Justice.

Judge Gorsuch is truly a well-credentialed jurist, but we must understand that a good resume is the beginning and not the end point of a standard by which we must measure nominees to serve on the Supreme Court. A good resume is necessary, but it is not sufficient to be on the highest Court of the land.

When it comes to the Supreme Court, the Senate's duty to advise and consent means more than merely measuring an aptitude or understanding of the law. It means more than just looking at someone's college and law school. It means more than just admiring: Does this person have an impressive resume? It necessitates an understanding of it. It actually necessitates an empathy for how these decisions will affect the lives of everyday Americans. Do they have the capacity to stand for all of us?

I take literally the way the Constitution began. It began with the words in the preamble to the Constitution. In many ways, it is a direct point at what is at stake when we nominate an individual to the Supreme Court. It is a critical way that we began. It begins by saying: ''We the People.'' The inclusion of these words at the start of one of our Nation's founding documents is actually no accident. It was the subject of consternation and even discussion and debate.

It is worth noting that the original draft of the preamble of the Constitution of the United States, as prepared by a man named Gouverneur Morris, had a different beginning. It said: We the people of the States of New Hampshire, Massachusetts, Rhode Island, and so forth. But Morris and other drafters of the Constitution made the conclusion—and, really, the conscious decision—to remove references to States, to bring it back to the people—that the power of government is derived by the people and that is the fundamental aspect of our society; that it is ''we the people''—not people of any one State, not people of any one religion, not people of any one race or class, but ''we the people''—all of the people.

In a debate about this change, it was James Madison who argued:

> In this particular respect the distinction between the existing and the proposed governments is very material. The existing system has been derived from the dependent derivative authority of the legislatures of the states; whereas, this is derived from the superior power of the people.

It is a deference and it is a reverence for the understanding of the power of the people—all people. It is no accident that this is how our Constitution began, and it is the spirit in our Nation which has helped us for centuries to expand upon this ideal of ''we the people.''

Understand this: Some of our greatest leaders fought to make sure that these ideals were far vaster, far more inclusive. I note, for instance, that Susan B. Anthony said it was ''we the people''—not we the White male citizens, not we the male citizens, but we the whole people who formed the Union. And we formed it not to give the blessings of liberty but to secure them, not to the half of ourselves and to the half of our prosperity but to the whole people—women and men. You see, this fundamental understanding of our Constitution expanded to be more inclusive, to include women and minorities and religious minorities. This conception of ''we the people'' is critical.

It is unfortunate that too often, even with the best intentions, our elected officials, Supreme Court Justices, and even Presidents have forgotten the precision of these words which were chosen. But despite this, because of heroes like Susan B. Anthony and others, the people of this Nation have remembered them, and our Nation has grown to be who we are now. We often actually take for granted the critical role the Supreme Court has played in focusing on the people—on all the people. This has been the power and majesty of the Supreme Court—this focusing of individual rights, the dignity, the worth, the value of all people.

In the Supreme Court case in Hammer v. Dagenhart, the Supreme Court ruled that Congress has the power to enact labor laws that protect children. They remembered ''we the people''—in this case, citizens against powerful corporations.

In West Coast Hotel Co. v. Parrish, the Supreme Court upheld the constitutionality of a State minimum wage law, again, focusing on the people—''we the people.''

In Mapp v. Ohio, when the Supreme Court decided about evidence obtained through the illegal search—the violation of individual privacy—they remembered, again, ''we the people.''

In New York Times Co. v. Sullivan, when the Supreme Court protected the rights of everyday citizens to criticize their government, they remembered that sovereignty, that power, that importance of ''we the people.''

In Baker v. Carr, when the Supreme Court established the principle of one person, one vote, they remembered ''we the people.''

There are so many of the rulings during the 1950s and 1960s governing issues of race in our Nation, to which so many of us in our Nation owe our very success, the opportunity that was expanded because the Supreme Court—against social mores, against laws of States—focused on ''we the people.''

Perhaps most famous of those is Brown v. Board of Education, when the Supreme Court asserted that separate but equal had no place in the education of our children, and they remembered ''we the people.''

In Loving v. Virginia, when the Supreme Court ruled unconstitutional the State laws that banned interracial marriage—that ideal of being able to join in union with someone you love, regardless of race—the Supreme Court remembered ''we the people.''

In Olmstead v. L.C., when the Supreme Court reinforced the right of people with developmental disabilities to live in the community and not be institutionalized, they saw a greater inclusion of all Americans. They remembered ''we the people.''

I stood on the Supreme Court steps and I sat in on the Supreme Court arguments in Obergefell v. Hodges, when

the Supreme Court ultimately ruled that State laws cannot stop you from marrying whom you love. They remembered. They saw the dignity and the worth of all of the people and ensured that equality. They remembered ''we the people.''

In each of these cases, so much was at stake—the rights of workers, the rights of children, the rights of people with disabilities, the rights of minorities, the rights of women, voting rights, civil rights, our rights—American rights. The Supreme Court, with jurists on the right and the left, jurists appointed by Republicans and Democrats, looked to people and affirmed dignity and worth and well-being.

But these are not just issues that were done in the past. The Supreme Court is going to be again confronted by historic and deeply consequential cases. There is still so much at stake, and that is why this decision before the Senate is so consequential. The right to gain access to birth control, the right to criticize your elected officials, the right to marry someone you love—that is still at stake.

I cannot vote in support of a nominee whom I don't trust to protect American individuals, to understand the expansive nature of that idea of ''we the people.'' Judge Gorsuch is someone who, in his own words, has said judges should try to ''apply the law as it is, focusing backward, not forward.'' Based on his record and his writing, it is clear to me that Judge Gorsuch's own judicial philosophy leaves out critically important elements of democratic governance.

Judge Gorsuch's evasive answers to questions during his confirmation hearing didn't do anything to allay my concerns. ''We the People'' are the first words of the Constitution. These words, I fear based on Judge Gorsuch's record, are not his greatest consideration. In fact, at times, when he issues his judicial opinions, they look as if those individuals that make up our society—''we the people''—are the least of his considerations.

Take for example, Alphonse Maddin, the man who was working through the night in the dead of winter as a truck-driver when his brakes unfortunately froze on him. Knowing the danger of continuing to drive with frozen brakes—the danger to himself and other motorists on the road—Alphonse pulled over to the side of the road and called for help.

As several of my colleagues have noted in Judge Gorsuch's confirmation hearing and on the floor, Alphonse waited over 2 hours in the freezing cold without heat, experiencing systems of hypothermia. After no help arrived, Alphonse feared for his life, and, ultimately, left his trailer to find help.

Less than a week after the incident, Alphonse was fired for abandoning his trailer. He filed a complaint with the Department of Labor and the case was brought to the Tenth Circuit Court of Appeals, where all but one of the judges ruled in favor of Alphonse—a guy who made a practical decision, an urgent decision, to save his own life and not risk the lives of others. But the judge who ruled against this individual, in favor of the corporation, was Judge Neil Gorsuch.

He chose to save his own life and protect the lives of others who had been put in harm's way if he chose another option, and he was fired for it. Every judge on the Tenth Circuit supported that decision except for Judge Gorsuch.

''We the people'' includes Luke, a student with a disability. He was diagnosed with autism at the age of 2. When Luke entered kindergarten, he began receiving specialized educational services from a school district as ensured by the Individuals with Disabilities Education Act, or IDEA. Congress debated and passed, with Republicans and Democrats, an act that says children with disabilities are entitled to receive a free and appropriate public education.

Between kindergarten and the second grade, Luke achieved many of the goals of his individualized education program. But when Luke's family moved to Colorado and he enrolled in a new public school, he had trouble adjusting, and Luke regressed in areas in which he had previously done well. To better suit Luke's needs, his parents, who tried to get him better care, eventually withdrew him from his local school and enrolled him in a private residential school for children with autism. His parents sought reimbursement for the costs of that private school, but the public school district refused to pay. By the time Luke's case reached the Tenth Circuit, a Federal judge and two administrative courts had agreed that the school district should pay because Luke did not receive the free and appropriate education to which he was entitled.

The question for Judge Gorsuch was, What constitutes an appropriate education? In that ruling, Judge Gorsuch wrote the opinion saying that the educational benefits mandated by IDEA must be ''merely more than de minimis.'' That was the standard that he set for one of our American children. Because the school district gave Luke a merely more than de minimis education, Judge Gorsuch ruled that Luke's parents were not entitled to reimbursement.

But just two weeks ago, the Supreme Court unanimously rejected Judge Gorsuch's ''merely more than de minimis'' standard. They unanimously rejected Judge Gorsuch's standard as contrary to the intent of Congress. In fact, at the very moment when Judge Gorsuch testified before the Judiciary Committee, Chief Justice Roberts wrote an opinion rejecting Gorsuch's IDEA standard, saying:

> When all is said and done, a student offered an educational program providing ''merely more than de minimis'' progress from year to year can hardly be said to have been offered an education at all.

Judge Gorsuch's misinterpretation of the law—depriving a child with a disability of the education he deserves—should be cause for concern to any of my colleagues as they are promoting him to the highest Court in the land. It is this idea that the powerless, who fight against these corporations or big institutions and turn to the court system as their avenue to get the equal justice under the law that will view them—whether it is a corporation, whether it is a government—as an equal under the law and give them their right to be heard.

This is what ''we the people'' is. It means people like Alphonse Maddin and Luke, whom Judge Gorsuch ruled against. It also means female workers who want access to contraceptive coverage but were denied by their employer, denied by a corporation. Judge Gorsuch ruled against the people and for the corporation.

''We the people'' means those millions of Americans who rely on Planned Parenthood centers for healthcare. Judge Gorsuch ruled against those people seeking what, in some counties, is their only access to contraceptive care. ''We the people'' means the people harmed by a medical device manufacturer's urging of unsafe, off-label uses. Judge Gorsuch ruled against the people injured and for the manufacturers, for the corporation.

''We the people'' means that a worker fatally electrocuted while on the job due to inadequate training, whose families sought justice—Judge Gorsuch ruled against the individual and for the corporation.

''We the people'' means the woman prevented from suing for sexual harassment, not because sexual harassment didn't exist but because she didn't report it quickly enough. Judge Gorsuch supported the corporation against the woman.

''We the people'' means a transgender woman who is denied access to a bathroom at work. Judge Gorsuch ruled against the individual in favor of the corporation.

''We the people'' means that every single American deserves to have their civil rights, deserves to have their equality protected by the judicial branch, which is often their last avenue toward justice. It is often their last hope against the powerful, against the wealthy. But Judge Gorsuch's record in everything—from workers' rights to women's rights, to civil rights, to the rights of children with disabilities, to the rights of a guy on the side of a highway to save his own life—suggests that he has forgotten perhaps the most important element of the Constitution: It exists to protect and serve the American people, not corporations, not lobbyists, not those rich enough to hire big, fancy law firms. It doesn't exist to serve a political ideology. It exists to serve ''we the people.''

I am not confident in Judge Gorsuch's ability as a Supreme Court

Justice to safeguard the rights and liberties of all Americans, to prioritize judicial restraint over judicial ideology, to ensure equal justice under the law, and to understand and act in a way that indicates that the lives of real people who are struggling against often seemingly insurmountable odds—that for them, everything is on the line. I am not sure that Judge Gorsuch on the Supreme Court can honor this tradition.

''We the people'' means an independent judiciary that will not close the courthouse doors on people, on our civil rights—that will not look at litigants as just pawns in the larger ideological context of ideas but will see the humanity of every American; that will have a courageous empathy to understand their circumstances and their struggles and put that in accordance with the values of a nation where we all swear an oath for liberty and justice for all the people.

Over 75 years ago, Justice Hugo Black encompassed the basic ideal of the role of Federal courts in protecting citizens' rights when he wrote these words:

> No higher duty, or more solemn responsibility, rests upon this Court, than that of translating into living law and maintaining this constitutional shield deliberately planned and inscribed for the benefit of every human being subject to our Constitution—of whatever race, creed or persuasion.

Yet Judge Gorsuch's own writings demonstrate a failure to grasp this understanding of the role of courts to protect all people—and I quote, again, Justice Black—''whatever race, creed, or persuasion.''

In an opinion article for the National Review, entitled ''Liberals and Lawsuits,'' Judge Gorsuch expressed his skepticism about civil rights litigation as merely a pursuit of a ''social agenda.'' He wrote:

> American liberals have become addicted to the courtroom, relying on judges and lawyers rather than elected leaders and the ballot box, as the primary means for effecting their social agenda on everything from gay marriage to assisted suicide to the use of vouchers for private-school education.
>
> This overweening addiction to the courtroom as a place to debate social policy is bad for the country and bad for the judiciary.

I wonder what Oliver Brown, plaintiff in the seminal case of Brown v. Board of Education would say to Judge Gorsuch? Was he ''addicted'' to the courtroom to advance his social agenda? Or was the courtroom his avenue to justice against profound oppression?

I wonder what James Obergefell would say to Judge Gorsuch. Was he ''addicted'' to the courtroom when he sought to be able to marry the person he loved? Or did Oliver just want to bring the truth to the idea that separate but equal was actually discriminatory, demeaning, and degrading, not just to the individuals who are discriminated against but demeaning to us as a people and a nation?

Judge Gorsuch's actions call into question whether he understands the proper role of the courts. Does he understand that Federal courts are the proper forum for constitutional disputes that protect American's basic rights? This is not about liberal or democrat; this is about individuals who are often fighting battles against powerful interests.

It was the journalist and editor William Allen White who said in 1936:

> Liberty . . . must be something more than a man's conception of his rights, much more than his desire to fight for his own rights. True liberty is founded upon a lively sense of the rights of others and a fighting conviction that the rights of others must be maintained.

I do not believe Judge Gorsuch possesses this ''fighting conviction'' that we need in a Supreme Court Justice to forcefully and fearlessly, without regard to politics or favor or privilege or wealth, protect the rights of others, to protect the rights of all Americans, to protect the rights of ''we the people.'' I do not believe that Judge Gorsuch will work to fiercely defend the rights of all Americans. I do not believe he possesses that fighting conviction that ''we the people'' must be committed above all else to one another.

Again, I do not take the decision to oppose Judge Gorsuch's nomination lightly. I understand what is at stake. I am fortunate to represent hard-working New Jerseyans in the U.S. Senate, and when I took the oath to support and defend the Constitution, I made a promise to my constituents and the American people not to only discharge my duties but at every opportunity to work across the aisle, to protect their rights and interests. That means a lot to me.

So many of my proudest moments in the Senate are from this bipartisan cooperation that I have found with so many of my colleagues. I do not stand here today to question their motives. I do not stand here today to impugn them in any way because when I go home, people are not concerned about the partisan politics. They are concerned about their lives, their livelihoods—about the issues that affect them and their families, their neighborhoods, their community. They want people in this body and in the courts across the street to protect the rights of Americans, protect consumers, protect our kids and our environment, but this is, in fact, what I believe the nominee we are all considering has shown that he will not do.

It is no secret that Judge Gorsuch's nomination comes at a very divisive time for this body and a challenging time for this country. We have experienced great times of turmoil and polarization before in this Nation and in this body. In the Federalist Papers, written over two centuries ago, James Madison warns in Federalist Paper No. 10 about what he calls the ''mischiefs of faction'' and its inevitability—that citizens of the Nation and their political parties will undoubtedly disagree and will possess competing interests. Madison asserted that the existence of the legislative branch would guard against some of the worst effects of this reality. He wrote that those elected to represent the American people in the legislature would be those ''whose wisdom may best discern the true interests of their country and whose patriotism and love of justice will be least likely to sacrifice it to a temporary or partial consideration.''

When this body is at its best, I believe that is true. I have seen that kind of partnership in this body. But I am afraid that we are indeed at a troubling time—a troubling time in history for the Senate where it seems that the reverse of Madison's hopes have become reflective of the truth we are experiencing because we are now facing a vote on a Supreme Court nominee whose confirmation, I believe, would be a sacrifice to temporary and partial considerations as opposed to the larger interests of our country.

In my short time in the body—just over 3½ years—I have come to this floor to speak on the nominations of two different Supreme Court Justices to serve here in the United States. The first was Judge Merrick Garland. He was not only well qualified, intelligent, and capable, he was moderate. President Obama even sought input from Republicans about choosing someone who was a mainstream jurist. He was more than qualified to sit on the Supreme Court, but he was actually someone who could bring folks together. His qualifications, his aptitude to serve, and his moderate philosophy were not reflected in how we dealt with that nomination.

I believe he deserved an up-or-down vote. Even if it was a 60-vote threshold, he deserved an up-or-down vote. More than that, he should have had the opportunity to meet with Senators, Republican and Democratic, like Gorsuch has met with Senators, Republican and Democratic. He deserved to have a committee hearing. He deserved to be voted on up or down in that committee, and he deserved to have his nomination come to the floor. Whether a 60-vote threshold or a 50-vote threshold, he deserved an up-or-down vote, but he did not get one.

The Garland nomination was the bookend to an era we have been experiencing, that I have been witnessing, of obstruction, and there has been finger-pointing on both sides. But let's be clear about what happened during the Obama administration. During President Obama's time in office, we saw historic obstruction like never before. Seventy-nine of President Obama's judicial nominees were blocked by the filibusters. Seventy-nine nominees were blocked at a time when the judiciary, an independent branch of government, was saying: We are in judicial crisis in many jurisdictions. Seventy-nine of Obama's judges were blocked, compared to 68 nominees obstructed under all Presidents combined. All of the obstruction from Democrats and

Republicans and other parties, and only 68 nominees were obstructed, compared to President Obama, where there were 79.

I do not possess the same view as those who last year believed this seat should remain vacant and took the obstruction during the Obama Presidency to a much higher level. I believe that seat should have been filled not by an extreme jurist but by someone who could have tempered the partisanship of our time, someone who could have brought us together. It was a wise choice at a divisive time in our country.

President Obama did not choose somebody from further left; he chose a moderate Justice who probably could have—if he had been given an up-or-down vote—commanded 60 votes. At this time, that is what President Trump should have done—put forward a nominee who could have brought this country together, a moderate nominee, someone within the judicial mainstream. But he hasn't.

I believe a 60-vote threshold right now is more than appropriate at this moment in history. There are Republican judicial nominees who could garner 60 votes in this Chamber. The 60-vote threshold exists because a person confirmed to serve on the Supreme Court at this time should be mainstream and independent enough to garner that two-thirds support.

The 60-vote threshold exists because confirmation of a Justice to the Supreme Court is one of the most important duties we perform, one of the most important positions in all of American Government. It is someone who will have an impact on our society, shaping it and forming it for generations to come.

This President should have sought real advice and consent from the entire Senate, but instead he turned to the judicial extreme.

Now more than ever, we need a threshold that can pull our nominees back to the mainstream, that can begin to heal the divisions. I do not believe it is in the best interests of my constituents or the American people to confirm someone so extreme on a 50-vote margin. It should be 60 votes.

I urge my colleagues to understand that this judge threatens those ideals we hold precious, those words at the very beginning of our Constitution, ''We the People.'' I urge people to understand that this is the time more than ever that we must continue to fight to defend the marginalized, the weak, the people who do not possess wealth, the people who are standing against powerful corporations, that we cannot reverse a tradition where our courts were the main societal avenue in which people could receive equal justice under the law. We cannot put someone in office who has shown throughout their judicial record to be contrary to that.

For the sake of this body, now more than ever, it is my hope that we can see a judicial nominee who will help to heal wounds and not create them, help to elevate the unity of us as a people, who will help to affirm the ideals of our Nation and the very conception that we are one people, we are one Nation, and we hold one destiny.

I yield the floor.

The PRESIDING OFFICER (Mr. RUBIO). The Senator from Virginia.

Mr. WARNER. Mr. President, first of all, let me thank my friend the Senator from New Jersey for his statement. I, too, share the belief that there was a better way to go about this judicial nomination process. I think as well that traditions such as a 60-vote margin should be maintained.

I think, frankly, neither party comes to this issue completely with clean hands, with the Democrats' action in 2013. But clearly our colleagues' actions of not even giving someone of such character as Merrick Garland the courtesy of meetings, a hearing, and then an up-or-down vote—for that and for many other reasons, I will be joining my friend from New Jersey in voting against Judge Gorsuch and making sure that we use all of our available tools. So I thank him for those comments.

TRIBUTE TO FEDERAL EMPLOYEES

KIRK YEAGER, DENNIS WAGNER, EDWARD GRACE, AND MARIELA MELERO

Mr. President, that sense of what we are dealing with now in our politics today is the subject that I want to speak about for a few minutes; that is, the incredibly important efforts made each and every day by our public servants.

We often forget that our public servants, our Federal employees, go to work every day with the sole mission to make the country a better and safer place. Day after day they go to work, receiving little recognition for the great work they do. Since 2010, I have come to the Senate floor to honor exemplary Federal employees—a tradition that was begun by my friend Senator Ted Kaufman. One of those Federal employees is actually sitting at the desk and has helped me and I know so many other Senators as we have tried to learn this job.

The reason I wanted to come back today was because today, in light of a governmentwide hiring freeze, the reinstatement of the so-called Holman rule, a proposed budget that would deeply cut our Federal workforce, and candidly, in these times, the targeting of career civil servants by certain conservative media outlets, this tradition of honoring those who serve, oftentimes without recognition, our Federal employees, feels even more important.

Our Federal employees—over 170,000 of them Virginians—serve their country dutifully regardless of the party in power. Not only do they carry out the mission of the administration they are serving, but they also provide countless benefits to the American public. It is my hope that my colleagues and the current administration will remember these facts and set aside ideology when considering actions that affect our Federal agencies and their workforce.

Today I want to take a couple of moments to recognize a few Virginians who are working behind the scenes to actually make our government more efficient and more effective.

First, I would like to recognize Kirk Yeager. Kirk is the Chief Explosives Scientist at the FBI. In this role, he both responds to crises and oversees the Bureau's efforts to better understand the explosives terrorists use. Having studied bomb-making for more than 20 years, Kirk works with both domestic and foreign law enforcement agencies and has developed and provided crucial training to every bomb squad in the United States and to many of our foreign allies. Through his work, Kirk has made U.S. civilian law enforcement personnel and those who serve our country in the military much safer.

Next, I would like to recognize Dennis Wagner. Dennis is the Director of the Quality Improvement and Innovation Group at the Centers for Medicare and Medicaid Services. As part of a team at CMS, Dennis contributed to the creation of the Partnership for Patients, a public-private partnership to increase patient safety and reduce readmissions to U.S. hospitals. Their work has produced outstanding results, including 2.1 million fewer patients harmed and $20 billion saved. That is a remarkable statistic, and obviously the work going on at CMS—an agency that does not get a lot of recognition; candidly, most people don't even know—a person like this gentleman, Dennis, has made our healthcare system better.

Third, I would like to recognize Edward Grace. Edward is the Deputy Chief in the Office of Law Enforcement at the U.S. Fish and Wildlife Service. In that role, Edward has been leading a nationwide law enforcement investigation known as Operation Crash, targeting those who smuggle and trade rhino horns and elephant ivory. In addition to assisting in the Department's efforts to preserve global biodiversity, Operation Crash has led to 41 arrests, 30 convictions, and the seizure of millions of dollars in smuggled goods—results that show that those seeking to engage in this kind of activity—there will be real legal consequences to their actions.

Finally, I would like to recognize Mariela Melero. Mariela is the Associate Director for the Customer Service and Public Engagement Directorate at the U.S. Citizenship and Immigration Services. Mariela and her team have been working to improve the way USCIS interacts with the millions of people who contact their office seeking citizenship, permanent residency, refugee status, or other assistance. Central to that mission are the innovative improvements Mariela has made to the myUSCIS website, as well as the launch of Emma, a virtual assistant that in a typical month answers nearly

500,000 questions with a success rate of nearly 90 percent.

To ensure that this resource was available to a wide range of customers, Mariela also oversaw the creation of a Spanish-speaking Emma that came online in 2016. These important improvements have been crucial to driving efficiency for the world's largest immigration system in the world.

Again, I hope my colleagues—as we think about budgets and numbers and when we hear people who oftentimes denigrate our Federal employees—will remember some of these individuals who, not for great reward or recognition, actually get up each and every day and go to work, trying to ensure that our government functions for the hundreds of millions of Americans who oftentimes don't acknowledge or recognize their services enough.

Mr. President, as I mentioned at the outset, I know this is a time when most of my colleagues are speaking on Judge Gorsuch. I will simply add, after a careful review of his record and my belief as well, that his unwillingness to really give truly straight answers in terms of comments—whether it was basic, decided legal opinions like Brown v. Board of Education or Roe v. Wade or Citizens United—and his failure to even answer those questions has unfortunately led me to join with so many of my other colleagues in voting against him.

I still hope that there is a way that we can avoid changing the rules of the Senate during this process. I know there are many colleagues who are working on those efforts. If they are successful, I look forward to joining them.

As we think about Judge Gorsuch, as we recognize the challenges we have ahead of us, let us also—those of us who serve in this body—continue to take a moment every day to say thanks to a Federal employee who, in one way or another, works tirelessly day in and day out to make our country a better place.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. CARPER. Mr. President, last week on this Senate floor, I made the case for Democrats and Republicans joining together to confirm one of the most qualified individuals ever nominated to the U.S. Supreme Court. I was referring, of course, to Chief Judge Merrick Garland.

I don't wish to belabor the point here this evening, but it bears repeating that Judge Garland brought with him more Federal judicial experience than any Supreme Court nominee in the history of the United States.

It bears repeating that Judge Garland is an extraordinary man, a good man, a brilliant man, a fair judge, and a consensus builder on the bench in a day and age when we need consensus builders on the Supreme Court and other courts across the country. Frankly, we also need them right here on this floor, in this body.

It bears repeating that the obstruction of Judge Garland's nomination was unprecedented in the history of the United States of America and in the history of the Senate.

Since the Senate Judiciary Committee began holding public hearings on Supreme Court nominations in 1916, no Supreme Court nominee had ever been denied a hearing and a vote—until Judge Garland. Many of our Republican colleagues refused to meet with him. When his nomination expired at noon on January 3, 2017, 293 days had passed—293 wasted days.

A good man was treated badly. I believe our Constitution was treated badly. I believe that the obstruction of Judge Garland's nomination was unprecedented. I believe it was shameful. From my view, we cannot pretend that this vacant seat on the Supreme Court—what I believe should be Judge Garland's seat—is anything other than blatant partisanship.

I believe that upholding my oath to protect the Constitution means finding agreement on moving Judge Garland's nomination forward at the same time—at the same time as that of Judge Neil Gorsuch, President Trump's Supreme Court nominee.

I have no choice but to oppose Judge Gorsuch's nomination this week because anything else would be a stamp of approval for what I believe is playing politics with Supreme Court nominees. I cannot support Judge Gorsuch's nomination because we cannot have one set of rules for Democratic Presidents and another set of rules for Republican Presidents.

Some of my colleagues and maybe some of the Americans listening at home tonight may be asking themselves: Well, Senator CARPER, didn't the Democrats change the rules for judges when they were in the majority? That is a fair question. To that, I would say yes. That is true for lower court nominees, nominees to Federal district courts and courts of appeals.

But it wasn't because Senator Harry Reid woke up one morning and decided that was the day to change the rules of the Senate. A decision of this magnitude didn't happen on a whim. It was because, by the time November 2013 had arrived, our Republican friends had attempted to block—get this—more nominations in the first 5 years of President Obama's tenure than all other Presidents combined. Let me say that again. It was because, by the time November 2013 had arrived, our Republican friends had attempted to block more nominations in the first 5 years of President Obama's tenure than all other Presidents combined.

It wasn't the unprecedented use of cloture motions—79 cloture motions—during those 5 years that precipitated Democrats' seeking a solution to restore the capability of the Senate to do its job. It was because our Republican friends refused to consider any nominee—any nominee—to the DC Circuit Court of Appeals, despite three critical vacancies on our Nation's second highest court.

So, yes, it is true that Democrats supported a change that allowed a vote on those nominees, but it was because our Republican friends took the unheard of position that no nominees—no nominees, no matter their qualifications—were entitled to a vote.

I should note that Democrats were careful to preserve the 60 votes for Supreme Court nominees.

Let me just say that, if there is any position in the Federal Government that should require at least 60 votes, my view is it should be the Supreme Court, and that is the rule under which we operate as of this moment.

One of the reasons why is because Supreme Court vacancies come around quite rarely. When they do, we need to ensure that debate is robust, we need to ensure that the nominee is from the judicial and the political mainstream, and we need to ensure that these lifetime appointments are held to the highest standards. In other words, I believe we need a nominee like Judge Merrick Garland.

Despite his own impressive resume, I have concerns with Judge Gorsuch's nomination beyond the treatment of Judge Garland, and I have concerns with the way that our debate has not been, frankly, robust. I have concerns that Judge Gorsuch's views are outside the judicial and political mainstream, and I have concerns about what others have termed ''evasiveness.'' His evasiveness before the Judiciary Committee does not meet the high standards that we should expect for those lifetime appointments.

I would be remiss if I did not mention what I referred to last week as the cloud that lingers still over President Trump's campaign. Like many Americans, I read the news related to Russia and the Trump campaign, and I come to the inescapable conclusion that the cloud is darkening and the forecast is a matter of grave concern for our Constitution.

FBI Director Jim Comey has testified under oath that there is an ongoing investigation to determine the links between the Trump campaign and Russia, an adversary that attacked our election and undermined a free and fair election to change the outcome of that election. From all appearances, they did.

To hastily move forward with Judge Gorsuch—who is 49 years old, who could serve on the Supreme Court well into the middle of this century—without first getting to the bottom of the suspicious and irregular actions of Trump campaign officials would be, in my view, a mistake.

For many Americans, this Supreme Court seat will always come with an asterisk attached to it. They believe and I believe that it was a stolen seat that belonged to Judge Merrick Garland.

Many Americans are wondering why we are rushing to fill a lifetime vacancy while President Trump's campaign remains under investigation and will for at least some while.

I believe we have some time. Judge Garland waited 293 days for a hearing and a vote that never came. Judge Gorsuch has waited 48 days for a hearing and many of our Republican friends would like to see him seated this week.

Again, I would say: Judge Merrick Garland waited 293 days for a hearing and a vote that never, never came.

What we face here today, I think, is a rush to judgment. I would just say that we have time. We ought to hit the pause button on this nomination.

The American people are watching us, and history will judge us. I fear that history may judge us poorly if anyone other than Merrick Garland is confirmed at this time. I fear that history may judge us poorly if we do not insist that the Trump campaign is first cleared of any wrongdoing before we move forward. We need to get this right. We have time to get this right.

The Senate has been through it all. The good men and women of the Senate have always disagreed—sometimes passionately, oftentimes loudly. I understand that this disagreement before us may seem irresolvable, but that is only if we seek to cut off debate and admit defeat. Personally speaking, I am not ready to do that today or this week.

I believe we have time. I believe we have the opportunity to right a historic wrong. We have not just an opportunity to right a historic wrong but also an obligation to get this right.

I yield the floor.

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

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

Mr. MCCONNELL. Mr. President, it is pretty obvious, based on the announcement Senators have made, that we are experiencing the first partisan filibuster of a Supreme Court nominee in the history of the country.

We have had plenty of time to discuss Judge Gorsuch and his credentials both in committee and on the floor, and I think it is now important to move forward.

CLOTURE MOTION

Therefore, I send a cloture motion to the desk for the nomination.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Neil M. Gorsuch, of Colorado, to be an Associate Justice of the Supreme Court of the United States.

Mitch McConnell, Mike Crapo, John Kennedy, Jerry Moran, Mike Rounds, Chuck Grassley, Jeff Flake, Todd Young, John Cornyn, Cory Gardner, Thom Tillis, Marco Rubio, John Thune, Michael B. Enzi, Orrin G. Hatch, Shelley Moore Capito, Steve Daines.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

TRIBUTE TO RICH RIMKUNAS

Mr. HATCH. Mr. President, I am pleased to pay tribute to a fine public servant and an incredible asset to the U.S. Congress.

Rich Rimkunas has had a career filled with outstanding achievement at the Congressional Research Service, CSR. After nearly 37 years of service, Rich will be retiring from CRS on Friday, April 28.

When Rich joined CRS in 1980, he was an analyst working on a broad array of social policy issues. Initially, he worked on issues like child nutrition, poverty, Social Security, social services for the aged, and unemployment insurance. Rich cocreated and coauthored a widely circulated CRS report on Federal social welfare spending. He was also a coauthor and contributor to several chapters in the House Ways and Means Committee print ''Children in Poverty,'' which provided a detailed look at the incidence and characteristics of child poverty in the United States.

Rich ultimately became heavily involved in providing research and analytical support to Congress on many health policy issues, including analyses of aggregate national health expenditures, the Medicare hospital prospective payment system, the Medicare Advantage program, and Medicare catastrophic drug costs. Additionally, he has worked on numerous issues related to Medicaid. He both directed a team of CRS analysts as well as contributed his own analysis to the Medicaid ''Yellow Book,'' a 1988 House Ways and Means Committee print that provided a comprehensive analysis of the Medicaid program as it existed at the time. Rich also managed the 1993 update of the ''Yellow Book.''

Rich's analyses have typically involved quantitative research methodologies, modeling techniques, and the use of complex databases. Rich has excelled at developing approaches for simulating the effects of potential changes to Federal benefits and grant allocation formulas.

In addition to the direct impact his research and analytical work has had on Federal policies, Rich has made equally important contributions within CRS in managerial roles. During his tenure at CRS, he has served as section research manager of the methodology section, the research development section, the research development and income support section, and the health insurance and financing section. During his tenure as an SRM, Rich helped manage CRS work on the 1996 welfare reform law and the 2003 overhaul of Medicare in the Medicare Prescription Drug, Improvement, and Modernization Act. Rich helped manage an interdisciplinary team numbering about 3 dozen CRS analysts that provided legislative support during the passage of the Affordable Care Act.

Throughout his career, Rich has served as a role model for the highest level of CRS service to Congress, upholding the Service's standards of authoritativeness, objectivity, and confidentiality. He is known within CRS for his attention to detail, methodological strength, and creative approaches toward conducting analyses. His input is sought on a great many research efforts spanning virtually all of the major domestic social policy issue areas that Congress deals with.

Rich is renowned for his tremendous work ethic and energizing presence. Those who have worked closely with him appreciate his ability to keep his sense of humor even during the most stressful times.

In recent years, Rich has served as the deputy assistant director of CRS's domestic social policy division. In that role, he has mentored and helped develop many of the division's managers, analysts, and research assistants. He has also played a central role in reviewing written work produced by the division, helping to ensure its accuracy, completeness, and quality. Moreover, in his work as a division manager, Rich has served on numerous advisory panels that have recommended organizational practices and policies for CRS, many of which have been adopted.

Rich's policy expertise has been broadly recognized. He is regularly sought for his expertise at professional meetings and conferences. He was nominated to the National Academy of Social Insurance in 2002 and has served on the steering committee of the National Health Forum. He has also been recognized with numerous Library of Congress special achievement awards.

Rich has devoted nearly his entire distinguished professional career to supporting the work of Congress and to helping build and strengthen CRS and advance its mission.

We will miss Rich, but we wish him and his family the best of luck moving forward.