United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 115th CONGRESS, FIRST SESSION

Vol. 163 WASHINGTON, TUESDAY, APRIL 4, 2017 *No. 58*

Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. HATCH).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, we rejoice because of Your power. We are dependent upon You to rescue us from ourselves and from the unseen consequences of the challenges we face.

Guide and sustain our Senators, enabling them to know the joy of having You as their sure defense. May Your unfailing love, O God, which is as vast as the Heavens, motivate our lawmakers to make faithfulness their top priority. Use them to give justice a chance to thrive in a threatening world. Lord, infuse them with the spirit of humility that seeks first to understand rather than to be understood. May they find their strength and confidence in You alone.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mrs. CAPITO). The majority leader is recognized.

NOMINATION OF NEIL GORSUCH

Mr. MCCONNELL. Madam President, later today, due to the threat of an unprecedented partisan filibuster, I will file cloture on the nomination of Judge Gorsuch to be an Associate Justice of the Supreme Court. It should be unsettling to everyone that our colleagues across the aisle have brought the Senate to this new low, and on such an impressive nominee with such broad bipartisan support.

Judge Gorsuch is independent, he is fair, he has one of the most impressive resumes we will ever see, and he has earned the highest possible rating from the group the Democratic leader called the ''gold standard'' for evaluating judicial nominations. No one seriously disputes his sterling credentials to serve on the Court. Yet, in the Judiciary Committee, Democrats withheld support from him. On the floor, Democrats said they will launch a partisan filibuster against him—something Republicans have never done. No one in the Senate Republican conference has ever voted to filibuster a Supreme Court nominee. Not one Republican has ever done that.

Later today, colleagues will continue to debate the nomination of Judge Gorsuch. They will discuss how completely unprecedented it would be for Democrats to actually follow through on this filibuster threat to actually block an up-or-down vote for this nominee even though a bipartisan majority of the Senate supports his nomination and what the negative consequences would be for the Senate if they succeed. I will be listening with interest. I hope Senators in both parties will listen as well.

''There has never been,'' as the New York Times and others reported last week, ''a successful partisan filibuster of a Supreme Court nominee.'' Never in the history of our country. Not once in the nearly 230-year history of the Senate.

The last time a Republican President nominated someone to the Supreme Court, Democrats tried to filibuster him too. That was Samuel Alito in 2006. Fortunately, cooler heads prevailed. Even former President Obama, who as a Senator participated in that effort, now admits that he regrets joining that filibuster effort.

Democrats are now being pushed by far-left interest groups into doing something truly detrimental to this body and to our country. They seem to be hurtling toward the abyss this time and trying to take the Senate with them. They need to reconsider.

Perhaps they will recall their own words from the last time they flirted with a partisan Supreme Court filibuster. Back then, the current top Democrat on the Judiciary Committee said she opposed attempts to filibuster Supreme Court nominees. ''[Just because the nominee] is a man I might disagree with,'' she said, ''that doesn't mean he shouldn't be on the court.'' She said the filibuster should be reserved for something truly outrageous.

Yesterday, the top Democrat on the Judiciary Committee announced her intention to filibuster the Supreme Court nominee before us because she disagreed with him. It is totally the opposite of what she said before. It is just the kind of thing she said the filibuster should not be used for.

This is emblematic of what we are seeing in Democrats' strained rationale for their unprecedented filibuster threat. It seems they are opposed to Judge Gorsuch's nomination because far-left interest groups are upset about other things—the way the election turned out, mostly—and threatening the careers of any Democrat who opposes blind resistance to everything this President does.

Democrats have come up with all manner of excuses to justify opposing this outstanding nominee. They asked for his personal opinions on issues that could come before him and posed hypotheticals that they know he is ethically precluded from answering. They cherry-picked a few cases out of thousands in which he has participated. They invent fake 60-vote standards that fact checkers call bogus. They are, to paraphrase the Judiciary

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

chairman, a ''no'' vote in search of a reason to vote that way. What they can't lay a glove on is the nominee's record and independence—the kinds of things that should actually be swaying our vote—and that is really quite telling.

If Democrats follow through on their threat to subject this widely respected judge to the first partisan filibuster in the history of the Senate, then I doubt there is a single nominee from this President they could ever support—ever. After all, the Democratic leader basically said as much before the nomination was even made. But it is not too late for our friends to do the right thing.

You know, we on this side of the aisle are no strangers to political pressure. We can emphathize with what our Democratic colleagues might be going through right now. But part of the job you sign up for here is to do what you know is right in the end.

When President Clinton nominated Stephen Breyer, I voted to confirm him. When President Clinton nominated Ruth Bader Ginsburg, I voted to confirm her. I thought it was the right thing to do. After all, he won the election. He was the President. The President gets to appoint Supreme Court Justices. When President Obama nominated Sonia Sotomayor and Elena Kagan, I led my party in working to ensure they received an up-or-down vote, not a filibuster.

We were in exactly the same position in which our Democratic friends are today. No filibuster. No filibuster. We thought it was the right thing to do. It is not because we harbored illusions that we would usually agree with these nominees of Democratic Presidents—certainly not. We even protested when then-Majority Leader Reid tried to file cloture on the Kagan nomination. We talked him out of it and said it wasn't necessary. Jeff Sessions, the current Attorney General, was the ranking member of the Judiciary Committee at the time. Jeff Sessions talked Harry Reid out of filing cloture because it wasn't necessary. We didn't even want the pretext of the possibility of a filibuster on the table.

Well, that is quite a different story from what we are seeing today, but this is where our Democratic colleagues have taken us. Will a partisan minority of the Senate really prevent the Senate's pro-Gorsuch bipartisan majority from confirming him? Will they really subject this eminently qualified nominee to the first successful partisan filibuster in American history? Americans will be watching, history will be watching, and the future of the Senate will hang on their choice.

RESERVATION OF LEADER TIME

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the Duke nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Elaine C. Duke, of Virginia, to be Deputy Secretary of Homeland Security.

The PRESIDING OFFICER. Under the previous order, the time until 12 noon will be equally divided in the usual form.

The minority whip.

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

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

NOMINATION OF NEIL GORSUCH

Mr. DURBIN. Madam President, there is a poem that I recall, and it goes like this:

When I was going up the stair,
I met a man who wasn't there.
He wasn't there again today.
I wish that man would go away.

I thought about that poem when I listened to the majority leader's speech about how cooperative he has been when it comes to Supreme Court nominations. The name he forgot to mention was Merrick Garland—Merrick Garland, who was nominated by President Obama to fill the vacancy of Justice Antonin Scalia; Merrick Garland, the only Presidential nominee to the Supreme Court in the history of the U.S. Senate to be denied a hearing and a vote; Merrick Garland, about whom Senator MCCONNELL said: I will not only refuse to give him a hearing and a vote, I refuse to even see him; Merrick Garland, who was found unanimously ''well qualified'' by the American Bar Association; Merrick Garland, the person who received bipartisan support for appointment to the DC Circuit Court of Appeals, the second highest court in the land.

So when the majority leader comes to the floor to talk about how cooperative he has been with previous Presidents when it comes to Supreme Court nominees, he conveniently omits the most obvious reason for our problems this week: the unilateral decision by the majority leader to preclude any vote on Merrick Garland to fill the vacancy of Justice Scalia.

I know Judge Garland. I have met with him several times. He is a balanced, moderate, experienced jurist who should be on the U.S. Supreme Court. We should not be entertaining Neil Gorsuch this week; we ought to be celebrating the first anniversary of Merrick Garland's service on the U.S. Supreme Court. The reason we are not is that Senator MCCONNELL and the Senate Republicans refused us that opportunity. They said: No, you cannot vote on that.

Remember their logic? The logic was: Wait a minute. This is the last year of President Obama's Presidency. Why should he be able to fill a vacancy on the U.S. Supreme Court when we have an election coming soon?

That is an interesting argument. There are two things I am troubled with.

I do believe President Obama was elected for 4 years in his second term, not for 3, which meant he had authority in the fourth year, as he did in the third year.

Secondly, the Republican argument ignores history. It ignores the obvious history when we had a situation with President Ronald Reagan, in his last year in office, with regard to a vacancy on the U.S. Supreme Court. There were Democrats in charge of the Senate and Democrats in charge of the Senate Judiciary Committee, and President Ronald Reagan, a lameduck President in his last year, nominated Anthony Kennedy to serve on the Court. He sent the name to the Democratic Senate, and there was a hearing before the Senate Judiciary Committee and a vote that sent him to the Court.

You never hear that story from Senator MCCONNELL. It is because it does not fit into his playbook as to why he would wait for a year and refuse to give Merrick Garland a hearing and a vote. The reasoning is obvious: Clearly he was banking on the possibility that the electorate would choose a Republican President—and that is what happened—so that a Republican President—in this case, Donald Trump—could fill the vacancy, not Barack Obama.

So when I hear the speeches on the floor by Senator MCCONNELL about his bipartisan cooperation, he leaves out an important chapter—the last chapter, the one that brought us to this moment in the Senate.

I look at the situation before us today, and it is a sad situation for the Senate—sad in that we have reached the point in which a Supreme Court nomination has become so political, more so than at any time in history.

Where did the name ''Neil Gorsuch'' come from for the Supreme Court? It came from a list that was prepared by two organizations: the Federalist Society and the Heritage Foundation. These are both Republican advocacy groups who represent special interests and are funded by special interests. They came up with the names and gave them to Presidential candidate Donald Trump. It was a list of 21 names. He issued them twice—in March and in September of the last campaign year—and Neil Gorsuch's name was on the list.

The Federalist Society was created in 1982. Nominally, it is an organization that is committed to originalism.

In other words, it looks to the clear meaning of the Constitution, what the Founding Fathers meant. They say that over and over again: Just look to the Constitution and read it, and then we will know what we should do. That was in a speech that was given by Edwin Meese, the then-Attorney General in 1985, who explained the Federalist Society's credo.

On its face, it sounds at least arguably defensible that there would be an organization that is so committed to the Constitution that it wants Supreme Court nominees who will follow it as literally as possible. Yet, as Justice William Brennan on the Supreme Court said, if they think they can find in those musty volumes from back in the 18th century all of the answers to all of the questions on the issues we face today—here is what he called it—that is arrogance posing as humility.

Yet that is what they said the Federalist Society was all about. If that were all the Federalist Society were about, then I guess one could argue that they ought to have their day in court, their day in choosing someone for the Supreme Court, but it is more than that. When you look at those who finance the Federalist Society—and it is a short list because they refuse to disclose all their donors—you see the classic names of Republican support: the Koch brothers, the Mercer family, the Richard Mellon Scaife family foundation, the ones who pop up over and over again. Why would these organizations be so determined to pick the next nominee to fill the vacancy on the Supreme Court? It is because there is so much at stake.

In a Judiciary Committee hearing, my colleague SHELDON WHITEHOUSE went through the box score when it came to the Supreme Court and how they ruled when given a choice between special interests and corporate elites versus average workers and consumers and families. As Senator WHITEHOUSE pointed out graphically, in detail, overwhelmingly, this Court has ruled for the special interests. Sixty-nine percent of the Roberts' Court's rulings are in favor of the U.S. Chamber of Commerce's position on issues, according to one study.

Why would a special interest organization like the Federalist Society care? It wants to keep a good thing going, from its point of view. That is why this is a different Supreme Court nominee.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. KENNEDY). The Democratic leader is recognized.

CONGRATULATING THE SENIOR SENATOR FROM ILLINOIS

Mr. SCHUMER. Mr. President, first, I sat at the back of the room to listen to my colleague from Illinois. I know he got up because he wanted very much to respond to the majority leader, and I thought he did a great job. It was a pleasure to listen, as always, to one of the most articulate Members with whom I have ever served in any legislative body, as well as his having many other good traits.

EQUAL PAY DAY

Mr. President, today is Equal Pay Day. Unlike many holidays on our calendar, Equal Pay Day is not actually a commemoration of some achievement. Equal pay for women is still not close to a reality. Women still make 79 cents for every dollar a man makes in the same position. African-American women are making 64 cents on the dollar. Latina women are making 54 cents on the dollar. That is not right. It is holding the American dream out of reach for too many women in this country. So Equal Pay Day is not a commemoration; it is a reminder that glass ceilings are everywhere and that there are hugely consequential and tangible barriers that women face every single day that men do not.

In 2007, the Supreme Court, in a 5-to-4 decision by the conservative majority in Ledbetter v. Goodyear, ruled that Lilly Ledbetter could not pursue her claim that she was entitled to equal pay. The Lilly Ledbetter Fair Pay Act, which reversed this unfair Supreme Court decision, was the first bill President Obama signed into law in 2009.

NOMINATION OF NEIL GORSUCH

Mr. President, this leads me to the Supreme Court. It is just one of so many examples of what is at stake in the nomination of Judge Gorsuch to the Supreme Court, which we now debate here on the floor of the Senate.

I was listening to the majority leader earlier this morning, and I cannot believe he can stand here on the floor of the U.S. Senate and with a straight face say that Democrats are launching the first partisan filibuster of a Supreme Court nominee. What the majority leader did to Merrick Garland by denying him even a hearing and a vote is even worse than a filibuster. For him to accuse Democrats of the first partisan filibuster on the Supreme Court belies the facts, belies the history, belies the basic truth.

My friend Representative ADAM SCHIFF said: ''When McConnell deprived President Obama of a vote on Garland, it was a nuclear option. The rest is fallout.'' Let me repeat that. ADAM SCHIFF put it better than I ever could. ''When McConnell deprived President Obama of a vote on Garland, it was a nuclear option. The rest is fallout.''

Even though my friend the majority leader keeps insisting that there is no principled reason to vote against Judge Gorsuch, we Democrats disagree. First, he has instinctively favored corporate interests over average Americans. Second, he has not shown a scintilla of independence from President Trump. Third, as my colleague from Illinois elaborated, he was handpicked by hard-right special interest groups, not because he called balls and strikes. They would not put all of that effort and money into a caller of balls and strikes. These are ideologues who want to move America far to the right. He was picked by hard-right special interest groups because his views are outside the mainstream.

According to analyses of his record on the Tenth Circuit, which were conducted by the New York Times and the Washington Post, by experts on the Court, Judge Gorsuch would be one of the most conservative voices ever on the Supreme Court should he achieve that.

The Washington Post:

> Gorsuch's actual voting behavior suggests he is to the right of both Alito and Thomas and by a substantial margin. That would make him the most conservative Justice on the Court in recent memory.

That is why the Heritage Foundation and the Federalist Society put Judge Gorsuch on their list for President Trump.

As Emily Bazelon of the New York Times put it in a brilliant article that I would urge all of my colleagues to read:

> The reality is that Judge Gorsuch embraces a judicial philosophy that would do nothing less than undermine the structure of modern government—including the rules that keep our water clean, regulate the financial markets and protect workers and consumers.

I ask unanimous consent to have that article printed in the RECORD.

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

[From the New York Times, Apr. 1, 2017]

THE GOVERNMENT GORSUCH WANTS TO UNDO

(By Emily Bazelon and Eric Posner)

At recent Senate hearings to fill the Supreme Court's open seat, Judge Neil Gorsuch came across as a thoroughly bland and nonthreatening nominee. The idea was to give as little ammunition as possible to opponents when his nomination comes up this week for a vote, one that Senate Democrats may try to upend with a filibuster.

But the reality is that Judge Gorsuch embraces a judicial philosophy that would do nothing less than undermine the structure of modern government—including the rules that keep our water clean, regulate the financial markets and protect workers and consumers. In strongly opposing the administrative state, Judge Gorsuch is in the company of incendiary figures like the White House adviser Steve Bannon, who has called for its ''deconstruction.'' The Republican-dominated House, too, has passed a bill designed to severely curtail the power of federal agencies.

Businesses have always complained that government regulations increase their costs, and no doubt some regulations are ill-conceived. But a small group of conservative intellectuals have gone much further to argue that the rules that safeguard our welfare and the orderly functioning of the market have been fashioned in a way that's not constitutionally legitimate. This once-fringe cause of the right asserts, as Judge Gorsuch put it in a speech last year, that the administrative state ''poses a grave threat to our values of personal liberty.''

The 80 years of law that are at stake began with the New Deal. President Franklin D. Roosevelt believed that the Great Depression was caused in part by ruinous competition among companies. In 1933, Congress passed the National Industrial Recovery Act, which

allowed the president to approve ''fair competition'' standards for different trades and industries. The next year, Roosevelt approved a code for the poultry industry, which, among other things, set a minimum wage and maximum hours for workers, and hygiene requirements for slaughterhouses. Such basic workplace protections and constraints on the free market are now taken for granted.

But in 1935, after a New York City slaughterhouse operator was convicted of violating the poultry code, the Supreme Court called into question the whole approach of the New Deal, by holding that the N.I.R.A. was an ''unconstitutional delegation by Congress of a legislative power.'' Only Congress can create rules like the poultry code, the justices said. Because Congress did not define ''fair competition,'' leaving the rule-making to the president, the N.I.R.A. violated the Constitution's separation of powers.

The court's ruling in Schechter Poultry Corp. v. the United States, along with another case decided the same year, are the only instances in which the Supreme Court has ever struck down a federal statute based on this rationale, known as the ''nondelegation doctrine.'' Schechter Poultry's stand against executive-branch rule-making proved to be a legal dead end, and for good reason. As the court has recognized over and over, before and since 1935, Congress is a cumbersome body that moves slowly in the best of times, while the economy is an incredibly dynamic system. For the sake of business as well as labor, the updating of regulations can't wait for Congress to give highly specific and detailed directions.

The New Deal filled the gap by giving policy-making authority to agencies, including the Securities and Exchange Commission, which protects investors, and the National Labor Relations Board, which oversees collective bargaining between unions and employers. Later came other agencies, including the Environmental Protection Agency, the Occupational Safety and Health Administration (which regulates workplace safety) and the Department of Homeland Security. Still other agencies regulate the broadcast spectrum, keep the national parks open, help farmers and assist Americans who are overseas. Administrative agencies coordinated the response to Sept. 11, kept the Ebola outbreak in check and were instrumental to ending the last financial crisis. They regulate the safety of food, drugs, airplanes and nuclear power plants. The administrative state isn't optional in our complex society. It's indispensable.

But if the regulatory power of this arm of government is necessary, it also poses a risk that federal agencies, with their large bureaucracies and potential ties to lobbyists, could abuse their power. Congress sought to address that concern in 1946, by passing the Administrative Procedure Act, which ensured a role for the judiciary in overseeing rule-making by agencies.

The system worked well enough for decades, but questions arose when Ronald Reagan came to power promising to deregulate. His E.P.A. sought to weaken a rule, issue by the Carter administration, which called for regulating ''stationary sources'' of air pollution—a broad wording that is open to interpretation. When President Reagan's E.P.A. narrowed the definition of what counted as a ''stationary source'' to allow plants to emit more pollutants, an environmental group challenged the agency. The Supreme Court held in 1984 in Chevron v. Natural Resources Defense Council that the E.P.A. (and any agency) could determine the meaning of ambiguous term in the law. The rule came to be known as Chevron deference: When Congress uses ambiguous language in a statute, courts must defer to an agency's reasonable interpretation of what the words mean.

Chevron was not viewed as a left-leaning decision. The Supreme Court decided in favor of the Reagan administration, after all, voting 6 to 0 (three justices did not take part), and spanning the ideological spectrum. After the conservative icon Justice Antonin Scalia reached the Supreme Court, he declared himself a Chevron fan. ''In the long run Chevron will endure,'' Justice Scalia wrote in a 1989 article, ''because it more accurately reflects the reality of government, and thus more adequately serves its needs.''

That was then. But the Reagan administration's effort to cut back on regulation ran out of steam. It turned out that the public often likes regulation—because it keeps the air and water clean, the workplace safe and the financial system in working order. Deregulation of the financial system led to the savings-and-loans crisis of the 1980s and the financial crisis a decade ago, costing taxpayers billions.

Businesses, however, have continued to complain that the federal government regulates too much. In the past 20 years, conservative legal scholars have bolstered the red-tape critique with a constitutional one. They argued that only Congress—not agencies—can create rules. This is Schechter Poultry all over again.

And Judge Gorsuch has forcefully joined in. Last year, in a concurring opinion in an immigration case called Gutierrez-Brizuela v. Lynch, he attacked Chevron deference, writing that the rule ''certainly seems to have added prodigious new powers to an already titanic administrative state.'' Remarkably, Judge Gorsuch argued that Chevron—one of the most frequently cited cases in the legal canon—is illegitimate in part because it is out of step with (you guessed it) Schechter Poultry. Never mind that the Supreme Court hasn't since relied on its 1935 attempt to scuttle the New Deal. Nonetheless, Judge Gorsuch wrote that in light of Schechter Poultry, ''you might ask how is it that Chevron—a rule that invests agencies with pretty unfettered power to regulate a lot more than chicken—can evade the chopping block.''

At his confirmation hearings, Judge Gorsuch hinted that he might vote to overturn Chevron without saying so directly, noting that the administrative state existed long before Chevron was decided in 1984. The implication is that little would change if courts stopped deferring to the E.P.A.'s or the Department of Labor's reading of a statute. Judges would interpret the law. Who could object to that?

But here's the thing: Judge Gorsuch is skeptical that Congress can use broadly written laws to delegate authority to agencies in the first place. That can mean only that at least portions of such statutes—the source of so many regulations that safeguard Americans' welfare—must be sent back to Congress, to redo or not.

On the current Supreme Court, only Justice Clarence Thomas seeks to strip power from the administrative state by undercutting Chevron and even reviving the obsolete and discredited nondelegation doctrine, as he explains in opinions approvingly cited by Judge Gorsuch. But President Trump may well appoint additional justices, and the other conservatives on the court have expressed some uneasiness with Chevron, though as yet they are not on board for overturning it. What would happen if agencies could not make rules for the financial industry and for consumer, environmental and workplace protection? Decades of experience in the United States and around the world teach that the administrative state is a necessary part of the modern market economy. With Judge Gorsuch on the Supreme Court, we will be one step closer to testing that premise.

Mr. SCHUMER. There are clearly principled reasons to oppose Judge Gorsuch, and enough of us Democrats have reasons to prevent his nomination from moving forward on Thursday's cloture vote.

The question is no longer whether Judge Gorsuch will get enough votes on the cloture motion; now the question is, Will the majority leader and our friends on the other side break the rules of the Senate to approve Judge Gorsuch on a majority vote? That question should be the focus of the debate here on the floor, and it should weigh heavily on the conscience of every Senator.

Ultimately, my Republican friends face a simple choice: They can fundamentally alter the rules and traditions of this great body or they can sit down with us Democrats and the President to come up with a mainstream nominee who can earn bipartisan support and pass the Senate.

No one is making our Republican colleagues change the rules. No one is forcing Senator MCCONNELL to change the rules. He is doing it of his own volition, just as he prevented Merrick Garland from getting a vote of his own volition. Senator MCCONNELL and my Republican colleagues are completely free actors in making a choice—a very bad one, in our opinion.

I know my friends on the other side of the aisle are uncomfortable with this choice, so they are scrambling for arguments to justify breaking the rules. Let me go through a few of these justifications and explain why each does not hold up.

First, many of my Republican colleagues will argue that they can break the rules because ''Democrats started it in 2013'' when we lowered the bar for lower court nominees and Cabinet appointments.

Let's talk about that. The reason Majority Leader Reid changed the rules was that Republicans had ramped up the use of the filibuster—the very filibuster they now decry—to historic proportions. They filibustered 79 nominees in the first 5 years of Obama's Presidency. Let's put that into perspective. Prior to President Obama, there were 68 filibusters on nominations under all of the other Presidents combined, from George Washington to George Bush. We had 79. Our colleagues and Leader MCCONNELL, the filibuster is wrong? There were 79—more than all of the other Presidents put together. The shoe was on a different foot.

They deliberately kept open three seats on the second most important court in the land—the DC Court of Appeals—because it had such influence over decisions made by the government. This is the court, other than the U.S. Supreme Court, that the Federalist Society and the Heritage Foundation hate the most. The deal that a

number of Senators made in 2005 allowed several of the most conservative judges to be confirmed to that court—very conservative people. It left a bad taste in my mouth, and I am sure in my colleagues' and in many others.

But then, when President Obama came in, they insisted on not filling any additional seats on the court—which, of course, would have been Democratic seats—and eventually held open 3 of the 11 seats on that court. They said they would not allow those seats to be filled by President Obama—an eerie precedent, which the majority leader repeated with Merrick Garland. He didn't want the DC Circuit to have Obama-appointed, Democratic-appointed nominees; he didn't want that on the Supreme Court, so he blocked Merrick Garland. He didn't want it on the DC Circuit, so they wouldn't let any of President Obama's nominees come to the floor.

Merrick Garland's nomination was not the first time the majority leader held open a judicial seat because it wasn't the President of his party, and that was not during an election year.

At the time, I spoke with my good friend from Tennessee, Senator ALEXANDER. I asked him to go to Senator MCCONNELL and tell him that the pressure on our side to change these rules—after all of these unprecedented numbers of filibusters—was going to be large. I said to Senator ALEXANDER: Let's try to avoid it. But Senator MCCONNELL and Republicans refused all of our overtures to break the deadlock they imposed.

To be clear, Democrats changed the rules after 1,776 days of obstruction on President Obama's nominees. My Republican friends are contemplating changing the rules after barely more than 70 days of President Trump's administration. We moved to change the rules after 79 cloture motions had to be filed. They are talking about changing the rules after 1 nominee fails to meet the 60-vote threshold.

So, yes, Democrats changed the rules in 2013, but only to surmount an unprecedented slowdown that was crippling the Federal judiciary, and we left the 60-vote threshold intact for the Supreme Court deliberately. We could have changed it. We had free will then, just as Senator MCCONNELL has it now. But we left the 60-vote threshold intact for the Supreme Court because we knew and know—just as our Republican friends know—that the highest Court in the land is different.

Unlike with lower courts, Justices on the Supreme Court don't simply apply precedents of a higher court; they set the precedents. They have the ultimate authority under our constitutional government to interpret the law. Justices on the Supreme Court should be mainstream enough to garner substantial bipartisan support; hence, why we didn't change the rules; hence, why we believe in the 60-vote threshold; and hence, why 55 or 60 percent of all Americans agree with the 60-vote threshold, according to the most recent polls. To me, and I think to most of my friends on the Republican side, that is not a good enough reason to escalate the argument and break the rules for the Supreme Court.

Second, as I have mentioned, I have heard my Republican friends complain that Democrats are conducting the first partisan filibuster of a Supreme Court nominee in history, so that is the reason they can justify breaking the rules because Democrats are the ones taking it to a new level. Again, I have just two words for my Republican friends: Merrick Garland. The Republican majority conducted the first partisan filibuster of a Supreme Court pick when their members refused to have hearings for Merrick Garland.

In fact, what the Republicans did was worse than a filibuster. The fact is, the Republicans blocked Merrick Garland using the most unprecedented of maneuvers. Now we are likely to block Judge Gorsuch because we are insisting on a bar of 60 votes.

We think a 60-vote bar is far more in keeping with tradition than what the Republicans did to Merrick Garland. We don't think the two are equivalent. Nonetheless, in the history of the Scalia vacancy, both sides have lost. We didn't get Merrick Garland; they are not getting 60 votes on Judge Gorsuch.

So we are back to square one right now, and the Republicans have total freedom of choice in this situation.

Finally, Republicans have started to argue that because Democrats will not confirm Judge Gorsuch, we will not confirm anyone nominated by President Trump, so they have to break the rules right now. That is an easy one. I am the Democratic leader. I can tell you myself that there are mainstream Republican nominees who could earn adequate Democratic support.

And just look at recent history. Justices Roberts and Alito, two conservative judges who many of us on the Democratic side probably don't agree with, both earned over 60 votes. They got Democratic votes. While there was a cloture vote on Justice Alito, he was able to earn enough bipartisan support that cloture was invoked with over 70 votes. He got only 58 when we voted for him, but the key vote was the cloture vote.

Let's have the President consult Members of both parties—he didn't with Gorsuch—and try to come up with a consensus nominee who could meet a 60-vote threshold. That is what President Clinton did with my friend, the Senator from Utah, in selecting Justices Ginsberg and Breyer. It is what President Obama did with Merrick Garland.

Of course, we realize a nominee selected this way would not agree with many of our views. That is true. But President Trump was elected President, and he is entitled by the Constitution to nominate. But Judge Gorsuch is so far out of the mainstream that the Washington Post said his voting record would place him to the right of Justice Thomas. He was selected by the Heritage Foundation and the Federalist Society without an iota of input from the Senate.

There is a better way to do this. I know it sometimes may seem like a foreign concept in our hyperpolarized politics these days, but there is always the option of actually consulting Democrats on a nominee and discussing a way forward that both parties can live with. We are willing to meet anywhere, anytime.

So my friends on the other side can dredge up these old wounds and shopworn talking points if they choose. If Republicans want to conduct a partisan, ''they started it'' exercise, I am sure we could trace this all the way back to the Hamilton-Burr duel. But at the end of the day, they have to confront a simple choice: Are they willing to break the rules of the Senate or can they work with us on a way forward? I, for one, hope we can find a way to compromise. Judge Gorsuch was not a compromise. He was solely chosen without any consultation. So it is not that there is a Merrick equivalency.

My friend the majority leader said: ''I think we can stipulate that in the Senate it takes 60 votes on controversial matters.'' If anything is a controversial, important matter, it is a selection for the Supreme Court, and Senator MCCONNELL has repeatedly stood for the rightness of 60 votes on important and controversial issues.

If Senator MCCONNELL wants to change his view on the 60 votes all of a sudden and Republicans decide to go along with him, it will not be because Democrats started it, because that is not true. It will not be because Democrats will not confirm any President Trump-nominated Justice, because that is not true. It will be because they choose to do so, and they will have to bear the unfortunate consequences.

Mr. President, I yield the floor.

Mr. DURBIN. Mr. President, 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.

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

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

MINERS PROTECTION ACT

Mrs. CAPITO. Mr. President, I rise today, as I have on a number of occasions in the past, to express the urgent need for action to protect the retirement security of our Nation's coal miners. Because of bankruptcies that have decimated the coal industry, we have lost over 22,000 jobs in our State, but more than 22,000 retired coal miners and their spouses are at risk of losing their healthcare benefits at the end of April.

I have visited with retired miners from all across West Virginia to discuss this situation. During the February congressional recess, I visited the Cabin Creek Health Center in West Virginia. The Cabin Creek Health Center serves hundreds of coal miners and their families. They provide pulmonary rehabilitation services for miners suffering from black lung. They also provide primary care services for miners and other members of their community. During my visit, I met with several retired miners who would lose their health insurance coverage if Congress fails to act. These individuals are suffering from serious medical conditions and were unsure how they would afford their healthcare if they were to lose their current coverage.

Just 2 weeks ago, I met with about a dozen retired miners from West Virginia who came to Washington to support the Miners Protection Act and to stand up for their hard-earned retirement benefits. Other groups of West Virginia miners have come to Washington over the past few months. All have carried one message to Congress: Keep the promise of our lifetime health benefits. On March 1, thousands of miners received notice that their health insurance would be terminated in 60 days. Most of these same people received that very same message just last October. As I listen to their stories, it is hard to imagine the worry these notices cause for miners and their families.

In December 2016, Congress included language in the continuing appropriations legislation that preserved health coverage for these retired miners for just 4 months. While that provision kept mining families from losing their health coverage—which is good—at the end of last year, a permanent solution is critically needed.

The 4-month provision from the December CR expires at the end of this month. It is vital—vital—that Congress take action within the next few weeks to provide healthcare and peace of mind for these miners in West Virginia and across coal country. Our retired miners deserve their promised healthcare coverage and should not have to receive another cancellation notice or another Band-Aid solution. We have a bipartisan vehicle for action. I have worked closely with Senator JOE MANCHIN, Senator ROB PORTMAN, and others to introduce and promote the bipartisan Miners Protection Act, which would preserve healthcare and pension benefits for our miners. Our bill passed the Senate Finance Committee last year by a bipartisan vote of 18 to 8. I also would like to thank the majority leader, Senator MITCH MCCONNELL, because he has introduced legislation that would provide a permanent healthcare solution for our miners.

With all of us pulling together and with us working together, I am confident the Senate will act before the end of this month to continue these critical healthcare benefits for our miners. I ask my colleagues for their support in addressing this important issue for our working families.

The PRESIDING OFFICER. The Senator from Texas.

NOMINATION OF NEIL GORSUCH

Mr. CORNYN. Mr. President, yesterday the Senate Judiciary Committee voted out the nomination of Judge Neil Gorsuch to fill the vacancy on the Supreme Court left by the death of Justice Scalia. During the meeting, as the Presiding Officer knows, our Democratic colleagues trotted out the same old tired arguments we have heard time and again about Judge Gorsuch.

In the end, though, none of those arguments hold water, and of course many of them aren't even about him. Instead, these arguments reveal how our colleagues across the aisle are grasping for reasons to justify an unprecedented partisan filibuster of a Supreme Court Justice.

Some object to the nomination of Judge Gorsuch because they claim he refuses to answer specific questions. But I ask: How would any of us feel if the judge before whom we might later appear had previously, in order to get a confirmation of his nomination, made certain promises of how he would judge that case when presented at a future date? We would all feel more than a little bit betrayed and even cheated if the judge had prejudged our case before he even heard it. The judge is simply engaging in a common practice for Supreme Court nominees. They steer clear of any questions that may pertain to cases they may have to rule on later. It is a matter, as the Presiding Officer knows, of judicial ethics, and we wouldn't have it any other way.

Justice Ruth Bader Ginsburg set this precedent early on. During her confirmation hearing in 1993, she said she didn't want to give any hints or previews about how she might vote on an issue before her. So she politely and respectfully declined. Others followed her example, and Judge Gorsuch is, of course, doing precisely the same.

By any fair review, Judge Gorsuch has a history of 10 years as a judge sitting on the Tenth Circuit Court of Appeals out of Denver, CO. He has a history of interpreting the law fairly, basing his judgments on the law and the facts, without regard to politics and without respect to persons.

That brings me to this argument that somehow he is against the little guy. Clearly, a review of the records demonstrates that this is not so. But, again, how are judges supposed to perform? Are they supposed to see the litigants—the parties to a lawsuit—in their court and say: Well, you have a big guy and you have a little guy, and I am always going to vote or render a judgment for the little guy without regard to the law or the facts?

I realize that sometimes our colleagues can weave a story that seems somewhat sympathetic when it comes to the fact that not everybody is guaranteed a win in court. As a matter of fact, when there are two parties to a lawsuit, one of those parties is likely to be disappointed in the outcome. But that is what judges are there for. That is what they are supposed to do. They are supposed to render judgments, without regard to personal preferences or politics or without regard to their sympathies, let's say, for one of the parties to the lawsuit.

Judge Gorsuch even said this during his hearing: No one will capture me. No one will capture me—meaning that no special interest group or faction would derail him from following the law, wherever it may lead. That is why Judge Gorsuch is universally respected. That is why he was confirmed by voice vote 10 years ago to the Tenth Circuit Court of Appeals. No one objected to Judge Gorsuch's confirmation to a lifetime appointment on the Tenth Circuit Court of Appeals.

Again, as the Presiding Officer knows, the Supreme Court of the United States only hears about 80 cases, give or take, a year. Most of the hard work gets done in our judicial system at the district court level and at the circuit court level, and almost all of the cases end in circuit courts, like the Tenth Circuit Court of Appeals, on which Judge Gorsuch serves. That is not to say that the Supreme Court is not important—it is—in resolving conflicts between the circuits or ruling on important questions of law to guide all of the judiciary and to settle these issues for our country, at least for a time, and maybe even permanently when it comes to constitutional interpretation.

Judge Gorsuch enjoys broad support from across the political spectrum, especially from his colleagues and members of the bar.

For 13 years, I served on the State judiciary in Texas, with 6 years as a trial judge and 7 years as a member of the Texas Supreme Court. When I heard that Judge Gorsuch had participated in 2,700 cases on a three-judge panel and 97 percent of them were unanimous, that told me something special about this judge. It takes hard work to build consensus on a multijudge panel, whether it is three judges or nine judges, like the Supreme Court. I think what we are going to see out of this judge is not somebody who is going to decide cases in a knee-jerk fashion but somebody who is going to work really hard to try to build consensus on the Supreme Court of the United States.

That is really important to the Supreme Court's respect as an institution of our government. What causes disrespect for our judiciary is when judges act like politicians, when they make pledges of how they will decide cases ahead of time or they campaign, in essence, for votes based on ideological positions.

Judge Gorsuch is the opposite of that, and that is the kind of judge America needs right now in the Supreme Court. That is why later on this

week, on Friday, Judge Gorsuch will be confirmed.

In spite of all the evidence in support of the nominee's intellect and qualifications, without regard to the bipartisan chorus urging his confirmation, the Democratic leader has decided to do everything he can to prevent us from even having an up-or-down vote on his nomination. Unfortunately, he will be making history in urging his Democratic colleagues to engage in a partisan filibuster against a Supreme Court justice. In our Nation's long, rich history, there has never been a successful partisan filibuster of a Supreme Court nominee. Now, some people want to talk about Abe Fortas back in 1968, which was totally different. But there has never been a successful partisan filibuster of a Supreme Court justice until, apparently, this week on Thursday—not one of them.

Not one of my Republican colleagues mounted a filibuster when President Obama nominated Justice Sotomayor or Justice Kagan. Both received an up-or-down vote. That is because that has been the customary way this Chamber has treated Supreme Court nominees in the past. Only four times in our Nation's history has a cloture motion actually even been filed. But cloture was always achieved because, on a bipartisan basis, enough votes were cast to allow the debate to end and then to allow an up-or-down vote on the nominee.

To show how new this weaponization of the filibuster has become, back when Clarence Thomas was confirmed to the Supreme Court of the United States, he got 52 votes—52 votes—and was confirmed and now serves on the Supreme Court. Back when he was confirmed, no one even dreamed of its use. It was theoretically possible, but no one dreamed of the idea that someone would raise the threshold for confirmation from a 51-majority vote to 60.

Our colleagues have made it quite clear that they don't want to support any nominee from this President. So it is not even just about Judge Gorsuch. It is about any nominee this President might propose to the Supreme Court. And I think what it boils down to is this: Our Democratic colleagues haven't gotten over the fact that they lost the election. I think it really isn't much more complicated than that. They adamantly resisted participating in the legislative process. They dug their feet on every Cabinet nomination and now on the Supreme Court nomination. All they know is to obstruct because they haven't gotten over the fact that Hillary Clinton isn't President of the United States.

They keep bringing up Merrick Garland's name. Judge Garland is a fine man, a good judge who serves on the DC Circuit Court of Appeals, but you would have to go back to 1888 to find a time when someone was nominated in a Presidential election year with divided government and where that person was confirmed.

What we decided to do upon the death of Justice Scalia is to say that the Supreme Court is so important that we are going to have a referendum on who gets to nominate the next Justice on the Supreme Court. Our Democratic friends thought for sure it would be Hillary Clinton. When it turned out to be Donald Trump, well, all bets were off, and they were in full opposition mode. But we would have respected the right of a President Hillary Clinton to fill that nomination because that is what we said was at stake in the election. I think it had a big impact on whom got elected on November 8 as President of the United States and who would fill that vacant seat and any future vacant seats on the Supreme Court.

So here is the problem. If Judge Gorsuch is an unacceptable nominee, can you imagine any nominee by this President being acceptable to our Democratic colleagues? I can't, because Judge Gorsuch is about as good as you get when it comes to a nominee. He is exactly the type of person we should hope to see nominated to the Supreme Court.

So it is time for our Democratic colleagues to accept reality and not to live in some sort of fantasy land and not to try to punish good people like Judge Gorsuch, who has done an outstanding job, because they are disappointed in the outcome of the election.

So here is the bottom line. Our Democratic friends will determine how we get to an up-or-down vote on Judge Gorsuch. If they are genuinely concerned about the institution of the Senate, they will provide eight votes to get cloture to close off debate, they will decline to filibuster the judge, and they will allow an up-and-down vote on this imminently qualified nominee.

I am holding out hope that more thoughtful and independent Democrats will think better of the Democratic leader's strategy. Several already have, and I commend them for it. I hope more will come around to that idea, but as I and others have said before, regardless of whether they do, Judge Gorsuch will be confirmed. But it is up to the Democrats to determine just how we get that done.

I see a friend from Vermont here. I won't take much longer. I want to take about 3 or 4 minutes, maybe 5 minutes, to debunk some of the myths about how we got here.

I have in front of me an article written by Neil Lewis dated May 1, 2001. The title of this New York Times story is ''Washington Talk; Democrats Readying for Judicial Fight.'' It is dated May 1, 2001. That was, of course, in the early days of the George W. Bush administration. What it says is that 42 of the Senate's 50 Democrats attended a private retreat in Farmington, PA, where the principal topic was forging a unified party strategy to combat the White House on judicial nominees.

Mr. Lewis goes on to quote one of the people there who said: ''They said it was important for the Senate to change the ground rules'' by which judicial nominees were confirmed. And they did as a result of that meeting, which was led by Laurence Tribe of Harvard Law School, Cass Sunstein of the University of Chicago, and Marcia Greenberger, codirector of the National Women's Law Center. Senator SCHUMER, the present Democratic leader, and others, cooked up a new procedural hurdle for President George W. Bush's judicial nominees, and we remember what happened after that. It became almost routine for our Democratic colleagues to filibuster President Bush's nominees.

Ultimately, there came a meeting of a group called the Gang of 14, where there was a deal worked out that some of President Bush's judicial nominees were confirmed and others were returned and not confirmed. There was a decision made at that time by the Gang of 14, a bipartisan group, that there would be no filibuster of judicial nominees, absent exceptional circumstances. That was the language that they used—''absent exceptional circumstances''—that let us get by that obstacle and those filibusters for a time.

The next major development occurred in 2013, when President Obama really wanted to see on the DC Circuit Court of Appeals—the primary circuit court that reviewed administrative decisions—more of his Democratic nominees on that court. So in a new and unprecedented fashion, Senator Harry Reid changed the cloture rules once again—so-called the Reid Rule. For what purpose? It was a naked power grab. It was to pack the DC Circuit Court of Appeals—one of the least busy circuit courts in the country—in order to have judges confirmed by 51 Democratic votes that would rubberstamp President Obama's administrative actions during his administration. And sadly, it worked. They did just that.

So in a way, we are coming full circle, back to what the tradition in the Senate was before the year 2000, before Democrats went to this retreat led by liberal legal activists who cooked up this idea that you could filibuster judges, and they tried to impose a requirement of 60 votes for confirmation when, in fact, the Constitution contemplates a majority vote, or 51 votes for confirmation.

Some have said this represents the end of comity in the Senate. I don't believe that. Some have said this threatens the end of the legislative filibuster or cloture requirement. I don't believe that either. There is a big difference between a nominee by a President that is an up-or-down vote—confirm or don't confirm. There is a big difference between that and legislation, which by definition is a consensus-building process by offering an amendment, by offering other suggestions to build that consensus and get it passed.

You can't amend a nominee. All you can do is vote up or down. So I don't

believe restoring the status quo ante—going back before 2000 and restoring the 200-year-plus tradition of the Senate where you don't filibuster judges—I don't see that as a bad thing. I don't see it as the end of the legislative filibuster. It is completely apples and oranges.

It is true that 51 Senators will be able to close off debate and confirm Judge Gorsuch, and we will see that happen later this week. It also means that the next Democratic President can nominate a Supreme Court nominee, and that person will be confirmed by 51 votes. Again, this has been the 200-plus-year tradition of the Senate. I don't see that as the end of the Senate. I don't see this as somehow damaging our country—the restoration of the status quo before 2000, when our Democratic colleagues decided to weaponize the filibuster and use it to block judges based on this trumped-up idea that 60 votes would be required rather than 51.

I look forward to confirming Judge Gorsuch later this week. He is a fine man and a very good judge. He has exactly the sort of record we would want to serve on the Court. No, he is not a liberal activist. Clearly, Hillary Clinton, if she had been elected, would have nominated somebody different. That is one reason why we choose whom we choose for our President, because of the kinds of nominations they will make, and I must say President Trump has chosen well in Neil Gorsuch.

I yield the floor.

The PRESIDING OFFICER (Mr. FLAKE). The Senator from Vermont.

Mr. SANDERS. Mr. President, I rise today to oppose the nomination of Judge Neil Gorsuch to the Supreme Court of the United States. After meeting with Judge Gorsuch and having a long and pleasant conversation, after hearing his testimony before the Judiciary Committee, and after carefully reviewing his record, I have concluded that I cannot support a man with his views for a lifetime seat on the Supreme Court.

The Supreme Court is the most important judicial body in this country. The decisions that it reaches, even on a 5-to-4 vote, have a profound impact on all Americans, on our environment, and on our way of life. As we decide this week as to how we are going to cast our votes regarding Judge Gorsuch, it is important to understand how that vote for Judge Gorsuch—for or against him—will impact the lives of the people of our country.

Let me give you just a few examples as to what is at stake. Seven years ago, in a 5-to-4 decision, the Supreme Court ruled in a case called Citizens United, and in that case, by a 5-to-4 decision, the Court said that billionaires and corporations could spend as much money as they wanted on the political process. This decision, as all Americans know, opened the floodgates of corporate money, of money from the billionaire class, such that the wealthiest people in our country today can now elect candidates who represent their interests and not the interests of ordinary Americans.

That decision, Citizens United, is undermining American democracy, and in my view, it is moving us toward an oligarchic form of society in which a handful of the wealthiest people in this country—the Koch brothers and others—now have the power not only to control our economy but our political life as well. In my view, Citizens United must be overturned, and we must move back to a nation where our political system is based on one person, one vote, not on the ability of billionaires to buy elections.

Based on my conversation with Judge Gorsuch and a review of his record, do I believe that he will vote to overturn Citizens United? Absolutely not. Further, I suspect that he will vote to undermine our democracy even further by supporting the elimination of all restrictions on campaign finance, something which the Republican leadership in this body wants.

What the Republican leadership is striving toward is eliminating all campaign finance restrictions, such that billionaires can say to somebody: I am going to give you $500 million to run for the U.S. Senate from California, and you work for me—no independent expenditures. I will select your campaign manager, your speech writer, your media adviser, your pollster. You are my employee.

That is what the Republican leadership here wants. They want to undermine all campaign finance laws, and I believe that Judge Gorsuch will move this country in that way, a more and more undemocratic way.

Further, when we talk about the political process, it is important to point out that in 2013, again by a 5-to-4 vote, the Supreme Court gutted the 1965 historic Voting Rights Act, a law which was passed to combat racial discrimination in voting in a number of States. What the Court said, finally, is that in the United States, you have the right to vote no matter what the color of your skin is, a historic step forward in making this country the kind of country that it must become.

Well, as a result of that 5-to-4 Supreme Court decision in 2013 gutting the Voting Rights Act, literally days after, we had Republican Governors and Republican legislatures all over this country, under the guise of fighting voter fraud, passing laws—everybody knows this—intentionally designed to make it harder for people of color, for poor people, for young people, for older people to vote in elections.

In America in the year 2017, it is not too much to ask that all of our people who are eligible to vote be able to vote without harassment, without roadblocks, without barriers being placed in front of them.

I know it is a radical idea, but it is called democracy. It is called democracy. It says that if you are eligible to vote, we want you to vote. We want you to participate. It says that in America, where we have one of the lowest voter turnout rates of any major country on Earth, we want more people to be participating in the political process, not fewer people. There is nothing I have seen in Judge Gorsuch's record or in his recent statements to suggest to me that he is prepared to overturn this disastrous decision on the Voting Rights Act.

In 1973, we all know, the Supreme Court decided Rowe v. Wade and declared that women have a constitutional right to control their own bodies. That decision has been subsequently affirmed by multiple cases as recently as last June.

In his confirmation hearings, Judge Gorsuch refused to state if he believed Roe v. Wade was good law and should be upheld. Based on his statements and general philosophy, I believe there is a strong likelihood that Judge Gorsuch would vote to overturn Roe v. Wade and deny the women of this country the constitutional right to control their own bodies. This would be an outrage. I do not want to be a party to allowing that to happen.

In addition, under Chief Justice John Roberts, the Supreme Court has time and again voted in support of corporate interests and against the needs of the working people of our country. After reviewing Judge Gorsuch's record, I believe he will continue that trend.

In a case called TransAm Trucking, Judge Gorsuch argued that a trucker was properly fired by his employer for abandoning his cargo at the side of the road after his truck broke down and he nearly froze to death waiting for help. Judge Gorsuch literally believed that this man should have had to choose between his life and his job, and by choosing his life—not freezing to death—he deserved to lose his job.

In another case, Judge Gorsuch ruled that a university was correct to fire a professor battling cancer rather than grant her request to extend her sick leave. I find these decisions troubling.

At a time of massive income and wealth inequality, when so many working people throughout this country feel powerless at the hands of the wealthy and the powerful and their employers, we need a Supreme Court Justice who will protect workers' rights and not just worry about corporate profits. I fear very much that Judge Gorsuch is not that person.

I listened carefully to what my friend, Senator CORNYN of Texas, had to say about this entire process. I have to say that in his remarks there was a whole lot of obfuscation because there is a simple reality that we are going to have to deal with in the Senate this week. Everybody knows, and Senator CORNYN made the point, that under Harry Reid, the former Democratic leader, the rules, in fact, were changed. They were changed because of an unprecedented level of Republican obstructionism, making it impossible for President Obama to get almost any of his nominees appointed.

Let's not forget that in the midst of that controversial decision—and it was a controversial decision—the Democratic leader had the power also to say that we will waive the 60-vote rule regarding Supreme Court nominees. Democrats had the power, and they chose not to exercise that power in ending that rule—although, of course, they could have done that. I think the reason was that the Democratic leadership appropriately and correctly believed that on an issue of such magnitude, the appointment of a Supreme Court Justice, it is important that there be bipartisan support. But right now, it appears that the Republican leadership is going to do what the Democratic leadership did not do; that is, waive that rule and get their judge appointed with 51 votes.

So I would suggest to the Republican leader that instead of trying to push this nominee through with 50-some-odd votes, it might make more sense that, rather than changing the rule, change the nominee, and bring forth someone who, in fact, can get 60 votes.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FOREIGN AGENTS REGISTRATION MODERNIZATION AND ENFORCEMENT ACT

Mrs. SHAHEEN. Mr. President, last month I introduced bipartisan legislation with Senator TODD YOUNG of Indiana to create greater transparency about foreign individuals and organizations that are operating in the United States to advance the interests of foreign governments, including governments that are hostile to the United States.

In particular, our bill will give the Department of Justice new and necessary authority to investigate potential violations of the Foreign Agents Registration Act by RT America, the U.S. branch of RT News or Russia Today News.

The Foreign Agents Registration Act was passed back in the late 1930s in response to concerns about Nazi propaganda being disseminated in the United States without people knowing what it was. It is absolutely appropriate today for us to take a look at what Russia and other countries may be doing to our news.

RT America, which broadcasts from studios here in Washington and is available on cable TV across the United States and across the world, for that matter, is one of the most high-profile assets in Vladimir Putin's vast $1.4 billion propaganda machine. According to the U.S. intelligence community, the Kremlin selects the staff for RT and closely supervises RT's coverage, including disinformation and false news stories designed to undermine our democracy.

Here we have a photo that shows exactly what I believe seems to be happening with RT. This photo was taken from a declassified U.S. intelligence report, and it shows RT's editor-in-chief—and former Putin campaign staffer, by the way—Margarita Simonyan briefing Putin on RT's facilities. So clearly he is interested.

Well, I believe the American people have a right to know if a Russian Government entity is exploiting our first amendment freedoms to harm our country. It is galling that RT news has publicly—publicly—boasted that it can dodge our laws by claiming to be financed by a nonprofit organization and not the Russian Government.

Well, what my bill—our bill—would do is strengthen the Foreign Agents Registration Act by giving the Department of Justice authority to compel foreign organizations to produce documentation to confirm funding sources and foreign connections. This is investigative authority that has been recommended by the Department of Justice inspector general, the Government Accountability Office, and the Project on Government Oversight. Our bill would create transparency by giving Justice the authority it needs to investigate RT America and publicly expose its ties to the Kremlin.

The audacity of Russia's interference in Western democracies, including extensive meddling in our 2016 Presidential election, is deeply alarming, and we have learned that Russia's influence campaign reaches tens of millions of unsuspecting Americans. False news stories can end up on our Facebook timelines and our Twitter feeds. They shape the political conversations that we have with our friends at the supermarket and our colleagues at work.

These are just a few of the headlines from RT. This one is actually from Sputnik, which is another Russian news outlet. They show the extent to which these false news stories are being spread around. This one talks about how ''1,000s Turkish forces surround NATO's Incirlik air base for 'inspection' amid rumors of coup attempt,'' which suggests that we were involved in that coup attempt.

''FBI wiretapped Trump Tower in search of 'Russian mobster.' ''

''Spying on Trump: CIA Whistleblower Points Finger at Clapper, Brennan, Comey.''

''Ukrainian Su-25 fighter detected in close approach to MH17 before crash.'' You will remember that this was the plane crash over Ukraine—that the Russians shot down.

During our Presidential campaign in 2016, dozens of narratives and false news stories originated in Russia—for instance, this one, the baseless story that the Obama administration launched a coup against the Turkish Government from the U.S. airbase in that country.

Earlier, RT News ran numerous reports on supposed U.S. election fraud and voting machine vulnerabilities, claiming that the results of the U.S. elections could not be trusted and did not reflect the people's will.

Well, researchers have traced these and other stories to a common source: the Kremlin's sophisticated, multifaceted propaganda empire, which reaches some 600 million people across 130 countries and in 30 languages.

If you watch RT News, you will agree that it is not clear whether you are watching a U.S. news station or a Russian station because it has slick production values. It is arguably the jewel in the crown of this propaganda empire.

According to the U.S. intelligence community report declassified in January:

> The Kremlin has committed significant resources to expanding the [RT News'] reach, particularly its social media footprint. . . . RT America has positioned itself as a domestic US channel and has deliberately sought to obscure any legal ties to the Russian government.

A prime objective of this propaganda barrage is to influence U.S. and European public opinion, create confusion, and shape election outcomes.

The Associated Press has identified a building in Moscow where an estimated 400 internet trolls—fluent in English and well-versed in American politics—work 12-hour shifts, creating false narratives and fake news stories. These stories are then seeded on the internet, they get validated, and they get passed on by popular websites and eventually end up on our radios, TVs, and smartphone screens.

In an incident earlier this month, a discredited former CIA employee went on RT News to charge that President Obama had asked British intelligence to spy on Donald Trump. Well, this false news story was then spread by legal commentator Anthony Napolitano on the FOX News show ''Fox and Friends,'' which is regularly watched by the President. The claims were then cited by President Trump and White House Press Secretary Sean Spicer to defend the President's claims that his predecessor had wiretapped Trump Tower.

Well, we know that during testimony before Congress 2 weeks ago, the NSA Director, ADM Michael Rogers, agreed with our British allies that the original RT News story was utterly ridiculous.

At an Armed Services Committee hearing last month, Gen. Philip Breedlove, Retired, the former Supreme Allied Commander in Europe, told us that when Russian-backed forces shot down Malaysian Airlines Flight 17 over Ukraine in 2014, the Russians put out four stories within two news cycles placing the blame on the Ukrainian Government and others. This is the headline that we see from RT. The general said it took 2 years for

the West to finally debunk these false news stories.

We know that Russia interfered in our 2016 Presidential election. We know that a Russian influence campaign was one aspect of that interference. Our intelligence community has concluded that RT America is an arm of the Russian propaganda juggernaut, operating openly in our country and taking full advantage of our First Amendment freedoms.

I am sure we would all agree that everyone in the United States, in every organization, has a right to speak, write, and broadcast freely. That is what our First Amendment says. We are a resilient democracy. We are confident that our values and institutions will prevail in the free marketplace of ideas. Our Constitution protects the right of individuals and organizations to spread those Russian viewpoints, disinformation, and even outright lies, but the American people have a right to know if RT America is a Russian propaganda organ that takes its direction from the Kremlin. They have a right to know who is funding their operations.

RT has publicly boasted that it uses a shell nonprofit corporation to dodge U.S. laws. This legislation, the Foreign Agents Registration Modernization and Enforcement Act, would put an end to that charade. The legislation Senator YOUNG and I recently introduced would give the Department of Justice the authority it needs to request documentation from RT News on funding sources and foreign connections.

As we see here, clearly the legislation has hit a nerve because Kremlin spokesman Dmitry Peskov defended RT News, and Russia's State Duma is considering measures to retaliate.

What RT says about our legislation is that ''US senator wants to probe RT as a 'foreign agent' . . . What's next, public executions''? Well, that is ridiculous. The editor-in-chief at RT News has said that my legislation is a ''persecution of dissenting voices.'' As I said, that is just nonsense. I welcome dissenting voices. That is what our First Amendment and the United States are all about. But it is not reasonable or acceptable for an individual or organization working in the United States on behalf of a hostile foreign government to conceal funding and direction that it receives from that government.

Vladimir Putin is not going to stop us from enforcing our laws and protecting our country. We have a responsibility to expose RT News, RT America, and the entire panoply of tactics that Russia has used to interfere in our 2016 election and that they continue to currently use to sow confusion and distrust and spread around stories which pretend to be news but which are not accurate.

Make no mistake, the Kremlin's influence campaign is an ongoing enterprise, and to the extent that it is successful, that it can operate under the radar screen, it will become even more brazen and more aggressive in the future.

In testimony before the Senate Armed Services Committee last December, Dr. Robert Kagan of the Brookings Institution said that Russia's broader objective is to subvert Western democracies, and we see that going on now in Europe. He said: ''For the United States to ignore this Russian tactic, and particularly now that it has been deployed against the United States, is to cede to Moscow a powerful tool of modern geopolitical warfare.'' That was a direct quote.

This is a profound test for our country. Our democracy has been attacked and continues to be under attack from this kind of news that is being put out by a Kremlin-funded organization which is a hostile foreign power. We need to understand the Kremlin's tactics, and we need to expose this propaganda here in the United States, including RT America. To that end, I urge my colleagues to support the Foreign Agents Registration Modernization and Enforcement Act. Let's give the Department of Justice the tools it needs to investigate and expose RT America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

NOMINATION OF NEIL GORSUCH

Mr. DAINES. Mr. President, today I am joining my colleagues on the floor with a bit of confusion, a bit of disappointment, and, frankly, a lot of questions. I am referring to the confirmation of Neil Gorsuch as the next Supreme Court Justice.

As a Senator, one of the most consequential votes I will cast is a vote to confirm a U.S. Supreme Court nominee. It is a lifetime appointment to our Nation's highest Court.

I recently spoke with some students back in Montana, some FFA students. The average age 17, 18 years old. God willing, Neil Gorsuch may serve on the Court for 30 or more years. These FFA students' children and perhaps even grandchildren will be part of Neil Gorsuch's time on the Court, given that he likely will serve for three decades or more.

As it stands today, the Senate is on the precipice of confirming Neil Gorsuch to be our next U.S. Supreme Court Associate Justice. However, as the news has been reporting, as our Twitter feeds are overflowing with information, it looks as though my colleagues on the other side of the aisle are caving to the pressures of the far left, and they are set to unleash an unprecedented filibuster.

I have met with Judge Gorsuch. I watched his confirmation hearings. What I have seen and what most Americans agree—Judge Neil Gorsuch has been incredibly transparent, he has been accessible, and he is the right man for the position. He is mainstream. He is a westerner. He is committed to judicial independence. He has a brilliant legal mind—that is without dispute. He is exceptionally qualified. In fact, the American Bar Association unanimously rated Judge Gorsuch as ''well qualified.'' That is its highest rating.

He has met with nearly 80 Senators. Prior to his hearing, he provided the Judiciary Committee over 70 pages of written answers about his personal record. He provided 75,000-plus pages of documents, including speeches, case briefs, opinions, and written works going as far back as his college days. The White House archives produced over 180,000 pages of email and paper records related to Judge Gorsuch's time at the Department of Justice.

Judge Gorsuch sat for three rounds of questioning, totaling nearly 20 hours, in committee. As the American people watched Judge Gorsuch before that committee, they saw an exceptionally qualified nominee for the highest Court in the land, someone who was bright, who was kind. I would argue that Judge Gorsuch's mind, his intellectual capacity, is only exceeded by his heart. This is a kind and independent jurist.

When he came before the Judiciary Committee, this was the longest hearing of any 21st-century nominee. He answered nearly 1,200 questions during his hearing, which is nearly twice as many questions posed to Justices Sotomayor, Kagan, or Ginsburg. He was given 299 questions for the record by Democrats on the Senate Judiciary Committee—the most in recent history of any Supreme Court nominee. Judge Gorsuch did all of this with the utmost integrity and with transparency and humility. Yet here we are, with Democrats engaged in unprecedented obstruction, refusing to give Neil Gorsuch an up-or-down vote.

The Senate has only ever employed a cloture motion for a Supreme Court nominee four times in modern history. We voted on cloture when Justice Alito was nominated in 2006. We did the same in 1968, 1971, and 1986. In 1991, Clarence Thomas was confirmed on a 52-to-48 vote, and in 2006, Samuel Alito was confirmed on a 58-to-42 vote. In fact, when President Obama was in the White House, Republicans did not filibuster a nominee. This body confirmed Sonya Sotomayor in 2009 by a vote of 68-to-31 and confirmed Justice Kagan by a rollcall vote of 63-to-37 in 2010. We did not filibuster.

Let me remind folks that cloture is in place to stop debate, not to stop a vote. Cloture was put in place to speed the Senate up, end debate, and move to a vote, not to stop a vote. It was never intended to be a stall tactic or something to obstruct this body.

This bears repeating. Cloture was put in place to speed up the process, to prevent obstruction.

This Chamber has never had a partisan filibuster to a Supreme Court nominee. Let me say that again. This Chamber has never had a partisan filibuster to a Supreme Court nominee.

So here we are today, with no other option but to invoke this so-called nuclear option to put an eminently qualified individual on the U.S. Supreme Court. Judge Gorsuch is the definition of a mainstream judge. In more than 2,700 cases in which he has participated in the Tenth Circuit, 97 percent of them have been decided unanimously; in fact, he was in the majority 99 percent of the time. Yet Senate Democrats would rather play politics and place the demands of extreme liberal interests over ensuring regular order.

Let's talk about what we are and what we are not doing. We are in the Senate, a Chamber I am honored to serve in, representing more than 1 million Montanans. We operate on a set of Parliamentary criteria based on things that have happened before. Therefore, we are going to establish a new precedent; we aren't changing the rules. This isn't happening for the first time. Let us remember that in November of 2013, Senate majority leader Harry Reid established a new precedent of how many votes are necessary on executive branch nominees, with the exclusion of Supreme Court picks.

What is even more shocking to me is that over the past few weeks, through the hearing process, through the debate and discussions about Judge Gorsuch on the floor, and with support from across my State of Montana—let me just name some of those organizations and people in support of Judge Gorsuch: the Montana Chamber of Commerce; four of Montana's Tribes—the CSKT, the Crow Tribe, Fort Belknap and Fort Peck; the Montana Farm Bureau, Judge Russell Fagg of the 13th judicial district, Judge Jeffrey Langton of the 21st judicial district, Judge John Larson of the 4th judicial district, State senator Nels Swandal, retired judge of the 6th Judicial District; the Montana NRA members; the Montana Grain Growers Association and the Montana Wool Growers Association; the Montana Stockgrowers Association; our attorney general in Montana, our auditor in Montana, our speaker of the Montana House. This is a very mainstream group of Montanans, leaders back home who are in support of Judge Gorsuch. Yet my colleagues are rejecting the will of the American people, rejecting the will of Montanans, filibustering this nomination, and not even allowing for an up-or-down vote.

The American people deserve a Supreme Court Justice who upholds the rule of law and will follow the Constitution. The American people deserve a Supreme Court Justice who doesn't legislate from the bench. The American people deserve Judge Neil Gorsuch to serve on the U.S. Supreme Court.

Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TESTER. 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. TESTER. Mr. President, I ask unanimous consent to be allowed to speak for up to 3 minutes.

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

INTERNET PRIVACY RIGHTS

Mr. TESTER. Mr. President, I rise today with a warning about S.J. Res. 34. This measure undermines the privacy of all Montanans and all Americans. It is a measure I strongly oppose because it takes the refs off the field, leaving consumers at the whim of internet service providers. It allows these companies to sell our data—to sell my data—and to snoop through your search history and to track the sites we visit. In other words, it allows internet companies to make a profit by invading your privacy. It gives them the ability to collect and sell your physical location, information about your children, your health, finances, Social Security number, and web browsing history. In fact, this legislation even extends to apps and your social media accounts.

Following the vote that we had here on this floor, a Republican State senator from Buffalo, MT, proposed an amendment to our State budget to push back against this irresponsible resolution. In my home State of Montana, folks on both sides of the aisle are deeply concerned about their right to privacy. Now folks you don't even know can have access to the websites you visit, and they can have this access without your consent.

This is another troubling step that folks in Congress have taken this year to violate the rights of privacy of law-abiding citizens. We already have a CIA Director who has advocated for the most intrusive acts of the PATRIOT Act. We have a Supreme Court nominee before us who supports the government's ability to reach into the private lives of law-abiding Americans. Now Congress is rolling out the red carpet for major corporations to collect and sell our personal online information.

Enough is enough. I am here today to provide a voice for all Montanans and all Americans who value their right to privacy, who expect their elected officials to defend civil liberties, to stand up for constitutional rights, and who do not want private information collected and shopped around like a used book on Amazon.

When the President decided to sign this resolution last night, he ushered in the latest significant threat to our right to privacy. Now it is the responsibility of service providers to protect our personal information online.

I think folks in Montana and across this country have the right to question the priorities of those who supported this resolution. Everyone has a fundamental right to privacy, and the government shouldn't be in the business of violating those individual rights, especially when doing the bidding of big companies looking to make more profits at the expense of people's privacy.

I want it to be known in this body that Montanans don't want anyone snooping around in their private lives, neither the government nor corporations. It is fundamental to our Montana values. Protecting online privacy is critical to the integrity of basic, fundamental freedom, of fundamental civil liberty. I urge all my colleagues to make their voices heard on this critical issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

(The remarks of Mr. BARRASSO pertaining to the introduction of S. 826 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BARRASSO. I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Duke nomination?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

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

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

The result was announced—yeas 85, nays 14, as follows:

[Rollcall Vote No. 103 Ex.]

YEAS—85

Alexander	Flake	Perdue
Baldwin	Franken	Peters
Barrasso	Gardner	Portman
Bennet	Graham	Reed
Blunt	Grassley	Risch
Boozman	Hassan	Roberts
Brown	Hatch	Rounds
Burr	Heitkamp	Rubio
Cantwell	Heller	Sasse
Capito	Hirono	Schatz
Cardin	Hoeven	Schumer
Carper	Inhofe	Scott
Casey	Johnson	Shaheen
Cassidy	Kaine	Shelby
Cochran	Kennedy	Stabenow
Collins	King	Strange
Coons	Klobuchar	Sullivan
Corker	Lankford	Tester
Cornyn	Leahy	Thune
Cotton	Lee	Tillis
Crapo	Manchin	Toomey
Cruz	McCain	Van Hollen
Daines	McCaskill	Warner
Donnelly	McConnell	Whitehouse
Durbin	Moran	Wicker
Enzi	Murkowski	Wyden
Ernst	Murray	Young
Feinstein	Nelson	
Fischer	Paul	

NAYS—14

Blumenthal	Harris	Murphy
Booker	Heinrich	Sanders
Cortez Masto	Markey	Udall
Duckworth	Menendez	Warren
Gillibrand	Merkley	

NOT VOTING—1

Isakson

The nomination was confirmed.

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.

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

Mr. LEAHY. Mr. President, I want to express my serious concerns with the budget for fiscal year 2018 recently proposed by President Trump. If adopted, this budget would have severe consequences on many Americans, but I am particularly concerned that it would be low-income families who are impacted the most. As vice chair of the Senate Appropriations Committee, I will do everything in my power to make sure that does not happen.

Among countless examples within a budget that is out of touch and that will drive more American families into poverty, the President's proposal to eliminate the Community Service Block Grant, the Low Income Home Energy Assistance Program, LIHEAP, and the Weatherization Assistance Program should be concerning to all of us. These are resources that are essential not only to Vermonters, but to millions of families throughout the country.

The Community Service Block Grant ensures that low-income families receive the support they need for basic food and housing assistance, financial planning tools, and fuel in winter months. LIHEAP and weatherization services ensure that families do not have to choose between food and heat. They ensure that families stay safe from harmful asbestos that may be in the walls of their old Vermont farmhouses or their inefficient mobile homes. In States like mine, home heating is a life-and-death matter.

We need to show compassion when drafting our budget and provide support for those programs that help hardworking families in need. We must see the faces behind these proposed budget cuts. Vulnerable people should never be at the whim of politically driven priorities.

We have to do better. I would like to begin by recognizing the crisis so many families will face in this country without the help of our community action agencies. Without them, families will go cold. They will choose not to eat so they can heat their homes. They will deny themselves healthcare and miss rent payments so that they can stay warm, so that they can stay alive.

Last month, I had the pleasure of seeing a longtime friend and fellow Vermonter Jan Demers, who serves as the executive director of the Champlain Valley Office of Economic Opportunity, CVOEO, Vermont's largest community action agency in Burlington. It was Jan who said it best, noting that, ''President Trump's budget is like one amputation after another. Not bringing health to the community but cut after cut—loss after loss.'' I am proud that CVOEO and the other community action agencies continue to meet the needs of these families and hope all Senators will continue to support them as I have during my time in the Senate.

In recognition of their leadership, I ask unanimous consent that a statement by Jan Demers be printed in the RECORD.

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

Good morning, my name is Jan Demers and I am the Executive Director of the Champlain Valley Office of Economic Opportunity. On behalf of the more than 23,000 Vermonters that CVOEO serves: Welcome. We are standing in CVOEOs Weatherization Warehouse. It is a fitting place to talk about President Trump's recently released budget. Thank you to Senator Leahy and your staff for organizing this press conference and for the leadership you provide for Vermont and the nation. Thank you to Jonathan Bond and our staff and for all the Community Action Agencies who carry on this good work. Thank you to Bobby Arnell, Sean Brown, Sarah Phillips and to our partners in the State of Vermont who uphold the values of care and wellness for all Vermonters. And thank you to Mr. Todd Alexander who typifies the strength of those we serve.

Community Action Agencies exist to support community well-being. We make sure that everyone can reach their potential and fully contribute to the total strength of our communities.

How does Mr. Trump's budget affect CVOEO? It zeros out the Community Service Block Grant—$990,687. This is the foundational grant that undergirds the majority of our programs. It zeros out the Low Income Home Energy Assistance Program (LIHEAP) that keeps Vermonters warm in the winter. It zeros out the Department of Energy's Weatherization Program. Thankfully the State of Vermont is our main source of Weatherization funding. However, this will mean that 30 Vermont homes will not be weatherized in our area. Just those 3 cuts amount to a total of $2,056,675.

On top of that there are the cuts to Head Start, Fair Housing, Housing assistance, Mobile Home, and Voices Against Violence. There isn't an area, program, staff person or any of the 23,000 people we served that won't be touched and experience devastation of services due to this budget.

We have heard over and over that the war on poverty didn't work. However, when the programs that created the War on Poverty in 1964 measured the percent of poverty it was at 20%. Seven years later the percentage of poverty was at 11%. It worked! Then the years of cutting started, cut after cut was enacted weakening the effort substantially. In 2012 the measured percent of poverty was 15%. Currently the percentage of poverty is 13.5%. To me that signifies that the measured efforts put into place during the Obama years are working.

There isn't a CVOEO Program that isn't decimated by this budget bringing great loss for the entire population of over 23,000 people that CVOEO served in FY 16. Community Action Agencies exist to support community well-being. Instead of health, this budget is like one amputation after another. Not bringing health to the community but cut after cut—loss after loss.

Our vision is bridging gaps and building futures for the people we serve. This budget widens the chasm and diminishes life.

This cannot be the last word in the Federal budget for FY 18.

Thank you, Senator Leahy for bringing us a better way.

PRESIDENT EL-SISI'S VISIT

Mr. LEAHY. Mr. President, this week, Egypt's President Abdel Fattah el-Sisi is in Washington where he is meeting with President Trump and other senior administration officials, as well as some Members of Congress.

President Trump has spoken glowingly of President el-Sisi, as he has of Russian President Putin and Philippine President Duterte. ''Strong leaders,'' he calls them, as if that is enough to justify our wholehearted support. Unfortunately, world history is replete with examples of strong, messianic leaders who abused their power in ways that caused immense hardship for their people and divisiveness and conflict in their countries.

Despite that, the White House has voiced its strong support for President el-Sisi, and for U.S.-Egyptian relations.

I have been to Egypt many times, and I have voted for billions of dollars in U.S. aid for Egypt to support economic and security programs in that country. I have recognized positive developments in Egypt when they occur, such as President el-Sisi's decision to undertake economic reforms, including by reducing some subsidies. Far more needs to be done, however, if Egypt's economy is to break free of decades of state control, endemic corruption, and gross mismanagement.

I am also aware of the security threats Egypt faces in Libya and in the Sinai, although I and others have expressed deep concern with the flawed tactics the Egyptian Government is using to combat those threats. The U.S. has an interest in helping Egypt confront these challenges by addressing the underlying causes in a manner that is effective and consistent with international law.

President Trump has called President el-Sisi a fantastic guy. Ironically, that says a lot more about President Trump than it does about President el-Sisi.

President el-Sisi, a former general who seized power by force, has ruled with an iron fist. He has effectively banned public criticism of his government since the removal of former President Morsi, enforcing what amounts to a prohibition on protests and arresting hundreds of people in connection with the ban, many preemptively.

President el-Sisi's government has engaged in one of the widest arrest campaigns in the country's modern history, targeting a broad spectrum of political opponents. Local civil society organizations estimate that between 40,000 and 60,000 people are detained on political grounds, such as for protesting or calling for a change in government. Police have accused many of having links to the Muslim Brotherhood, usually without evidence that they have advocated or engaged in violence. Many other detainees belong to other political organizations or have no party affiliation.

A systematic crackdown on Egypt's independent civil society has left it on the verge of collapse. According to human rights groups, nearly every prominent Egyptian human rights defender or civil society leader is banned

from leaving the country as part of a judicial investigation into the foreign funding of their organizations. A law signed by President el-Sisi in 2014 would allow prosecutors to seek 25-year sentences for illegally receiving foreign funding. Parliament has also proposed a new law regulating civil society organizations which, if adopted, would effectively outlaw independent human rights work in the country.

Despite repeated requests by U.S. officials, including some Republicans and Democrats in Congress, President el-Sisi's government has refused to release those detained for political reasons for months or years without charge or on trumped up charges like Egyptian-American citizen Aya Hijazi.

The media has also been targeted, with authorities threatening and jailing journalists who reported on political opposition. Some foreign journalists have been barred from the country after writing articles critical of the government. As of December 2016, Egypt was the third-highest jailer of journalists, according to the Committee to Protect Journalists. This pattern of harassment and arrests is not new. It has been happening for years, and, contrary to the representations of Egyptian officials, it is getting worse.

According to Human Rights Watch, members of the security forces, particularly the Interior Ministry's National Security Agency, routinely torture detainees to elicit confessions. This torture usually occurs during periods of enforced disappearance that can last for weeks or months. The widespread use of torture has also been reported by the State Department. Despite hundreds of reported cases of torture and enforced disappearance, since 2013, only a handful of police officers have reportedly been punished for violating the law.

According to information I have received, prison conditions remain deplorable, and political detainees are beaten, often deprived of contact with relatives and lawyers, and denied access to medical care.

The government's use of U.S. aircraft and other military equipment in its counterterrorism campaign against a local ISIS affiliate in the northern Sinai has not only resulted in indiscriminate attacks against civilians and other gross violations of human rights, it has made the terrorism situation worse. Requests by myself, as well as State and Defense Department officials and by independent journalists and representatives of human rights groups, for access to conflicted areas, have been denied.

While President Trump and other U.S. officials unabashedly praise President el-Sisi, I wonder how they reconcile their portrayal of him with his crackdown against civil society and brutal repression of dissent. In fact, it can't be reconciled, and it damages our own credibility as a strong defender of human rights and democratic principles.

I want to reiterate what I said in this Chamber on September 27, 2016, when I spoke about Aya Hijazi, the young Egyptian American social worker currently detained in Egypt. Ms. Hijazi, along with her Egyptian husband and five employees of their organization Belady, has been accused of salacious crimes that the government has yet to corroborate with any credible evidence; yet she has been jailed since May 21, 2014. Just last month, a decision in her case was inexplicably delayed until later this month. It is long past time for her ordeal to end.

The United States and Egypt have common interests in an increasingly troubled region. Egypt has acted to reduce the smuggling of weapons into Gaza, and it has helped to broker ceasefires with Hamas. Our support for Egypt is demonstrated by the fact that, over the past 70 years, U.S. taxpayers have provided more than $70 billion in economic and military aid to Egypt. I doubt that many Egyptians know that, as most have a decidedly unfavorable opinion of the United States.

After three decades of corrupt autocratic rule by former President Mubarak, Egypt once again has a former military officer as President who has chosen to rule by force. It is neither justified, nor is it necessary. If, on the contrary, President el-Sisi were to demonstrate that he has a credible plan for transforming Egypt's economy, for improving education and creating jobs, for respecting due process and other fundamental rights, and for addressing the discrimination and lack of economic opportunities that are at the root of the violence in the Sinai, the Egyptian people would support him. They would also have a brighter future. Instead, I fear that, by relying on repression, he is sowing the seeds of misery and civil unrest, which is in the interest of neither the Egyptian people nor the American people.

MONTENEGRO'S ACCESSION INTO NATO

Mr. INHOFE. Mr. President, I am pleased the U.S. Senate voted favorably to add Montenegro as a permanent member to the North Atlantic Treaty Organization, NATO, sending a strong signal of transatlantic unity. NATO plays a vital role in maintaining security and stability throughout Europe, and including Montenegro in this strategic alliance will strengthen NATO and encourage stability within the region.

Montenegro is a growing democracy that has repeatedly proven itself to be a valuable ally since joining NATO's Partnership for Peace Program in 2006. They are partnered with our Maine National Guard, and have been a strong ally in the fight in Afghanistan since 2010. Having visited Montenegro, I can say, without a doubt, that it has demonstrated a commitment to NATO, the United States, and regional stability. This vote sends clear message of support to our friends in Montenegro. It also sends a strong message to NATO and gives notice that the United States will stand up for Western democracies, despite continued pressure from the Kremlin. We must deter Russia's destabilizing actions in the region, including Moscow's annexation of Crimea in 2014 and its continued support for rebels in eastern Ukraine. Putin is learning lessons from these examples and will continue his quest to expand his influence as far as the world community will allow. This aggression by the Russian Federation undermines peace and stability not only in the Balkan region, but also in all of Europe, which constitutes a direct threat to U.S. security interests.

Montenegro's accession to NATO is in the best interest of the United States, NATO, and peace and stability in Europe. This vote by the U.S. Senate sends a clear message of our commitment to NATO, to the people of Montenegro, and to improving stability in the Balkan region. I look forward to Montenegro joining NATO as a full member.

ANNIVERSARY OF NATO

Mr. BROWN. Mr. President, nearly 70 years ago today, the United States and 11 other nations—in the face of Soviet aggression—joined together in mutual defense to form the North Atlantic Treaty Organization, NATO. Since its inception, NATO has expanded to 28 member nations. The breadth of its mission is impressive—from ensuring regional stability and combating terrorism to training partner countries and supporting humanitarian aid. While NATO was founded to ensure Western peace and stability in the face of the Cold War, its work has come to encompass all corners and peoples of the globe.

NATO is more important than ever today in deterring regional conflict The U.S. must stand by its ironclad commitment to NATO's security and solidarity as Russian President Vladimir Putin flouts international law and exerts Russian aggression around the world, from meddling in our own election to the illegal annexation of Crimea.

Our NATO allies need our support. I applaud Operation Atlantic Resolve, which coordinates the deployment of additional NATO troops to our allies in Eastern Europe. I also commend other U.S. efforts that support our NATO allies, like the European Reassurance Initiative. These play an essential role in bolstering our force readiness in the region to deter Russian aggression and demonstrate our commitment to the common cause and democratic principles that NATO embodies.

American support for NATO is and must remain steadfast. The nearly unanimous vote in the Senate ratifying Montenegro's accession to be a member state is evidence of this well-established, deeply founded support.

Ukraine's stated intention to achieve the criteria for joining NATO, too, is testament to the organization's renewed importance in our deterrence policy in the region.

While the sentiment of NATO's article 5—''an attack on one is an attack on all''—helped guide the U.S. stably through the Cold War, NATO has remained a relevant source of stength for the international community, beyond regional deterrence. Since 1999, when NATO identified the risk international terrorism posed for member nations, the organization has remained a steadfast resource in the fight against terrorism. In fact, the only instance in which article 5 was invoked was in the wake of the terrorist attacks of September 11, 2001. Since then, NATO has helped ensure freedom of navigation in waters plagued by piracy, helped train Iraqi security forces counter improvised explosive devices, commanded counterterrorism operations in Afghanistan for more than a decade, provided support for Global Coalition to Counter ISIL, and innumerable other contributions. As threats to member nations evolved in the 21st century, NATO demonstrated its ability to adapt.

NATO showed the power of strength through solidarity, not only for its member nations, but also for its dozens of partner nations around the globe. The power of NATO's partnerships lends strength to the global community as a whole, better equipping regions of the world to respond when disaster strikes. Programs like NATO's Centres of Excellence help partner countries fight corruption, piracy, and terrorism and collaborate to stem the spread of weapons of mass destruction and other arms. By serving as a resource for nonmember countries, NATO not only strengthens the resolve of the international community to strife and instability, but also serves as a beacon for democratic values like gender equality and rule of law.

Finally, NATO has long served as a force for human rights. It was central to ending the genocide in Bosnia and Herzegovina in 1995, and it helped bring an end to violence in Kosovo in 1999. NATO has served as a vital resource assisting with the waves of refugees escaping from violence and atrocity in Syria, and the organization has been at the frontlines to combat international human trafficking.

NATO plays a critical role in combatting increased Russian aggression, but its mission is much broader than that. The world is a safer place thanks to NATO, from stemming regional conflicts, to assisting partners around the world. It serves as an indispensable, indisputable resource for the international community. As we celebrate the anniversary of this pivotal organization today, we must remain committed to its successful future.

VAISAKHI

Mr. TOOMEY. Mr. President, I wish to honor and celebrate the holiday of Vaisakhi, a very significant day for those who practice Sikhism.

The world's fifth largest religion, Sikhism was founded over five centuries ago and was introduced to the United States in the 19th century. Today there are over 500,000 Sikh adherents in the United States.

Pennsylvania is the home of many proud Sikh Americans, who make a positive impact in their workplaces, communities, and to our country. They are an important part of the rich cultural fabric of the Commonwealth. There are many gurdwaras, or centers of worship, located across the State, which serve a vital role for both the Sikh community and people of other faiths.

This year, Vaisakhi will be celebrated on Friday, April 14. On this day in 1699, Guru Gobind Singh created the Khalsa, a fellowship of devout Sikhs. Vaisakhi is a festival that marks both this occasion and the spring harvest. This holiday, which is meant to promote service to others, reminds us of the valuable contributions Sikh Americans make in many of our communities.

The Sikh community around the world recognizes this important holiday with parades, dancing, singing, visits to gurdwaras, and other festivities. Celebrations also include performing ''seva,'' or selfless service, which can include providing free meals to others or volunteering for different service projects in their communities.

This year, the Sikh Coordination Committee East Coast has organized a National Sikh Day Parade here in Washington, DC, on April 8, 2017, to commemorate this occasion. Thousands of Sikhs from all over United States are participating in this parade, which will celebrate the Sikh identity and culture.

As a member of the American Sikh Congressional Caucus, I am honored to represent the Sikh community of Pennsylvania, and I wish the Sikh American community a joyous Vaisakhi. Thank you.

ADDITIONAL STATEMENTS

RECOGNIZING FLATHEAD VALLEY COMMUNITY COLLEGE

● Mr. DAINES. Mr. President, today I have the honor and privilege of recognizing the faculty, administrators, staff, and students of Flathead Valley Community College for their service to the people of northwest Montana—2017 marks the school's 50-year anniversary. FVCC serves thousands of students of every age and background. In its five decades of existence, the college and its faculty have won numerous awards for providing a high-quality and low-cost education in Kalispell, MT.

The college provides more than 50 career and technical programs, while also giving students a cheaper and more convenient option for their first 2 years of college. FVCC also has developed programs that can help high school students get a ''Running Start'' on their college careers. FVCC has given generations of students the tools they need to succeed. The college also serves a vital role in supplying the region's employers with a skilled workforce.

The idea for a community college in northwest Montana began in 1960 when Kalispell School Board chairman Owen Sowerwine noted a study that 80 percent of local high school graduates were receiving no higher education whatsoever. Sowerwine worked with other local educational leaders such as Bill McClaren, Thelma Hetland, Les Stirling, and Norm Beyer to create a new community college. The college opened its doors in 1967, and today we celebrate their legacy.

FVCC continues to grow and find new and better ways to serve the community. Its Kalispell campus has grown to eight buildings, with new on-campus housing opening this year. FVCC also has an extension campus in Libby, MT.

I look forward to seeing what the next 50 years will hold, and I congratulate all involved in the success of FVCC on reaching this milestone.●

TRIBUTE TO SERGEANT JOHN MASSICK

● Mrs. ERNST. Mr. President, today I wish to honor a living example of the American dream. At 101 years of age, Mr. John Massick of Davenport, IA, has spent a lifetime in service—as a husband, father, soldier, and hero of World War II.

John was born on Veterans Day 1915, which proved to be symbolic in his life to come. He enlisted in the Army in 1941 and rose to the rank of sergeant, leading soldiers in combat across Europe as a member of Patton's 3rd Army. On his 29th birthday, while securing a bridge in Thionville, France, his unit suffered a perilous German attack, but John survived. It is a day Sergeant Massick describes as ''a birthday he'll never forget.'' He continued to serve through the end of the war in Europe, earning the French Croix de Guerre, Presidential Unit Commendation, and two Bronze Star Medals, among other accolades.

After the war, John returned to Davenport, married his now-late wife, Velma, and raised two sons while working as a carpet salesman and installer. He finally retired just 6 years ago at the ripe age of 94.

Today Iowans who visit ''Popcorn Charley's'' in northwest Davenport will hear John tell stories from the war. Some recall the harsh realities of combat, others remind us of our humanity, like the one he tells of how he caught a pig to fry porkchops for his men, bringing a bit of Iowa to the battlefields of Europe. John's stories, like his life's experiences, seem to strike the right balance between honor, humility, and a sense of humor.

I ask my colleagues to join me as I proudly recognize the service and the

sacrifice of SGT John Massick, an American patriot who epitomizes what is rightly referred to as America's Greatest Generation.●

RECOGNIZING WORCESTER, MASSACHUSETTS

● Mr. MARKEY. Mr. President, Massachusetts has been the birthplace of revolutions for centuries, from sparking the American Revolution to leading the world in biotechnology, education, and medicine. It is a natural home for the next era of the technology revolution. I am proud that Worcester, MA was identified by TechNet and the Progressive Policy Institute as a ''Next in Tech'' city, with a thriving startup environment poised to drive innovation and job creation for years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

In executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:22 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 479. An act to require a report on the designation of the Democratic People's Republic of Korea as a state sponsor of terrorism, and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

At 3:09 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 43. Joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule submitted by Secretary of Health and Human Services relating to compliance with title X requirements by project recipients in selecting subrecipients.

H.J. Res. 67. Joint resolution disapproving the rule submitted by the Department of Labor relating to savings arrangements established by qualified State political subdivisions for non-governmental employees.

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. HATCH).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 479. An act to require a report on the designation of the Democratic People's Republic of Korea as a state sponsor of terrorism, and for other purposes; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOEVEN, from the Committee on Indian Affairs, without amendment:

S. 254. A bill to amend the Native American Programs Act of 1974 to provide flexibility and reauthorization to ensure the survival and continuing vitality of Native American languages (Rept. No. 115–23).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. CRAPO for the Committee on Banking, Housing, and Urban Affairs.

*Jay Clayton, of New York, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2021.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself and Mr. LEAHY):

S. 807. A bill to provide anti-retaliation protections for antitrust whistleblowers; to the Committee on the Judiciary.

By Mr. THUNE (for himself, Ms. KLOBUCHAR, Mr. PORTMAN, Mr. BOOZMAN, Mr. GRASSLEY, Mr. COTTON, Mr. WICKER, Mr. ROUNDS, Ms. MURKOWSKI, Mrs. CAPITO, Mr. MANCHIN, and Mrs. ERNST):

S. 808. A bill to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. SHAHEEN (for herself and Ms. WARREN):

S. 809. A bill to require the Secretary of the Treasury to study the feasibility of providing certain taxpayers with an optional, pre-prepared tax return, and for other purposes; to the Committee on Finance.

By Mr. BLUNT (for himself and Mrs. MCCASKILL):

S. 810. A bill to facilitate construction of a bridge on certain property in Christian County, Missouri, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ENZI (for himself, Mr. LANKFORD, Mr. LEE, Mr. CORNYN, Mr. RISCH, Mr. INHOFE, Mr. COTTON, Mr. RUBIO, and Mr. SASSE):

S. 811. A bill to ensure that organizations with religious or moral convictions are allowed to continue to provide services for children; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. WHITEHOUSE):

S. 812. A bill to amend title 35, United States Code, to provide for an exception from infringement for certain component parts of motor vehicles; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 813. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. DUCKWORTH:

S. 814. A bill to require that States receiving Byrne JAG funds to require sensitivity training for law enforcement officers of that State and to incentivize States to enact laws requiring the independent investigation and prosecution of the use of deadly force by law enforcement officers, and for other purposes; to the Committee on the Judiciary.

By Mr. NELSON (for himself, Mr. MENENDEZ, Mr. BLUMENTHAL, Mrs. GILLIBRAND, and Mr. SCHUMER):

S. 815. A bill to amend titles XVIII and XIX of the Social Security Act to make premium and cost-sharing subsidies available to low-income Medicare part D beneficiaries who reside in Puerto Rico or another territory of the United States; to the Committee on Finance.

By Mr. CASEY (for himself, Mr. BURR, and Mr. VAN HOLLEN):

S. 816. A bill to amend the Internal Revenue Code of 1986 to allow rollovers from 529 programs to ABLE accounts; to the Committee on Finance.

By Mr. CASEY (for himself, Mr. BURR, and Mr. VAN HOLLEN):

S. 817. A bill to amend the Internal Revenue Code of 1986 to increase the age requirement with respect to eligibility for qualified ABLE programs; to the Committee on Finance.

By Mr. BURR (for himself, Mr. CASEY, Mr. VAN HOLLEN, and Mr. MORAN):

S. 818. A bill to amend the Internal Revenue Code of 1986 to allow individuals with disabilities to save additional amounts in their ABLE accounts above the current annual maximum contribution if they work and earn income; to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. SCHUMER, Mr. DURBIN, Mr. MENENDEZ, Mr. COONS, Mr. BROWN, Mr. UDALL, Mr. CASEY, Ms. BALDWIN, Mr. VAN HOLLEN, Mrs. SHAHEEN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. MARKEY, Ms. HIRONO, Mrs. FEINSTEIN, Mr. MANCHIN, Mr. HEINRICH, Mr. BLUMENTHAL, Mr. LEAHY, Mr. BOOKER, Mr. REED, Mr. SANDERS, Ms. WARREN, Ms. STABENOW, Mr. CARPER, Mr. WHITEHOUSE, Mrs. MCCASKILL, Ms. CANTWELL, Mr. FRANKEN, Mr. WARNER, Ms. HARRIS, Mr. MURPHY, Mr. NELSON, Mr. WYDEN, Mr. KAINE, Ms. HASSAN, Mr. MERKLEY, Mr. TESTER, Ms. DUCKWORTH, and Mr. BENNET):

S. 819. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MARKEY (for himself, Mr. BENNET, Mr. SCHUMER, Mr. BLUMENTHAL, Mr. VAN HOLLEN, Mrs. MURRAY, Mr. BOOKER, Mr. FRANKEN, Mrs. MCCASKILL, Ms. CANTWELL, Mr. WYDEN, Mr. WHITEHOUSE, Mr. PETERS, Ms. BALDWIN, Mrs. SHAHEEN, Ms. STABENOW, Mr. CARDIN, Mr. UDALL, Mr. MERKLEY, Mr. CASEY, Mr. HEINRICH, Mr. LEAHY, Mr. MURPHY, Mr. TESTER, Mr. DURBIN, Mr. SANDERS, Ms. DUCKWORTH, Mr. REED, Ms. WARREN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. NELSON, Ms. HASSAN, Mr. CARPER, Mrs. FEINSTEIN, Ms. CORTEZ

MASTO, Ms. HIRONO, Mr. BROWN, Ms. HARRIS, and Mr. MENENDEZ):

S. 820. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.

By Mr. RUBIO (for himself and Ms. BALDWIN):

S. 821. A bill to promote access for United States officials, journalists, and other citizens to Tibetans areas of the People's Republic of China, and for other purposes; to the Committee on the Judiciary.

By Mr. INHOFE (for himself, Mr. MARKEY, Mr. ROUNDS, Mr. BOOKER, and Mr. CRAPO):

S. 822. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to modify provisions relating to grants, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WYDEN (for himself and Mr. PAUL):

S. 823. A bill to ensure the digital contents of electronic equipment and online accounts belonging to or in the possession of United States persons entering or exiting the United States are adequately protected at the border, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SCOTT (for himself, Mr. BROWN, Mr. ISAKSON, and Mr. WARNER):

S. 824. A bill to amend title 31, United States Code, to prohibit the Internal Revenue Service from carrying out seizures relating to a structuring transaction unless the property to be seized derived from an illegal source or the funds were structured for the purpose of concealing the violation of another criminal law or regulation, to require notice and a post-seizure hearing for such seizures, and for other purposes; to the Committee on Finance.

By Ms. MURKOWSKI:

S. 825. A bill to provide for the conveyance of certain property to the Southeast Alaska Regional Health Consortium located in Sitka, Alaska, and for other purposes; to the Committee on Indian Affairs.

By Mr. BARRASSO (for himself, Mr. CARPER, Mr. INHOFE, Mr. BOOKER, Mr. BOOZMAN, and Mr. WHITEHOUSE):

S. 826. A bill to reauthorize the Partners for Fish and Wildlife Program and certain wildlife conservation funds, to establish prize competitions relating to the prevention of wildlife poaching and trafficking, wildlife conservation, the management of invasive species, and the protection of endangered species, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PAUL (for himself and Mr. COONS):

S. Res. 109. A resolution encouraging the Government of Pakistan to release Aasiya Noreen, internationally known as Asia Bibi, and reform its religiously intolerant laws regarding blasphemy; to the Committee on Foreign Relations.

By Mr. BENNET (for himself and Mr. GARDNER):

S. Res. 110. A resolution relating to proceedings of the Senate in the event of a partial or full shutdown of the Federal Government; to the Committee on Rules and Administration.

By Mr. SULLIVAN (for himself and Ms. MURKOWSKI):

S. Res. 111. A resolution celebrating the 150th anniversary of the Alaska Purchase; considered and agreed to.

By Mr. BURR (for himself, Mr. MANCHIN, Mr. HELLER, and Mr. INHOFE):

S. Res. 112. A resolution designating April 5, 2017, as ''Gold Star Wives Day'' ; considered and agreed to.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. Res. 113. A resolution recognizing and celebrating the 50th anniversary of the Center on Human Development and Disability at the University of Washington in Seattle, Washington; considered and agreed to.

By Mr. GRASSLEY (for himself, Mrs. GILLIBRAND, and Mr. DAINES):

S. Con. Res. 12. A concurrent resolution expressing the sense of Congress that those who served in the bays, harbors, and territorial seas of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, should be presumed to have served in the Republic of Vietnam for all purposes under the Agent Orange Act of 1991; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. CARDIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 27, a bill to establish an independent commission to examine and report on the facts regarding the extent of Russian official and unofficial cyber operations and other attempts to interfere in the 2016 United States national election, and for other purposes.

S. 179

At the request of Mr. GRASSLEY, the name of the Senator from Iowa (Mrs. ERNST) was added as a cosponsor of S. 179, a bill to expand the use of E–Verify, to hold employers accountable, and for other purposes.

S. 194

At the request of Mr. WHITEHOUSE, the name of the Senator from Maryland (Mr. VAN HOLLEN) was added as a cosponsor of S. 194, a bill to amend the Public Health Service Act to establish a public health insurance option, and for other purposes.

S. 205

At the request of Mr. THUNE, the name of the Senator from Wisconsin (Mr. JOHNSON) was added as a cosponsor of S. 205, a bill to amend the Internal Revenue Code of 1986 to repeal the estate and generation-skipping transfer taxes, and for other purposes.

S. 253

At the request of Mr. CARDIN, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 253, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 294

At the request of Mr. NELSON, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 294, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the Food and Drug Administration's jurisdiction over certain tobacco products, and to protect jobs and small businesses involved in the sale, manufacturing and distribution of traditional and premium cigars.

S. 324

At the request of Mr. HATCH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 324, a bill to amend title 38, United States Code, to improve the provision of adult day health care services for veterans.

S. 339

At the request of Mr. NELSON, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 339, a bill to amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 366

At the request of Mr. ROUNDS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 366, a bill to require the Federal financial institutions regulatory agencies to take risk profiles and business models of institutions into account when taking regulatory actions, and for other purposes.

S. 372

At the request of Mr. PORTMAN, the name of the Senator from Alaska (Mr. SULLIVAN) was added as a cosponsor of S. 372, a bill to amend the Tariff Act of 1930 to ensure that merchandise arriving through the mail shall be subject to review by U.S. Customs and Border Protection and to require the provision of advance electronic information on shipments of mail to U.S. Customs and Border Protection and for other purposes.

S. 374

At the request of Mr. BLUNT, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 374, a bill to enable concrete masonry products manufacturers to establish, finance, and carry out a coordinated program of research, education, and promotion to improve, maintain, and develop markets for concrete masonry products.

S. 382

At the request of Mr. MENENDEZ, the names of the Senator from Michigan (Mr. PETERS) and the Senator from Nebraska (Mrs. FISCHER) were added as cosponsors of S. 382, a bill to require the Secretary of Health and Human Services to develop a voluntary registry to collect data on cancer incidence among firefighters.

S. 393

At the request of Mr. SCOTT, the names of the Senator from Indiana (Mr. DONNELLY) and the Senator from Nebraska (Mrs. FISCHER) were added as cosponsors of S. 393, a bill to amend the Internal Revenue Code of 1986 to allow

employers a credit against income tax for employees who participate in qualified apprenticeship programs.

S. 407

At the request of Mr. CRAPO, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 407, a bill to amend the Internal Revenue Code of 1986 to permanently extend the railroad track maintenance credit.

S. 497

At the request of Ms. CANTWELL, the names of the Senator from Delaware (Mr. CARPER), the Senator from Michigan (Ms. STABENOW), and the Senator from Colorado (Mr. BENNET) were added as cosponsors of S. 497, a bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of certain lymphedema compression treatment items as items of durable medical equipment.

S. 534

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a cosponsor of S. 534, a bill to prevent the sexual abuse of minors and amateur athletes by requiring the prompt reporting of sexual abuse to law enforcement authorities, and for other purposes.

S. 563

At the request of Mr. HELLER, the name of the Senator from Indiana (Mr. DONNELLY) was added as a cosponsor of S. 563, a bill to amend the Flood Disaster Protection Act of 1973 to require that certain buildings and personal property be covered by flood insurance, and for other purposes.

S. 569

At the request of Ms. CANTWELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 569, a bill to amend title 54, United States Code, to provide consistent and reliable authority for, and for the funding of, the Land and Water Conservation Fund to maximize the effectiveness of the Fund for future generations, and for other purposes.

S. 593

At the request of Mrs. CAPITO, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 593, a bill to amend the Pittman-Robertson Wildlife Restoration Act to facilitate the establishment of additional or expanded public target ranges in certain States.

S. 604

At the request of Mr. HATCH, the name of the Senator from Iowa (Mrs. ERNST) was added as a cosponsor of S. 604, a bill to allow certain State permitting authority to encourage expansion of broadband service to rural communities, and for other purposes.

S. 630

At the request of Mrs. SHAHEEN, the name of the Senator from Colorado (Mr. GARDNER) was added as a cosponsor of S. 630, a bill to amend the Afghan Allies Protection Act of 2009 to make 2,500 visas available for the Afghan Special Immigrant Visa program, and for other purposes.

S. 701

At the request of Mrs. GILLIBRAND, the names of the Senator from Wisconsin (Ms. BALDWIN) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 701, a bill to improve the competitiveness of United States manufacturing by designating and supporting manufacturing communities.

S. 720

At the request of Mr. PORTMAN, the names of the Senator from North Dakota (Mr. HOEVEN), the Senator from Texas (Mr. CORNYN), and the Senator from Nebraska (Mrs. FISCHER) were added as cosponsors of S. 720, a bill to amend the Export Administration Act of 1979 to include in the prohibitions on boycotts against allies of the United States boycotts fostered by international governmental organizations against Israel and to direct the Export-Import Bank of the United States to oppose boycotts against Israel, and for other purposes.

S. 722

At the request of Mr. CORKER, the name of the Senator from Nebraska (Mrs. FISCHER) was added as a cosponsor of S. 722, a bill to impose sanctions with respect to Iran in relation to Iran's ballistic missile program, support for acts of international terrorism, and violations of human rights, and for other purposes.

S. 763

At the request of Mr. THUNE, the names of the Senator from Mississippi (Mr. WICKER), the Senator from Missouri (Mr. BLUNT), the Senator from Washington (Ms. CANTWELL), and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of S. 763, a bill to improve surface and maritime transportation security.

S. 766

At the request of Mr. MANCHIN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 766, a bill to amend titles 10 and 32, United States Code, to improve and enhance authorities relating to the employment, use, status, and benefits of military technicians (dual status), and for other purposes.

S. 770

At the request of Mr. SCHATZ, the names of the Senator from Colorado (Mr. GARDNER) and the Senator from Nevada (Ms. CORTEZ MASTO) were added as cosponsors of S. 770, a bill to require the Director of the National Institute of Standards and Technology to disseminate resources to help reduce small business cybersecurity risks, and for other purposes.

S. 774

At the request of Ms. HEITKAMP, the name of the Senator from Michigan (Mr. PETERS) was added as a cosponsor of S. 774, a bill to address the psychological, developmental, social, and emotional needs of children, youth, and families who have experienced trauma, and for other purposes.

S. 786

At the request of Mrs. SHAHEEN, the name of the Senator from New Hampshire (Ms. HASSAN) was added as a cosponsor of S. 786, a bill to establish a grant program relating to the prevention of student and student athlete opioid misuse.

S. 800

At the request of Ms. CANTWELL, the name of the Senator from New Mexico (Mr. HEINRICH) was added as a cosponsor of S. 800, a bill to protect taxpayers from liability associated with the reclamation of surface coal mining operations, and for other purposes.

S.J. RES. 5

At the request of Mr. CARDIN, the name of the Senator from Nevada (Ms. CORTEZ MASTO) was added as a cosponsor of S.J. Res. 5, a joint resolution removing the deadline for the ratification of the equal rights amendment.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself and Mr. PAUL):

S. 823. A bill to ensure the digital contents of electronic equipment and online accounts belonging to or in the possession of United States persons entering or exiting the United States are adequately protected at the border, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. WYDEN. Mr. President, today I, along with my colleague Senator PAUL from Kentucky, am introducing the Protecting Data at the Border Act, a bill that protects Americans and U.S. Permanent Residents from warrantless searches of their electronic devices at the border.

1n 2014, the Supreme Court established in California v. Riley that law enforcement agencies must obtain a probable cause search warrant before they can search someone's phone or laptop during a ''search incident to arrest.'' Prior to that decision, law enforcement agencies around the country routinely engaged in warrantless searches of phones and other electronic devices. The Supreme Court rightly recognized that we need new, stronger rules to protect digital information.

Although the warrant protections from Riley have been the law of the land for the last three years, a significant loophole has remained: the border. The Riley decision left unresolved the question of whether or not U.S. Customs can search the smartphones and laptops of U.S. persons as they leave the country and return home. This is not a theoretical concern. According to recent statistics provided by Customs and Border Protection, searches of cellphones by border agents has exploded, growing fivefold in just one

year, from fewer than 5,000 in 2015 to nearly 25,000 in 2016. Five-thousand devices were searched this last February alone, more than in all of 2015.

My colleague, Senator PAUL and I intend to close this loophole, ensuring that U.S. persons crossing the border do not have lesser digital privacy rights than individuals who are arrested inside the United States.

This bill has four main components.

First, it requires that law enforcement agencies obtain a probable cause warrant before they can search the laptop, smartphone or other electronic device belonging to a U.S. person at the border. The bill includes an emergency exception to this warrant requirement, modeled after USA Freedom Act section 102, which became law in 2015.

Second, it requires informed, written consent before the government may request and obtain voluntary assistance from a U.S. person accessing data on a locked device or account, such as by disclosing their password or otherwise providing access. The bill also prohibits the government from delaying or denying entry to a U.S. person if he or she refuses to provide such assistance.

Third, it requires that the government obtain a warrant before it can copy and retain a U.S. person's data, even if the data has been collected without a warrant, during an emergency.

Fourth, it requires that the government create and publish statistics on the electronic border searches they conduct.

Passage of this bill would ensure that the important privacy rights recognized by the Supreme Court in Riley also apply at the border, while still enabling law enforcement agencies continue to do the important work of keeping our country safe.

I thank my colleague Senator PAUL for his efforts on this bill, and I hope the Senate will consider our proposal quickly.

By Mr. BARRASSO (for himself, Mr. CARPER, Mr. INHOFE, Mr. BOOKER, Mr. BOOZMAN, and Mr. WHITEHOUSE):

S. 826. A bill to reauthorize the Partners for Fish and Wildlife Program and certain wildlife conservation funds, to establish prize competitions relating to the prevention of wildlife poaching and trafficking, wildlife conservation, the manaement of invasive species, and the protection of endangered species, and for other purposes; to the Committee on Environment and Public Works.

Mr. BARRASSO. Mr. President, I rise to speak about bipartisan legislation that I have introduced to promote innovative solutions to better manage invasive species, conserve wildlife, and eliminate poaching. I have introduced this in a bipartisan way as the chairman of the Environment and Public Works Committee, along with Senator TOM CARPER, who is the ranking member of that committee, and along with Senator JIM INHOFE, who is a former chairman of that committee.

This legislation is called the Wildlife Innovation and Longevity Driver Act, WILD for short. I am a supporter of both conserving wildlife and technological innovation that we have before us.

My home State of Wyoming is truly one of the most beautiful places in the world. The people of Wyoming have an incredible appreciation for our wildlife. We applaud the efforts of innovators to help us conserve and manage species much more effectively and at a lower cost. Our State wildlife managers grapple with many challenges that innovators can help us solve.

For example, poaching has been a major issue in Wyoming. Hundreds of animals are taken illegally in the State. That is what I hear from the Wyoming Game & Fish Department. Poaching is a problem across the country. It is not just the case in Wyoming; it has become pandemic overseas. International poachers seeking to cash in on the ivory trade have reduced the population of African elephants by 75 percent over the last 10 years. It is tragic.

Invasive species also present a threat to native wildlife, to water resources, and to our landscape. Invasive species clog pipes and fuel catastrophic fires. In fact, invasive species have a role in 42 percent of the listings under the Endangered Species Act. It is invasive species that are causing other species to become endangered.

We need creative solutions to these threats to our wildlife. Our Nation's innovators are developing cutting-edge technologies to help us more effectively fight poaching, manage wildlife, and control invasive species.

A 2015 National Geographic article outlined a number of innovative technologies that are being used today to promote conservation of many of the world's most endangered species. That includes DNA analysis to identify the origin of illicit ivory supplies, using thermal imaging around protected areas to notify authorities of poachers, and using apps to assist wildlife enforcement in carrying out their duties.

In December, the National Invasive Species Council cohosted a summit, which highlighted innovations that combat invasive species. A few examples are a fish passage that automatically extracts invasive fish from streams, DNA technologies to provide early detection of invasive species, and the use of drones to gain spatially accurate, high resolution images that could be used to detect and monitor specific invasive species. Innovations like these are why we have introduced in a bipartisan way the WILD Act.

This act provides technological and financial assistance to private landowners to improve fish and wildlife habitats. The legislation does this by reauthorizing the Partners for Fish and Wildlife Program. The WILD Act requires Federal agencies to implement strategic programs to control invasive species. It also reauthorizes important laws to protect endangered and valuable species around the world, such as the African elephant, the Asian elephant, the rhinoceros, the great ape, and the marine turtle.

Finally, this act creates incentives for new conservation innovation. The legislation establishes four separate cash prizes for technological innovation in the prevention of wildlife poaching and trafficking, in the promotion of wildlife conservation, in the management of invasive species, and in the protection of endangered species. The Department of the Interior will administer the prizes, and a panel of relevant experts will award each prize.

Innovation is one of the best tools in conserving endangered species and keeping invasive species under control. The WILD Act will help stimulate that innovation.

I thank Senator CARPER and Senator INHOFE for cosponsoring this important piece of legislation.

Thank you.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 109—ENCOURAGING THE GOVERNMENT OF PAKISTAN TO RELEASE AASIYA NOREEN, INTERNATIONALLY KNOWN AS ASIA BIBI, AND REFORM ITS RELIGIOUSLY INTOLERANT LAWS REGARDING BLASPHEMY

Mr. PAUL (for himself and Mr. COONS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 109

Whereas, in June 2009, Asia Bibi allegedly insulted the Muslim faith during a confrontation with Muslim neighbors and drank from a water source shared by these Muslim neighbors;

Whereas, in November 2010, Asia Bibi, a Pakistani Christian woman, was sentenced to death by hanging after being convicted of blasphemy by a Pakistani District Court under Article 295–C of Pakistan's penal code;

Whereas, according to the United States Commission on International Religious Freedom, Pakistan's blasphemy laws set severe punishments, including death or life in prison, and have been levied against religious minorities, including Christians, Hindus, and Ahmadiyya and Shi'a Muslims, as well as Sunni Muslims;

Whereas a petition calling for the immediate release of Asia Bibi has generated over 690,000 signatures, and 250,000 of the signatures, roughly a third of the total amount, were made by petitioners from the United States;

Whereas, in January 2011, Pakistani politician Salmaan Taseer, the governor of Punjab province, who campaigned for Asia Bibi's release and called for reform to Pakistan's blasphemy codes, outraged religious conservatives and was assassinated by his security guard, Mumtaz Qadri;

Whereas, in March 2011, Federal Minister for Minority Affairs Shahbaz Bhatti was assassinated in Islamabad, Pakistan, after receiving death threats for his support of reforming Pakistan's blasphemy codes and calling for the release of Asia Bibi;

Whereas, in October 2014, the Lahore High Court of Appeals upheld the death sentence of Asia Bibi;

Whereas the execution of Mumtaz Qadri in February 2016 resulted in street protests that called for the death of Asia Bibi;

Whereas, in Pakistan, mere accusations of blasphemy, even by private individuals, often lead to violence against those accused by private actors;

Whereas Pakistan's human rights problems include poor prison conditions, arbitrary detention, lengthy pretrial detention, a weak criminal justice system, lack of judicial independence in the lower courts, and governmental infringement on citizens' privacy rights;

Whereas Asia Bibi is at risk of extrajudicial murder even if she is released;

Whereas, in Pakistan, violence, abuse, and social and religious intolerance by militant organizations and other nongovernmental actors contribute to a culture of lawlessness in some parts of the country; and

Whereas there is great concern for Asia Bibi's safety during her incarceration due to reports that prisoners who are members of religious minorities face a heightened risk of mistreatment, torture, or murder: Now, therefore, be it

Resolved, That the Senate—

(1) urges the Government of Pakistan to immediately and unconditionally release Asia Bibi and ensure that she, her family, and her legal counsel are afforded all necessary measures to ensure their safety; and

(2) urges the Government of Pakistan to reform its laws to reflect democratic norms and ideals and work to promote tolerance of religious minorities, whether Muslim, Christian, Hindu, or other ostracized, so that no one is in danger of persecution from the government or their neighbors for exercising their right to free speech and practicing their religion.

SENATE RESOLUTION 110—RELATING TO PROCEEDINGS OF THE SENATE IN THE EVENT OF A PARTIAL OR FULL SHUTDOWN OF THE FEDERAL GOVERNMENT

Mr. BENNET (for himself and Mr. GARDNER) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 110

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the ''Shutdown Accountability Resolution''.

SEC. 2. PROCEEDINGS OF THE SENATE DURING A FULL OR PARTIAL GOVERNMENT SHUTDOWN.

(a) DEFINITION.—In this section, the term ''Government shutdown'' means a lapse in appropriations for 1 or more agencies of the Federal Government.

(b) CONVENING OF THE SENATE.—

(1) IN GENERAL.—Notwithstanding any rule or order of the Senate, during the period of a Government shutdown—

(A) the Senate shall convene at 8:00 a.m. each day, unless the body is in continuous session; and

(B) it shall not be in order to ask for, and the Presiding Officer shall not entertain a request for, unanimous consent to change the hour or day on which the Senate shall convene under subparagraph (A).

(2) SENATE NOT IN SESSION.—If the Senate is not in session on the first calendar day of a Government shutdown, the majority leader, after consultation with the minority leader, shall notify Members of the Senate that, pursuant to this standing order, the Senate shall convene at 8:00 a.m. on the next calendar day of the Government shutdown.

(c) PRESENCE OF A QUORUM.—

(1) IN GENERAL.—During the period of a Government shutdown, and notwithstanding any provision of the Standing Rules of the Senate—

(A) immediately after the Presiding Officer takes the chair in accordance with rule IV of the Standing Rules of the Senate, the Presiding Officer shall direct the Clerk to call the roll to ascertain the presence of a quorum; and

(B) 1 hour after the presence of a quorum has last been demonstrated, the Presiding Officer shall direct the Clerk to call the roll to ascertain the presence of a quorum.

(2) LACK OF QUORUM.—

(A) IN GENERAL.—If, upon a calling of the roll under paragraph (1), it shall be ascertained that a quorum is not present—

(i) the Presiding Officer shall direct the Clerk to call the names of any absent Senators; and

(ii) following the calling of the names under clause (i), the Presiding Officer shall, without intervening motion or debate, submit to the Senate by a yea-and-nay vote the question: ''Shall the Sergeant-at-Arms be directed to request the attendance of absent Senators?''.

(B) DIRECTION TO COMPEL ATTENDANCE.—If a quorum is not present 15 minutes after the time at which the vote on a question submitted under subparagraph (A)(ii) starts, the Presiding Officer shall, without intervening motion or debate, submit to the Senate by a yea-and-nay vote the question: ''Shall the Sergeant-at-Arms be directed to compel the attendance of absent Senators?''.

(C) ARREST OF ABSENT SENATORS.—Effective 1 hour after the Sergeant-at-Arms is directed to compel the attendance of absent Senators under subparagraph (B), if any Senator not excused under rule XII of the Standing Rules of the Senate is not in attendance, the Senate shall be deemed to have agreed an order that reads as follows: ''Ordered, That the Sergeant-at-Arms be directed to arrest absent Senators; that warrants for the arrests of all Senators not sick nor excused be issued under the signature of the Presiding Officer and attested by the Secretary, and that such warrants be executed without delay.''.

(D) REPORTS.—Not less frequently than once per hour during proceedings to compel the attendance of absent Senators, the Sergeant-at-Arms shall submit to the Senate a report on absent Senators, which shall—

(i) be laid before the Senate;

(ii) identify each Senator whose absence is excused;

(iii) identify each Senator who is absent without excuse; and

(iv) for each Senator identified under clause (iii), provide information on the current location of the Senator.

(3) REGAINING THE FLOOR.—If a Senator had been recognized to speak at the time a call of the roll to ascertain the presence of a quorum was initiated under paragraph (2)(A), and if the presence of a quorum is established, that Senator shall be entitled to be recognized to speak.

(d) ADJOURNING AND RECESSING.—During the period of a Government shutdown—

(1) a motion to adjourn or to recess the Senate shall be decided by a yea-or-nay vote;

(2) if a quorum is present, the Presiding Officer shall not entertain a request to adjourn or recess the Senate by unanimous consent or to vitiate the yeas and nays on such a motion by unanimous consent;

(3) a motion to adjourn or a motion to recess made during the period beginning at 8:00 a.m. and ending at 11:59 p.m., shall only be agreed to upon an affirmative vote of two-thirds of the Senators present and voting, a quorum being present; and

(4) if the Senate must adjourn due to the absence of a quorum, the Senate shall reconvene 2 hours after the time at which it adjourns and ascertain the presence of a quorum in accordance with subsection (c)(1).

(e) NO SUSPENSION OF REQUIREMENTS.—The Presiding Officer may not entertain a request to suspend the operation of this standing order by unanimous consent or motion.

(f) CONSISTENCY WITH SENATE EMERGENCY PROCEDURES AND PRACTICES.—Nothing in this standing order shall be construed in a manner that is inconsistent with S. Res. 296 (108th Congress) or any other emergency procedures or practices of the Senate.

(g) STANDING ORDER.—This section shall be a standing order of the Senate.

SENATE RESOLUTION 111—CELEBRATING THE 150TH ANNIVERSARY OF THE ALASKA PURCHASE

Mr. SULLIVAN (for himself and Ms. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 111

Whereas Secretary of State William H. Seward agreed to purchase Alaska from Russia on March 30, 1867, for approximately 2 cents per acre;

Whereas the Senate ratified the treaty with Russia regarding the purchase of Alaska on April 9, 1867, and the House of Representatives approved the fund appropriation for that purchase on July 14, 1868;

Whereas, on August 1, 1868, the Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of all the Russias acknowledged that $7,200,000 had been received from the United States Treasury as payment in full for the cession of Alaska;

Whereas New Archangel, later Sitka, served as—

(1) the capital of the territory of Alaska from the time of Russian rule until 1906; and

(2) the location for the signing of the Alaska Purchase on October 18, 1867;

Whereas Alaska is home to—

(1) the highest mountain peak in North America, Denali, which rises 20,310 feet above sea level;

(2) the northernmost, easternmost, and westernmost points of the United States;

(3) more active glaciers and ice fields than in the rest of the inhabited world;

(4) a variety of animal species, including—

(A) the largest concentration of American Bald Eagles and the largest species of brown bear in the United States; and

(B) 90 percent of the sea otters in the world;

(5) 24 national parks, including the 5 largest national parks in the United States, Wrangell–St. Elias National Park, the Gates of the Arctic National Park and Preserve, Denali National Park and Preserve, Katmai National Park and Preserve, and Glacier Bay National Park, which, together, are larger than the 8 smallest States combined;

(6) the 2 largest national forests in the United States, the Tongass and Chugach National Forests, spanning more than 37,000 square miles;

(7) more than 38 percent of the shoreline and nearly 54 percent of the coastline of the United States; and

(8) more Federal land than there is total land in the States of Texas and Nebraska combined;

Whereas, in 1913, the first act of the first Territorial Legislature of Alaska was to grant women suffrage;

Whereas there are 229 federally recognized tribes in Alaska and 20 Alaska Native languages are spoken in the State;

Whereas, on December 18, 1971, the landmark Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) was signed into law, which established 13 Alaska Native Regional Corporations and more than 200 Alaska Native Village Corporations;

Whereas more than 44,000,000 acres of land in Alaska are under Alaska Native ownership;

Whereas the 3 most diverse census tracts in the United States are located in the Municipality of Anchorage;

Whereas, during World War II, the Imperial Japanese Navy invaded and occupied portions of the Aleutian Islands of Alaska;

Whereas Alaska has—

(1) 12 major military bases and stations that are home to honorable men and women who serve the United States in the Armed Forces; and

(2) the highest number of veterans in the United States per capita;

Whereas some of the highest producing oil and natural gas fields in the United States are on the North Slope in Alaska;

Whereas more crude oil has been produced from State lands on the North Slope in Alaska than from Federal lands in the Central Gulf of Mexico;

Whereas the ports of Alaska consistently process the highest volume of commercial seafood that lands in the United States;

Whereas Alaska has vast reserves of minerals and the Red Dog Mine is one of the largest zinc mines in the world;

Whereas Alaska has produced world record-breaking agricultural products, such as the heaviest cabbage at 138.25 pounds and the heaviest broccoli at 35 pounds;

Whereas the Aurora Borealis is visible from Fairbanks an average of 243 days each year;

Whereas Girdwood was recognized by National Geographic as the world's best ski town;

Whereas, in the northernmost town in Alaska, the sun does not set for approximately 80 days in the summer and does not rise for approximately 60 days in the heart of winter;

Whereas President Dwight D. Eisenhower signed the proclamation admitting Alaska to the United States on January 3, 1959; and

Whereas Alaska is the largest State in the United States in land area at more than 586,000 square miles and constitutes almost ⅕ the size of the contiguous United States: Now, therefore, be it

Resolved, That the Senate commends the State of Alaska on, and joins with the people of the State of Alaska in celebrating, the 150th anniversary of the Alaska Purchase.

SENATE RESOLUTION 112—DESIGNATING APRIL 5, 2017, AS ''GOLD STAR WIVES DAY''

Mr. BURR (for himself, Mr. MANCHIN, Mr. HELLER, and Mr. INHOFE) submitted the following resolution; which was considered and agreed to:

S. RES. 112

Whereas the Senate honors the sacrifices made by the spouses and families of the fallen members of the Armed Forces of the United States;

Whereas Gold Star Wives of America, Inc. represents the spouses and families of the members and veterans of the Armed Forces of the United States who have died on active duty or as a result of a service-connected disability;

Whereas the primary mission of Gold Star Wives of America, Inc. is to provide services, support, and friendship to the spouses of the fallen members and veterans of the Armed Forces of the United States;

Whereas in 1945, Gold Star Wives of America, Inc. was organized with the help of Eleanor Roosevelt to assist the families left behind by the fallen members and veterans of the Armed Forces of the United States;

Whereas the first meeting of Gold Star Wives of America, Inc. was held on April 5, 1945;

Whereas April 5, 2017, marks the 72nd anniversary of the first meeting of Gold Star Wives of America, Inc.;

Whereas the members and veterans of the Armed Forces of the United States bear the burden of protecting the freedom of the people of the United States; and

Whereas the sacrifices of the families of the fallen members and veterans of the Armed Forces of the United States should never be forgotten: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 5, 2017, as ''Gold Star Wives Day'';

(2) honors and recognizes—

(A) the contributions of the members of Gold Star Wives of America, Inc.; and

(B) the dedication of the members of Gold Star Wives of America, Inc. to the members and veterans of the Armed Forces of the United States; and

(3) encourages the people of the United States to observe Gold Star Wives Day to promote awareness of—

(A) the contributions and dedication of the members of Gold Star Wives of America, Inc. to the members and veterans of the Armed Forces of the United States; and

(B) the important role that Gold Star Wives of America, Inc. plays in the lives of the spouses and families of the fallen members and veterans of the Armed Forces of the United States.

SENATE RESOLUTION 113—RECOGNIZING AND CELEBRATING THE 50TH ANNIVERSARY OF THE CENTER ON HUMAN DEVELOPMENT AND DISABILITY AT THE UNIVERSITY OF WASHINGTON IN SEATTLE, WASHINGTON

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 113

Whereas the Center on Human Development and Disability (referred to in this preamble as ''CHDD'') is one of the largest and most comprehensive interdisciplinary centers in the United States that focuses on improving the lives of individuals with developmental disabilities;

Whereas, each year, hundreds of University of Washington faculty, staff, and students contribute to the lives of people with developmental disabilities and their families by providing—

(1) model clinical services;

(2) basic and translational research;

(3) interdisciplinary clinical and research training; and

(4) technical assistance and outreach to community practitioners and agencies;

Whereas CHDD is a recognized University Center for Excellence in Developmental Disabilities, a national network authorized under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);

Whereas, as a member of the network of 67 University Centers for Excellence in Developmental Disabilities located in every State and territory, CHDD provides services to individuals with developmental disabilities and their families in 11 different CHDD-based clinics at the University of Washington;

Whereas CHDD scientists and clinicians conduct research to generate knowledge and disseminate information to improve the lives of individuals with developmental disabilities through the Eunice Kennedy Shriver Intellectual and Developmental Disabilities Research Center;

Whereas CHDD dynamically prepares graduate students and community professionals in health, education, behavioral, and other related fields to develop greater knowledge and skills to meet the unique needs of individuals with developmental disabilities and their families;

Whereas CHDD partners with premier national and State disability organizations and resources, such as the Washington State Developmental Disabilities Council and Disability Rights Washington, to improve the lives of individuals with developmental disabilities and their families; and

Whereas CHDD promotes the quality of life of individuals with developmental disabilities by improving—

(1) community access, support, and inclusion in education, housing options, continuing education opportunities, employment, quality health care, and wellness programs; and

(2) opportunities to build and grow friendships: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and celebrates the history and contributions of the Center on Human Development and Disability at the University of Washington in Seattle, Washington; and

(2) commends the Center on Human Development and Disability for—

(A) creating more welcoming and supportive communities; and

(B) improving the lives of individuals with disabilities and their families.

SENATE CONCURRENT RESOLUTION 12—EXPRESSING THE SENSE OF CONGRESS THAT THOSE WHO SERVED IN THE BAYS, HARBORS, AND TERRITORIAL SEAS OF THE REPUBLIC OF VIETNAM DURING THE PERIOD BEGINNING ON JANUARY 9, 1962, AND ENDING ON MAY 7, 1975, SHOULD BE PRESUMED TO HAVE SERVED IN THE REPUBLIC OF VIETNAM FOR ALL PURPOSES UNDER THE AGENT ORANGE ACT OF 1991

Mr. GRASSLEY (for himself, Mrs. GILLIBRAND, and Mr. DAINES) submitted the following concurrent resolution; which was referred to the Committee on Veterans' Affairs:

S. CON. RES. 12

Whereas section 1116(f) of title 38, United States Code, states that ''For the purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, shall be presumed to have been exposed during such service to an herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in an herbicide agent, unless there is

affirmative evidence to establish that the veteran was not exposed to any such agent during that service.'';

Whereas the international definition and United States-recognized borders of the Republic of Vietnam includes the bays, harbors, and territorial seas of that Republic;

Whereas multiple scientific and medical sources, including studies done by the Government of Australia, have shown evidence of exposure to herbicide agents such as Agent Orange by those serving in the bays, harbors, and territorial seas of the Republic of Vietnam;

Whereas veterans who served in the Armed Forces in the bays, harbors, and territorial seas of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, were exposed to this toxin through their ships' distillation processes, air and water currents, and the use of exposed water from inland sources, such as water from near heavily sprayed Monkey Mountain, delivered by exposed water barges;

Whereas such veterans experience a significantly higher percentage of medical conditions associated with Agent Orange exposure compared to those in the regular populace;

Whereas when passing the Agent Orange Act of 1991 (Public Law 102–4), Congress did not differentiate between those who served on the inland waterways and on land versus those who served in the bays, harbors, and territorial seas of that Republic;

Whereas the purpose behind providing presumptive coverage for medical conditions associated with exposure to Agent Orange is because proving such exposure decades after its occurrence is not scientifically or medically possible; and

Whereas thousands of veterans who served in the Armed Forces in the bays, harbors, and territorial seas of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, die at increasing rates every year: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the intent of the Agent Orange Act of 1991 (Public Law 102–4) included the presumption that those veterans who served in the Armed Forces in the bays, harbors, and territorial seas of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, served in the Republic of Vietnam for all purposes under the Agent Orange Act of 1991;

(2) intends for those veterans who served in the Armed Forces during the period beginning on January 9, 1962, and ending on May 7, 1975, in the bays, harbors, territorial seas, inland waterways, on the ground in the Republic of Vietnam, and other areas exposed to Agent Orange, and having been diagnosed with connected medical conditions to be equally recognized for such exposure through equitable benefits and coverage as those who served in the inland rivers and on the Vietnamese land mass; and

(3) calls on the Secretary of Veterans Affairs to review the policy of the Department of Veterans Affairs that excludes presumptive coverage for exposure to Agent Orange to veterans described in paragraph (1).

AUTHORITY FOR COMMITTEES TO MEET

Mr. MCCONNELL. Mr. President, I have 9 requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to Rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

COMMITTEE ON ARMED SERVICES

The Committee on Armed Services is authorized to meet during the session of the Senate on Tuesday, April 4, 2017, at 9:30 a.m., in open session, to receive testimony on United States Strategic Command Programs.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Committee on Banking, Housing, and Urban Affairs is authorized to meet during the session of the Senate on Tuesday, April 4, 2017 at 10 a.m. to vote on the nomination of Mr. Jay Clayton.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Senate Committee on Energy and Natural Resources is authorized to meet during the session of the Senate in order to hold a hearing on Tuesday, April 4, 2017, at 10 a.m. in Room 366 of the Dirksen Senate Office Building in Washington, DC.

COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations is authorized to meet during the session of the Senate on Tuesday, April 4, 2017 at 10:15 a.m., to hold a hearing entitled ''The European Union as a Partner Against Russian Aggression: Sanctions, Security, Democratic Institutions, and the Way Forward.''

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

The Committee on Health, Education, Labor, and Pensions is authorized to meet, during the session of the Senate, to conduct a hearing entitled ''FDA User Fee Agreements: Improving Medical Product Regulation and Innovation for Patients, Part II'' on Tuesday, April 4, 2017, at 10 a.m., in room 430 of the Dirksen Senate Office Building.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

The Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Tuesday, April 4, 2017, at 9:30 a.m. in order to conduct a hearing titled ''Fencing Along the Southwest Border.''

SELECT COMMITTEE ON INTELLIGENCE

The Senate Select Committee on Intelligence is authorized to meet during the session of the 115th Congress of the U.S. Senate on Tuesday, April 4, 2017 from 2:15 p.m. in room SH–219 of the Senate Hart Office Building.

SUBCOMMITTEE ON CYBERSECURITY

The Subcommittee on Cybersecurity of the Committee on Armed Services is authorized to meet during the session of the Senate on Tuesday, April 4, 2017, at 2:30 p.m.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE INFRASTRUCTURE, SAFETY AND SECURITY

The Committee on Commerce, Science, and Transportation is authorized to hold a meeting during the session of the Senate on Tuesday, April 4, 2017, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold Subcommittee Hearing on ''Keeping Goods a Moving: Continuing to Enhance Multimodal Freight Policy and Infrastructure.''

NATIONAL READ ALOUD MONTH

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of and the Senate now proceed to the consideration of S. Res. 94.

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

The clerk will report the resolution by title.

The assistant bill clerk read as follows:

A resolution (S. Res. 94) designating March 2017 as ''National Read Aloud Month.''

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

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table.

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

The resolution (S. Res. 94) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in the RECORD of March 23, 2017, under ''Submitted Resolutions.'')

RESOLUTIONS SUBMITTED TODAY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the en bloc consideration of the following resolutions, which were submitted earlier today: S. Res. 111, S. Res. 112, and S. Res. 113.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

Mr. MCCONNELL. I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be considered made and laid upon the table, all en bloc.

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

The resolutions were agreed to.

The preambles were agreed to.

(The resolutions, with their preambles, are printed in today's RECORD under ''Submitted Resolutions.'')

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the debate time on the nomination of Judge Gorsuch during Wednesday's session of the Senate be divided as follows: that following leader remarks the time until 11 a.m. be equally divided; that the time from 11 a.m. until 12 noon be under the control of the majority; that the time from 12 noon until 1 p.m. be

under the control of the minority; further, that the debate time until 9 p.m. on Wednesday be divided in 1-hour alternating blocks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, APRIL 5, 2017

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, April 5; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; finally, that following leader remarks, the Senate resume executive session to consider the nomination of Neil Gorsuch as under the previous order.

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

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order, following the remarks of Senators RUBIO and MERKLEY.

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

The Senator from Florida.

EGYPT

Mr. RUBIO. Mr. President, I come to the floor today to discuss the issue of human rights as part of my office's ongoing effort on what we call the Expression Not Oppression Campaign, where we highlight human rights abuses around the world and tell the stories of political prisoners and other brave leaders who are being repressed, jailed, beaten, or even worse, simply for criticizing the government of a nation in which they live.

This is an important week for human rights. Two nations with concerning records regarding human rights—Egypt and China—have sent their heads of state to meet with our President. And I will have, I hope, a chance later on this week to discuss the issues we confront in China, and they are many.

Today, I want to discuss the state of human rights and our general relationship with Egypt.

Over the past 2 days, the President of Egypt, President Elsisi, has been visiting our Nation's Capital. He had the opportunity to meet with the President and other officials in the administration. Earlier today, I had the opportunity to visit with him as part of a meeting with members of the Senate Foreign Relations Committee.

Before entering my remarks, I want to make abundantly clear that we are incredibly impressed and grateful and supportive of the efforts that President Elsisi and Egypt are undertaking in battling radicalism and in particular ISIS. They are undertaking this effort, for example, in the Sinai, and it is quite a challenge.

I also understand that the ongoing ability to defeat radicalism in the world depends on the stability of our partners internally. That is why the human rights situation in Egypt is concerning. I believe it is fair to say it is at its worst in decades, and that is saying something. It is important.

Some may ask ''Why does America care about that?'' beyond, obviously, our moral calling to defend the rights of all people. It is that it is counterproductive behavior. These abuses—the conditions that exist in Egypt and in other places around the world—are actually conducive to jihadi ideology, which is the ability to recruit people who feel vulnerable, who feel oppressed. They become more vulnerable to those campaigns when they feel they are being mistreated.

The current Government of Egypt, under the leadership of President Elsisi, has cracked down on civil society. On that, there can be no debate. They have jailed thousands of political prisoners, including, sadly, some Americans, and it has responded with brute force to those who oppose that government.

Again, I reiterate that a strong U.S.-Egypt relationship is important to America—to advancing our interests in the Middle East. I am here to speak on behalf of American interests and why this is so important in our relationship with Egypt and in the stability of the region, but I must do so by describing the situation on the ground.

In the national interest of our country, we cannot turn a blind eye to the ongoing repression of Egyptian citizens by their government. It weakens our moral standing in the world, and, as I have already said numerous times, it makes Egypt less secure. If Egypt is less secure, ultimately America will be less secure. Today, I said that to President Elsisi.

Over the last decades, the American people have provided Egypt with more than $77 billion in foreign aid. This includes what is currently $1.3 billion per year in military aid. But as the human rights situation in Egypt continues to deteriorate and the government refuses to take the serious and necessary steps of reform and respecting the rule of law, then this Congress, on behalf of the American people—who are giving $1.3 billion of their hard-earned taxpayer money—must continue to pursue the reform of our assistance to Egypt to make sure that not only is it allowing them to confront the challenges that are posed by radicalism today but that it also promotes progress in a way that does not leave Egypt unstable and ultimately vulnerable in the future.

It is in the interest of both our country and Egypt and the Egyptian people to implement reforms and to release all of its jailed political prisoners, including all jailed Americans. Nations cannot thrive and they cannot prosper if their citizens are oppressed or are unable to express themselves freely without fear of being jailed, tortured, or killed.

Inevitably, if these conditions continue, there will be a street uprising in Egypt once again, and it could very well be led by radical elements who seek to overthrow the government and create a space for terrorism.

Human rights abuses in Egypt take on many forms. An example is the lack of press freedom. In 2016, Egypt joined other nations in rising to the top of the rankings as the world's third highest jailer of journalists. According to the Reporters Without Borders' 2016 World Press Freedom Index, Egypt currently ranks 159th out of 180 countries in terms of press freedom. The media, including journalists, bloggers, and those active on social media, are regularly harassed and arrested. There are currently 24 journalists who are jailed on trumped-up and politically motivated charges. Their ''crimes'' have included publishing false information and inciting terrorism. Censorship has grown as they continue to interfere in the publication and circulation of news—although, by the way, a lot of Egyptian news coverage is very anti-American. These are just a few examples of the ongoing repression of press freedom in Egypt.

There are also human rights abuses the Egyptian Government continues to commit with regard to freedom of association and of assembly. In November of 2016, the Egyptian Parliament passed a draconian law that, if signed by President Elsisi, would ban nongovernmental organizations from operating freely in Egypt. The law would essentially eliminate all independent human rights groups. It would make it nearly impossible for charities to function by imposing strict regulations and registration processes. Individuals who violate this law could face jail time simply for speaking out and fighting to defend human rights. Passing laws like these has a chilling effect on dissent.

Here is the good news: President Elsisi has not signed it over 4 months later, and I truly hope it is because he is having second thoughts about it, because he recognizes the terrible impact it will have on his country's future, on their perception around the world, on their ability to make progress and reform, and ultimately because he also recognizes the impact it will have on free nations, like the United States, which desires to work with Egypt on many issues of common interest. I strongly encourage President Elsisi to reject that anti-NGO law.

There is the issue of political prisoners. According to the Project on Middle East Democracy, since 2013 at least 60,000 political prisoners have been arrested in Egypt and 1,800 people have received death sentences in what many

organizations have described as being politically motivated sentences.

In 2014, President Elsisi issued a decree that expanded the jurisdiction of military courts over civilians. According to Human Rights Watch, since the decree was issued, the military courts have tried over 7,400 Egyptian civilians.

Additionally, individuals who have been victims of enforced disappearances in Egypt have claimed that they were tortured and subjected to other forms of abuse when they were taken. There has been little accountability for this excessive use of force.

Egypt's repression is not limited to its own citizens. There are currently a number of Americans who are jailed in Egypt. There is one American in particular whom I would like to raise: the case of American-Egyptian citizen Aya Hijazi.

Aya was arrested in May of 2014, along with her husband and other members of her organization, which is called the Belady Foundation, which works with abandoned and homeless youth and rescues these young children off the streets. Three years ago, she was arrested and charged with ridiculous allegations, including sexual abuse and paying the children to participate in demonstrations against the government. To date, no evidence has been provided to back these horrible allegations. Almost 3 years later, this American citizen remains in prison.

Throughout that time, I and others here in the Senate have been calling for her release, and it is time that the charges against her be dropped and her husband and the other workers be released immediately because her case and many others like it are an obstacle to better relations.

The Egyptian people deserve better than the brutal treatment they are receiving at the hands of their government. All human beings do. It is incumbent upon us, the elected representatives of the American people, to make clear to friends, allies, partners, and foes alike that no matter what issues we are working with you on, negotiating a resolution to, or dealing with you on in some other way, we are not going to look the other way when human rights are being abused. We are going to encourage you to reform because in the long run, that is in your interest and ours.

We have seen in recent history the consequences when governments do not respect their citizens. It creates instability in those countries. Instability is the breeding ground of terrorists and radical elements around the world. Ultimately, those terrorists train their sights on us.

As I told President Elsisi today, Egypt is a nation rich in culture and history and has made extraordinary contributions to the world. It has played a leading role in fostering peace with Israel. But it faces a dangerous future if it does not create the conditions within the country in which its people can live peacefully and securely without fear. Otherwise, Egypt remains vulnerable to the kind of instability we have seen in Syria, Libya, and other countries. That is why it should matter to the American people.

I am disappointed that this issue of human rights did not come up publicly when the President met with the President of Egypt. I hope that will change in the weeks and days and months to come, for it is in our national interest to further these goals. Otherwise, sadly, we could very well have yet another and perhaps the most important country in the region destabilized and ultimately left vulnerable to becoming a breeding ground for terrorism that ultimately targets our people and our Nation.

EXECUTIVE SESSION

EXECUTIVE CALENDAR—Continued

Mr. RUBIO. Mr. President, I ask unanimous consent that the Senate resume executive session and then resume legislative session following the remarks of the Senator from Oregon, Mr. MERKLEY.

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

Mr. RUBIO. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I rise to address the nomination of Neil Gorsuch. I will start by noting that just moments ago the majority leader was on the floor and did something that has never before been done in U.S. history; that is, on the first day—indeed, in the first hours of debate on a Supreme Court Justice on this floor, the majority leader filed a petition, called a cloture petition, to close debate. So here we are on the first day, just hours into the debate, and the majority leader has said: Enough. We do not want to hear any more about this topic. We are going to shut down debate.

The rules provide some protection for this, and that is that it cannot be voted on until Thursday. So there is time between now and Thursday for us to air our views. Historically, often debates went on for a substantial amount of time—a week, some for many weeks—with no cloture petition being filed, with no closing of the debate. Certainly, never before has the majority leader shut down debate, filed that petition on day one in his trying to ram this nomination through.

This is just a continuation of firsts—first events that do absolutely no credit to this institution, no credit to the Supreme Court, no credit to our Nation. In fact, they pose a substantial danger.

It was February 13, a little over a year ago, that Supreme Court Justice Scalia died. Almost immediately, the majority leader indicated that when the nomination came down from President Obama, this Chamber would not exercise its responsibility of advice and consent under the Constitution in that it would not provide an opportunity for Merrick Garland to be able to appear before a committee and answer the questions of the committee members, the questions of Republicans and the questions of Democrats, so that they could assess whether that individual was appropriate to serve in a Supreme Court seat.

The majority leader made it clear that there would be no committee hearing and no committee vote and no opportunity to come here directly to the floor, bypassing the committee. In other words, he closed off every opportunity for the President's nominee to be considered. This is the first time—this is the only time that has happened in our Nation's history when there was a vacancy in an election year.

What is the essence of this extraordinary and unusual action when this Chamber fails to exercise its advice and consent responsibility under the Constitution? Were we at a time of war, like the Civil War, in which the Capitol at times was under assault? Were we at a moment in which the building was aflame and we had to flee or there was some other significant threat to the functioning of this body? Was there some extraordinary set of circumstances—perhaps a massive storm headed for the Nation's Capital—that led the Senate for the first time in U.S. history to say that it could not take the time to exercise its constitutional advice and consent responsibility? There was no storm. There was no fire. There was no threat. There was no earthquake. There was nothing that would have prevented this Chamber from doing its responsibility.

The President has a responsibility under the Constitution when there is an open seat, and that is to nominate. He proceeded to consult with Members on both sides of the aisle, and he nominated an individual, Merrick Garland, who had an extraordinary reputation and who essentially was considered to come straight down the Main Street of judicial thought, with opinions that were neither labeled ''progressive'' nor ''conservative.'' They were straight down the middle.

The President made that nomination on March 16, which was a month and 3 days after the seat became vacant, but that was the last action to occur, the last action this Chamber took. A few individuals did courtesy interviews, knowing that it would lead to no committee hearing and no committee vote because the majority team in this Chamber decided to steal a Supreme Court seat. Again, such a theft never, ever has happened in the history of our Nation.

There have been a substantial number of seats that have come open during an election year—16. There have been a substantial number of individuals who were confirmed to those 16

seats, and there were individuals who were turned down by this Chamber. Yet, in all of the 15 cases that preceded the death of Justice Scalia, the Senate acted. The Senate exercised its responsibility.

But this time was different. This time, the majority said: We intend to pack the Court of the United States of America—not by adding seats to it; that would not work under a Democratic President who could then nominate more individuals—to pack the Court by taking a seat, failing to exercise the responsibility that each of us has under our oath of office of advice and consent, and send it in a time capsule into the next administration, hoping that time capsule would be opened by a conservative President who would nominate someone who was very conservative, indeed, to create a 5-to-4 bias. What was that bias the majority was looking for? It was not a bias toward ''we the people''; it was a bias toward the powerful and the privileged.

If you take a look at our Constitution, that initial opening of our Constitution, it does not say ''we the privileged'' and ''we the powerful.'' It lays out a vision of a form of government with checks and balances to be designed to function of, by, and for the people. The majority was afraid that Merrick Garland would be just that kind of judge, one who would call the balls and strikes under the Constitution in support of the constitutional vision of ''we the people.'' They did not want a judge who would call the balls and strikes under our Constitution; they wanted someone who would find a way to twist a case in favor of the privileged and the powerful.

Tonight, I will lay out a lot of how they knew that was important both from the perspective of the decisions of the 5-to-4 Court that preceded the death of Justice Scalia and also Merrick Garland's writings and decisions, who found every opportunity to take a case and find some word, find some phrase, find some idea—''to operate is not to operate,'' ''to drive is not to drive,'' which is just language from one case—in order to find some way to find in favor of the powerful over the people. Merrick Garland's nomination lasted 293 days. That is the longest time in Supreme Court history.

Now I am going to turn and go through the election-year vacancies because I do not want folks to take my word for the case that the Senate has always done its job. For more than 200 years, it has done its job—until now. Let's take a look at those vacancies.

There were a couple of cases—three cases in which there was an election-year nominee and the vacancy occurred after the general election. This happened when President Adams was in office, when President Grant was in office, and when President Hayes was in office. So there was very little time left in the Presidents' terms. In a number of these cases—all three—the President did not change office until March of the following year, but the Senate did not even need those extra 2 months that it had before we amended the Constitution.

President Adams nominated John Jay. He nominated him 3 days after the vacancy occurred in the year 1800, and the Senate confirmed the nominee. Here is an interesting twist: The nominee then declined the position. You do not see that very often in the history of the Supreme Court.

Then you go to 1872 when President Grant was President. He had a vacancy occur on November 28, which was just a month before the end of the year and a few months before the Presidency would turn over. It was following the election. He nominated Ward Hunt. The Senate acted in a little more than a week, and they confirmed him. They vetted him. They exercised their advice and consent responsibility, and they said: Yes, this individual is appropriate to serve on the Court.

Then there was President Hayes. A vacancy occurred in December 1880, and he nominated William Woods. Here we have a nominee being put forward very shortly afterwards and confirmed.

Those were the first three. That is the set of cases in which the vacancies occurred after the November elections in election years.

Let's look at the next set of vacancies. In these cases, the vacancy occurred before the elections, but the nominees were not nominated by the Presidents until after the elections. So, again, the Senate had a relatively short period of time in which to act.

We have the August 25 vacancy of 1828 with President Adams. He nominated quite a few months later—almost 4 months later—John Crittenden. In this case, the Senate acted, but they acted to table the nomination, so he was turned down.

Then we have President Buchanan in 1861, who nominated Jeremiah Black. This is a little strange to us because we think of the Presidency as changing in January, but the Presidency did not change until March. The nomination occurred in February, and the motion to proceed was rejected by the entire body. So that nominee was rejected.

Then we turn to President Lincoln. The vacancy occurred in the month preceding the election. President Lincoln nominated Salmon Chase just after the election, and the Senate said: There is plenty of time. We will review that. And he was confirmed.

Then we can turn to Eisenhower. Once again, the vacancy occurred in the month before the election, just 3 weeks before the election. Eisenhower didn't put a nomination to the Senate until January, but the Senate said: We have a responsibility of advice and consent. We will review it, we will vet the nominee, and we will vote. And they voted to confirm.

That is the second set of nominations. Those are 7 of the 16 nominations, so there are still 9 to go. Let's take a look at those.

In this case, the Senate had more time to act. The vacancy occurred before the general election. The nomination occurred before the general election.

Before I go through them, let me just note that of these nine, the Senate acted to confirm in 1804, to table in 1844, to table in 1852, to confirm in 1888, to confirm in 1892, to confirm in 1916, to confirm again 6 months later—still before the election; two in the same year—and then finally, in 1932, the Senate confirmed a nomination made in February. On February 15, the Senate acted.

Of these nine individuals, we have six who were confirmed and two were tabled. But I have left one out. There is one more nomination that occurred in an election year—just one more—and that happened last year. President Obama—we go back to Antonin Scalia dying on February 13 and Merrick Garland being nominated on March 16. So of those 16 we have looked at, the previous 15, the Senate acted each and every time because they had taken an oath of office to uphold the Constitution that has a requirement that the Senate participate in advice and consent. But this time, no action. No action. No committee hearing, not a set of committee hearings, not even one. No vote in committee. No effort or acceptance of moving the nomination to the committee of the whole, which would be here on the Senate floor. For the first time in U.S. history, the Senate stole a seat from one President in order to pack the Court.

I have to tell my colleagues that it isn't just a clever new tactic. It isn't just an excessive exercise of partisanship. This is a crime against our Constitution and the responsibilities of this body. This effort to pack the Court is a major assault on the integrity of the Court.

For every 5-to-4 decision that we see in the future, everybody is going to look and say: Five-four. How would that be different? And it will always be different if the stolen seat and the judge who fills it is on the right side because that side would otherwise have lost. The tie goes to the lower court's decision.

So what this does is not only change the trajectory of our Constitution from one where it is designed for ''we the people'' to a different vision of government by and for the people—it doesn't just change that trajectory, but it draws into question everything the Court does in the future.

Wouldn't it have been incredible if President Trump's nominee—knowing the constitutional responsibility for the Senate to act, knowing that the Senate seat had been stolen from a previous President, knowing that it would bias all the outcomes of the Court in the future—had stood up and said ''I will not participate in this crime against the Constitution'' and declined the nomination? Wouldn't that have been an act of integrity? Well, we

didn't get that act of integrity from President Trump's nominee, so here we are today, on the first day of the Senate deliberation on this nominee, and just moments ago was the first time in U.S. history that the majority has exercised a petition to close debate on the first day of a Senate debate on a Supreme Court Justice. Why is the majority in such a rush? Why is the Senate majority determined to push this through so quickly, in contravention of the tradition of due deliberation on this floor?

I know that if the circumstances were reversed and the Democrats had participated in stealing a seat from a Republican President, my colleagues would be screaming on this floor, and they would be fully justified. I am proud that my colleagues on this side of the aisle have never participated in such an assault on our Constitution or a failure to exercise our responsibilities under our oath of office or a theft of a Supreme Court seat or an effort to pack the Court, but if we had, my colleagues across the aisle would absolutely be standing and saying what I am saying tonight—that this is wrong, this is destructive, this is damaging, and we should stop and rethink this.

There is really only one nominee who would be a legitimate nominee for President Trump to make—only one way to heal this massive wound, this massive tear and rip in the heart of our Constitution, this massive failure of this Senate body to do its job. There is only one way to heal that, and that is for President Trump to nominate Merrick Garland and for him to get that committee hearing, for him to get that committee vote, for him to get that deliberation here on the floor. Maybe he would be approved and maybe he wouldn't, because that is what we see every time the Senate has acted. It has not always been to confirm a nominee, but it has acted and deliberated and voted and decided, as the Constitution calls upon it to do. That would be a healing of the wound. It would be a healing of the wound if the Senators were to vote the same way they would have voted last year had there been a completely legitimate, ordinary consideration. Then we could go forward without this damage.

So I call upon my colleagues, who I know have—each and every one of them—considered that it is their responsibility to build up and strengthen our institutions of government, not to tear them down. Therefore, I call upon them to reverse this deed before the dark act is completed of stealing a seat and packing the Court.

I wish to turn to consider another piece of this puzzle. If the seat had not been stolen and we were simply considering President Trump's nominee under ordinary circumstances, what would we find? We would find a far-rightwing judge completely outside of the mainstream.

Why is it that throughout its history, this body has honored the rule of having a supermajority needed to close debate on a Supreme Court Justice? It has been to send a message to the President that you must nominate someone who is in the judicial mainstream, not way out in one direction or another, with bizarre findings that would undermine the integrity of the Court, not a pattern of attempting to twist the law so that we the people lose and we the powerful win time after time after time—no, someone in the middle of the judicial mainstream.

Well, that is certainly where Merrick Garland was, but that is not where Neil Gorsuch is. He is a lifelong conservative activist, rewriting the law to make it something that was never intended to be. A Washington Post analysis of his decisions that have been considered by the Supreme Court found that he would be, by far, the most conservative member of the Court—not where Scalia was, not where Justice Thomas is, not where Justice Alito is; he would be the most conservative member of the Court, to the right of Justices Alito, Thomas, and Scalia.

Quote:

> The magnitude of the gap between Gorsuch and Thomas is roughly the same as the gap between Justice Sotomayor and Justice Kennedy. In fact, our results suggest that Gorsuch and Scalia would be as far apart as Justice Breyer and Justice Roberts.

That is the Washington Post. It is a pretty big gap, way to the right.

Let's take a look at some of the cases that lead to this conclusion. There is a case known simply as the frozen trucker case. Alphonse Maddin, the trucker, was fired for refusing to freeze to death. After waiting more than 3 hours with a disabled trailer on the side of the road, he unhooked the trailer and he started up the cab and he went to get warm before he could return to meet the repairman for the truck. Now, why couldn't he just carry the trailer with him? The brakes were frozen. Why was he himself freezing? Because the heater on the truck was broken. He fell asleep for some hours, woke up, and his body was numb. He became concerned about his life, so he unhooked the trailer, went to get warm, and came back to meet the repairman.

The Labor Department determined that under the Surface Transportation Assistance Act, he was wrongly fired because that act is designed to say that if you refuse to operate a truck in a fashion that is unsafe for you, the driver, or unsafe for others, you can't be fired for that. Safety comes first. The whole message of the act: Safety comes first. But in this case, Neil Gorsuch dissented. He wasn't writing the majority opinion. He went out of his way to write the minority opinion.

The Tenth Circuit upheld the fact that he was correctly operating the truck, leaving the trailer behind. You could ask, Was he operating the full truck or part of the truck? The point is that the Tenth Circuit said yes; the firing was wrong. They upheld the Labor Department under the surface transportation act, and said: He did exactly what the act had intended. You have to restore his job. The Tenth Circuit said yes, absolutely. But Judge Gorsuch went out of his way to write a dissent, saying no. It is completely taking words out of context and twisting them. I encourage others to read it for themselves because it is truly a bizarre opinion, an effort to find a way—some way, some path—to find for the company instead of the trucker, who was protected by the laws written and passed in this Chamber and the House and signed by the President. That is how far out of common sense and theory of the law Neil Gorsuch is.

Let's turn to a case often referred to as the autism case, Thompson R2–J School District v. Luke P. This case says a great deal because in this case Judge Gorsuch tried to rewrite a law referred to as the IDEA law—Individuals with Disabilities Education Act—to effectively invalidate the law. The law written here was to ensure that individuals with disabilities were provided an education by the school district, not babysitting but an education. Neil Gorsuch rewrote that law to say that babysitting is OK.

Despite years of special education in a public school, Luke P. wasn't showing any progress at home. His parents enrolled him in a private school that specializes in autistic children, where he made advances—because the school district was only babysitting him. They fought to get the school district to reimburse them. Gorsuch ruled in favor of the school district. The standard he put forward was the standard that babysitting is OK, even though the law was written to do the opposite.

This decision that Gorsuch wrote is so far out of the mainstream, it is so far out of common sense, it is so contrary to the law written here in this Chamber that the Supreme Court—yes, our Supreme Court, our eight-member Supreme Court—proceeded to say, 8 to 0: That is absurd and wrong, Neil Gorsuch. And they reversed him.

When have we had a nominee reversed 8 to 0? When have we had cases like the frozen trucker case and the autistic child case, where he went to great lengths to find for the powerful over the individual?

We can turn to the Utah en banc request in a case called Planned Parenthood Association of Utah v. Herbert. ''En banc'' means that the entire bench hears a case. Neil Gorsuch was such an activist, so committed to undermining an organization—Planned Parenthood—that he took the extreme step of initiating, himself, an en banc review of a decision to block a Utah defunding effort. Governor Herbert of that State had used the cover of false and misleading videos to strip Utah's clinics of their funding. The Governor later made clear in testimony that he was in fact punishing Planned Parenthood for its constitutionally protected advocacy and services and that the organization had not done anything wrong.

The Tenth Circuit granted a preliminary injunction against Utah for violating the organization's—Planned Parenthood's—constitutional rights. The Tenth Circuit decided this, but Neil Gorsuch—ever the activist judge, rewriting law to make it say the opposite of what was intended—sought to have a review by the entire bench. Let me explain, that is not normal. Other people may call for an en banc review because they don't like the outcome, but to have a participating judge on the Tenth Circuit initiate it is unusual. It is a message to the world: Everyone, pay attention to me. I am an activist, far-right judge, and if you like that—someone who is going to find for the powerful and the privileged over ordinary people—pay attention. That is who I am. It is kind of like trying out for a future Supreme Court opening.

Gorsuch's entire adult life has been a mission to revoke a lot of the norms we have come to embrace in our pursuit of the transitions in our society and in our government as we pursue that constitutional vision of equality under the law, protections to vulnerable populations, to workers and to kids and to women and to minorities. But Neil Gorsuch doesn't like that arc of seeking to provide the protections our constitutional vision laid out. As far back as college, he was an ideological warrior who championed a severely reactionary worldview.

In a conservative newspaper article, he characterized efforts to fight racism as ''more a demand for the overthrow of American society than a forum for the peaceable and rational discussion of these people and events.'' That is a very strange way to characterize efforts to fight racism. Racism, discrimination, is to slam the door of opportunity on American citizens because of their gender, because of their race, because of their ethnicity, because of their sexual identity—slam the door and disrupt that opportunity for each and every citizen to be treated equally under the law.

He also used the opportunity to advocate for social inequality, saying that ''men . . . of different abilities and talents to distinguish themselves as they wish, without devaluing their innate human worth as members of society,'' and arguing that a responsible system required a governing class of men of exceptional political ability to make the big decisions for society. Well, there is not much equality and opportunity in that statement.

As a judge, in case after case, he finds expansive rights for corporations at the expense of their employees, consumers, and the public interest. We have talked about the frozen trucker case and the autistic child case. There is also the electrocuted mine construction worker case. A worker started at a project a week after it begun and wasn't trained on how this should be done. It was a training that was really required because of the highly dangerous circumstances. When you are operating equipment near power lines, that is just a setting that everyone in the construction industry knows is extraordinarily dangerous. If you connect that equipment to the power line, perhaps somebody has their hand on the side of the equipment, and the next thing you know, they are electrocuted. The worker mistakenly brought a piece of equipment too close to that overhead power line, and it was the worker himself who was electrocuted and killed. The Occupational Safety and Health Review Commission fined the employer for not properly training the worker under these dangerous circumstances. The Tenth Circuit took a look at it and said: Yes, the company failed to do the proper training, and the result was that someone lost their life. But Judge Gorsuch dissented. He said that there was no evidence the company had been negligent. Really? Failure to train in a highly dangerous situation that results in loss of life—there is no problem there. Why should we require companies to train people in dangerous circumstances? Again, there was a complete lack of common sense, a determination to overturn what a review board had found, what the circuit court had found.

We can turn to the Hobby Lobby case. In this case, Neil Gorsuch found that closely held, for-profit corporations have the right to choose the contraception coverage, or lack thereof, for their employees if doing so conflicted with the corporation's religious beliefs. Now, we didn't actually have corporations—in the sense that we have them now—when our Nation was founded. There were some charters, but not the modern corporation in the sense that we have. Yet Neil Gorsuch said: We will just give this corporation personhood, and we will let the corporation exercise religious beliefs that overrule the religious beliefs of the individuals. But it was the individuals the Constitution was written to defend. It was the individuals' religious beliefs the Constitution and the Bill of Rights were laid out to protect—not a corporation. But in a never-ending quest to find for the corporation, to find for the powerful, to find for the privileged, Neil Gorsuch twisted the law, found that path, and laid it out.

In writing a brief as a lawyer in 2005, Neil Gorsuch urged the court to ignore the statutory and legislative history of the Securities Exchange Act, advocating that the court limit the ability of those defrauded by corporations to band together to seek redress. This really goes to the difference between ''we the people'' and ''we the powerful.''

We have a nominee before us right now who doesn't like the idea of individuals being able to operate with a class action suit against the predatory actions of a powerful corporation. In an article about the case, he launched into an attack on the lawyers for providing the ability for individuals to challenge the very powerful corporation, and he said these are frivolous claims—frivolous claims—that take an enormous toll on the economy. They put a burden on every public corporation in America. I will quote: ''frivolous claims that impose an enormous toll on the economy, affecting virtually every public corporation in America at one time or another and costing business billions of dollars in settlements every year.'' He didn't like this burden on corporations to respond when they were challenged for predatory practices.

Often, the transactions between a company and an individual are quite small. Maybe they involve a monthly fee to access telecommunications services. Maybe they involve a purchase of a single consumer item that costs $50. But the corporation misrepresented what that item was or didn't disclose that it had dangerous paint on it or some other feature. The only way that ordinary people, ''we the people,'' can challenge the predatory practice of a powerful corporation is to put their cases together in a class action suit so that everybody—the thousands of people who bought that $50 item—can say: You are doing something wrong. You are selling something dangerous and not telling us. You are selling something our children will choke on and not telling us. You are defrauding us in any of a whole series of possibilities. Perhaps it is in stock cases or other financial transactions. Perhaps it is the way mortgages are constructed. But the individual couldn't possibly take on the powerful companies' roomful of top-notch lawyers to reclaim that $50 or that small modest sum, so a class action is the tool through which the people, ''we the people,'' proceed to take on the powerful, and Neil Gorsuch doesn't like that.

He doesn't like workers having the chance to confront corporations on the issues of sexual harassment.

In Pinkerton v. Colorado Department of Transportation, Judge Gorsuch joined an opinion discounting Pinkerton's evidence of discrimination and concluding that Pinkerton's performance—not discrimination—resulted in her termination. Judge Gorsuch dissented from an opinion—by its very nature saying dissent—where the majority found a different path, holding that Pinkerton provided ample evidence that she was regularly outperforming her male colleagues yet was treated less favorably than them. The list goes on and on—removing Federal Government protections in a variety of cases.

But there is a third big problem with the fact that we are here tonight considering this nomination. The first big problem was that the seat was stolen by the Republican majority. That is the first time a theft like that has happened in the history of our Nation in an effort to pack the Court. That is a big deal. The second is that Trump nominated somebody completely outside the judicial mainstream. The third is something that should give every American pause, and that is that at this very moment, investigations are taking place into the conversations, into the meetings between the Trump campaign and the Russians.

Now, we know it is very public that the Russians conspired to affect the outcome of our Presidential election. We know the tactics they used. They wrote false news stories. They proceeded to have a building with hundreds—I am told a thousand people in a

building—doing social media commentating to try to have people in America see those comments and go: Oh, my goodness, isn't that Democratic nominee terrible? Look at what happened. It was an effort to give, in other words, some sort of validation to the false news stories that they were creating and to spread those false news stories via social media.

We know that Russia used a series of bots—basically, computers—around the world designed to reply automatically on social media and Facebook and to do so in order to make it look like there were more than a thousand—millions of people out there—commenting on how terrible the Democratic nominee was.

So they amplified this message with the goal of causing the algorithms used by companies like Facebook—affecting those algorithms so Facebook would start streaming the false news on their Facebook site. You see that and go: Oh, my goodness, it must be true; it is on Facebook. That was the core strategy the Russians used.

I am not sharing with you anything that is classified. I am also on the Intelligence Committee. All of this is in the public realm, the FBI is investigating not whether all that took place—they continue to look to see what else there is and the details of that—but whether there was coordination or collusion with the Trump campaign in how they did this.

Let's be clear. The investigation is not concluded. We don't know the answer. We don't know if the Trump campaign coordinated with the Russians. But let's also be clear about this: Anyone on that campaign who collaborated with the Russians to affect the outcome of the U.S. elections has committed a treasonous act.

So we have this cloud of this investigation over us right now. We find out in a few weeks if there were treasonous acts that completely delegitimize the election that put Donald Trump in the Oval Office. Will we find that? We don't know. We don't know the answer to that.

What we do know is that we have a risk of being in a situation where a swing vote on the Supreme Court is coming from a team that is being investigated. Let's get to the bottom of that and, therefore, know whether there is an issue of illegitimacy before we complete this conversation about filling this Supreme Court seat.

There is an enormous amount of evidence that the Trump campaign was familiar with the efforts of a foreign power to alter the outcome of the election. The names have come up with the press. Paul Manafort, Michael Flynn, Roger Stone, and other figures in the Trump orbit are under scrutiny for that—several of them. The communications have been articulated where and how, and that cloud is very real.

We had the unusual event a week ago Monday in which the Director of the FBI came here to Capitol Hill to talk to the House and to say that it is not normal to confirm that our investigations are under way but that he thought, under this circumstance, it was appropriate that he do so.

So those are the three big issues that we are facing. It is why every Senator who values this institution, each Senator who has pondered their responsibility under advice and consent and the theft of the Supreme Court seat last year recognizes that the administration is under a big cloud and that cloud has not been resolved in terms of the legitimacy of the election or whether there was collusion with a foreign power.

I said that if there was collusion, it was a traitorous act. Here is why. Attacking the integrity of our elections, as Russia did, is an act of war on the United States of America. It is attacking the fundamental institutions of our democracy, of our democratic Republic. We must never let this happen again. We must work with other democratic republics to make sure that Russia isn't able to do it in other countries, which we know they are attempting to do in other elections. But we should absolutely get to the bottom of it before this Chamber takes a vote on whether to close this debate or before it takes a vote on whether to confirm the Justice.

So that is the very broad presentation of the three big reasons we should pull the plug on this nomination or at least put it in deep freeze until such a time as the Russia investigation is completed. And we have already considered Merrick Garland. That is what we should do.

I am going to spend considerable time going into more detail about these three issues because in my time in the Senate, there has not been an issue that has had such grave consequences for the integrity of our Nation, the integrity of our Senate, the integrity of the Supreme Court, and, quite frankly, the integrity of the Presidency, as well. It affects all three branches because this crime of stealing a seat couldn't be completed without the direct involvement of the executive branch's nominating Neil Gorsuch. So I will go back over each of these in much greater detail.

I was pondering why I feel so strongly about this—apart from the reasons I have already laid out—and it is that for generations to come, this Chamber will be compromised. For generations to come, the Supreme Court will be compromised. If we act together, if we hit the pause button, perhaps we can prevent that.

So I feel more compelled to be here, to raise my voice, and to call for those who care about our Nation to stop the insanity of this judicial nomination discussion here on the floor of the Senate. That is why I am going to go on for some time exploring this.

I think back to when I came here in 2009. When I came to the Senate, my memories were of the Senate from the 1970's and 1980's, which now makes me really an old guy. I was able to come here as a 19-year-old, as an intern for Senator Hatfield. At that point in time, there wasn't a camera on the floor of the Senate and there wasn't email, and it wasn't easy to get a document across Capitol Hill in a short time. Interns were put to work running paperwork around the Hill. But I will tell you that the institution was in a very different place.

So I came here. I was the third of three interns to arrive that summer of 1976, our bicentennial summer. The most recent intern is put to work opening the mail each morning.

So I came in early. We had about 100 letters in envelopes. You would run them through a machine that sliced the envelopes opened. You would stack up all the letters, start going through them, and say: This one is on this topic, and this goes to this legislative correspondent. This one is on this topic, and it goes to that legislative correspondent. I think there were three or four in the office of Senator Hatfield. You would go through those 100 letters and put them on the desk of the legislative correspondent.

Those correspondents had the newly developed electronic memory typewriters. They had written paragraphs to respond to different topics, and they would mark on the letter the different paragraphs that should go here. This is the introductory paragraph we will use. We need to address this issue in this letter and use paragraph 56 from the memory bank, and we use number 84 to address another issue.

Then, those letters, all marked up, would go to the typing team that would run those memory typewriters, and get responses out before the day was over. I saw a lot of it that summer. It was possible to actually get mail to come directly in because we didn't worry about white powder being inside the envelopes.

Now if you write an actual physical letter to a Senator in this Chamber, it goes through a warehouse. It goes through a warehouse where they have to examine it and check it for poisons before it can be delivered to Capitol Hill. It will take weeks. People knowing this often choose to write by email. So a lot of the mail—most of the mail—comes in electronically.

But that summer, one of the legislative assistants was leaving for an extended period for a vacation in South America. He was looking to have someone take over the Tax Reform Act of 1976. I was asked to take over working on that act. So what that involved was that you would look at all the mail that came in on that tax topic. You would research those issues and you would draft responses. Those draft responses would go up and be approved or modified by the legislative director and by the Senator. Then you would make sure those got into the database and people got their questions answered.

I learned a lot about taxes that summer of 1976. I must say, when I was

first asked to work on taxes, I was kind of disappointed because I thought: Well, it will be really interesting to work on education; it will be really interesting to work on healthcare; it will be really interesting to work on the environment; it will be really interesting to work on jobs policy. Taxes? Not so interesting.

So the next few days, as I threw myself into responding, drafting responses to these issues being raised in letters, I was transformed in my opinion about working on tax issues because the taxes affect everything in our body of law. Taxes have environmental consequences, or they may be an environmental incentive, such as the provisions we have in the Tax Code to encourage people to insulate their homes or to drive a non-fossil-fuel burning car. They affect health, such as the provisions we have in the Tax Code that proceed to say that if your employer provides health insurance, it is not considered taxable income. It affects job incentives. It affects everything.

There were farmers writing in about tax issues that were being raised. There were teachers writing in. The teachers were concerned that there was a home office deduction that was on the chopping block. What this means is if you used a bedroom in your home or a study in your home as your office to work as an elementary teacher or a high school teacher, you could deduct the cost or the value of that portion of your house as a work expense.

Well, often, when there is an opportunity like that, some people expand the definition of the office to a point in which it is ridiculous, and there were some individuals who were saying: Well, now my entire home is my office. I will deduct the entire cost of my home, which was never the intention.

But teachers were concerned that, in the course of correcting that, that they might lose the deduction that was a legitimate work expense. There are dozens and dozens of these things. So the bill happened to come up on the floor of the Senate, in this Chamber right here. Because I was working that bill, I was assigned to come over and follow the debate. I was up in the seats up above. We considered amendment after amendment after amendment. Now, there was no negotiation between the two sides over what amendment would come up next.

Once one amendment was finished, there would be a group of Senators trying to get the attention of the Presiding Officer. Whoever got that attention first, whoever was fastest or loudest and was called on, their amendment was next. They presented it, and the staff hovered around following it and tried to get a copy of it and tried to analyze it. Then we would run down when the vote was called and meet our respective Senators coming out of those elevators that are just through those doors right there—those beautiful double doors of the Senate.

I would stand there, and out would come Senator Church, and out would come Senator Goldwater, and out would come Senator Humphrey, and out would come Senator Kennedy and Senator Inouye, and then my Senator could come out. I would say: OK, here is the story. Here is the amendment. Here is what it does. Here is what people have said about it. He would come in here and vote.

That was a very lucky set of circumstances that I had, but it allowed me to sit up in the Chamber and watch this Senate. You did not have a cloture petition on anything—a cloture petition meaning a petition to close debate. Now, there was mutual respect. There was a determination of this body to give people a chance to say what they wanted to say, but very rarely did people go on at length, and more rare than that would be a case where a petition was filed to shut down debate.

You know, the principle, the idea that originated with our original Senate, was that there is time for everyone to make their views known to each other so we can benefit from their insights, so that we can benefit from their life experience, and then we can make the decision. So it was a mutual courtesy among Senators at the very start of our democratic Republic. I saw that courtesy here on the floor as an intern 41 years ago.

What a difference it is today, where today, for the first time in U.S. history, the majority filed a petition to shut down debate on the first day of a debate over a U.S. Supreme Court seat, under circumstances that are more complex and more disturbing than virtually any circumstances we have seen in more than 200 years over the nomination of a Supreme Court justice.

It is the first time in U.S. history that a nominee in an election year was not accorded any consideration, the first time a seat was stolen, perhaps the first time that a cloud hung over a nominating President—President Trump and his team—because of the way the campaign was conducted and the possible collaboration with Russians. Certainly, it one of the first times.

Since the analysts have found that the views of Neil Gorsuch are to the extraordinary far right, that too adds a certain change from the tradition of the supermajority of the President nominating from the judicial mainstream.

So we have these complex sets of circumstances that should be thoroughly vetted. This should be a situation where no Member of this Chamber would even think about filing a petition to close debate and would not even consider the possibility of trying to cut off debate.

Debate has gone on for Supreme Court folks for weeks and weeks and weeks without a petition being filed. Sometimes, that nominee was confirmed and sometimes the nomination was withdrawn, and in the course of it, the American people learned a great deal, and they were riveted to that conversation.

But this time, the majority said that 200 years of history—that 200 years of developed comity here in the Senate Chamber, the traditions that were still here when I was an intern 4 decades ago—we are going to wipe that away. Well, that is a great concern. After I was here for a summer, I was very intrigued by the beauty of what we do on Capitol Hill, the profoundness of what we do on Capitol Hill.

We can make a policy that can destroy home ownership for literally millions of families, or we can make a policy that creates the opportunity of fair home ownership for millions of families. That is the power of the discussions that take place on this floor of the Senate, of this Chamber, and the Chamber on the other side of Capitol Hill.

So, during that summer, I was wrestling with a question, and that question was: My talents are in math and science. But is there a way to pursue a career dedicated to making the world a better place? Is there a way to actually pursue public policy as a career? I didn't know the answer to that question. I went back to college for 1 trimester out in California.

At the end of that trimester, President Carter was going to be inaugurated in January of 1977. I thought: You know, it will be very interesting to see what a new President does. Let's see what policies he puts forward, how he builds his Executive team, how he delivers his ideas to Capitol Hill, how he works with Capitol Hill.

So in January, I took a Greyhound bus across the Nation. I arrived here and proceeded to work on a variety of internships while also waiting tables and washing dishes. I worked as a hotel desk clerk up on 14th Street on Thomas Circle. I worked washing dishes and waiting tables for a Lums Restaurant, which is kind of a sit-down hamburger joint.

But it was all so I could be here and see the magic of public policy and the work done that could affect millions of lives here in this Chamber, the work done on the far side of Capitol Hill that would affect millions of families—to the better or to the worse. In the course of that year, I interned for a group called New Directions. It was an environmental nonprofit working on the Law of the Sea.

There was a question on the outside of our territorial boundaries: Will the nations cooperate so that we don't destroy the resources in the international space of the oceans? How far should our national space extend? How do we write those rules so that our Continental Shelf is clearly under our control? These are the sorts of questions considered. That treaty, the Law of the Sea Treaty, has never made it here to Capitol Hill. Every time there is a new Presidency coming in, someone says: Hey, remember that treaty

from four decades ago? It might really strengthen U.S. control of our offshore areas, and maybe we should bring it up for discussion. It still hasn't been discussed here.

But I also went door to door for a group called Virginia Consumer Congress. They were working to create attention to consumer protection issues in the State capitol in Virginia. They would go door to door. They would have a team go door to door. You would proceed to explain the issue that you were working on—the bill you were working on, that the organization was working on—and ask ordinary citizens to sign a petition in support of that bill being considered at the State capitol.

You would ask: Would you like to support the work of this organization so we can keep doing it? If they made a donation, that helped strengthen the organization. This was the model that became the Public Interest Research Group model, or the PIRG model.

Specifically, the issue we were working on as we went door to door was to say: We can save consumers a huge amount of money if we can simply implement peak-load pricing.

Now, what is peak-load pricing? What it means is that you have a meter so that when there is a huge demand for electricity, it charges a higher price. By so doing, it alerts the consumer: Hey, don't use electricity now; use it at another time.

Now, why would that save consumers millions of dollars? Well, here is why. The electric power company wanted to build a nuclear powerplant to meet just the peak load. So they wanted to build a very, very expensive nuclear powerplant, which they would then charge all the utility customers for, and a lot of utilities—it is kind of written in the law—receive an automatic 8-percent return on whatever they invest. So there is an incentive for them to invest more. The more they invest, the bigger their revenue stream is. That revenue stream is paid for by the citizens who buy electricity.

So few could convince the utility, instead of building a nuclear powerplant, to put in meters that would tell people: Hey, don't use your dryer now because it is more expensive, and shift that peak load. Then everybody benefitted. You did not have to have the risk of a nuclear powerplant.

At that point we had a lot of concerns. We had had a lot of difficulties in some of our plants with near meltdowns. The idea that you could have a radioactive cloud or a China syndrome occur somewhere near a metropolitan area was a very scary thing. So you simultaneously greatly improved public safety while saving people a huge amount of money.

So that is what we were petitioning people for door to door. It was my first introduction to a legislative process that was happening outside the national legislative process. I must say, when you go to door to door, you have so many interesting experiences. You never know what is going to happen when you walk through that door and start to explain to people what you are fighting for and they start sharing their stories.

The president of the board of VEPCO, Virginia Electric Power Company—I went to his and his wife's house. I did not know it was their house at the time—a huge, huge house in suburban Virginia. The wife greeted me. She talked with me about these issues. She said: You know, my husband is president of the board of VEPCO, but, as to the issues you are raising, I never hear them raising those issues, and these are good points you are making. So I want to buy the Virginia Consumer Congress newsletter. It was a $15 donation. That was the biggest donation at the door I ever had while I was working there. There were many, many other conversations.

But the reason I came back to be here for those first 9 months of the Carter administration was to continue to see: How does Capitol Hill work? How do nonprofit advocacy groups work? How does a new administration work? How does the Senate work? The Senate was so near and dear to my heart after the internship with Senator Hatfield.

In the course of that year, I came to believe that there was a path to work on public policy. Specifically, I decided to work on third-world economic development. Part of the reason that I choose that area was that, when I was in high school, I had a chance to be an AFS exchange student in Ghana, West Africa. There were only six exchange students sent to Africa outside of apartheid South Africa.

Of those six, five went to cities and one went to a modest town with a family of very modest means. I was the student who was sent to that very modest town to the family of modest means. The experience was such that I was surrounded by people barely able to afford to eat or sometimes not able to afford to eat.

My host family was middle class. My host father was a schoolteacher, and my host mother was also a schoolteacher. One was in a public school, and one was in a private school. Because of the connection to the public school, my host father, who, if I recall right, had a sixth grade or ninth grade education—that was enough to be a teacher because they didn't have enough people who were high school graduates or college graduates.

He was afforded a government-built house that had three concrete rooms and screens over the windows to keep out the mosquitoes. There was electricity in the house, an outlet. The family had one appliance, and that appliance was an iron to iron clothes. Every night, my host father would take the clothing that had been washed that day and he would iron the clothing. Nobody else could touch that iron because that was an incredibly valued appliance.

They had one other thing that was considered a real amazing thing for a family to have, and that was a bicycle. They had a bicycle. I wanted to borrow the bicycle to go outside this town and visit some very tiny villages. My host father was so afraid that I was going to break this bicycle, that I wasn't going to be careful, that I was going to go through potholes, that I was going to dent the rim, because it was such a valued commodity to the family.

I decided in college, after my time here in 1976 and 1977, that I would work on economic development overseas because I had seen the families who surrounded my host family often earning just a dollar a day and trying to feed a family of six or seven. The children couldn't go to school because they had to go down to the main street, running through town to try to sell things through the windows. The only way for the family to eat was for every child to be working.

(Mr. ROUNDS assumed the Chair.)

Well, I tell you this because it is all tied in to how I view the sanctity of this room, this Senate Chamber, because the events that were to transpire unexpectedly brought me back to Capitol Hill after graduate school.

I pursued that path of working on third-world economic development, and I thought I was going to spend my life overseas. When I graduated from college, I was hired for a job to work for the United Nations in the Philippines. My job was going to be going throughout the region to evaluate U.N. development projects. What a perfect position, to be able to be in multiple countries—it would have been in Malaysia, the Philippines, Vietnam, a whole host of nations—to evaluate projects on the ground, giving reports on what was working and what was not working and why. It was a 2-year post. I was so excited about doing this. It just seemed like all life had come together. I was going to have a job after I got out of college, and I could start repaying those student loans. I felt like I was landing on my feet.

I went down to the organization, the nonprofit at my university that would set up these jobs. The individual who ran it said: Jeff, come here. I have a letter for you to read.

The letter said: The United Nations has just eliminated the position to evaluate those projects in the Philippines. So suddenly, before I ever got on the plane, my job was gone. I didn't get to go. Again, I was very worried. Well, what am I going to do after I graduate?

I proceeded to go down to Mexico and work in a village with the American Friends Service Committee. Then I went to New York and worked an internship with the Carnegie Endowment for International Peace. I worked on a variety of international issues. Then I decided to join a friend, and we went and bought the cheapest bus available from California to Costa Rica. We proceeded to go through country after

country—Mexico and Guatemala, Honduras. We bypassed El Salvador. We got off the Pan-American Highway because in Salvador, in 1980, people were being pulled off of the buses and shot. The other nations were in turmoil. It was the year after the Sandinista Revolution in Nicaragua.

In Guatemala, there was an army group who was going from village to village killing the young men. There was a war between one group and another group. There was a lot of chaos there. But we went all the way through to Costa Rica. Then I worked in a village again on an environmental project. I had a chance to work in India.

I expected the whole time that I was going to be going overseas for my life. You never know what door is going to close and what door is going to open.

After I got out of graduate school and was ready to go fulfill this vision that I developed back in 1977 when I extended my stay here in DC and was doing these internships, I was at the World Bank. I was hired at the World Bank, but I didn't want to be at the World Bank for long doing mathematical modeling. I was doing the shadow pricing of petroleum products.

If that doesn't sound very interesting, well, it kind of is, actually, if you love how numbers can give you a vision of what is going on and how the imports and exports of oil products were right or wrong and expensive. By understanding shadow pricing, you could understand the challenges various developing nations faced. Still, it was working with mathematical formulas and data here in DC, and I wanted to be in the field. So I was preparing to go to southern Africa, where I had not been. In that preparation, I was also applying for a Presidential fellowship in foreign relations. One of those openings was at the Office of the Secretary of Defense.

Each year, the Office of the Secretary of Defense would have 5 openings for Presidential management fellows, and there were 12 finalists for this. They called us in, and they had this big kind of arc of the high-ranking folks, civilian and uniform, from the team of the Secretary of Defense. Then they had a chair in kind of the middle of that arc. I just remember thinking it felt like we were going to be interrogated, and it was kind of an interrogation.

This is the first question I was asked: We see here that you interned for Senator Hatfield, and he votes against all of the defense appropriations. You worked for the American Friends Service Committee. They are an arm of the Quaker Church, and the Quaker Church has a peace testimony. Why would we ever hire you here in the Office of the Secretary of Defense?

I thought that was a very good question. I was kind of surprised that I was a finalist for a position, but I responded that national security is so much broader than simply military money, that it involves an understanding of culture, an understanding of history, an understanding of economic dynamics, an understanding of the things that trigger dissent and how it might be responded to, an understanding of alliances, and that all these things put together enable us to have a foreign policy that is part and parcel of our national security. Well, I probably said a more complex version of that, but that was the gist of it, and they hired me.

The reason I took that job rather than heading off to Africa was because at that moment, the biggest threat to the world was nuclear power—not nuclear power electricity but nuclear weaponry, atom bombs. The fact is that we were concerned that there might be a nuclear war that would destroy the planet as we knew it—certainly destroy the Soviet Union and the United States. Since that was the biggest threat to the world, I felt compelled to pivot from third-world poverty to work on nuclear weapon policy, and I did that through the 1980s, first for the Secretary of Defense and then for Congress, which now completes why I was telling you that story, because that brought me back to be in regular contact with this Senate, with this Chamber, with the folks who work here, who are trying to figure their way through a series of difficult issues involving nuclear weapons.

Outside of this Chamber, in the path walking between the Russell Office Building, a curved path, and coming into the outside doors that are outside of these double Senate doors, there is a tree. That tree is known as the peace tree. It is directly connected to the work that was being done in this Chamber on nuclear weapon policy.

Senator Hatfield and Senator Kennedy were working together. A Republican and a Democrat were working together to try to address the risk of nuclear weapons. Well, in 1985, there was an intern walking with Senator Hatfield. He liked to walk outside on that curved path back to the Russell Office Building. It is a path on which I have had the chance to walk with him a number of times. He talked about the different trees along the way. I remember in particular his lecture on the ginkgo tree. There are several ginkgo trees out there between here and the Russell Office Building.

I was relaying this to a 1985 intern of Senator Hatfield's named Sean O'Hollaren. Sean said: You know, I had those same walks with Senator Hatfield, and he gave me the same stories about the tree. He was interested in that.

Sean O'Hollaren said to Senator Hatfield—Sean O'Hollaren obviously was much quicker to seize the moment. It never even occurred to me. He said: Senator Hatfield, you love these trees so much, why don't you plant one?

Senator Hatfield said: Sean, that will be your intern project.

So Sean worked on that.

Senator Hatfield wanted to plant a tree that doesn't fit the Olmsted plan for the landscaping of the Capitol. The problem is that the Olmsteds, who had designed Central Park and Forest Park in Oregon and much of the DC landscape here on the Capitol grounds, had in mind broadleaf trees, not the type of tree Senator Hatfield wanted to plant.

What did he want to plant? There is a very interesting story here because in the Pacific Northwest—of course Oregon is part of the Pacific Northwest—there used to grow millions and millions of a cousin of the grand sequoia and the coastal redwoods. This cousin was different in that it lost its needles during the winter. It went extinct. It was out-competed by the cedars and the Douglas firs and the regular redwoods and so on and so forth. It went extinct, but its fossils are everywhere in the Northwest.

How could Senator Hatfield plant this tree when it had been extinct for millions of years in North America? He could plant it because in the late 1940s, a small grove was found in China of this particular tree—the only place on the planet where it still existed. So he arranged to get one of those trees. He was going to plant it there.

At that moment, as they were getting ready to plant, his team saw Senator Kennedy's team and said: Senator Kennedy, you should come out and join Senator Hatfield.

They went out by this walkway between here and Russell. Senator Kennedy said: In honor of the work we are doing together, this bipartisan work on nuclear weapons, this should be known as the peace tree.

They were working on the zero option, the nuclear freeze movement—let's not add any more nuclear weapons to the world; they are already dangerous enough. They did a lot of work on nuclear weapons, and I must say I was reminded of it.

When I came here, John Kerry and Dick Lugar—a Republican and a Democrat—were working on New START together. They considered that treaty here on the floor of the Senate, but it became much more difficult now than then to have this sort of bipartisanship work.

At any rate, please take a walk, if you are here in DC and on the grounds of the Capitol, and take a look at that peace tree. That peace tree is just on the verge of becoming the tallest tree on the grounds. It is now 32 years old. Let's hope that as it becomes the tallest tree, it will have kind of a Biblical influence and bring more peace to a world in desperate need of it.

We need more of that peace tree influence here in this Chamber. That influence is sorely lacking. The type of cooperation between Democrats and Republicans that existed doesn't exist today, and we are here at this very moment on a tragic course to destroy the centuries-old tradition of a 60-vote, bipartisan majority to proceed to approve a nominee to the Supreme Court.

That tradition ensures that Presidents don't nominate extremists and hopefully ensures that the folks who serve will serve the Constitution, the ''We the People'' Constitution, not some ideological extreme to the right or to the left.

So I want to go back to the core premises of why I am here tonight talking to the Chamber, sharing these thoughts with all those who are watching the Chamber, and that is we must recapture the type of cooperation and bipartisanship that made this Chamber able to address the problems facing America. Mahatma Gandhi said that to simply operate by the premise of an ''eye for an eye only . . . [makes] the whole world blind.'' Well, if we operate on the premise of the Senate that we are never going to work together to solve problems because we are of different parties or a different party than the President, and we want to make sure the President doesn't get any credit for having helped improve a situation, then all of us suffer from the broken existing policies, the dysfunction of existing policies, the poison of the superpartisanship.

Let's go back to the basic premises that we need to address—the three premises. The first is that this seat is a stolen seat—and if we could put up the chart with the nine Justices. Here is the story in a nutshell: 16 times in our history there was an open seat during an election year, 15 times the Senate acted, 12 of those times they confirmed the Justice, and 3 of those they rejected the Justice. But the point is, in 15 out of 15 times before Antonin Scalia died and Merrick Garland was nominated by President Obama, the Senate acted. Here are nine of those. These are the nominations that occurred, like Merrick Garland's, in which the vacancy and the nominations occurred before the election. So they are most similar to the situation of Merrick Garland.

Then there were another seven under more difficult circumstances where the nomination did not occur until after the election, and the Senate had very little time in which to vet and make a decision, but they did make a decision in each and every case until last year, when the majority said: We will not consider the President's nominee. We will not hold a hearing, we will not hold a vote, we will discourage folks from even talking to him, and we will not exercise our advice and consent responsibility. That is the first big issue.

The second big issue is that the nominee himself is from the extreme right. There is a chart that shows—and we don't have it with us; maybe we will have it later tonight. There is a chart that shows the distribution of decisions, and it has basically two curves with a big kind of bell curve with a big gap in between. So it goes up, it comes down, and it goes up and it comes down, and it reflects the ideological division of the Court from decisions they have made. On this chart the folks analyzing these decisions said: Where would Neil Gorsuch be? Would he be in the ''we the people'' bell curve of decision making? Would he be in the ''we the privileged and powerful'' bell curve? They found that not only would he be in the ''we the powerful'' bell curve, but his position on the curve would be to the far right of the curve.

I mentioned earlier the analysis by the Washington Post. This is an individual who was rated by the professional analysts as being more conservative than anyone who serves on the Court. I went through a series of cases, and I will be going through them again as the night wears on, in which he twisted the law to find for the powerful over the individual time and time and time again. Someone who is way outside the judicial mainstream and who twists the law to find for the powerful over the people doesn't belong in the Supreme Court of America. So that is the second big problem.

The third big problem is that the President's team is under investigation for collaborating with the Russians interfering in our November general election. This is a very serious question. There is a very dark cloud over the legitimacy of the election and therefore the legitimacy of this President. If President Trump worked to conspire with the Russians or his team conspired with the Russians at his direction or his knowledge, that is traitorous conduct because the Russians attacked the fundamental institutions of our country. Trying to delegitimize and change the outcome of our election and conspiring with a foreign power to attack the foundation of our Democratic Republic—that is traitorous conduct. We have to get to the bottom of it, and we shouldn't be considering on this floor a nominee under that set of circumstances. Let's complete the investigation, find out what went on, and if the cloud clears, then we can proceed.

So those are the three substantial issues for why we should not be here considering this nominee.

The stories I was sharing with you about how I first came to the Senate as an intern for Senator Hatfield and then came back to Capitol Hill working for a think tank sponsored by Congress, the Congressional Budget Office—my responsibility was to analyze the impacts of various potential strategies in the development and deployment of our strategic triad, our nuclear triad. We have air-delivered and ballistic missiles, land-based ballistic missile delivered weapons, and marine weapons—that is the triad. That was my job, to consider the implications of the path we might go to. What were the budgetary implications, what were the performance implications, what were the implications for deterrence or the circumstances that might trigger a nuclear war. So I was back here on Capitol Hill in that capacity. What I saw was a Senate fundamentally different than the one we have today.

I was reminded of this when, back in 2013, I was working to bring a bill to the floor called the Employment Nondiscrimination Act. This is an act that Senator Ted Kennedy had sponsored, and if I recall right, it was first sponsored in 1994. Then, 2 years later—I believe it was in 1996—it was considered on the floor of the Senate, and it lost by one vote. It lost 50 to 49. The Senator who was missing, it was believed, would have voted for it, and the Vice President breaking the tie would have voted for it, but people felt, well, it will be back up before the Senate soon enough.

The point here is that the vote was a simple majority in that setting, and the filibuster was reserved for very rare circumstances. This happened to be a bill related to ending discrimination for our LGBT community in employment, and anything involving what some may construe as a social issue is one that many people have politicized greatly. This was simply an issue of fairness in employment, but nobody required a simple majority to close debate. They reserved the simple majority for profound principles. It was so that this body can function because it was primarily a simple-majority organization.

When I was covering the Tax Act of 1976, the issues on these amendments came up one after another—what seemed like every hour—were simple-majority votes with a lot of bipartisan cooperation. We have become so polarized, we have become so divided, and this nomination and this hearing right now are going to reverberate through the decades to come as the lowest point, the biggest failure of this institution. We do have the power to prevent that from happening because we haven't yet voted on closing debate. Yet we have just a short period of time to set this nomination aside.

Set it aside. Tell the President we need to heal this institution and the Court by nominating Merrick Garland. Set it aside because the nominee, Neil Gorsuch, is from the radical rightwing fringe, out of the tradition of having mainstream Justices. Set it aside because there is an enormous cloud over President Trump as to whether he is a legitimate President, given the investigations into the conspiracy with Russia. For all those reasons, set it aside.

Also set it aside because never before has a majority leader tried to shut down this debate with a petition to close debate on the very first day. It takes 2 days for that petition to ripen. There are folks who have said that almost never is a Supreme Court nominee filibustered. Well, it gets a little confusing because what does filibuster mean? Does it mean deliberation at length? In this case, we have had a lot of nominees filibustered because they have been deliberated at length. Does it mean that we vote on a petition to close debate? Well, that really changes the analysis because we have rarely had a petition to close debate on a Supreme Court nominee, and we have never had a petition to close debate filed on the first day of debate because

of the mutual respect that all the voices would be heard, and with someone who was controversial enough for people to want to talk for days and days and days, this body heard them out. The American people heard that conversation and responded to it, and trends developed. People said: Do you know what? No, this person really is suitable. And they were confirmed. Sometimes they were withdrawn by a President. The point is, in rare cases was a petition filed to close debate. Yet here we have for the first time in U.S. history—it just happened a couple hours ago—shutting down the debate as fast as they can. That is the opposite of a deliberative body.

When I was back here as an intern, we had that age-old saying about the Senate being the world's greatest deliberative body. I saw that body. I saw people here on the floor talking to each other, listening to each other, holding a debate, voting on amendments and immediately going to the next amendment.

I remember on one occasion—I mentioned that once an amendment was done, there wasn't another one negotiated between the Democrats and Republicans, so there were long periods of silence, the way we operate now. No, it was the next person recognized by the Chair, and the Chair heard a lot of people at once, probably working to send one amendment to the left side of the Chamber and one to the right side of the Chamber, one to a senior Member, maybe one to a more junior Member, but eventually, because of the expeditious consideration, everyone got to have their idea considered and pretty much voted on by a simple majority.

How different that is from what is happening right now at this moment in this Chamber when we are at the very peak of pointed partisanship coming from my colleagues across the aisle. They have stolen a seat for the first time in U.S. history. They have proceeded to put it on the floor and, for the first time in history, they have filed immediately a petition to close debate. Every 5-to-4 vote from here on until who knows when—our children's children—will be looked at, and people will ask: Is this a decision because of the stolen seat? Would this have been a ''we the people'' decision rather than a ''we the powerful'' if not for that stolen seat? That is a huge erosion of the legitimacy of the Court.

Do Members of this Chamber really want to do that kind of profound damage? They will do that profound damage if the current direction continues over the next couple of days, and that is a place in which I do not want us to be. Therefore, this is kind of my own, personal protest of where we have come, and it is my own request that we change direction. I plan to keep speaking for quite a while longer, as long as I am able. That will, hopefully, be, at least, a couple of more hours. I am going to go into more depth about these issues that I have laid out, and I am going to start by going through each piece in a lot more detail.

Where do we start?

This journey began with Justice Scalia's death on February 13, which was a little over a year ago. Then it was a month later that the President fulfilled his responsibility under the Constitution and nominated Merrick Garland. There were still 10 months left in the administration at that time.

Earlier, I heard the majority leader say that no one has ever filibustered a Supreme Court nominee. That is not quite true. There have been some filibusters, more or less, if I can find them. Yet what happened last year was a 293-day filibuster of Merrick Garland by my Republican colleagues. It was not just an ordinary filibuster but a special sort of failure to exercise their constitutional responsibility of advice and consent. It was the first time in our history that a nominee was not acted on when the nominee was being considered for a seat that came open during an election year.

There are a few of my colleagues who like to say that the former Vice President, Joe Biden, gave a speech and said—it was theoretical because there was not an open seat—if a seat comes open in the summer of an election year, maybe we should not consider it until the intensity of the campaign has passed, meaning after the election.

We saw earlier, when we put up the chart—and I will put it up again—that there were seats that opened up before an election. On these seats here—these four seats—the vacancies were before the elections. They were in August, May, October, and October. The nominations did not come until after the November elections—in December and February or in December and January. Yet the Senate acted in those situations.

No matter how you slice it, 15 times there have been open seats. Some occurred after the elections, and the Senate acted on the nominees. Some occurred before the elections, but the nominations did not occur until after the elections. The Senate acted in these cases. Then there were another nine cases in which the nominations opened up before the elections.

Biden made the simple point that, if the seat opens in the heat of the summer, before the November election, maybe it would make sense to hold off considering the nominee until after the election. That is completely consistent with our history. My colleagues tried to twist it into something else—as an argument that we should not consider a nominee during an election year. Of course, that is not what Biden said at all. It was not even close.

Let me tell you, when you have to try to find one sentence from 20 years ago from one of the people who has served in the Senate and when that is the only evidence you can find to back up your case, you are not just on thin ice. You have fallen through the ice and into the pond. Your argument is that weak and that terrible. Whenever you hear my colleagues ask: Didn't the Vice President, when he was a Senator, suggest a theory that we should not consider a nominee during the heat of the campaign right before an election? Yes, he said you should wait until after the heat of the campaign. It was one sentence, 20 years ago, from one Senator. If your argument is that weak, please try to find some better argument to make.

We are not here considering something of small importance. We are here, considering an issue that has profound consequences for the integrity of the Senate because it is the first time in U.S. history that a Supreme Court seat has been stolen. It has a huge impact on the integrity of the Supreme Court because this is a court-packing scheme. If the Court is packed, it delegitimizes its decisions. Let's not pack the Court. That is why I am here, speaking tonight.

On February 13, the very same day that Antonin Scalia passed away, the majority leader came to the floor and released a statement that read, essentially: We intend to steal this seat.

Here is what Majority Leader MCCONNELL said:

> The American people should have a voice in the selection of their next Supreme Court Justice. Therefore, this vacancy should not be filled until after we have a new President.

He reiterated opposition to any Obama nominee on the day that President Obama fulfilled his constitutional responsibility by standing in the Rose Garden and nominating Merrick Garland. When our majority leader reiterated his opposition, what did he quote? He quoted the one passage that was taken out of context from Biden's speech from 20 years ago.

That was the foundation on which he based a proposition to forgo our responsibility as a Senate to provide advice and consent under the Constitution—one sentence out of context. He turned the meaning on its head of a former Senator from 20 years ago. That is how weak the case was that the majority leader presented for failing to perform our constitutional responsibility. That was how weak the case was that he presented for stealing a Supreme Court seat in a court-packing scheme.

He said to give the people a voice. The American people voted overwhelmingly for Hillary Clinton. She won by more than 3 million votes. She would have won by a lot more if it were not for voter suppression. We have one party that generally believes in voter empowerment—that the foundation is ''we the people'' and that part of citizenship is to vote. We have one party that has resorted to trying to prevent people from voting—voter suppression, gerrymandering, changing the shape of a district to deprive people of having a voice here in Congress, changing the dates in which early voting can occur so that people have less of an opportunity to vote, changing the locations of precincts, which is where your voting takes place.

Some of the voter suppression tactics involve things that are just misinformation—false information—and telling people that the vote has already occurred or the location has been moved when it has not or that the votes are going to close earlier than they are actually scheduled to close—or a whole host of things.

The majority leader said to give the people a voice. The people voted overwhelmingly for Hillary Clinton. So it would follow that the majority leader would come to this floor and say: The people voted overwhelmingly, by 3 million votes, and it would have been a lot more. So we will now consider Merrick Garland because he was the nominee from a Democratic President—the seat he stole. The people have spoken. The majority has said that we do not want the Republican, that we want the Democrat. So we will go ahead and hear the Democratic nominee, and we will vet and vote on Merrick Garland.

But it is a funny thing in that that did not happen because the goal was not to give people a voice. The goal was to steal the seat and deliver it to a Republican President who would nominate someone from the extreme right and pack the Court, undermining ''we the people'' in favor of ''we the powerful and the privileged.''

The Democrats did not politicize the Court. The Republicans politicized the Court. The American people did have a voice in Garland's nomination. They had a voice by their voting twice for President Obama. Throughout our entire history, the Senate has considered the nominee from the President in power, when the vacancy occurs—even when it is an election year—because that is what the Constitution tells us to do—not to steal the seat, not to pack the Court.

This politicization, this gamesmanship, this hypocrisy is so extreme and so dangerous. I heard that some of my colleagues were asked if they would want their election year rule to apply to President Trump—that he could not fill a seat that would come open in the fourth year of his Presidency. That was the principle they advocated for last year. Their answer was no because there was no principle to the position. It was a warfare tactic of partisanship to pack the Court. It was the end justifies the means even if the means violates the core premise of the Constitution and does deep damage to the Senate and does deep damage to the Court.

Just this past Sunday, while speaking to Chuck Todd on ''Meet the Press,'' the majority leader began to walk back his past statements that a Supreme Court vacancy should not be filled in an election year.

Todd asked:

Should that be the policy going forward? Are you prepared to pass a resolution that says: In election years, any Supreme Court vacancy will not be filled, and let it be a sense of the Senate resolution that no Supreme Court nominations will be considered in an even numbered year?

The majority leader responded:

That is an absurd question.

Why is it an absurd question given that it is the principle that election year nominations should go to the next President? I will tell you why it is absurd. It is absurd because it is contrary to the Constitution.

MITCH MCCONNELL, the majority leader—my majority leader, the majority leader of the Senate, the top person in charge—was right when he said it was absurd because, of course, we should not abandon our constitutional responsibilities. It is an absurd argument to make today, and it was an absurd argument when he made it last year. If it were only absurd and not deeply damaging, then we could all perhaps not be so deeply, deeply concerned about the situation.

Merrick Garland's record. Judge Garland had more Federal judiciary experience than any Supreme Court nominee in our Nation's history. So the nominee put forward by President Obama had more Federal judiciary experience than any nominee in our Nation's history. He graduated summa cum laude and valedictorian from Harvard College.

After graduating, he clerked for Judge Henry J. Friendly in the U.S. Court of Appeals for the Second Circuit. He clerked for Justice William Brennan, Jr., in the U.S. Supreme Court. He was in private practice at Arnold & Porter, focusing on litigation and pro bono representation of disadvantaged Americans. He left his partnership for a low-level prosecutor position in the administration of George H.W. Bush.

In 1993, Merrick Garland went to the Justice Department as Deputy Assistant Attorney General in the criminal division, and that is where he oversaw prosecutions in the Oklahoma City bombing, helping bring Timothy McVeigh to justice. He helped oversee prosecutions in the case against Ted Kaczynski, the Unabomber, and the Olympics bombing committed by Eric Robert Rudolph that killed 1 person and injured 111.

He made a name for himself in these cases by being a strictly by-the-book prosecutor. He insisted on obtaining subpoenas, even when companies volunteered to hand over evidence. He insisted on keeping victims and relatives informed as the cases developed. He served for 19 years on the DC Circuit Court.

That is a lot of experience. And all that happened before he was nominated by President Bill Clinton in 1995 for the DC Circuit Court.

He received a confirmation hearing in the Senate Judiciary Committee in December of that year, but Republicans did not schedule a floor vote on his confirmation because of a dispute over whether to fill the seat. So President Clinton renominated Merrick Garland for the circuit court on January 7, 1997, and he was confirmed on the Senate floor by a vote of 76 to 23 that year, in March.

At the time of the consideration of Merrick Garland on the floor, my colleague from Utah, Senator HATCH, had very flattering things to say about Merrick Garland. He said:

To my knowledge, no one, absolutely no one, disputes the following: Merrick B. Garland is highly qualified to sit on the D.C. circuit. His intelligence and his scholarship cannot be questioned.

He continued:

I do not think there is a legitimate argument against Mr. Garland's nomination, and I hope our colleagues will vote to confirm him today.

Then he said:

In all honesty, I would like to see one person come to this floor and say one reason why Merrick Garland doesn't deserve this position.

The Senator went on to suggest that his colleagues who were blocking the confirmation vote were trying to obstruct his confirmation and were ''playing politics with judges.''

I so respect the statement that my colleague from Utah made in 1995, admonishing his colleagues to quit playing politics with judges.

But what has happened between 1995 and 2017, over these last 22 years? A huge amplification of playing politics to the point that when Merrick Garland came back before this body, only a couple of Republicans were willing to stand up and say: Let's quit playing politics. And they were quickly silenced.

During his 2005 confirmation hearing, Chief Justice John Roberts remarked about serving on the Circuit Court with Merrick Garland: ''Any time Judge Garland disagrees, you know you are in a difficult area.''

So here is the Chief Justice, considered one of the conservatives on the Court, who is saying that if you disagree with Merrick Garland, you are in a difficult area. You have to go and figure out why you would disagree because he is so good at working his way through the law and coming to a position of calling the balls and strikes.

That is the type of respect there was for Merrick Garland. And this respect and admiration continued right up to his official nomination on March 11, 2016. Five days before his nomination, my Senate colleague—my colleague from Utah—told a reporter that if President Obama named Judge Garland, ''who is a fine man,'' to fill Scalia's seat, he would be a ''consensus nominee,'' and there would be no question of his receiving a bipartisan confirmation—five days before the President nominated Merrick Garland.

The President recognized that the Senate was controlled by the Republican majority. He consulted on both sides of the aisle. He chose a nominee admired on both sides of the aisle.

Standing in the Rose Garden on March 16 of last year, President Obama officially nominated Judge Garland to replace the late Justice Antonin Scalia, and President Obama called Merrick Garland the right man for the job: He deserves to be confirmed.

His nomination had endorsements from a broad range of organizations and individuals. The American Bar Association, the Hispanic National Bar Association, eight former Solicitors General, including Neal Katyal, Gregory Garre, Paul Clement, Theodore Olson, Seth Waxman, Walter Dellinger, Drew Days, and Kenneth Starr. You recognize some of those names. Some come from the right side of the spectrum, some from the left. The point was that eight former Solicitors General—Ken Starr, 1989 through 1993, and Drew Days who followed him, and Dellinger, who followed Days, and Waxman, who followed Dellinger, and Olson, who served from 2001 to 2004, and Clement, who followed Olson, and Garre, who followed Clement, and then Neal Katyal, who served in 2010 and 2011.

Endorsement from the American Bar Association Standing Committee on the Federal Judiciary rated him ''well qualified'' as a Supreme Court nominee, the highest rating they can give, and their evaluation of his record stated that Judge Garland ''meets the very highest standards of integrity, professional competence, and judicial temperament.''

So there we have our President, President Obama, last year consulting in a bipartisan fashion, choosing a nominee who had been highly complimented by Senators on both sides of the aisle, seeking to find someone straight down the judicial mainstream, and what was the response of the majority leader of our body, our assembly here? His response was: We are going to steal this seat. It doesn't matter that this nominee is highly qualified. It doesn't matter that Democratic and Republican Senators have complimented him highly and have high respect for him. It doesn't matter that the Chief Justice has enormous respect for his judicial thinking. We are going to steal this seat in hopes of being able to pack the Court. That is what happened later in the day, after Merrick Garland was nominated.

The Senate has always functioned by cooperation, with a big element of tradition thrown in. A defining feature of the Senate is a commitment to the traditions of fair play, allowing us to continue functioning to solve America's problems in politicized circumstances. This is enormously important to the success of this Chamber.

I had heard when I was running for the Senate in 2007 and 2008 that something terrible had happened with this Chamber in the years that I had been back in Oregon and that a group had decided that they would use this Chamber as a weapon against any Democratic President rather than as a forum to solve America's problems. I didn't believe it. I didn't believe that the Senate I saw as an intern in 1976; that I saw when I was volunteering for organizations and working here in DC, washing dishes and waiting tables in 1977; that the Senate I saw when I was a Presidential fellow with a Republican Defense Secretary, Caspar Weinberger; that the Senate I saw when I worked for Congress in a think tank on strategic nuclear weapon policy for the Congressional Budget Office—I couldn't believe that a group of Senators had decided to use this Chamber as a weapon against the executive branch, if the executive branch happened to be from the other party. I didn't believe it. I dismissed the commentary I was hearing about what was occurring in this Chamber.

Then I arrived in 2009, and I quickly saw that I was wrong; that the stories about this Chamber being taken over by an urge to use it as a weapon against Democratic Presidents had, in fact, been true. We all were nearly knocked over when the majority leader announced that his goal was to make sure—his top goal, his determining vision—was to use this Chamber to prevent President Obama from being reelected. And we are sitting here going: Let's work together on healthcare policy. Let's work together to make a fair tax system. Let's work together to develop the infrastructure that is so needed because the infrastructure our parents built is wearing out. Let's work to develop that infrastructure because we have new demands of a different economy. We need better bridges and better railways and better ports and better electric transmission lines, and we certainly need better broadband, or at least broadband of some kind, as a starting point in rural America. Those are the challenges we face. Let's work together.

And then I watched as a key issue was turned into a political weapon against the President, rather than working to solve problems here in America, and that issue was healthcare.

In April 2009, I was handed a brief written by Frank Luntz, who was a strategist for the Republican team, and that brief said, Whatever ideas that the Democrats work to pursue on healthcare, here is our strategy: Don't cooperate; call it a government takeover—whatever they do.

I came to the floor of the Senate, and I gave a floor speech in 2009. I waved around the Frank Luntz memo, and I said: This is what is wrong with America. We have millions and millions of people without access to healthcare in America, and instead of working together, the Republican strategist is saying, Whatever ideas to improve the healthcare system they come up with, oppose them and call it a government takeover.

Democrats said: You need bipartisan cooperation to get a healthcare bill through here. So they held 5 weeks of hearing in the HELP Committee—Health, Education, Labor, and Pensions Committee. I was assigned to that committee. Senator Ted Kennedy had assigned me to be on that committee, in partnership with Majority Leader Harry Reid. I was so happy to be on that committee. For 5 weeks around a square table, I saw idea after idea presented as amendments were discussed, debated, and voted on. Approximately 150 Republican amendments were adopted. Imagine a committee adopting today, under the control of the Senate, 150 Democratic amendments on a major bill—adopting, not just considering. Democrats went through every title, with television there and all of America watching for 5 weeks.

That was just for the HELP Committee. Then there was a whole other process with the Finance Committee in which Senator Baucus led a group with Senator GRASSLEY, if I am not mistaken. They had three Democrats and three Republicans, and they worked on the finance side to come to a bipartisan conclusion. But eventually Frank Luntz's vision won out: Whatever is suggested, oppose it and call it a government takeover. That would do the most damage to the President. That was the strategy.

Democrats said: Well, it looks like we are going to have to take the Republican healthcare plan.

What was the Republican healthcare plan? The Republican healthcare plan was to use a marketplace in which private companies would offer their insurance. Compare the insurance, one policy to the other, to find out which one best suited your family, and then based on income, you could get tax credits to be able to afford to acquire that insurance policy, so that essentially we would have a pathway to healthcare for every American citizen, for the millions and millions of people who didn't have that pathway. That was the Republican plan. It came out of the American Enterprise Institute as the marketplace solution for healthcare. It wasn't a public option. It wasn't, let's lower the age of Medicare. It wasn't single buyer. It was the Republican marketplace plan. It was already one that had been tested by a Republican Governor in Massachusetts. It was known as RomneyCare. So it was a Republican think tank plan and a Republican Governor-tested plan.

Democrats said: OK, let's go that way. We think there are better pathways, but we will go with that because we need to be able to bring this Chamber together.

But my colleagues across the aisle, under this vision of using the Senate as a weapon against a Democratic President, decided they were going to oppose it just like Frank Luntz laid out in those first few months of 2009.

We see that same profound partisanship in this first-ever theft of a Supreme Court seat. We see that same profound partisanship in the strategy behind that theft, which is to pack the Court. We see that same profound strategy in the action that happened a couple hours ago. That was the first time in U.S. history a motion to close debate was filed on the first day of a Senate debate.

So turn the clock back to those first 13 States and 26 Senators trying to figure out how the Senate would operate. They weren't really planning on it being a public forum, but they did have this sense that it would be wrong to close debate before every Senator had shared from their experience. So they had a rule. In their initial rules of the Senate, they had a rule to close debate. They never used it. They never used it, as far as we know, not once, because they wanted to give everyone the chance to be heard. Of course, the Senate was only a quarter of the size—26 Senators instead of 100 Senators.

When they rewrote the rules of the Senate, they said: We don't need to have a rule for closing debate by simple majority called to question, if you will. We don't have to have it because we are going to hear everybody out before we vote. So that kind of launched that tradition of hearing each other out.

Later, when the Senate restored a rule in which a supermajority could close debate, it took a supermajority. At another point, the Senate said: We need to have a little smaller supermajority.

The reason that triggered, going back to having a strategy for closing debate—and I know historians will correct me if I have this wrong—in World War I, the President wanted to put military defenses on some of the commercial ships to fend off the threat from the Germans. There were Senators who said: This will draw us into war. We are not in the war yet. This will draw us into war by weaponizing our commercial ships.

There was a date set for the Senate to adjourn. They proceeded to keep talking until that time arrived so the Senate could not act to pass that law, which the vast majority of the Senate thought was appropriate.

They said: Well, we can't have just a small group, which basically would be the tail that wags the dog. That denies our ability to make decisions. So we will have to have a strategy for closing debate.

So they established that strategy. The general principle behind it was most of the time you hear people out here in the Senate rather than closing debate. But what we saw tonight for the first time in U.S. history—a cloture petition filed on the very first day.

James Madison, speaking to the Constitutional Convention, remarked that the Senate was a necessary fence to protect the people from the transient impressions into which they themselves might be led. It was a reason for the longer terms for the Senate. They have 2 years in the House; we have 6 years in the Senate. The Senate rotates so a third are elected every 2 years for 6-year terms.

There is a saying attributed to President Washington—as far as we know, he never said it, but still it was clever enough that it has reverberated on down through the centuries—that the Senate would be the cooling saucer, so that you had your tea and it was too hot, and you poured it into the cooling saucer until it was just right. You don't act impulsively because you have 6-year—longer—terms and a smaller body who can ponder the issues more carefully.

So here is the Senate, intended to be the cooling saucer, but what do we have right now? We have the stove turned up to the highest possible temperature. There is no stepping back from this course of undermining the integrity of the Senate and the integrity of the Court. It is full steam ahead. File the petition on the first day of debate so we can close this debate and have this vote done by Friday, the majority leader said. Vote on Thursday. Somehow we are going to maybe change the rules and vote on Friday if there are not enough votes to close debate.

Back in 2013, there was an enormous blockade using the advice and consent power to obstruct both executive branch nominees and judicial nominees. This enormous blockade was used by colleagues across the aisle as a weapon against the judiciary and executive branch.

When the conversation occurred back among the Founders, they said: Advice and consent power won't have to be used very often to turn down a Presidential nominee because just the very fact that the Senate can serve as a check on a Presidential nomination will cause a President to make wise appointments.

They had actually wrestled with how to construct this situation. How do you construct this check and balance?

Some said: The executive branch—why don't we have the President head it but have the positions filled by Congress?

Others said: That is not such a good idea because one Senator's friend will be nominated for this position in exchange for another Senator's friend being nominated for that position, and the people will never really know who, where, why. There is no accountability.

That is what it came down to.

So we will have a single person—the President—nominate for the executive branch. Plus, that way the President can nominate people to help fulfill the vision the President campaigned on, which makes a lot of sense. The people didn't just elect a name; they elected a vision for the country. And the person responsible for helping to implement that—the executive branch—the President, should have a team who can go forward with that vision.

Then the crafters of the Constitution said: But what if the President goes off track and starts nominating people who don't actually have the skills to fill the positions to which they are nominated? What if the President nominates people because they have done some favor for the President in the past, so that there is a conflict of interest? What if the President nominates someone of poor character? Shouldn't there be a way to put a check on a deeply misguided nomination?

The founders said: Yes. We will create an advice and consent power for the U.S. Senate to be a check on misguided nominations.

So here we are looking at that original philosophy of the Senate and the responsibility to stop misguided nominations through advice and consent, and we have had two profound betrayals of that responsibility last year and this year. The betrayal last year was that the Senate refused to exercise its responsibility at all. It stalled the seat. It sought to pack the Court. Now we have a deeply misguided nomination before us, an individual who is from the extraordinary right, not from the mainstream, who has twisted the law time and time again to find for the powerful and the privileged over ''we the people,'' and yet that nomination is here on the floor, not a single vote in the Judiciary Committee from across the aisle.

This chart reflects the distribution of Federal judge ideology. If we had been putting up this chart decades ago, we would have probably seen a single bell curve. There would be folks on the right and folks on the left. But now we have the twin peaks chart of judicial decisionmaking. So the decisions are falling more and more into a ''we the people'' camp that says ''Let's fulfill the vision of our Constitution'' and a ''we the powerful'' camp that says ''Let's turn the Constitution upside down and run this country by and for the powerful.'' Where does this nominee fall? Not into the ''we the people'' vision of our Constitution and not even within the left side of that ''we the powerful'' twin peak but to the right side of it. That is where we are.

The supermajority to close debate—commonly referred to as the filibuster—is a power we have sustained in order to have nominees who are not from the ideological extremes. But now we have one. We have one who, when a trucker was protected by the law—because of his personal safety, and he was freezing in subzero temperatures and had to go get warm and come back, and the law protected him from getting fired—he got fired. The court said: Absolutely, you can't fire someone for protecting their safety or others. Judge Gorsuch found a way to turn that on its head.

When we wrote a law to say that you have to provide an education to disabled children, Judge Gorsuch said that babysitting is fine, as long as there is basically—not exact words, kind of mere fringe of advancement—something that was essentially equivalent to babysitting. And the Supreme Court, all eight Justices occupying both of those peaks, said that was absurd, and they overturned Judge Gorsuch, 8 to 0.

We have this role from our Founders of being the cooling saucer. We have

this role of being a check on the abuse of or misguided Presidential nominations, and we failed it last year by not doing our job. We fail it this year by considering anyone other than Merrick Garland. And we certainly fail it in the context of closing—considering the possibility of closing debate. That is the conversation that the majority leader has been invested in—that if this judge is so extreme as to not to get the 60 votes to close debate, we will change the rules.

Well, how about we change the nominee? How about we save the integrity of the Senate? How about we save the integrity of the Supreme Court? Change the nominee. Ideally, put Merrick Garland up, because that way we solve the problem of the stolen seat—this enormous court-packing plan that is unfolding right before our eyes. And if the schedule on which the majority leader has said he wants to complete this court-packing occurs by Friday, it will be too late. We will have done the damage.

George Washington shared his view of the Senate's role. The story goes that Thomas Jefferson returned from France to take on the duties as our first Secretary of State. He was having breakfast with President Washington and called for the President to account for having supported an unnecessary legislative Chamber in the Senate of having this conversation. That is when that conversation came up. We believe it to be apocryphal, but still the response, as written down at some later point in time, was that Washington asked: Why did you now pour that coffee into your saucer before drinking?

Jefferson responded: To cool it. My throat is not made of brass.

Washington said: Even so, we pour our legislation into the Senatorial saucer to cool.

Is there a way that we can avoid what is unfolding now, this tragic miscarriage of the Senate's responsibilities?

Whether that conversation took place, as I mentioned, is not actually known, but the fact that the story is still here means that it had some power behind it, whether it took place or not. And that was that for 200 years and counting, the government has counted on the Senate to pause, to not give acceleration to the momentum of the day, but to pause and be thoughtful in considering the integrity of our institutions. And that integrity, that moment when we need to be the cooling saucer, is now.

Unanimous consent has been a tool that the Senate has used. Many times, if you are watching the Senate, you will hear ''unanimous consent'' to do this or that. Earlier, the majority leader came and spoke. He said: ''I ask unanimous consent,'' and he laid out a plan for tomorrow about how this debate would proceed. That unanimous consent—each and every one of those represents a form of cooperation, often the last vestige of cooperation. It also goes to this observation that the Senate is about hearing each other and working together.

Robert C. Byrd once remarked:

> That is what the Senate is about. It's the last bastion of minority rights, where the minority can be heard, where a minority can stand on its feet. One individual, if necessary, can speak until he falls.

Well, you can't keep speaking if a cloture petition has been filed. So come Thursday, the phrase is the ''petition ripens,'' which means that it will be voted on, and generally it is 1 hour after we convene after an intervening day. So tomorrow, Wednesday, is the intervening day, and the vote will occur on Thursday. That is the opposite of what Senator Byrd was referring to because at that point, anyone who wants to be heard, can't be heard.

The tradition of having weeks and weeks of conversation about a nomination that creates complexities or has complexities behind it—that is being destroyed. That comity permeated many controversial debates the Senate has had over time. That willingness to hear each other and to vote is something that was embedded in the Senate as I saw it four decades ago and later in my life when I was working for Congress.

There is no denying that the Supreme Court nominations have always been subject to a certain level of politics, but there has also been a certain level of cordiality to the process. Daniel Patrick Moynihan, in a debate on the nomination of Ruth Bader Ginsburg back in 1993, said:

> [The Senate] is perhaps most acutely attentive to its duty when it considers a nominee to the Supreme Court. That this is so reflects not only the importance of our Nation's highest tribunal but also our recognition that while Members of the Congress and Presidents come and go . . . the tenure of a Supreme Court Justice can span generations.

We are not here on the floor debating who will serve in some office in the executive branch for the next couple of years. We are here debating the nomination for the highest Court that could ''span generations,'' in the words of Daniel Patrick Moynihan.

So what else would we consider more important than a Supreme Court nomination to adhere to the traditions of the Senate and to honor the 60-vote requirement in our rules? We don't always like the nominee the other side has selected. We question them vigorously in confirmation hearings, and we end up voting against them. But until the situation last year with the death of Antonin Scalia, every vacancy in an election year for which a President proposed a Justice who has made a nomination—every time, the Senate did its job. It confirmed most. It rejected a few, but it did its job.

Over the course of our Nation's history, there have been a total of 164 Supreme Court nominations; 124 of those were confirmed, roughly 3 out of 4, including elevating current Justices to Chief Justice. There have been 112 individuals who have served on the Supreme Court, and 39 Presidents to date have appointed at least one Supreme Court Justice. But only once—last year—has the majority conspired to reject its responsibility to consider a nominee for a position that opened in an election year. Only once has the majority conspired to steal an election-year Senate seat and send it to the next President and pack the Court.

The action last year is different from anything that has occurred before. There were some individuals—some colleagues across the aisle—who advocated for the Senate fulfilling its constitutional duty in the case of Merrick Garland and for continuing the traditions of this great institution.

One of my colleagues told a townhall audience last year—one of my Republican colleagues said:

> I can't imagine the President has or will nominate somebody that meets my criteria, but I have a job to do. I think the process ought to go forward.

Another colleague sat down and met with Judge Garland, even knowing that the Republican leadership was saying that he would not get a hearing. That colleague declared, and I quote, that colleague was ''more convinced than ever that the process should proceed. The next step, in my view, should be public hearings before the Judiciary Committee.''

So I pause to thank my Republican colleagues who worked to stand up for the integrity of the Court and the integrity of the Senate and for due deliberation on a Presidential nomination during an election year. Thank you to my colleague from Kansas. Thank you to my colleague from Maine.

There may have been others I didn't hear about, and I imagine there were because I think Members of this body take their responsibility extremely seriously. They take their oath of office seriously, and they were put in an impossible position when their leadership asked them not to exercise their advice and consent responsibility under the Constitution. That is where we were last year.

Here we are, on the brink of doing devastating damage to the Court. Shouldn't we pause and be the cooling saucer? Shouldn't we send this nomination back to the President and ask for him to put forward Merrick Garland or someone who basically is on the same path that Merrick Garland was on—the path that was so honored and complimented by Senators on both sides of the aisle?

Shouldn't we address this before we set the precedent of a stolen seat? Think about what this precedent means going forward. A few years from now, there may well be another vacancy, and this vacancy may be under a Republican President, and maybe the Democrats control this Chamber. At that point, do they say: We are going to rectify the wrong in the past and restore the integrity of the Court by taking that seat and forwarding it to the next President, hoping that it will be a

Democratic President, and there will be a nominee who will restore the integrity of the Court because there will be a nominee more like Merrick Garland? Or will there be future leadership that says: Hey, their team stole a seat that occurred—an opening that occurred in January of election year. Let's steal one that happens in October the year before the election to balance it out. If you can steal it for 12 months, why not steal it for a few more? Where does that end? What good does that do to our institution? What honor does that give to the 5-to-4 decisions of the future?

That is where we are headed. We are headed to a place that is breaking two centuries' worth of tradition and establishing a precedent that will do enormous damage to the Senate and to the Presidency and to the Court. That is why I am here addressing it at length tonight. I did find that when the majority leader didn't want to put into a resolution that the same rule he advocated for last year should apply to this President, it was clear—as clear as you could possibly make it—that what happened last year had no principle in it; it was an issue of partisan tactics to amplify the strength of one party and one vision—that of government by and for the powerful—at the expense of the other vision. Don't we owe more in our role as Senators, especially on something as important as the Supreme Court and the integrity of the Court, than just another partisan strategy?

I will tell you, I think about why it is that we are at this place right now. There are a couple of things that are very, very different from the Senate I first saw four decades ago and the America of four decades ago. One of those is that Senators four decades ago lived here with their families. They had a Monday-to-Friday workweek. They had evenings to build relationships, and they had weekends to do things with other colleagues across the aisle. They took a lot of bipartisan congressional delegations. They all knew each other well as friends.

But now the Senate comes in on Monday night for a vote at 5:30 p.m. and we leave after a vote at roughly 3:30 p.m. on Thursday. So it is 3 days—Monday afternoon to Thursday afternoon. We don't have the time in the evenings because of that compressed schedule. We don't have the time on the weekends because we are back in our home States or traveling somewhere else. So we don't have the relationships. We just don't have the common activities.

There used to be lunches where the Democrats and Republicans ate together. Now there is a partisan Republican lunch, three out of three lunches and two out of three for the Democrats. We don't have that meal together to get to know each other, so you have to work extraordinarily hard to set up a meeting to try to work with a colleague on a topic. If it is something larger than you can discuss here during the middle of a vote, it can take a month to get a 20-minute meeting to ponder with a colleague how we might work together on a problem.

So that is a change in this Chamber, but there is another big change. That second big change is related to the role of the media. We had big issues in our country decades ago, but we also had community newspapers, and we had three network television stations that essentially provided a foundation of information. We might have had different views about that information and different views about what we should do in the future, but we had a common foundation of information. Now we don't have a common foundation of information. Information flows in every possible direction, much of it made up.

I was very struck when—I hold a lot of townhalls. My first summer as a Senator—2009—I was out holding townhalls. I do one in every county every year. Folks said: You know, why are you supporting this Senate healthcare bill that has a death panel in it? That was one of those false news stories.

What was the real story? The real story is that a Republican Senator from Georgia had proposed—a Republican Senator had proposed that we pay doctors for the time they spend with their patients informing them about how to do a living will so that if they were incapacitated in the future, their desires would be followed, not someone else's desires—not a death panel, their desires would be followed. That is as American as apple pie.

We were going to make sure that we could control, each of us, our own future. It was a Republican proposal, a good proposal, a proposal that made a lot of sense so that people could have control over their future medical decisions if they were incapacitated. But for partisan political reasons, a candidate had twisted that into a death panel and turned it on its head, that someone else would make the decisions instead of you making the decisions for yourself, which is what it was all about.

So I was at this townhall, and a constituent, an Oregon citizen, raised this issue.

I said: You will be happy to know that they don't exist. You will be happy to know that the idea from which the false news story began was about empowering you to make your own decisions. Don't you feel better now knowing that the conversation in the Senate was about you controlling your own destiny?

The woman said to me: I don't believe you.

I said: Well, you don't have to believe me; I have the text right here that was proposed.

I had heard about this issue, and so I wanted to make sure that people knew about it and that I could answer if asked. So I shared the text with her.

She said: Well, I don't believe you. Who am I going to believe—a U.S. Senator or a television policy analyst?

She meant Glenn Beck. Glenn Beck and others were simply making stuff up and putting it on their television show or their radio show, designed to infuriate people by setting up this false story—this false story that there was a government takeover and this false story that there was a death panel.

If you want to understand what happened 2 weeks ago in the House when the House failed to pass a healthcare bill to replace ObamaCare, it is a story about false news. It is a story about partisanship over policy. It is a story about a year-plus of bipartisanship being trumped by Frank Luntz's vision of whatever is proposed, call it a government takeover. Even if—his memo didn't say this, but as it turned out, even if it was the Republican strategy of having a marketplace for people to get their health insurance, call it a government takeover.

So when the Republicans said they were going to replace ObamaCare, the problem was that ObamaCare was the Republican plan, so they did not have anywhere to go. They could either tear down healthcare completely and put 24 million people on the ice—that is, out of reach of healthcare—by the way, not just individuals but rural healthcare institutions because the rural clinics were powerfully strengthened through the Affordable Care Act. The rural hospitals were powerfully strengthened through the Affordable Care Act. There was so much uncompensated care previously that hospitals and clinics had to give away for free, and now they were getting paid because people had insurance, so they were much stronger. So it was about 24 million people, but it was also about a vast healthcare infrastructure in rural America that the Republican plan would destroy.

But they could not propose their own plan because their own plan had been adopted in 2009—marketplaces with private companies competing against each other, tax subsidies, tax credits so people could afford to buy those policies. That was the American Enterprise Institute plan. That was the Republican Governor's plan. That was RomneyCare. So where do you go if your plan has already been enacted into law? If 150 of your amendments were accepted as part of that process, where do you go when you have used a false story, a false commentary to the American people year after year after year saying that something is some terrible thing that it is not? Well, where you go is the process blew up. That is where it went because it was based on a false foundation, the entire 8 years of attack on the Affordable Care Act—a false premise just like Sarah Palin's death panels were a false attack.

We can't keep going through this extreme partisanship and save the Senate at the same time.

Another challenge we have—in addition to the fact that the friendships that cemented the Senate together are not as developed as they were decades

ago because we are not here and we don't spend enough time with each other—another problem is that we have all of these false stories being generated continuously to make people angry with each other. Those are certainly problems, but we have another big problem, and that problem is the concentration of campaign money, the dark money, the Citizens United money that is corrupting our political system.

I can't convey how much damage this has done. Let's just review the biggest example of this strategy. The Koch brothers decided in 2013 that they wanted to have a legislature that would support their extraction and burning of fossil fuels. There was this pesky little problem threatening the entire planet called global warming in which the burning of those fossil fuels was polluting the air, raising the temperature of the Earth, and having profound consequences.

So people were talking about, how do we transition off of fossil fuels?

The Koch brothers said: Well, that is our business. We can't let that happen. We have to have control of the House and Senate.

So the story with the Senate is they decided to spend a vast sum of money on the campaigns of 2014. The result was that they influenced the elections and had a positive outcome, from their point of view, in Louisiana, Arkansas, North Carolina, in Iowa, Colorado, and Alaska. There were a few other States that they came to that year, including Oregon, my home State. So they won most of those campaigns. They put the Republican majority into office so they would have a Senate that would not be discussing the biggest threat to our planet—carbon pollution and global warming—and instead would have one that would sustain tax breaks to accelerate the extraction and burning—the profitability of extracting and burning fossil fuels.

Then they did something that should be recorded as a significant moment in U.S. history. In January, as the Senate was coming in with this new Republican majority, they did not say: Well, that is great. We have a Republican majority, and now we have folks who will support our fossil fuel extraction and combustion. We will make a lot of money. They will keep the tax breaks in place for us.

No, they didn't say that. They said: Pay attention.

This was January 2015, 2 months after the election, and we were just coming in. The Republican majority was just coming in.

The Koch brothers said: Pay attention. We are committing to spend the better part of $1 billion in the next election 2 years from now.

I don't know that such a statement has ever been made by a body in the United States, a similar statement. Next election—we had just had this election—next election we are going to spend almost $1 billion.

They wanted everyone in this new Republican-majority Senate to know who was in charge. The Koch brothers are in charge. They paid for the third-party ads that put your election in the victory column.

You will pay attention—at your own risk if you don't.

A number of my colleagues shared that this was a very real threat, that the Koch brothers would be happy to find a primary opponent and not just undermine them in the general election or fail to fund them in a general election—and the first bill up was one of the Koch brothers' top priorities, the Keystone Pipeline. So we now have a body about which, at least, you can say that a very significant behind-the-scenes force of this body is the Koch brothers. Well, how does this tie in with what happened in 2016 when Antonin Scalia died and there was an open Senate seat?

Here is how it ties in: You had a 5-to-4 Supreme Court that had decided that it was OK for groups like the Koch brothers to spend billions of dollars in dark money, third-party campaigns, eviscerating the opponents on the other side of the issue.

Four Justices had said no. In our ''we the people'' Republic, having that concentration of power is a corrupting force. It is an attack on the very design of our country, but you had five others who said: No, no, no, it is OK.

That makes me think about a letter that Jefferson wrote. Jefferson was writing to a friend, and he said: There is a mother principle, a mother principle in our design of the government. He said: That is that decisions will only be made in the interest of the people if each person carries an equal voice.

He recognized in using the term ''voice,'' something broader, more powerful than just a vote. That is why I said ''voice.''

What has happened with Citizens United, with respect to the five Justices, is that it is OK to have some individuals who have a voice in our campaign that is equal to thousands or tens of thousands or even 100,000 other citizens.

We didn't have such a way to amplify one's voice—not anything close to that amplification when the Founders designed our government. Yes, you could put an article in the newspaper. Yes, you could hand out pamphlets. But with the growth of radio and television and now the internet and all the strategies through social media and internet advertising, through all of that, money can amplify one's voice. You can have the equivalent of a stadium sound system that drowns out the voice of the people. That is the opposite of Jefferson's mother principle, Jefferson's principle that we will only be a government that pursues the will of the people if each citizen has an equal voice.

Now, granted, we all know that vision was flawed. Women weren't given the vote. Many minorities were excluded. But we have worked overtime toward that vision of inclusion, opportunity, and equality, and we have come a long way. But in one case, we have gone in the opposite direction, and that is the Citizens United concentration of money corrupting our elections, undermining the legitimacy of this Chamber and undermining the legitimacy of the House Chamber. Instead of being elected to do government of, by, and for the people, it is the product of an enormous concentration of power by and for the few. You can see it in the policies that are pursued.

Three decades after World War II, we had an economy that worked really well for working America. American workers participated in the wealth that they were creating, and the result was that families had a leap forward.

My parents have lived under humble circumstances. I had a grandmother who at one point had lived in a railroad car. I had a grandfather who put all the children into a car and drove from Kansas to Arizona with all of the individuals in the family and their possessions in a single car, going west, trying to find work and find a future. Those were incredibly hard times. Folks were living in shacks.

Then, after World War II, we had these three decades when we had this big leap forward in the standard of living, as workers shared in the wealth they were creating.

From about the time I got out of high school, which was 1974, in the middle of that decade—let's call it 1975—and in the next four decades, virtually all of the new income in America has gone to the top 10 percent, which means that 9 out of 10 Americans have been left behind in this economy.

I live in a blue collar community, the same community I have lived in since third grade. I was there from third grade through graduating from high school. I moved back into that community the year my son Jonathan was born 20 years ago.

It is a blue collar community. It has changed over time. It has become much more of a diverse community. There are many ethnicities from all over the world, and a lot of languages are spoken in the school. It is a blue collar, working community.

Folks there say: My parents were able to buy a house in this community, but the only way I am going to own a house in this community is to be able to inherit it from my parents because of the disappearance of living-wage jobs.

That is what has been going on in this economy. We provide these enormous, enormous tax breaks for the best off in our society.

Well, there is a concept referred to as the Buffett rule. Warren Buffett said: Why should I, a billionaire, be taxed at a lower rate than my secretary? Why does my secretary pay a higher rate than I do?

So every now and then, we have had on the floor of the Senate an effort to

correct that and say: Hey, a billionaire should pay at least the same tax rate as the secretary or the janitor. But we haven't corrected it because the vast influence of funds in this Chamber are working on behalf of the privileged and the powerful.

So here we are, trying to figure out why last year we had, for the very first time, a majority leader who engineered the theft of a Supreme Court seat from the Obama administration to another administration. It was the first time in U.S. history. To understand 2016, you have to understand 2014, when the Koch brothers invested this vast sum in all the campaigns so they could control the Senate. You have to understand that in January 2015, the Koch brothers sent a message that you had better pay attention. You have to understand that the Koch brothers' strategy is based on the dark money, third-party campaigns that Merrick Garland might possibly have voted against—a 5-to-4 Citizens United decision that Merrick Garland might have found 5-to-4 in the other direction. We don't actually know where he stood on this.

He was so square down the middle and so complimented by people on the right as well as the left. We don't know how he would have voted on that. But in order to ensure that the dark money could continue, in order to ensure that decisions would be made by and for the powerful, to ensure that the fossil fuel companies could be swept clear of regulations that would diminish the amount of fossil fuels they could extract out of the ground and sell for combustion, in order to ensure the profits of the Koch brothers, that drove this unique case of the theft of the Supreme Court seat last year.

There was that effort to pack the Court by sending that seat to the next President in the hopes that it would be a conservative President and then to have that nominee say: I will only nominate somebody who comes off a list from two conservative groups on the far right—boy. That was exactly the vision. It has unfolded exactly as—I guess you could say—those in that powerful group wanted it to unfold.

We have a different responsibility. We don't have a responsibility to a ''we the powerful'' vision. We don't have a responsibility to a ''we the privileged'' vision. We have a ''we the people'' Constitution.

We have Jefferson's mother principle that says: We should be in a situation, if we want the will of the people to be enacted, in which people have an equal voice. There is this third-party, dark money that is corrupting America, our fundamental institutions, our election institutions. It is corrupting this institution—both sides, the House and the Senate. That is why I hope there is a Supreme Court that eventually says this is wrong; this is out of sync with our constitutional vision.

The Court said: We think transparency will do the job. They kind of assumed that there would be transparency in where the money came from and where it went.

It used to be that colleagues on the right side of this Chamber would say: Oh, we love transparency. Transparency will be the sunlight that disinfects the potential corruption of campaign donations. We love transparency.

Many of those who opposed McCain-Feingold caps on donations said: We love transparency, the sunlight, the disinfectant. Won't that be wonderful.

Then, we had a transparency bill on the floor and said: People have to know where every donation comes from so there is not this dark money, unidentified money surging through the veins of the American campaign system, surging through the arteries. Suddenly they say: Oh, wait; we don't like transparency so much because that might hurt the prospects for the powerful folks who got us elected.

So then you have the picture of why this unique circumstance occurred and why we are where we are and how much damage it is going to do and how it undermines the legitimacy of the Court.

Merrick Garland's treatment is unprecedented in the history of Supreme Court nominations. There was a hastily fabricated pretext that we shouldn't do a normal process under our advice and consent responsibilities in the final year of a Presidency or the fourth year of a Presidency.

Now, you can read the Constitution from one end to another, but you won't find that principle in the Constitution—that suddenly we can ignore our responsibility in the fourth year of a Presidency.

The responsibility to be here in the Senate Chamber doesn't end in a fourth year. No other responsibility ends.

The responsibility of the President to nominate for empty positions doesn't end, but that pretext was one which was so quickly concocted. The foundation was so quickly destroyed, and it was just revealed for the destructive partisan tactic that it was—this Court-packing tactic.

One colleague said: We have 80 years of precedent of not confirming Supreme Court Justices in an election year. That is an exact quote.

One colleague came to the floor—a colleague, by the way, who ran for President—and said: We have 80 years of precedent not confirming a Supreme Court Justice in an election year. Wrong. There have been 15 vacancies in an election year, and 15 times the Senate acted, and in most of those cases, it was to confirm the Justice. We could even look at the fact that there were some vacancies that occurred before an election year and were confirmed in an election year, just like the nomination of Anthony Kennedy—who sits on the Supreme Court today—in 1988.

To my colleague who said we have 80 years of precedent of not confirming a Supreme Court Justice in an election year—that is his exact quote—not only is that not true, if you look at history, at every single nomination vacancy that occurred in an election year—and most were confirmed, but the Senate always acted—it is simply not true, if you look at Justice Anthony Kennedy, who sits on the Court a few yards from here, who confirmed just a few years ago—in 1988—within the memory of most Members who serve in this Chamber.

If you go back just one more election—let me put it differently. Until Merrick Garland's nomination last year, we hadn't had an election-year vacancy for a sizeable period of time. That is why I am going to have these three charts put back up. If we look at these charts here in this situation, these are some vacancies that occurred in an election year.

Look at this group here—in 1928, 1860, 1864, and 1956. Well, 1956 was a good period of time ago. That was about 60 years ago, 61 years ago. That is quite a while.

Let's look at the next chart. Well, vacancies in an election year—year 1800, year 1872, year 1880. They happened a long time ago.

How about the last chart of nine. Again we see a lot of 1800s—1804, 1844, 1852, 1888, 1892, in 1916 twice, and 1932. The point is taken that it has been quite a long time since we have had a vacancy in an election year.

So if you concoct a premise within an hour or two of a Supreme Court Justice dying and get it wrong—but then there is also a colleague who had the time to look up the facts who got it wrong as well.

In the 1932 election between Franklin Roosevelt and Herbert Hoover, we did have an election of a Supreme Court nominee. Hoover nominated Benjamin Cardozo to succeed Oliver Wendell Holmes. On February 24, 9 days later, the Senate confirmed Cardozo. That was the last time we had a Supreme Court seat open up in an election year, except for the Eisenhower occasion.

Why don't we go back to Eisenhower. The seat opened up 1956, an election year, and it was the following January that he was confirmed.

So we can look to the fact that the Senate acted on all 15 of the 15 election-year vacancies, confirming most of them. Here we see two out of the four confirmed, and of these eight before Merrick Garland, we see six of the eight confirmed. Then the other group of three were the folks where the vacancy occurred after the general election, but the Senate still confirmed all three, whether up or down.

So if you look to history, my colleague who said that we were in a situation where we had been in the tradition of not confirming people during an election year, 80 years of precedent not confirming a Supreme Court Justice in an election year, well, that is a phony, phony, incorrect, fallacious—insert your own adjective here—argument because in our entire history, every single seat that became vacant in an election year was actually done by the

Senate before the next President took office.

Three vacancies occurred after the general election. We saw the three in this chart here. John Jay in 1800, with the Adams administration, was nominated to be Chief Justice on December 18 after Chief Justice Oliver Ellsworth retired. Jay was the first Chief Justice but retired in 1795 to serve as the second Governor of New York for two terms. After that, Jay's nomination was confirmed in the Senate, and he ended up declining the position and retiring from public life instead.

For those of you who are thinking about political trivia, who was the election-year nominee confirmed by the Senate? The vacancy occurred late in December. He was confirmed 3 days later and declined it. Now you know the answer. It is the nominee John Jay, who had served as Governor of New York for two terms.

Adams was more successful when his second choice, John C. Marshall, was confirmed on January 27. That confirmation happened after the term.

In 1872 Ward Hunt was nominated by Ulysses Grant a month after easily winning reelection, on December 3, 1872, to replace the retiring Justice Samuel Nelson. Hunt was confirmed by the Senate 8 days after being nominated.

William Woods was nominated by Rutherford Hayes in 1880. He was nominated to replace William Strong, who was stepping down while still in good health at the age of 72. That set an example for several infirm colleagues who refused to do the same. I hope his influence was substantial because that is one of the challenges of having a lifetime appointment—sometimes the Justices stay in office beyond their ability to exercise clear reasoning. It is a good example that William Strong set.

As a member of the U.S. circuit court, Justice Woods was easily confirmed by the Senate 39 to 8 on December 21, 1880. He was the first person to be named to the Supreme Court from a former Confederate State. So there is another little bit of Supreme Court trivia.

There were four vacancies that occurred before the general election but the nomination didn't occur until afterward. Why did Presidents delay until afterward? This probably is a different story in each case.

We see basically a four-month delay with J.Q. Adams. We see it delayed another 9 months with President Buchanan. There was a delay of a couple months by Lincoln and 3 months by Eisenhower. One reason might have been to clear from the heat of the election season. That would be interesting because that is essentially what Biden referred to when he said if a vacancy occurred in the heat of the election season in the summer, we should perhaps wait to act on it until after the election season is over, until after the election.

John Crittenden was nominated in 1828 by John Quincy Adams. In 1828, a month after losing his bid for reelection, President Adams nominated Mr. Crittenden to replace Justice Robert Trimble, who had died in August from malignant bilious fever. On February 12, the Senate voted to table his nomination, but they acted. They acted in their advice and consent role, unlike what happened last year. Although President Adams' nominee was not confirmed, he did receive a fair shot when the Senate voted on his nomination on the Senate floor.

Jeremiah Black was nominated in 1961 by President Buchanan. On February 5, 1861, President Buchanan nominated his Secretary of State, Jeremiah Black, to fill the seat of Justice Peter Daniel, who had passed away at the end of May. On February 21, 16 days later, the Senate rejected Mr. Black's nomination, and they rejected it by a single vote. They did so not by tabling the nomination but by rejecting the motion to proceed to the nomination.

There has been a change in Senate rules in regard to that motion to proceed to a nomination. But again, even though his nomination was rejected by a single vote, Jeremiah Black still received the treatment of the Senate. The Senate acted. They considered and they acted.

Salmon Chase in the Lincoln administration, 1864. Chief Justice Roger Taney passed away October 12, 1864, and 2 months later, on December 6, 1864, after winning his reelection in a landslide, President Lincoln nominated his Treasury Secretary, Salmon Chase, to fill Chief Justice Taney's seat. Well, in this case, on the same day he was nominated, December 6, 1864, the Senate confirmed him and confirmed him by a voice vote. Well, I don't think we are going to see another Senate or another Supreme Court nominee confirmed by a voice vote for a very long time to come.

William Brennan, Jr., was nominated by President Eisenhower in 1956. On October 15, just 2 weeks before the general election, Justice Sherman Minton stepped down because of his declining health. On that very same day, Eisenhower named William Brennan, Jr., as his nominee. Then on January 14, the recently reelected Eisenhower officially nominated Justice Brennan to the Supreme Court. First he was nominated as a recess appointment—another interesting piece of Supreme Court trivia—but then in January he was renominated as a regular nominee to be considered by the Senate. The Senate was back in session, and his nomination—that is, the President's nomination—did face opposition from the national news. They were worried that, as a Catholic, he might rely more on religious beliefs than on the Constitution. That is an interesting conversation that is hard for us to identify with today.

Justice Brennan was opposed by Senator Joseph McCarthy because he made a speech decrying the overzealous Communist investigations as ''witch hunts.'' But on March 1957, Justice Brennan was confirmed by the Senate almost unanimously. The only ''no'' vote was Senator McCarthy.

Let's take another look at those vacancies that occurred before the general election where the nomination also occurred before the general election.

We have William Johnson in 1804, who was nominated by President Jefferson. On January 26, Justice Alfred Moore had stepped down because of declining health, and 2 months later, President Jefferson nominated William Johnson. Two days after that nomination, he was confirmed to the Senate by a voice vote.

Then we turn to a couple of nominations the Senate considered, but they rejected them through votes to table the nomination. President Tyler nominated Edward King in 1844. Justice Henry Baldwin passed away on April 21, and on June 5, President Tyler nominated Edward King to fill the seat. But the Senate did deliberate on that nomination and decided to reject it. They tabled it. Later that year, Tyler renominated King to fill the vacancy, but the Senate again voted to table the nomination. They said: What was said before still goes.

Mr. King did not make it to the Supreme Court, but he did have the opportunity to present his case and have the Senate act on his nomination, not once but twice.

In 1852 Edward Bradford was nominated by the Fillmore administration. Edward Bradford was nominated on August 16, about a month after Justice John McKinley passed away. He too had his nomination tabled by Members of the Senate—by the full Senate—voting and saying no, but they did act. They did vote—Melville Fuller under Cleveland. Now we get into a whole series in which the Senate said yes, not only in reacting but in ''we think you are qualified to serve on the Court.'' They made it not just from the advice stage but to the consent stage.

(Mr. SCOTT assumed the chair.)

Justice Morrison Waite passed away in March of 1888, and President Grover Cleveland nominated Melville Fuller to fill the vacancy on April 30. Over the course of his nomination, Fuller faced opposition because he had avoided military service during the Civil War, and he had tried to block wartime legislation as a member of the Illinois House of Representatives.

Those were the flaws that the Senate found as they vetted his nomination. He did not receive every vote in the Senate, but the Senate did act. The Senate voted, and they voted 41 to 20, by a 2-to-1 margin. The Senate looked at his record and said: Yes, it has flaws, but on balance, it is qualified and appropriate. And they confirmed him.

President Harrison nominated George Shiras in 1892. Earlier in the year, in January, Justice Joseph Bradley had died, but it was not until July

19 that Harrison nominated George Shiras to fill that seat, which was still before the election. In spite of the 6-month period between the vacancy and the nomination, Shiras was confirmed, yet again, by a voice vote in the Senate one week after being nominated.

Now we turn to the 20th century, the 1900s. President Wilson nominated Brandeis. This seat was open because, in January, Justice Joseph Lamar had died. Because Brandeis' nomination was bitterly contested, it became the first time in American history that the Senate Judiciary Committee had held a public nomination hearing. Today, we think of the fact that nominations have always gone to the Judiciary Committee when, in fact, the Senate used to serve as a Committee of the Whole. The nomination came to the floor and was considered by the entire Senate—debated by the entire Senate—without there being a previous committee action, committee hearing. Brandeis was the first for whom the Judiciary Committee held a hearing. He was denounced by a number of folks because they argued that he was unfit to serve. There was, by many people's estimations, a heavy dose of anti-Semitism at work. Despite that, Justice Brandeis was confirmed by the Senate by a vote of 47 to 22.

Then we turn to John Clark—also in 1916. Justice Charles Hughes had resigned from the Court in June of that year in order to run for President against the sitting President, Woodrow Wilson. He is the only Supreme Court Justice ever to resign from the Court and run against a sitting President. In fact, as far as I know, he is, perhaps, the only one to resign from the Court and run for President at all. A month later, on July 14, Wilson nominated John Clark to fill the open seat. On July 24, 10 days later, the Senate confirmed him.

This brings us to Benjamin Cardozo in 1932. Benjamin, prior to Scalia's dying, was the last of this group of nominees who had the vacancy occur before the election and the nomination occur before the election. Benjamin Cardozo was nominated on February 15 by President Herbert Hoover to replace retiring Justice Oliver Wendell Holmes. Because he was a Democrat who was appointed by a Republican President, his nomination is considered to be one of the few Supreme Court appointments in which one could find no trace of partisanship. On February 24, 9 days after the nomination, Justice Cardozo received a unanimous voice vote by the Senate.

So there are the 15 times that there has been a vacancy in an election year, and in all 15 times, there was action by the Senate until last year. That brings us to 2016 when the vacancy occurred, the nomination was made, and the Senate chose not to act.

We certainly have entered new territory with this decision to amp up partisan tactics to pack the Court by stealing a Supreme Court seat. No one in this Chamber should be comfortable with that. For any of my colleagues who are feeling comfortable with it, just pause for a moment and ask yourself: Would you feel comfortable if the parties were reversed? If this were a Democratic majority stealing a Supreme Court seat from a Republican President, I ask you: Would you feel comfortable if the tables were reversed?

I think, probably, every Member on the Republican side of the aisle would say it would be outrageous if the Democratic majority stole a seat—a tactic never before used in our history—to deliver it to a future Democratic President. That would be unacceptable. That is the ability to walk in someone else's shoes and to look at an issue from the viewpoint of our obligation to the institution rather than from simply advancing the desires of the short-term political rewards, if you will.

For 293 days, no action was taken on the nomination. It was a complete break with Senate tradition, with Senate precedent, with U.S. history. There were 16 nominations to fill a Supreme Court seat that became vacant in an election year, and only one seat was stolen—the seat that opened up when Antonin Scalia died and Merrick Garland was nominated.

Among the hastily crafted pretexts for stealing this seat—and I mentioned this earlier, but I will mention it again—some raised the so-called ''Biden rule.'' There is no such rule in our rules, and there is no such speech that presented a rule. There was a speech in which Vice President Biden said that if there is an open seat, the Senate might be wise in an election year not to consider it in the heat of the election. That is simply a statement of respect for the Senate's ability to be the cooling saucer, to have thoughtful dialogue that maybe could not take place in the final months of a Presidential campaign.

I think most of us would say, if we had a nomination and we were coming together in September or October of an election year to consider it, maybe it would be better to wait until after the election in November to be able to have that thoughtful dialogue then. That is really merited by the importance of a Supreme Court vacancy and nomination.

Virtually everyone here would agree with the comment that Senator Biden made, but recognize this: His comment was in the abstract. There was no open seat. His comment was in the context of a speech in which he went on to say shortly thereafter, with regard to his theoretical situation in which he would consult with both sides of the aisle, if the President were to nominate somebody in the mainstream, he would probably win his vote, which was conveniently left out by my colleagues who referred to this.

The idea that we try to depoliticize and thoughtfully consider, which was the gist of Biden's comment, is one we should all respect. If you have to go back to a comment that was made in a speech many, many years ago by one Senator in order to justify the stealing of a Supreme Court seat and if you ignore history, ignore precedent, and ignore the Constitution in order to do so, you really know that your argument is not just on shaky ground, but it has no grounds.

I will read a little bit of what this was all about. These are the remarks I have that were given back then.

It begins:

> Given the unusual rancor that prevailed in the (Clarence) Thomas nomination, the need for some serious reevaluation of the nomination and confirmation process and the overall level of bitterness that sadly affects our political system and this Presidential campaign already, it is my view that the prospects for anything but conflagration with respect to a Supreme Court nomination are remote.
>
> In my view, politics have played far too large a role in the Reagan-Bush nominations to date. One can only imagine that role become overarching if choices were made this year, assuming a Justice announced tomorrow that he or she was stepping down.
>
> Should a Justice resign this summer . . . actions that will occur just days before the Democratic Presidential Convention and weeks before the Republican Convention, it is a process already in doubt in the minds of many and would be become distrusted by all. Senate consideration of a nominee under these circumstances is not fair to the president, to the nominee, or to the Senate, itself.

There it is. Depoliticize the debate that we are to have. Move that debate outside of the context of the heat of a campaign.

He went on to say:

> President Bush should consider following the practice of [some] predecessors and not . . . name a nominee until after the November election is completed.

Get the nominee out of the heat of the political campaign. That was actually something that we saw in a couple of these nominees. These are cases in which the vacancies occurred before the elections, and the Presidents waited until after the elections to name the nominees. That is the essence of what Biden was referring to: Get the nomination out of the heat of the campaign.

I do think that you have such an imbalance in this argument to anyone who opens his eyes to the conversation. You have, on the one side, our history of 15 vacancies during an election year, when the Senate acted on all 15 before Antonin Scalia died. On that same side of the scale, you have our constitutional responsibility to provide advice and consent. On the other side of the scale, you have a comment by former Senator Biden, then Vice President Biden, who was saying, actually, take a nomination out of the heat of political passion for it to be considered, which is completely consistent with our history.

It is the Constitution and our history versus an out-of-context comment made by a former Senator, in a theoretical situation, but he actually did

not say what folks said he said. It is clear where the weight of this argument lies. That is what makes it such a transparent transgression against our Constitution, a transparent transgression against the integrity of the Senate because the majority leader asked the Senators not to do their constitutional responsibility to provide advice and consent, a transgression against the Supreme Court because we now have a stolen seat and a precedent that will haunt the legitimacy of the Supreme Court for decades to come should we proceed down this route, should we continue with this conversation, should we have a vote, and should we—and I so hope we do not conclude with this theft being fully accomplished this week. It is such significant damage to everything—our institutions, the credibility of the Court, our responsibilities.

Well, some have said: Why filibuster? Every time I say ''filibuster'' it gets very confusing because it is hard for people to think—what does ''filibuster'' mean? Is it speaking at length? Well, yes, it is. In some historical context, speaking at length has delayed action. It was the set of speeches when Woodrow Wilson wanted to arm commercial ships before World War I that prevented the Senate from acting to approve that. Those speeches were around the clock.

By the way, the term ''filibuster,'' where does it come from? What does it mean? Well, it is, I guess, an evolution of the word ''freebooter.'' A freebooter was a pirate, so I guess you could say piracy. The folks who spoke at length to stop consideration of putting arms on our commercial ships took over the Senate and didn't let it act. But that is one way to view it.

Another way of viewing it is that we had the courtesy of hearing everyone in the original Senate. The Senate got rid of the direct motion to close debate because they didn't need it, because they wanted to hear from everyone. It is a tradition of letting everyone be heard and protecting that tradition.

So now that we have restored this motion to close debate, where the Senate rules require a supermajority, they were basically saying most of the time we are going to hear everybody out. It will take the large bulk of the Senators to close debate. That was used in a very few circumstances—almost never on a motion to proceed, almost never on an amendment, and rarely on final passage of a bill because it was considered that the Senate needs to act. It is a legislative body. On the other hand, we don't want to have this place be paralyzed.

To use the analogy of George Washington's cooling saucer, he said the Senate should be a cooling saucer, not a deep freeze. But too often, the abuse has resulted in the Senate being unable and paralyzed to act.

So here we stand with this concept that it is hard to put your hands around, and many of us are saying we should not close the debate on this nominee, if such a debate—if such a vote is held on Thursday, we should vote against closing debate. In the modern Senate rules, that is what a filibuster is; you are voting against closing debate. It comes down to this: 60 Senators have to be supportive for someone to be on the Supreme Court. That is to protect the integrity of the Court so that you don't have nominees from the extreme edges. The President, knowing that the Senate might not have 60 votes for someone from extremes, is thereby encouraged to produce a nominee that is someone from the mainstream. That is the power of the supermajority. And having people from the mainstream of judicial thought sustains the integrity of the Court in the eyes of the citizens. That is why many of us believe that we should vote against closing debate.

If we close debate on Thursday—and let me repeat again that this is the first time in U.S. history that the majority leader has filed a petition to close debate on the very first day of debate, the first time another of this stream of incredibly partisan tactics designed to pack the Court—the first time in U.S. history.

It takes two days before the vote can actually be held. The majority leader announced to file the petition earlier today, and the vote cannot be held until Thursday. When that vote is held, there will be at least 41 Senators who say we should not close debate. In other words, there will not be a supermajority of 60 necessary to close debate. That is what I am predicting. That is what my crystal ball says.

Why do I believe that there will not be 60 Senators to vote to close debate? Well, I will tell you now that I can say that is very likely because at least 41 Senators have announced that they will vote against cloture. They have made their announcements.

Turn the clock back to when I first stood up and said: This seat is stolen, and we should not vote to close debate. We must filibuster, which means the same thing under the rules of the Senate. I said this in order to stop the theft of Supreme Court seat-stealing. If this theft is successful, it will damage the Court forever, and it will result in not just the integrity of the Court being damaged, but the different decisions—a different set of decisions because, while we don't know exactly how Merrick Garland and Neil Gorsuch would vote on any individual case, we know from their records that one is straight down the middle and the other is on the very, very far right from a list vetted by two rightwing Republican organizations.

So we can ask: Did the President ask the nominee how they would vote on this case or that case?

Take, for example, the right of a woman to reproductive health that she feels is correct, keeping the politicians out of the exam room. Well, what we know is that the nominee before us at this moment came through a process of rightwing vetting through two organizations before being put on a list that was sent to the President. So we have a pretty good idea of how the nominee is going to vote on this issue.

The nominee wouldn't answer any questions before the Judiciary Committee. It was pretty much what you would call a farce: a question asked, a question not answered; a question asked, a question not answered; a question asked, a question not answered.

A number of my colleagues went into that Judiciary Committee hearing feeling they were really open to hearing the judicial thought and seeing if this nominee was really as far off the charts as everything else indicated. And the fact that he refused to answer a question over a week of hearings basically said to them, yes, now we know; now we know the answer.

So it is to protect the integrity of the Court that we must not close this debate on Thursday. That is why we want to insist on keeping the 60-vote standard. That is why the 60-vote standard exists.

There are some who have said: Hey, maybe we should try to figure out a way that we can preserve the 60-vote standard by not really using it as a tool for this particular nominee, and by not making it an issue, we have a tool for their future. It is kind of like coming into a confrontation and a person has a confrontation and they pull out their swords, and then say: I am going to lay down this sword and let you have your way until next time because that way I will still have my sword when I come back again. So you come back again next time: Oh, I have to lay down my sword again.

What are they confronting? Why are they saying we should perhaps consider not honoring the tradition of utilizing the 60 votes when there is a cloud over a nominee—not utilize the filibuster? There is this goal of saying: Well, that way maybe we keep the rule as it is. And why are they worried about that? Because the majority has said that they will consider changing the rule.

Well, many of us have a message for the majority—a message based on the way the Senate has acted over hundreds of years. If you don't have the votes, change the nominee, not the rule. That is the way it has been done time after time after time. On those 15 occasions when there was an open seat prior to Antonin Scalia passing away, the Senate didn't approve every nominee; they rejected several of them, but they considered every single one. And when they were rejected, they didn't change the rule; the President changed the nominee. That is what should happen in this case.

Some have said: Well, we have seen such disrespect for the Constitution. We have seen the urging of the majority leadership to not exercise our advice and consent responsibility under the Senate last year, and they made it happen. They enforced it. We have seen

the first-ever filing of a cloture petition to close debate on a Supreme Court nominee on the first day of a Senate debate; it has never happened before, to ram this through in a way never seen before in U.S. history. And is it too much to imagine that the Senate majority would also, instead of following Senate tradition when a nominee doesn't have the votes and telling the President to change the nominee, would instead change the rules? Yes, it is possible, when you look at that. But that is a decision that we can't control on our side.

When we looked at the tremendous obstruction that was being used for executive nominations and lower court nominations, we had to find a way to quit having advice and consent being used as a tool of legislative destruction against the other branches of government.

Our whole Constitution was founded on three coequal branches of government, but you can't have three coequal branches if one branch wields a tool—a tool that was intended to be used very rarely—of rejecting nominees when nominees weren't suitable, using it as a wholesale power to destroy the executive branch and undermine the judiciary. So we addressed that in 2013, but we left in place the supermajority for the Supreme Court. In some ways, you can think of the fact that, well, we tolerate a wide range of positions coming out of the lower courts. There is a check and balance there. It is called the Supreme Court. But there is no check to the Supreme Court. They are the final decision maker. That is why you leave in place the supermajority requirement to tell a President: Do not nominate from the extremes.

We have a President who likes to, well, I would say run counter to tradition. So that is maybe part of the appeal and why he is in the office. He looked at the power of the Senate, and we don't know if he even actually understood any of the background as to why we had a supermajority to close debate, why we had a 60-vote requirement. He said that he didn't care; he was going to nominate from the extreme anyway. And having nominated from the extreme, now the same groups that want extreme rulings for the powerful and the privileged are pushing tremendously hard, just as they did last year, for the majority to steal the seat in the first place.

But aren't we 100 individuals who could possibly set aside those tremendous pressures from those powerful dark-money interests and actually do the right thing for the Constitution and the Senate and the Supreme Court? Don't we have the ability, the soul, the insight to defend this institution at this moment? What everyone here must understand is that when people look back—if the decision this week is to destroy the 60-vote requirement that tempers the nominations to the final decider about what our Constitution needs—this is stripping away a key element in protecting the integrity of the Court, and it will be looked on as a very, very dark moment in which the Senate failed in its responsibility.

Let us not fail. Let's have some Senators who will remember that they stood up on that podium and they took an oath of office, and that had to do with advice and consent which was violated last year. Embedded in that was the responsibility to protect this institution and the rest of the other two branches of government, so they could function in a way our Founders intended them to.

I know that come Thursday, if there is a motion to change the interpretation of the rule—the way this works is that the majority won't actually change the rule. They will change the interpretation of the rule. For all practical purposes, it is basically the same thing. At that moment, we are going to be put to the test.

The reason it is called the nuclear option is because changing a rule—a basic function of the Senate, designed to protect the integrity of the Supreme Court—and undermining and damaging the integrity is like blowing up the institution. That is why it is nuclear. It is the big bomb. It is the most destructive weapon known in the legislative arsenal.

There will be some Members, I know, who will hesitate, some from the viewpoint that they have a responsibility to protect the institution. There will be others who will hesitate from political expediency. They will say: Yes, this is a pretty good deal to get the justice in place that our backers want. But on the other hand, the shoe might be on the other foot in 4 years. There may be a Democratic President, and maybe that President gets three nominations. If we blow up this rule, there will be nothing to temper the type of appointment made by that future President. That is something I am sure people will consider.

Apart from the out-of-context, standing-on-its-head example from Vice President Biden's speech, the other argument was: Well, let's let the American citizens decide. That was the second excuse for stealing the seat. Well, the people did speak. They spoke when they elected Barack Obama in the first election, and they spoke again when they elected him for the second election. They didn't elect him to serve 3 years out of 4, but to serve 4 years out of 4. They didn't elect him to execute his constitutional responsibilities 3 years out of 4. They elected him to serve his responsibilities, including nomination responsibilities, for 4 out of 4. He won that second term by a margin of over 5 million votes. That is a big margin. President Trump lost the citizens' vote by a margin of over 3 million votes. That is a pretty big disparity. It is an 8 million vote disparity between Obama's victory and Trump's loss of the citizen vote. So if we want to have the people have a voice, they have weighed clearly and President Obama considered his nominee. As to the fact that they wanted the people to weigh in, they weighed in and said they trusted Hillary Clinton more than Donald Trump to execute the responsibilities of office. That is the citizen vote by more than 3 million.

When the President campaigned, he said: I am going to drain the swamp, I am going to take on Wall Street, and I am going to help out workers. We have seen quite the opposite. The very first action he made—the very first action—was to make it $500 a year more expensive for families of modest means to buy a house. How does that possibly fit with fighting for working Americans? How does that possibly fit with that?

Then he put forward a plan on healthcare—TrumpCare—in partnership with Ryan. Ryan wants it to be called TrumpCare; Trump wants it to be called RyanCare. Neither one wants their name on it because it takes away healthcare from 24 million Americans. It makes healthcare out of reach for working Americans. That certainly wasn't fighting for working Americans, stripping healthcare. It is, basically, a weapon that hurts in two ways: If you don't have access to healthcare, you are worried that your loved one won't get the care they need. Then you are worried that if you do find access by basically paying much higher rates than anyone with insurance has, you will be bankrupt, and America had this vast number of bankruptcies.

So Trump, who campaigned on helping workers, said: I am going to strip away your healthcare. I am going to take away your peace of mind that your loved one will get care. We are going to return to a world where, if you do find care, you will be bankrupt. How do you like that plate of potatoes? Working America didn't like it. They called Capitol Hill and said: Stop this diabolical plan to undermine healthcare. Stop this plan. They said it on phone calls, they said it on emails, they said it at the townhalls, and the House abandoned the plan due to the outcry of workers across America who had finally—finally—found access to healthcare, thanks to the Affordable Care Act.

Then President Trump sends his anti-worker budget—what they called the skinny budget, the outline of the budget—over here to Capitol Hill. I was out doing townhalls in rural Oregon, and I think I got much the same reaction that probably everyone else did across the Nation. This wasn't America first. This was rural America last, including rural workers—especially rural workers.

The President campaigned for workers. He makes buying a home more expensive. He tries to strip away their healthcare, and, then, he hits them with a budget in rural America that will devastate their communities. You have a challenge with affordable housing? I am going to take away a good share of the housing grants used as a

flexible tool. You have other challenges in your community that you use community development block grants for. We are going to strip those as well.

Your rural county has a lot of Federal land? This is probably more true in the West, where I come from, than in many other States. Your rural county has a lot of Federal land so you are compensated through Payment in Lieu of Taxes, the PILT Program? I am going to devastate that program.

Your rural community has essential air service? Well, we don't need that. Let's take that away. We don't need air service in rural America.

It made me think about the airport in Klamath Falls, in my home State. Klamath Falls is not on an interstate. I–5 goes down through Medford and goes through Ashland. So it travels further west, on into California, not through Klamath Falls.

We have some very substantial manufacturing capability in Klamath Falls. We have an F–15 base. Both of those are essential to the community. But to keep that manufacturing there, to keep those companies there, to keep that airbase there, we have to have a functioning airport. The company that was servicing that town stopped, moved their assets somewhere else, and left that town stranded.

I immediately called the mayor and called the House Member representing that district and said: We have to get air service back. The managers of the manufacturing capability in doors and windows are not going to want to have their operation in a place they can't fly into. Flying into Medford and driving a dangerous, winding mountain road for well over an hour—often impassable or very dangerous in winter—is not going to cut it. We have to restore that air service. We went to work and we teamed up. We teamed up with colleagues across the aisle. Why did we undertake this? Because air service was essential to that economy. So here is President Trump, sending a ''rural America last'' budget which devastates rural air.

Let's talk about the Coast Guard. Oregon is a coastal State. My colleague presiding is from a coastal State. Our Coast Guard is pretty important to our States. But President Trump said: Let's savage the Coast Guard. Here is the thing. The Coast Guard actually stops a lot of bad things from happening along our coastlines. They save lives, and they stop drug traffickers. Ere is Trump's anti-worker budget: Let's take away the wall along the ocean—the Coast Guard—which stops drugs and other bad things from happening, and rescues people, and spend it on a wall on the southern border. What? I thought, Mr. President, you said the wall on the southern border was going to be paid for by some other country—that country on the southern side of the border, not the American taxpayers. You are going to essentially take away that virtual wall of defense along our coastlines in order to build this wall on the southern border?

I went down on a congressional delegation to meet with Mexican officials in Mexico City. We met with the Attorney General. We met with the head of their economic policy. We met with a whole group of Mexican senators, and we heard a lot. But what I found even more interesting was going to the border on the American side and talking to the American experts on the border. We asked them: How do drugs come across the border?

They said: Well, they come through freight. There is so much freight moving. You can tuck drugs into a freight truck. We find some of them but not most of them.

They said: Second of all, it comes across in tunnels. The tunnels are very expensive to build. They are often very long, well-engineered, and very expensive. You don't use them for people because they would be easily detected then and shut down and you would lose your investment. You use them to bring drugs into the country.

The point the border experts made is that the wall will be useless against stopping drugs from coming into our country because the drugs come through freight and they come through tunnels, but they don't come through backpacks. OK. That was interesting for the President to argue that was something he was going to address, to stop this massive inflow of people coming from Mexico to the United States. We looked at statistics, and it turns out that over the last 8 years, the net flow has been out of our country to Mexico, not into our country from Mexico—by a million people.

So that is really a situation where you have the triple threat against workers that President Trump is applying—making home ownership more expensive, proceeding to take healthcare away from millions of American families, and putting forward a budget that savages rural America in method after method after method. I am sure my colleagues will work on both sides of the aisle to stop the savaging of rural America, but clearly that is the President's vision. That was the worker part.

Then you had the ''I am going to take on Wall Street'' part. What did he do? He put the economy under the control of Wall Street. He had attacked a colleague here in the Senate from Texas during the primary campaign for his ties to Goldman Sachs. He attacked his general election opponent, Hillary Clinton, for ties to Goldman Sachs. Then he puts Goldman Sachs in charge of our economy, Treasury Secretary, strategic adviser. The list goes on and on. So much for taking on Wall Street.

Then there is the ''drain the swamp'' proposition. Well, big, powerful, fabulously rich folks deeply connected to those interests—that is the Cabinet. So you have Big Oil and big banks and billionaires. That is the Cabinet. That is the swamp Cabinet.

So all three promises the President made, after he lost by 3 million votes, he has gone on to devastate over the last few months. That is the foundation for saying ''Let the people speak''? The people spoke against—they voted majority against this President. They voted vastly for the election of Barack Obama, and the vacancy occurred on Obama's watch. This is a seat stolen from one Presidency and shipped to another with the packing the Court and a flimsy excuse from a quote from Biden taken out of context, a flimsy excuse of ''Let the people speak.'' When the people spoke, they supported President Obama by this vast number of popular vote. And Trump lost. So I guess the people did speak, but they spoke to the opposite side. So much for the foundation for this crime against our Constitution.

Speaking of the President, it is unacceptable that we are considering this nomination at this moment. At this moment, when the Trump campaign is under investigation—an investigation being conducted by the FBI, another investigation by the House Intelligence Committee, and another investigation by the Senate Intelligence Committee—it is unacceptable that we are considering this nomination at this moment when there is a cloud over the Presidency because of the conduct during the campaign.

We know some things, and we don't know others. We know that Russia sought to influence the U.S. election. We know they used an extraordinarily intense, carefully crafted strategy to influence the American election. What we don't know is the full extent of the conversations between the Trump campaign and the Russians who sought to get Trump elected. We don't know that. That is why we are having investigations.

If those investigations find that there was collaboration between the Trump campaign and the Russian Government, that is traitorous conduct—conspiring with an enemy to attack the institution at the foundation of our democratic republic, our elections. That is a very big deal, and that is why this debate should not be here on the Senate floor until that issue is fully addressed. We should not have the sitting President's nominee debated with the potential of being put on the Supreme Court when many questions remain about whether they conspired with a foreign government to undermine and tip the election we held in November.

Then there is the fact that the nominee is an extreme far-right nominee, even further right than Justice Scalia or Justice Thomas.

Analyzing the opinions of the Tenth Circuit since Judge Gorsuch joined in 2006, the Washington Post found that Gorsuch's actual voting behavior suggests that he is to the right of both Alito and Thomas, and by a substantial margin. The magnitude of the gap between Gorsuch and Thomas is roughly the same as the gap between Justice Sotomayor and Justice Kennedy during

the same time. In fact, our results suggest that Gorsuch and Justice Scalia would be as far apart as Justices Breyer and Chief Justice Roberts.

Gorsuch has advocated far-right conservative positions—not ''we the people'' positions, ''we the powerful'' over the people positions—positions even Scalia has opposed.

This nomination matters. Are we going to have decisions that reflect our Constitution, ''we the people'' decisions, or decisions that turn our Constitution on its head and create a government of, by, and for the powerful? We have a 4–4 split—the analysis of decisions to concede the twin peaks. Decades ago, we would have probably seen a single bell curve, not twin peaks, but what used to be here has migrated. Half of the Court migrated over there, as the Court has gotten further and further away from the fundamental vision of the five-vote majority. The Court now, without Scalia, is split 4 to 4, so this nominee will change the balance of the Court.

There is certainly an opportunity to put in somebody who is straight down the middle. We didn't really know exactly where Justice Merrick Garland would end up, and by all counts, it was anticipated he would be right down the middle. We know something different about Neil Gorsuch. The Court is split 4 to 4 now, and this nomination will change that balance. That is a very important reason that accentuates why this nomination should be set aside until we know if the President's team conspired with the Russians. We should clear up that cloud first.

I am going to go back and review some of the cases that give us substantial concern. I am going to try to locate more details. Meanwhile, I will just share a little bit about the record of 5-to-4 decisions.

Senator WHITEHOUSE has proceeded to do an analysis—or shared an analysis done by others—to look at 5-to-4 decisions of the Court and what has happened in recent memory. Were those decisions designed to accentuate the ability of powerful special interests that changed the makeup of the body? Was it that sort of interference? Was it interference that favored corporations or decisions that favored corporations over people? If I can get the details, I will go through it in detail.

What this analysis found was that the previous decisions of the Court with Scalia on it made campaign finance decisions and other decisions related to things like the Voting Rights Act that made it harder to have the elections that really reflected the voice of the people.

Let me give some context. The Voting Rights Act was passed in 1965. It was passed because different groups around America were messing with the elections to try to keep people from voting. There were elements of this that went way back in our history. There were tests that were applied, constitutional tests. African Americans might try to seek to register to vote and would be given a test that was an impossible question to answer. The same test would be given to White voters. There were all sorts of strategies to try to bias the election process.

So it was a big deal in 1965, and the Senate and the House said: No, we are not going to allow these types of tactics to be developed and utilized because they are an attack on the rights of Americans—the fundamental right to vote, to have a voice, and to help direct the direction of our country by campaigning and voting for those who have a better vision of where we are going to go.

So Congress acted and did so by saying: If you have new strategies for how you are going to control the elections, you are going to have to get those strategies preapproved because the record in your particular State has been that you abused those strategies to suppress the fundamental right of individuals to vote.

So one of those decisions was to say by a 5-to-4 decision: We are going to take away the power of the Voting Rights Act—which is almost unexplainable. The argument was more or less a version of, we don't need this anymore. We moved past that. We don't have the same problem. So we should have the same rules for all the States.

But what we immediately saw with the lifting of the Voting Rights Act was that those States that were under the Voting Rights Act immediately started working to do voter-suppression tactics—efforts to prevent individuals from voting in all kinds of ways—phony ID strategies, all sorts of manipulation of the precincts.

(Mr. CRAPO assumed the Chair.)

So it matters. The fifth seat on the Court matters a great deal. We have six decisions that have flooded the elections with special interest money and affected access to the ballot. In these 5-to-4 decisions, the people have lost in all six cases. So I am going to share those. Then there are 16 cases in which there have been 5-to-4 decisions. In all 16, the 5-to-4 Court ruled in favor of the corporations over the people. So in terms of campaign shenanigans, we have lost in 5-to-4 decisions 6 to 0. When I say ''we,'' I am talking about the American people who care about the integrity of elections have lost all six times under the Court that Scalia was on. On corporations over people, we have lost 16 to 0. I will start sharing these cases to show how much this matters.

Let's look at the issue of unleashing corporate spending. Citizens United v. the FEC in 2010. Under the First Amendment, donations and political contributions are considered free speech. The government does not have the right to keep corporations from spending money on political candidates. Money may not be given directly to candidates but instead may be spent on any other means necessary to persuade the public.

The decision held that political speech is crucial to a democracy and that it is equally as important when coming from corporations. So it essentially said: Look, if we translate that, what that means is that you have a group who was designed to take small amounts of investments from many, many people and combine them together to create the ability to take on larger commercial enterprises. That is a corporation. They sell shares. People provide funds through those shares. They provide those funds to the corporation by buying the shares, and the corporation can take on the big projects.

Out of those sometimes hundreds of thousands of shareholders, there is a small group, a board who decides how that money is spent. So you don't have the shareholders deciding how that money is spent; you have the small board. They aren't spending their own money; they are spending other people's money without asking their permission.

Are you kidding me? This entity didn't exist in this form. The Constitution didn't say that corporations are people and that these entities that really didn't even exist then have the same rights of ''free speech.'' The Constitution didn't say money is speech. No. Remember Jefferson's mother principle, which was that we will only make decisions and be successful as a democratic republic if each citizen has its equal voice. Citizens United is the opposite. It says: Those who sit on the board of gazillion-dollar corporations get a voice that is a gazillion times larger than the voice of an ordinary citizen. It is a complete contravention of the Constitution, and it is deeply corrupting and damaging our Nation. That is the 5-to-4 Citizens United case.

Then there was the American Tradition Partnership v. Bullock case in 2012. That overturned a Montana Supreme Court decision that banned corporations from spending money on political candidates and campaigns and found that political speech is protected regardless of the source, even when it comes from a corporation. In other words, Citizens United applies to this case as well.

The four dissenting judges did not believe that the Court was ready to review the same issues as discussed in Citizens United in spite of the fact that Montana's Supreme Court had noted the extreme power of corporations in politics.

OK, what is the story behind this? Montana was controlled by the copper kings. Back about 100 years ago, the people said: Enough. We want Montana to be controlled by the people of Montana, not by this vast concentration of special interest money that is making all the decisions.

So they passed a law, and they kept corporate money out of their elections to restore the integrity of elections. The Supreme Court turned a deaf ear on that case.

How about McCutcheon v. Federal Election Commission in 2014, which eliminated aggregate campaign limits. The decision found that aggregate campaign limits are invalid under the First Amendment because they restrict political expression. Aggregate limits do not further the government's interest in preventing the appearance of corruption—one of the main goals under the Bipartisan Campaign Reform Act.

They also found that corporations cannot be limited in the number of political candidates they donate to, as this restricts the influence of the corporations which they were equating to free speech.

So this was another erosion of the effort to have the vision Jefferson spoke to, the mother's principle that the government would express the will of the people. That is the same basic idea that Lincoln had when he phrased it in his famous address and said ''government of the people, by the people, for the people.'' But if you allow this vast concentration of money to be spent on campaigns to corrupt those campaigns, it is not government of, by, and for the people. It is like the copper kings. It is the fossil fuel kings. It is the Koch brothers running it.

In the Copper King case in the State of Montana, which Montana shrugged off and reclaimed and restored their government—versus the situation we have at the national level now with a similar parallel—the fossil fuel kings, the coal kings, the oil kings putting vast sums in—to Citizens United.

There was a case that had to do with whether laws were OK that restricted judicial candidates from directly soliciting donations for their campaign. My memory is that the Court said: You know what, it is OK to restrict judges who are directly soliciting donations because that would affect and bias their decisions and it would create the appearance of bias. So there was the reality of bias and the perception of bias. In other words, it would corrupt the courts.

So on an issue involving Justices, that ''we the powerful'' group—Roberts, Alito, Thomas, Scalia, Kennedy—that group said: Do you know what? No. No, we can't let money corrupt the election of judges.

But none of them have served in the Senate or the House, and they couldn't translate the fact that they wanted to defend the integrity of judges and that that was important under the Constitution and allow restrictions on how campaigns were done—they couldn't translate that to the bias and the corruption of what happens here.

I mean, anyone looking at the United States can see that a few years ago, we had a whole host of Republican environmentalists who cared about the next generation and the generation after and fought for clean air and fought for clean water. It was President Nixon who put forward the Clean Air Act and the Clean Water Act. It was President Nixon and the Republicans who proceeded to create the Environmental Protection Agency.

But what happened when the fossil fuel money fueled the campaigns that created the new Republican majority in the Senate? All concern for the environment was gone. That is corruption, plain and simple.

The Supreme Court—five Justices—proceeded to rubberstamp that it is OK to have that corruption—the complete opposite of the vision of our Constitution. They understood it when it was for judges, but they found for the powerful and the privileged and supported the corruption when it came to this body and the House.

Then there is the suppression of access to the ballot box. The Shelby County v. Holder decision of 2013 struck down section 4 of the Voting Rights Act, which included a suspension on many of the prerequisites or tests to vote. The Court held that this part of the Voting Rights Act no longer reflects the current conditions of voting. The formulae for determining whether a State can change its voting laws should no longer be federally reviewed, the Court said.

The decision declares that this section puts undue burden on local government during elections. Really? We saw how the fundamental right of citizens to vote was savaged in these States before the Voting Rights Act, and we have seen how those practices have returned after the Supreme Court struck down section 4 of the Voting Rights Act. That is why it matters.

Let's take a look at Bartlett v. Strickland in 2009, a case that affirmed the North Carolina Supreme Court decision that the State's redistricting plan does not violate the Voting Rights Act section 2. State officials do not have to ensure that minority voters have the opportunity to join with crossover voters to elect a minority candidate.

In this case, the Court found that the vote would not be diluted because the minority was comprised of less than 50 percent of the voting population. Due to the fact that the African-American minority was only 39 percent on the voting population, State officials had no requirement to redraw district lines.

What are we talking about here in real terms? Is gerrymandering OK to change the outcome of the congressional delegation? And the Court said it is OK.

Then there was Vieth v. Jubelirer—redistricting of a Pennsylvania congressional delegation from a Republican-controlled State legislature to favor Republican congressional elections. The Pennsylvania General Assembly was challenged by Vieth—that is the name of the challenger—that the redrawing of the lines was political gerrymandering, violating Article I and the equal protection clause in the 14th Amendment.

The opinion of the lower courts was affirmed, and Scalia wrote the four-member plurality which dismissed the case due to the fact that the Justices could not agree on an appropriate remedy for political gerrymandering. Scalia wrote the four-member plurality. Kennedy wrote a concurring opinion—so it is 5-to-4—but sought a narrow ruling so that the Court would still seek a solution.

Well, the bottom line is that in a 5-to-4 Court, that fifth vote matters. In these six cases, the decisions were all in favor of undoing the vision of voter empowerment and supporting the strategy of voter suppression, undoing the restrictions on gerrymandering to change the makeup of the congressional delegation or the makeup of State delegations and supporting such bias being written into the system.

These 5-to-4 decisions were all about allowing the most powerful, richest people to have a voice equivalent to a stadium sound system that drowns out the people in a position completely contrary to the equal-voice premise that Jefferson called the mother's provision, the foundation for whether or not our government would be able to make decisions that reflected the will of the people.

Then there is a set of decisions 5-to-4 opinions that were relevant to corporations over individual rights, and some of those overlap: Citizens United, McCutcheon, the American Tradition Partnership v. Bullock that we have already covered. Let's look at some of the others.

How about Burwell v. Hobby Lobby. Fighting to require corporations to provide female employees free access to contraceptives violates the Religious Freedom Restoration Act. The Court held that Congress intended RFRA to be applied to corporations. Corporations face a significant burden if they are forced to fund an action that goes against the corporation's religious beliefs. So let's give corporations a soul that has a religious belief. So not only has the Court extended the vision to corporations that they are somehow the equivalent to a super-rich bazillionaire individual, but they also have a soul and a religious belief. So concentrating this fantastic concentration of power and realizing that if the corporation made the decisions on the basis of the stockholders, with all of them having, essentially, input—but they don't because that is not the way a corporation works. You have a very difficult time trying to influence the thinking of a board of directors. You can make efforts. Rarely you might have a successful vote by a group of shareholders who take something to the annual meeting. But in general, that board operates in a world all its own, and they are spending the money—not their own money; they are spending the money of the stockholders without disclosing it to them. They actually steal the political speech by using the money in political speech without disclosing what it is. But that was the decision in Burwell

which gave a corporation the ability to follow its religious choices—that is, the board's religious choices—over the workers' religious choices in an area as sensitive as women's access to reproductive birth control.

Let's turn to Walmart v. Duke in 2011, a class action lawsuit brought by six women against Walmart claiming that Walmart policies resulted in lower pay and longer time for women to acquire a promotion—lower pay and longer time to get a promotion.

The Supreme Court found that the six women who were applying could not represent a class of the 1.5 million women employed by Walmart. They found that the employment decisions for this large number of people did not have enough commonality to be represented in one case—a 5-to-4 decision.

In a class action lawsuit, you have principals, and they represent a class of folks who have been treated similarly. Certainly this is an example of where in general you would expect that the experience these women had could represent the experience that women were getting at Walmart as employees, but the Court turned them down 5-to-4. Four said these women and other like-treated individuals deserve a hearing, and the majority of five said: No, no, no, let's protect Walmart.

Let's look at American Express Company v. Italian Colors Restaurant. Several merchants of the American Express credit card company brought individual cases alleging that the company's card acceptance agreements violate antitrust laws. The Supreme Court found that the American Express clause prohibiting class action lawsuits is enforceable. The high cost of bringing cases forward on an individual basis, which is impossible for an individual to do, was not a sufficient reason for the Court to override the company. Federal antitrust law does not guarantee a cost-effective process.

So here you have a 5-to-4 decision in which, again, you have individuals who have been on the receiving end of bad practices or at least alleged bad practices by a financial company saying: We were shorted a few dollars or maybe a few hundred dollars, but we can't possibly take on this powerful company's enormous office building full of lawyers unless we have a class action where we have everyone who has been similarly affected able to bring their case at one time, with one set of representatives, so that maybe there will be a little bit of a fair playing field.

You can't hire lawyers. It will cost you $1 million to hire lawyers to pursue a $100 issue. So unless there is a class action, there is no justice. It is justice denied and a green path for predatory practices by the large and powerful. Five-to-four decisions matter.

Comcast Corporation v. Behrend. SCOTUS ruled that a district court is not allowed to certify a class action lawsuit without acceptable evidence that the damages can be measured on a class-wide basis. They found that the lower court failed to properly establish the impact of the damages on all of the plaintiffs. Courts must find that the model to prove damages are class-wide and quantifiable.

Let's translate this. What does this mean? The Court, on a 5-to-4 basis, is setting very high standards for establishing the legitimacy of a class action lawsuit. You have to be able to prove that the entire class is affected, not just probably, and it is quantifiable. So they are making it very difficult.

Four Justices said: No, that is ridiculous. That is absurd. That is a standard that makes no sense. But the five ruling for the powerful and privileged said: OK, we can tighten this up and make it harder to challenge predatory actions by large corporations.

We have AT&T v. Concepcion. Customers of AT&T brought a class action claiming that the company's offer of a free phone was a scam because they were still charged the sales tax on the new phone. It wasn't free; they had to pay a tax.

SCOTUS found that the Federal Arbitration Act displaces State law stopping companies from offering contracts that do not allow class action lawsuits. Therefore States cannot make laws that allow companies to prohibit their customers from bringing forward class actions. But the bottom line is that the way this was framed, it had an impact of a 5-to-4 decision with corporations over people.

Janus Capital Group v. First Derivative Traders in 2011.

Most folks didn't even know there were these many cases affecting powerful corporations and their predatory practices and the ability of ordinary people to take them on, but here they are one after another.

Janus Capital Group created Janus Capital Management as a separate entity from Janus Capital. The plaintiffs claimed that JCG should be held liable for misleading statements by JCM regarding various funds, most notably the market timing of the fund's practice of rapidly trading in and out of a mutual fund to take advantage of inefficiency in the way the funds are valued.

This was not permitted. The Fourth Circuit Court found in favor of the plaintiffs because the investors would have inferred that even if JCM had not itself written the alleged statements, JCM must have approved the statements. After all, JCM was created by JCG. But SCOTUS reversed the circuit court's finding that the false statements were made.

So each of these cases involved efforts to tighten or narrow the channel through which ordinary people can challenge the conduct of the powerful. The powerful can use a series of strategies—in this case, creating a subsidiary—to bypass responsibility for misleading statements.

Ashcroft v. Iqbal in 2009. The case concerns the arrest and subsequent treatment of Javaid Iqbal at the Metropolitan Detention Center in Brooklyn, NY. Iqbal and several thousand other Arab Muslim men were arrested as a part of the investigation into the then recent September 11 terrorist attacks. Upon his release, Iqbal brought suit alleging discrimination and 21 constitutional rights violations by the Department of Justice, Bureau of Prisons, and FBI. The defendant argued that their official government roles protected them from suit.

The U.S. district court denied the defendants' motion to dismiss—that is, protected the ability of the suit to be brought—and supported their qualified immunity defense. The U.S. Court of Appeals for the Second Circuit affirmed the district court's ruling with one exception: They ruled that under the defendant's qualified immunity defense, it was not a violation of due process given the context of the terrorist attacks' unique circumstances. The Supreme Court then upheld the finding of the Second Circuit.

Again, each case is a narrowing and a finding of individual against a corporation or a larger entity in a 5-to-4 decision.

These cases—I don't think I will go through all of these remaining six cases, but I think you get the general idea. The bottom line: In 5-to-4 opinions, corporations won 16 times and ordinary people won zero times.

So I want to go back to the fact that Gorsuch himself is an extreme judge, and I think it is important to talk about the cases he was involved in directly. What I have just been laying out is that a 5-to-4 Court makes an enormous difference. Is the Court going to look for every possible way to deny the opportunity for ordinary citizens to take on the powerful and the powerful to get away with predatory practices, or are they going to honor the vision of government of, by, and for the people? That is the fundamental question in a 5-to-4 Court. And Gorsuch fits right into that because the vision of honoring the ability of people to take on the powerful in a system of justice versus a system that perpetrates injustice by allowing the powerful to get away with predatory practices against ordinary people and constrains the right of individuals and expands the rights of corporations—that turns corporations into predator superhumans with more money than any one individual and more power than any one individual and more campaign cash than any one individual. In fact, a corporation will often have more cash to be spent in a campaign than the rest of America—perhaps the entire rest of America put together.

When the Koch brothers said in January 2015 that they were going to spend nearly $1 billion in the next election, do you think there were many Americans who said: Well, well, I can do that. No. That would represent the political spending by virtually all the rest of America. That is the challenge of the concentration of power in our country.

We have seen that there are a whole series of cases that allow gerrymandering and voter suppression and campaign spending and dark money designed to corrupt the ''we the people'' elections, the foundation of our democratic Republic. We saw a whole series of cases that involve finding for the powerful corporations in restricting the rights of people to band together to challenge them through class action lawsuits. That is the difference between these two parts of the judicial decisions, and Neil Gorsuch is way to the right.

So let's look at the preamble to our Constitution: ''We the People of the United States, in order to form a more perfect union, establish justice''—those are the next words, ''establish justice.'' What kind of justice is there if the Court continuously allows the corruption of our elections? What kind of justice is there if the Court continually restricts the power of ordinary people to bring a case against a predatory practice of a powerful institution? That is the question.

Our Constitution that starts out with those three beautiful words that I quoted many times tonight, ''We the People,'' also has a vision of establishing justice. How is it that this group of Justices has forgotten that our Constitution was about establishing justice? Well, that is a big concern.

However, what we find is that Neil Gorsuch is coming to his court decisions and to his writing from a viewpoint of how to arrange the details to help the powerful come out on top.

(Mr. STRANGE assumed the Chair.)

Let's look at the frozen trucker case. Anphonse Maddin was transporting cargo through Illinois when the brakes on his trailer froze because of subzero temperatures. Maddin did the responsible thing: He didn't move the trailer anymore because without brakes, he would have been endangering the lives of everyone on the road. So to protect others, he refused to operate the truck. After reporting the problem to the company, he waited 3 hours in freezing temperatures for a repair truck to arrive. He could not even wait in the cab of his truck to keep warm because the auxiliary power unit was broken.

After waiting 3 hours in subzero temperatures, his torso went numb, and he began having difficulty breathing. He could not feel his feet. He felt his life was at risk. He unhitched the disabled trailer with its frozen brakes because he thought it was absolutely dangerous to drive with a full load without brakes, and he drove the cab to a place where he could get warm.

Even as he was driving away, even after he had reported his numbness and difficulty breathing, the company was still radioing Alphonse Maddin to wait in the dangerous, frigid condition or to drive with a full load and frozen brakes. The company wanted him to drive with frozen brakes. The company wanted him to drive in those temperatures, with ice on the road, and with a full load. Help arrived about 15 minutes after Maddin made the decision to leave. As soon as he heard that, he turned around, and he returned to the trailer, but TransAm Trucking fired him for leaving the trailer unattended.

The argument that TransAm Trucking had used for firing Alphonse Maddin was, instead of remaining in the dangerous, freezing conditions and refusing to drive because of there being a disabled trailer, he drove away without the disabled trailer. In the company's mind, Maddin had two choices: one, freeze to death or, two, drive the disabled vehicle with the frozen brakes and trailer attached, putting other people's lives at risk. He had two choices: Put his own life at risk or put everyone's life at risk.

The Department of Labor looked at this and said that the truckdriver was fired in violation of the Surface Transportation Act's protections and that he should be reinstated with back pay.

The case made its way up to the Tenth Circuit. The Tenth Circuit said: Absolutely, the law is written so that truckdrivers will not operate under dangerous conditions in order to protect their safety and the safety of the public. That is the way the law is set. The Tenth Circuit said: Yes, that is the way the law is set. That is what is written in the law.

Judge Gorsuch wrote a dissent. He twisted and strained the statute. He wanted to find ways to minimize the word ''health'' and the word ''safety'' and stated that the finding for the driver was improper because it used the law as a springboard to combat all perceived evils, which is a quote: ''as a sort of springboard to combat all perceived evils.''

No, the law was designed to protect against a specific evil, which is people operating vehicles in a manner that endanger themselves or others. You cannot be fired as a truckdriver for operating a vehicle in order to protect the lives of others. The truckdriver, who was operating responsibly—Alphonse Maddin, who was operating responsibly—said: I am not going to endanger others.

He was fired for it. The Department of Labor said: No, you cannot fire him. That is why the law is written that way. The Tenth Circuit said: No, you cannot fire him. That is why the law is written that way. Yet Neil Gorsuch found some way of twisting the words to say: Huh, let's find a way to make this work for the corporation rather than the individual.

Even the law says that you are protected from being fired for refusing to operate a truck that endangers yourself or others. Even the law says that. Let's find a way to go the other direction and find on the side of the company.

Gorsuch wrote that his employer gave him the very option the statute it must. Once he voiced safety concerns, TransAm expressly permitted him to sit right where he was and wait for help. They gave him two choices: Sit and freeze in the cab, even though his torso had gone numb and at his own risk to his own health, or drive the trailer and endanger everybody's life—a lose-lose proposition. Gorsuch ignored the side of the statute that involved the safety of the driver as well as of the people.

He dismissed the Department of Labor's view in saying that there is simply no law that anyone has pointed to us giving employees the right to operate their vehicles in ways their employers forbid.

Yes, there is. The law says that you cannot fire someone for driving or for refusing to operate a vehicle in a manner that endangers other people's lives.

The majority of the court that supported the Labor Department's reasoning called Gorsuch's reasoning ''curious.'' That is the polite way of saying that we have no idea how he could possibly have twisted the law in this fashion. If Gorsuch had gotten his way, there would have been no justice for Alphonse Maddin—a pure decision of the frozen trucker, a decision devoid of common sense, totally detached from the law as written. That is the frozen trucker case.

Let's look at the autistic child case of Thompson R2–J School District v. Luke P. Because he is a youngster, his last name was not used. It was a 2008 case.

Luke P., a young child with autism, began receiving special education services in kindergarten at his public school. He had an education plan that was specific to his needs as was required by the Individuals with Disabilities Education Act, or IDEA.

In early grades, he had made progress in skills related to communication, self-care, independence, motor skills, social interactions, and academic functioning, but he was not making progress in generalizing his skills and applying skills learned in school to other environments, such as his home life.

Despite the situation at school, there were a lot of problems in his conduct, and the public school's inability to meaningfully improve Luke's ability to generalize basic life skills beyond the walls of the school posed significant limitations on his future.

The basic story is this: The school was failing to provide the type of education that was necessary for Luke to gain the ability to operate in life. They found a school that could provide that ability. They said: To save our child, we will transfer him to that residential school near Boston that specializes in serving children with autism. It was a great opportunity for him to learn, and he got in and began to flourish—a huge change.

Luke's parents, in their knowing that IDEA entitles children with disabilities to a free education, applied to the school district for reimbursement of the tuition. The school district refused.

The long and short of it is that, at a State-level hearing, Luke's parents prevailed. The case went to the Federal district court, and his parents prevailed under the Individuals with Disabilities Education Act. At each level, a hearing officer or judge determined that Luke was not getting the help he needed at his public school. They concluded that the school district had failed to provide him the free and appropriate education that was entitled to him under the law.

You have decisions made at multiple levels that the school district was not meeting the standard of the law. Each declared that only a residential school could provide Luke with the education he needed. Therefore, the reimbursement of the tuition to the family was necessary and appropriate under the law.

The school district appealed all the way up to Judge Gorsuch on the Tenth Circuit Court. In writing the opinion for the majority, Judge Gorsuch—and they reversed the lower court's ruling—stated that the educational benefit that was mandated by IDEA must be ''merely more than de minimis.''

Here is the new judge's—Neil Gorsuch's—law. He is rewriting the trucker law so that truckers can be fired for protecting their safety and the safety of others. He is rewriting Individuals with Disabilities Education Act so that, instead of having an education that is appropriate to the student, in fact, all that is required is ''merely more than de minimis.''

''De minimis'' means the minimum—like nothing, like babysitting. Gorsuch said that the benefit provided to Luke—essentially, the babysitting—satisfied that standard. In effect, Judge Gorsuch argued that, under IDEA, all the school system had to do was to provide disabled children with the bare minimum, which is an incredibly low bar.

I will tell you that the whole intent of IDEA—the whole debate held here in the Senate, the whole debate held in the House, the signing, the whole framework for this act—was that we have to do right by our disabled children. Therefore, schools were mandated to provide appropriate education. The whole of Gorsuch's finding was to say: No, I am rewriting the law—minimal, babysitting, ''merely more than de minimis.'' It is merely more than nothing when translated.

What would be enough? It is as if the whole debate had never occurred over the vision of requiring schools to provide an appropriate education to students.

This is not just an example of some narrow reading of the law. This is judicial activism—rewriting the law to a completely different thing than it was intended to say.

How could Judge Gorsuch argue putting disabled children like Luke in a room and giving him nothing other than merely more than nothing after having met the standards of a substantial act of Congress that was fully designed to give an appropriate education for disabled children? How do those things even come close to equating? ''Merely more than nothing'' versus ''you must provide an appropriate education''—how do you square those two things? How do you have a judge completely rewrite the law and say that he is qualified to sit on the Supreme Court?

We can tell you that the High Court disagreed completely with Judge Gorsuch. We can tell you this because, just this year—just a few days ago—the Supreme Court ruled on this case, and they overturned Judge Gorsuch. They did so not by 5 to 3; they did so by 8 to nothing—8 to zero.

Eight Justices—four conservative, four liberal—looked at this and said that the law says ''appropriate education.'' Judge Gorsuch said ''merely more than nothing.'' That is not the law as written. That is rewriting the law to find on behalf of the powerful, the larger—in this case, the school district—over the individual. It is a pattern we see in his rulings time and time and time again.

That is why, if you do nothing about the fact that this seat was stolen for the first time in U.S. history—a seat stolen for the Supreme Court from one administration and sent forward in an effort to pack the Court—and if you did not know anything about that and if all you knew was this set of decisions, you would ask: How can we possibly put on the Supreme Court an individual who rewrites the law to mean the opposite of what it is written to say—that black is white and white is black; that ''do something significant'' means ''do nothing'' or ''merely nothing''; that protecting those drivers who operate in safety for themselves or safety for the people on the road—Judge Gorsuch says to strip away that protection.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF THE TREASURY

SIGAL MANDELKER, OF NEW YORK, TO BE UNDER SECRETARY FOR TERRORISM AND FINANCIAL CRIMES, VICE DAVID S. COHEN, RESIGNED.

HEATH P. TARBERT, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE MARISA LAGO.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

PATRICK M. ALBRITTON
MONA E. ALEXANDER
JEFFREY T. ALLISON
CLARK L. ALLRED
KEVIN D. ALLRED
JUAN A. ALVAREZ
JEREMY S. ANDERSON
NEIL E. ANDERSON
STEVEN C. ANDERSON
TANYA J. ANDERSON
SHAWN E. ANGER
RICHARD L. APPLE
CLAUDE M. ARCHAMBAULT
MICHAEL C. ARNDT
MICHAEL J. ARTELLI
JACK R. ARTHAUD
JON C. AUTREY
JASON B. AVRAM
LISLE H. BABCOCK
JOHN E. BAQUET
MARK E. BARAN
CHRISTOPHER T. BARBER
KATHARINE G. BARBER
CLAYTON B. BARTELS
JOHN V. BARTOLI
ROBERT C. BEARDEN
KEVIN R. BEEKER
TIMOTHY E. BEERS
CASSIUS T. BENTLEY III
WILLIAM A. BERCK
CHRISTOPHER C. BERG
SCOTT D. BERNDT
WILLIAM L. BERNHARD
WILLIAM B. BLAUSER
DEREK S. BLOUGH
THOMAS T. BODNAR
ELIZABETH C. BOEHM
JOHN M. BOEHM
KENNETH R. BOILLOT
SEAN P. BOLES
ERNEST L. BONNER
RONALD K. BOOKER
RALPH E. BORDNER III
CHRIS E. BORING
RICHARD L. BOURQUIN
MATTHEW J. BRADLEY
WARREN B. BRAINARD
MAXIMILIAN K. BREMER
ROBERT T. BRIDGES
JOEL L. BRISKE
SCOTT D. BRODEUR
CARLOS J. BROWN
RICHARD K. BROWN, JR.
DONALD R. BRUNK
CHRISTOPHER M. BUDDE
LANCE C. BURNETT
KELLY D. BURT
WALTER A. BUSTELO
MATTHEW J. BUTLER
EDWARD P. BYRNE
MICHAEL R. CABRAL
CHARLES B. CAIN
MAURIZIO D. CALABRESE
JASON A. CAMILLETTI
JOHN T. CARANTA III
STEPHEN V. CAROCCI
ALLAN A. CARREIRO
IVORY D. CARTER
JASON S. CHANDLER
RAJA J. CHARI
KEITH N. CHAURET
JENNY M. CHRISTIAN
WILLIAM V. CHUDKO
CHRISTOPHER STEPHEN CHURCH
WILLIAM R. CHURCH
AARON W. CLARK
CHRISTOPHER R. CLARK
WILL CLARK
DANIEL C. CLAYTON
DOMINIC P. CLEMENTZ
SARAH U. CLEVELAND
TRAVIS J. CLOVIS
ERIN C. CLUFF
THOMAS F. COAKLEY
MARK D. COGGINS
CAROLYN C. COLEMAN
MICHAEL J. COLVARD
THEODORE E. CONKLIN, JR.
RYAN C. CONNER
DANIEL E. COOK
HEATHER A. COOK
JASIN R. COOLEY
PHILIP J. COOPER
SEAN J. COSDEN
KAREN M. COSGROVE
SHAWN C. COVAULT
WILLIAM J. CREEDEN
JOHN B. CREEL
RYAN L. CROCKETTE
CHRISTOPHER L. CRUISE
WILLIAM M. CURLIN
MACK W. CURRY II
MICHAEL D. CURRY
MARTIN T. DAACK, JR.
KENNETH J. DANIELS
TIMOTHY S. DANIELSON
RUSSELL O. DAVIS
BRANDON W. J. DEACON
SARA B. DEAVER
JOEL R. DEBOER
EDUARDO DEFENDINI
JASON R. DELAMATER
BRIAN A. DENARO
DOUGLAS J. DISTASO
MARK C. DMYTRYSZYN
THANG T. DOAN
DANIEL A. DOBBELS
MICHAEL R. DONAGHY
JAMES L. DONELSON, JR.
MATTHEW A. DOUGLAS
JONATHAN G. DOWNING
BRADLEY C. DOWNS
JEFFREY J. DOWNS
LINDSAY C. DROZ
MASON R. DULA
RONALD E. DUNLAP III
TODD R. DYER
HARRY R. DYSON
BRYAN T. EBERHARDT
MICHAEL T. EBNER
JASON A. ECKBERG
MICHAEL C. EDWARDS
TRAVIS L. EDWARDS
GARY J. EILERS
CHAD R. ELLSWORTH

THOMAS P. ESSER
ALDWIN V. ESTRELLADO
NICHOLAS B. EVANS
ERIC S. FAJARDO
MICHAEL J. FELLONA
KEVIN A. FERCHAK
DAVID L. FERRIS
JASON R. FICK
BRIAN A. FILLER
STEVEN A. FINO
DAVID B. FISHER
GREGORY G. FRANA
JESSE J. FRIEDEL
LEAH R. FRY
WILLIAM J. FRY
CHAD A. GALLAGHER
DOUGLAS S. GARAVANTA
BRIAN W. GARINO
TOMMY M. GATES III
ALLEN A. GEIST
JAY S. GIBSON
TY S. GILBERT
CRAIG M. GILES
TED D. GLASCO
MICHAEL L. GOERINGER
JOSEPH R. GOLEMBIEWSKI
ANTONIO J. GONZALEZ
DAVID J. GORDON
LOREN R. GRAHAM
SETH W. GRAHAM
GEORGE R. GRANHOLM
MARION GRANT
MARC E. GREENE
JUSTIN T. GRIEVE
TERRENCE R. GRIMM
JEFFREY A. GUIMARIN
RYAN J. GULDEN
JAMES B. HALL
CHRISTOPHER B. HAMMOND
GRANT M. HARGROVE
PAUL K. HARMER
MATTHEW T. HARNLY
BRETT W. HARRY
SCOTT A. HARTMAN
LESLIE F. HAUCK III
JEFFERSON G. HAWKINS
JOHN W. HAWKINS, JR.
DOUGLAS P. HAYES
DARIN D. HEESCH
KURT C. HELPHINSTINE
TIAA E. HENDERSON
DAVID A. HENSHAW
KENNETH B. HERNDON
CHAD L. HEYEN
TAMMY S. HINSKTON
JENNIFER P. HLAVATY
DARIN L. HOENLE
JEFFREY A. HOGAN
JAMES M. HOLDER
JEFFRY A. HOLLMAN
RONALD A. HOPKINS
ROBERT A. HORTON
ERIC D. HRESKO
MERNA H. H. HSU
MICHAEL G. HUNSBERGER
DON R. HUNT
TRACY N. HUNTER
MATTHEW S. HUSEMANN
JARED J. HUTCHINSON
TIMOTHY L. HYER
ANN M. IGL
CHADWICK D. IGL
RYAN J. INMAN
NATHAN L. IVEN
ABRAHAM L. JACKSON
WILLIAM B. JACKSON
GENE A. JACOBUS
JEFFREY C. JARRY
ANDREW M. JETT
MARK D. JOHNSON
CAREY J. JONES
MATTHEW E. JONES
BENJAMIN R. JONSSON
ERIC L. JURGENSEN
DON C. KEEN
ROBERT H. KELLY
SEAN C. G. KERN
CHRISTOPHER J. KING
JONATHAN D. KING
LUTHER L. KING
PAUL H. KIRK
CARYN L. KIRKPATRICK
ANTHONY A. KLEIGER
TRICIA H. KOBBERDAHL
KYLE F. KOLSTI
VINCENT M. KREPPS
JENNIFER M. KROLIKOWSKI
MAFWA M. KUVIBIDILA
JEFFREY D. KWOK
STEPHEN R. LACH
GYORGY LACZKO
CHRISTOPHER M. LANIER
MIKKO R. LAVALLEY
PHILLIP A. LEGG
TRAVIS K. LEIGHTON
JONATHAN B. LESLIE
STEVEN C. LINDMARK
RYAN A. LINK
GRAHAM K. LITTLE
SCOTT W. LOGAN
GEOFFREY E. LOHMILLER
PATRICK V. LONG
JASON J. LOSCHINSKEY
KRISTI LOWENTHAL
DEVEN J. LOWMAN
JOHN R. LUDINGTON III
CRISTINA FEKKES LUSSIER
WILLIAM J. LYNCH
ROBERT P. LYONS III
ERIC G. MACK
BETH LEAH MAKROS
KEVIN R. MANTOVANI
EDWARD E. MARSHALL
RAY P. MATHERNE
STEPHEN B. MATTHEWS
CHRISTOPHER J. MAY
MATTHEW L. MAY
SCOTT H. MAYTAN
CHRISTOPHER J. MCCARTHY
DAVID L. MCCLEESE
TIMOTHY S. MCDONALD
JAMES C. MCFARLAND
THOMAS C. MCINTYRE
WILBURN B. MCLAMB
NATHAN A. MEAD
DAVID C. MEISSEN
RICHARD S. MENDEZ
CHRISTOPHER E. MENUEY
JASON M. MERCER
KATHY L. MERRITT
JOSEPH C. MILLER
PATRICK M. MILLER
SCOTT A. MINTON
BRIAN R. MONTGOMERY
ARGIE S. MOORE
SHAWN D. MORGENSTERN
SCOTT A. MORRISON
DAVID R. MORROW
RYAN D. MUELLER
ANTHONY J. MULLINAX
JOSEPH A. MUSACCHIA
KEVIN R. NALETTE
MONROE NEAL, JR.
ROBERT S. NEIPER
ERIC B. NELSON
CHRISTOPHER J. NEMETH
JENNIFER L. NEVIUS
JULIE S. NEWLIN
MATTHEW J. NICHOLSON
DANIEL S. NIELSEN, JR.
TERI R. NOFFSINGER
PETER M. NORTON
TRAVIS L. NORTON
DAVID B. NOVY
LESTER N. OBERG III
PATRICK J. OBRUBA
PETER F. OLSEN
SCOTT A. OMALLEY
ARVID E. OPRY
ENRIQUE A. OTI
KRISTIN L. PANZENHAGEN
CHARLES N. PARADA
KEVIN L. PARKER
WILLIAM M. PARKER
JARED B. PATRICK
DAVID D. PEREZ
BRIAN K. PHILLIPPY
EDWARD P. PHILLIPS
JAMES J. POND
JAMES W. PRICE
STEPHEN C. PRICE
ELBERT R. PRINGLE II
CRAIG A. PUNCHES
JASON M. QUIGLEY
MARCIA L. QUIGLEY
PAUL R. QUIGLEY
GARY B. RAFNSON
JUNAID M. RAHMAN
KIRK L. REAGAN
MATTHEW R. REILMAN
DAVID A. RICKARDS
BRIAN L. RICO
GLENN A. RINEHEART
SCOTT M. RITZEL
BENJAMIN S. ROBINS
JON T. ROBINSON
DANIEL A. ROESCH
WILLIAM S. ROGERS
MARLYCE K. ROTH
ABIGAIL L. W. RUSCETTA
JASON R. RUSCO
BRIAN DARNELL SALLEY
ASSAD SAMAD
GINO SARCOMO
TYLER R. SCHAFF
DONALD W. SCHMIDT
ERIC C. SCHMIDT
MARK A. SCHMIDT
ANNA MARIE SCHNEIDER
SIEGFRIED SCHOEPF
TIMOTHY M. SCHWAMB
JASON C. SCOTT
GEORGE A. SEFZIK
DAVID L. SEITZ
JASON T. SELF
JOHN J. SHEETS
NORMAN F. SHELTON II
ROBERT A. SHELTON
MARK A. SHOEMAKER
BRYCE A. SILVER
MICHAEL A. SINKS
DALE B. SKINNER
DANNY A. SLIFER
CHRIS H. SNYDER
GREGORY D. SODERSTROM
MARK J. SORAPURU
JONATHAN J. SORBET
BRETT D. SOWELL
MACKJAN H. SPENCER
CORBAN D. SPRAKER
JOSHUA L. STAHL
MICHAEL S. STARR
THOMAS R. STEMARIE
JULIAN D. STEPHENS
KATRINA C. STEPHENS
KELLEY C. STEVENS
JASON B. STINCHCOMB
CHRISTOPHER M. STOPPEL
JOYCE R. STORM
DEREK S. STUART
BRIAN M. STUMPE
DIANE C. SULLIVAN
WILLIAM P. SURREY
BRIAN M. SWYT
RASHONE J. TATE
RALPH E. TAYLOR, JR.
JASON B. TERRY
SCOTT J. THOMPSON
KASANDRA T. TRAWEEK
JOHN H. TRAXLER
DEVIN S. TRAYNOR
HENRY H. TRIPLETT III
CONSTANTINE TSOUKATOS
JAMES A. TURNER
JOBIE S. TURNER
JOSEPH C. TURNHAM
DONALD G. VANDENBUSSCHE
CHRISTOPHER L. VANHOOF
ENRICO W. VENDITTI, JR.
SHANE S. VESELY
JEREMY S. VICKERS
JAMES T. VINSON
BRIAN D. VLAUN
GEORGE N. VOGEL
SCOTT W. WALKER
JAMES W. WALL
LAUREL V. WALSH
MICHAEL O. WALTERS
JAMES T. WANDMACHER
MICHAEL S. WARNER
TIFFANY J. WARNKE
DALIAN WASHINGTON
DAVID S. WESTOVER, JR.
GREG D. WHITAKER
TARA E. WHITE
SCOTT M. WIEDERHOLT
DAMIAN O. WILBORNE
TIMOTHY W. WILCOX
BRANDON L. WILKERSON
CHRISTINA L. WILLARD
ADRIENNE L. WILLIAMS
DARIN C. WILLIAMS
PATRICK C. WILLIAMS
TREVOR L. WILLIAMS
RUSSELL S. WILLIFORD
DANIELLE L. WILLIS
DAVID J. WINEBRENER
MARK R. WISHER
JASON K. WOOD
JOSHUA T. WOOD
TODD A. WYDRA
GERALD T. YAP
BART P. YATES
MATTHEW W. YOCUM
SHAYNE R. YORTON
BRIAN G. YOUNG
CONSTANCE H. YOUNG
JAMES G. YOUNG
JEREMY P. ZADEL
JONATHAN E. ZALL
JAMES M. ZICK
DEBORAH L. P. ZUNIGA
RAY A. ZUNIGA

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

JOHN J. BOTTORFF

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

EUGENE L. THOMAS III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN T. BLEIGH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JEFFREY D. BUCK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

MICHAEL W. PRECZEWSKI

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C. SECTION 624:

To be lieutenant colonel

CANDY BOPARAI
LINCOLN F. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 531:

To be major

CHARLES J. HASELBY
JASON T. RAMSPOTT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ALEXANDER M. WILLARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

CHRISTOPHER K. BERTHOLD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

PRESTON H. LEONARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

NICOLE E. USSERY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

MICHAEL D. BAKER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

BRIDGET V. KMETZ

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C. SECTION 624:

To be major

VEDNER BELLOT
JAMES ROBINSON, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C. SECTION 624:

To be colonel

ANGELA L. FUNARO
CHAD HACKLEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

BRIAN R. HARKI

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JONATHAN L. BOURIAQUE
PETER M. DUBININ
HOWARD M. FIELDS
EPHRAIM GARCIA
GRAHAM C. HARBMAN
ANDREW R. HAREWOOD
WILLIAM T. HEISTERMAN
DAVID A. LANGER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

TIMOTHY L. BAER
GLENN H. FINCH
DOUGLAS V. HEDMAN
THEODORE J. MCGOVERN
JESSE S. STAUNTON
GERALD R. WHITE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

JAMES V. CRAWFORD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

MOHAMMED S. AZIZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be major

SETH C. LYDEM

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

CHRISTOPHER C. OSTBY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

CALVIN E. FISH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

AARON E. LANE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAMIEN BOFFARDI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

RANDY D. DORSEY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

BENJAMIN R. SMITH
STALIN R. SUBRAMANIAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MARK W. HOPKINS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

THOMAS R. MATELSKI
RAPHAEL B. MONTGOMERY
MATTHEW P. NEUMEYER
MICHAEL A. REYBURN
MICHAEL A. STINNETT
ERIC B. TOWNS
JOSHUA H. WALKER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MARK B. HOWELL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JULIO COLONGONZALEZ

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JASON N. BULLOCK
RYAN C. CAGLE
GERALD A. NUNZIATO

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

CHRISTOPHER R. DESENA

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

JORGE R. BALARES, JR.
RAYMOND T. BALL, JR.
MATTHEW P. BENNETT
GEOFFREY S. BIEGEL
MATHEW J. BIRD
NICHOLAS B. BONA
DANIEL O. BRAUER
MICHAEL E. BUCK
ROBERT J. CAMPBELLMARTIN
ASHLEY H. CARLINE
TODD W. S. CARLSON
JEROD L. COLE
BETTINA J. CORY
JARRETT R. CROSSGROVE
ADAM J. DAMBRA
MICHAEL K. DELOACH
MATTHEW R. FELTON
DAVID W. FITZGERALD
JENNIFER S. FLEMING
RICHARD A. FRAENKEL
BRIAN M. GUDKNECHT
MORRIS E. HAMPTON
DANIEL R. HAWTHORNE
MICHAEL E. HEATHERLY
CHRISTOPHER M. HIRONAGA
JOSEPH C. INNERST
MARVIN L. JOSEPH
IAN G. KILPATRICK
MATTHEW R. KLEINE
SCOTT C. KNUTTON
CHARLES J. LASPE
SCOTT M. LESCENSKI
PRECIOUS S. W. MCQUADE
MATTHEW D. METZ
MATTHEW K. MILLS
JEREMIAH J. NELSON
SEAN R. NORTON
THOMAS A. NOWREY IV
WARD F. ODENWALD IV
CRAIG T. POTTHAST
THOMAS H. PRINSEN
JASON L. RICHESIN
SEAN L. ROCHA
MATHEW R. ROCKWELL
SARAH M. SMITH
MATTHEW L. SNYDER
CHRISTOPHER J. STEFENACK
BRIAN E. SULLIVAN, JR.
COLEMAN A. WARD
RYAN J. WORRELL
BRANDON M. ZOSS

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

MARY E. LINNELL

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

SPENCER M. BURK
MICHAEL P. DOWNES II
MATTHEW H. LEE
JOSHUA L. LONG
DAVID A. NISSAN
JOSHUA R. OKWORI
INGRID A. PARRINGTON
TIFFANY L. PERRY
JEFFREY P. RADABAUGH
SCOTT L. SHIELDS
ANTEA C. SINGLETON
JENNY L. SMITH
RYAN P. SMITHERMAN
SAMUEL S. TRAVIS
BRIANNA S. WHITTEMORE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

KIRK J. HIPPENSTEEL
CORY F. JANNEY
ARTHUR T. JOHNSON IV
NATHANIEL R. JONES
JOHN M. RUGGERO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

KENNETH L. DEMICK, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

EVITA M. SALLES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

MICHAEL C. BRATLEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JOHN P. H. RUE

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DANIEL E. ALGER, JR.
ANDREW D. BLACKWELL
RICH T. FARNSWORTH
YVES N. GEOFFREY
ADAM D. HARRISON
MICAH P. HUDSON
JAMES F. JACOBS
TROY M. MACDONALD
KYLE E. MATTOX
JOSEPH M. MAURO
COREY J. MECHE
JAMES P. PURTELL
OSCAR J. SANCHEZ

LYNN M. STOW
SARA E. SUNDBERG
MICHAEL A. SZAMPRUCH
JESSICA M. WALL

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ANIS A. ABUZEID
LEVI M. ADAM
JEREMIAH R. ADAMS
PAUL J. ADDINGTON
LUKE D. ADKINS
BRIDGET L. AJINGA
JONATHON C. AJINGA
MICAH P. AKIN
CHAD D. ALLEN
JARROD D. ALLEN
NICHOLAS S. ALLEN
STACY M. ALLEN
LUTHER J. ALMAND IV
BRYON D. ALMEDA
JOHN P. ALSPACH
MATTHEW D. ALVIS
FRANK K. ANDERSON III
CHRISTOPHER J. ANDREWS
MABEL B. ANNUNZIATA
ANTHONY M. ANSLEY II
TYRONE G. ANUB, JR.
WILLIAM R. APPLEBY
KENT W. ARNOLD
JACOB A. ASHBOLT
GEORGE J. AUBIN
JAY E. AUSTIN
ADAM J. AYRISS
COREY R. BAFFORD
MATTHEW P. BAGLEY
MADEHANIA BAHETA
PAUL G. BAILEY
DYLAN C. BAKER
PETER M. BALAWENDER
MICHAEL G. BALINSKY
NICHOLAS T. BALK
STEVEN M. BANCROFT
RYAN D. BANKHEAD
MARGARET T. BARIKBIN
MEHRDAD BARIKBIN
SEAN F. BARRETT
TYRONE A. BARRION
ZACHARY M. BASKARA
ANTOINE BATES
DAVID J. BAUMAN
CORY M. BAXTER
BRIAN R. BAYLEY
JOHN H. BEATTIE
NATHAN D. BEDLE
DAVID M. BEEHLER
ERIC A. BENJAMIN
PATRICK D. BERGMAN
ANDREW D. BERKELEY
MICHAEL D. BISHOFF, JR.
CLARISSA N. BLAIR
CAROLYN J. BLAKENEY
JONATHAN R. BLANKENSHIP
SCOTT C. BLYLEVEN
BENJAMIN M. BOERA
JONATHAN L. BOERSMA
RYAN M. BOLLES
MITCHELL E. BORLEY
JOSHUA M. BOSWORTH
BRANDON M. BOWMAN
CHASE A. BRADFORD
JONATHAN D. BRANDON
BRADLEY D. BRECHER
TROY D. BREITMAIER
MATTHEW I. BRIDE
MISTY N. BRIMM
TORREY C. BRISSETTE
CHRISTOPHER S. BROCK
JORDAN M. BROCK
JASON C. BROOKS
JUSTIN R. BROWN
MICHAEL S. BROWN
MATTHEW M. BROWNING
NICOLA BRUNETTILIHACH
MICHAEL D. BRYANT
MANUEL A. BUENO
TIMOTHY D. BURCHETT
DANIEL J. BURTON
RICHARD F. BUSCH III
PATRICK C. BUTLER
GRANT W. CALLAHAN
SEAN M. CALLISON
JOHN E. CAMPBELL
KEVIN G. CANNING
JEFFREY T. CARLTON
NATHAN C. CARPENTER
JASON M. CARTER
TERRY A. CARTER, JR.
JEFFREY C. CASTIGLIONE
BENJAMIN L. CATHER IV
JOSEPH M. CHECK
KELVIN T. CHEW
RAUL L. CHIRIBOGA III
CHRISTOPHER M. CHISOM
JONATHAN A. CHRISANT
ANDREW R. CHRIST
ROBERT A. CHRISTIAN
ADAM G. CHRISTIANSON
GABRIEL I. CHRISTIANSON
ASHLEY B. CHRISTMAN
LORNE M. CHRISTOPHER
JONATHAN A. CHUNN
PETER M. CIASTON
CHRISTOPHER A. CICHY
PATRICK N. COFFMAN
CHRISTOPHER G. COLE
FRANK M. COLPO
LUIS A. CONCEPCION
SHERIDAN J. CONKLIN
SHAWN P. CONNOR
JOSHUA W. CONNORS
DAVID R. COOGAN
WILLIAM T. COX III
ADAM B. CRAIG
CANDICE D. CREECY
WARREN Z. CRITTENDEN
JOEL E. CROSKEY
STEVEN M. CROSS
ADAM G. CUCCI
JOSEPH P. CULL
MICHAEL P. CULLEN
MICHAEL D. CULLIGAN
NICHOLAS M. CULVER
JOHN B. CUMBIE
WALTER C. CUNNINGHAM III
BRANDON N. CURRIE
JASON A. CUTTER
DAVID J. CYBULSKI
RONALD J. DAGENHART
RODNEY D. DANIELS
JEREMIAH J. DAVIS
JUSTIN D. DAVIS
STEPHEN T. DAVIS
SHANEN E. DAWSON
SEAN P. DAY
ROBERT G. DEGEORGE
LOUIS DELAIR III
FREDERICK J. DELLAGALA, JR.
DAVID DELVALLE
ERIN K. DEMCHKO
QUAY D. DEPRIEST
ADAM R. DESY
JOHN M. DEXTER
DANIEL O. DIAZ
LUIS D. DIAZ
JOHN DICK
JOSHUA S. DIDDAMS
BRADLEY T. DIDUCA
RANDY E. DIGGINS
MARK J. DION
ADAM T. DISNEY
STEVEN A. DIXON
DUSTIN J. DODGE
KEVIN J. DOHERTY
JOUSSEF J. DONADO
CAROLINA G. DORRIS
MICHAEL N. DOSS
ROBERT A. DOSS III
STEPHEN L. DRAPER
JOSEPH D. DREAGER
MICHAEL L. DROZD
WILLIAM F. DUFRESNE, JR.
DENNIS A. DUNBAR
AUSTIN M. DUNCAN
NICHOLAS D. DUNN
MATTHEW G. DUPRE
DANIEL F. DYNYS
RONALD J. EAVERS II
DEREK J. ECKERLY
DENVER M. EDICK
ALEJANDRO G. ELIZALDE
KYLE V. ELLIS
DAVID A. ELSTON, JR.
NICHOLAS S. EMIG
GORDON W. EMMANUEL
TRENT T. ERICKSON
JACOB B. ESKEW
JAMES K. EVERETT
MATTHEW C. FALLON
JARED P. FANGUE
JONATHAN P. FARRAR
JOSHUA E. FAUCETT
RYAN C. FIELDING
ZACHARY A. FINCH
CHAD T. FITZGERALD
PETER J. FLATEGRAFF
LIAM E. FLEMMING
GABRIEL A. FLORES
PATRICK J. FLORES
PADRAIG S. FLYNN
JOSEPH A. FONTANETTA
DANIEL L. FORD
DAVID A. FOWLER
NATHAN S. FRAME
CORY M. FREDERICK
BRIAN V. FREDO
JOSHUA D. FREEDMAN
ROBERT J. FREITAS
MICHAEL A. FRENCH
MICHAEL C. FURR
MICHAEL J. GAGNON
PHILIPLOUI Y. GALLON
MICHAEL E. GANGEMELLA, JR.
LINDLEY J. GARCIA
ROBERT R. GARCIA
TIMMY J. GARCIA
STANTON L. GARDENHIRE
GILBERT C. GARLIT
JASON J. GATES
WADE R. GAUTHIER
JOHN M. GERLACH
IAN L. GERMAN
CASSANDRA M. GESECKI
SAMUEL J. GILDNER
JENNIFER F. GILES
CASEY D. GILLIAM
THOMAS R. GIRALDI
JENNIFER L. GLADEM
MICHAEL J. GOCKE
JACOB R. GODBY
MARK M. GOEBEL, JR.
WILLIAM W. GOETZ
MICHAEL D. GOLCHERT
MICHAEL N. GOLIKE
JOSEPH R. GOLL
HUGO A. GONZALEZ, JR.
RAMON D. GONZALEZ
IVAN O. GOUDYREV
CHRISTOPHER M. GOWGIEL
ROQUE D. GRACIANI
JASON D. GRAUL
SAMANTHA A. GRAVES
JUSTIN P. GRAY
JOSH E. GREB
TRAVIS C. GRELL
BENJAMIN J. GRODI
MICHAEL W. GUARD
MITCHELL G. GUARD
DANIEL R. GUTKNECHT
JOSEPH P. HAAS
LEE D. HAIGHT
SCOTT C. HAMBLEY
JEFFREY R. HAMILTON
DAVID A. HANKLE
CHARLES J. HANSEN
WILLIAM E. HARLEY
NATHAN T. HARMON
DAVID M. HARRIS, JR.
DAVID W. HARRIS
MARK S. HARRIS
MATTHEW M. HARRIS
MICHAEL J. HARRIS
PAUL G. HARRIS, JR.
CHRISTOPHER N. HART
MATTHEW R. HART
ZACHARY P. HARTNETT
NICHOLAS C. HARWOOD
MATTHEW T. HAWKINS
KELLY P. HAYCOCK
CHRISTOPHER R. HAYES
PATRICK H. HECOX
JORDAN S. HEDGES
PATRICK J. HEINY
DEREK R. HEINZ
JOHN C. HENDERSON
BENJAMIN Z. HENRY
RORY M. HERMANN, JR.
STEVEN R. HERRERA
COLE J. HERRON
KEITH L. HIBBERT
ORLANDO L. HIGGINS
AUSTIN M. HILL
DAVID A. HIRT
ERIC T. HOFFMAN
MATTHEW B. HOLCOMB
CLAYTON S. HOLLAND
KYLE A. HOLSEY
ROBERT M. HOLT
SCOTT G. HOLUB
SAMUEL K. HONG
AARON K. HOOD
DANIEL R. HOOD
CHRISTOPHER W. HOOVER
BENJAMIN M. HOPKINS
ZACHARIAS B. HORNBAKER
DANIEL T. HOUGH
JARED H. HOUSAND
DANA R. HOWE
TODD A. HOYT
RUSSELL W. HROMADKA
MATTHEW L. HUBBARD
JONATHAN D. HUDSON
BRAD L. HULL
TOUSSAINT J. JACKSON
BRYAN J. JADRO
CALISCHARA JAMES
JULIE E. JAMES
JOHN S. JARRED
CASEY B. JENKINS
SCOTT C. JENNINGS
DANIEL V. JERNIGAN
DEVIN M. JEWELL
RICHARD J. JINDRICH
DEVIN D. JOHNSON
REESE H. JOHNSON
ROBERT A. JOHNSON
IAN M. JOHNSTON
NATHANIEL R. JONES
CHARLES D. JORDAN
LINDSEY D. JORGENSEN
KEVIN R. JULIAN
SEAN R. KAISER
CHRISTOPHER J. KAKAS
LOUIS G. KALMAR, JR.
JOSHUA N. KAPP
AIDEN S. KATZ
DANIEL B. KATZMAN
BETHANY R. KAUFFMAN
JAMES J. KAVANAGH
PAUL C. KEELEY
TIMOTHY D. KEITHLEY
BRANDON D. KELLY
DONALD P. KELLY
PAUL B. KELLY
PAUL R. KEMPF
TYLER C. KESTERSON
ANDREW P. KETTNER
SUNDRI K. KHALSA
REGAN R. KING
JUSTIN R. KIRK
SARA N. KIRSTEIN
JESSE T. KNIGHT
DUSTIN B. KOSAR
SHAWN C. KOSS
DANIEL T. KOVATCH
JEREMY E. KRIDER
KANE J. KUKOWSKI
TYLER P. KURTZ

CHARLES A. LAMB
ENRICOLEO L. LANDAS
MICHAEL V. LANGSTON
CHRISTOPHER P. LARREUR
KARA B. LARSEN
ROBERT W. LATTA
IVAN D. LAWING
TERENCE A. LEACH
SEAN P. LEAHY
IAN S. LEARMONTH
JOHN W. LEFEBVRE
LEARLIN J. LEJEUNE III
CHANDLER R. LENOIR
NICHOLAS G. LEWIS
RYAN Q. LIGHT
JOHN J. LIM
JIMMY W. LINDEMANN
DAVID J. LIPKIN
WILLIAM F. LIPSTREU
JAMES R. LOMSDALE
WILLIAM E. LONG
SERGIO F. LOPEZ
JUSTIN R. LOUCKS
MICHAEL P. LOWERY
ALEXANDER T. LUEDTKE
GLORIA C. LUEDTKE
CHRISTOPHER D. LUGER
ANDREW V. LUNDSKOW
BRIAN J. LUSCZYNSKI
NICHOLAS S. LYBECK
GREGORY E. LYNCH
PHILIP R. LYON
ADAM M. MACKOWIAK
JOSEPH S. MADREN
STEPHANIE A. MAFRICI
PATRICK M. MAGUIRE
JOHN M. MAHLER
MICHAEL A. MAHONEY, JR.
JOSHUA C. MALLOW
RODNEY D. MALONE
MICHAEL B. MANNA
MICHAEL L. MARRON, JR.
JEFFREY C. MARSTON
DEANSLEN J. MARTIN
MICHAEL B. MARTIN
MICHAEL T. MARTIN
PATRICK B. MARTIN
RYAN O. MARTIN
TIMOTHY T. MARTIN
OSCAR A. MARTINEZ
JAMES P. MASTROM, JR.
LAMBERTO E. MATHURIN
STEPHANIE J. MAXWELL
KYLE L. MAY
JOSEPH A. MAYHUGH
JOSEPH J. MCCAFFREY
RYAN A. MCCLELLAND
CRAIG H. MCCLURE
TIMOTHY G. MCCORMICK
PATRICK D. MCCREARY
BRITTANY S. MCCULLOUGH
GEORGE F. MCDONNELL, JR.
DOUGLAS S. MCDONOUGH
STEVEN M. MCGETTRICK
RYAN D. MCGONIGLE
MARYANN N. MCGUIRE
VALERIE A. MCGUIRE
JACK L. MCKINNON
ADAM A. MCLAURIN
JAMES P. MCMENAMIN
NIKLAS J. MCMURRAY
TIMOTHY A. MCWHORTER
BRIAN W. MEADE
JUSTIN M. MEDEIROS
ERIK L. MELANSON
JORDAN L. MEREDITH
ALEX S. METCALF
ANDREW J. METTLER
PAXTON L. MILLER
BENJAMIN A. MILLS
JOSHUA D. MILLS
KIRBY W. MILLS
JUSTIN C. MINICK
JOSEPH E. MOELLER
BRANDON P. MOKRIS
CHRISTOPHER D. MOLLET
JOHN J. MOONEY IV
ERIC R. MOOS
DANIEL V. MORA
NICHOLAS M. MORALES
BARRY J. MORRIS
RYAN R. MORRISON
BRADLEY A. MOTZ
DANIEL J. MULCAHY
ROBERT M. MURRAY II
MATTHEW E. NEELY
BENJAMIN P. NEFF
SHAUN P. NEGRON
ANDREW E. NELSON
GUY R. NELSON II
JACOB L. NELSON
KENNETH C. NELSON
MICHAEL B. NELSON
ERIC B. NEUMAN
DYLAN Q. NICHOLAS
COLBERT A. NICHOLS
GERALD I. NOE
RACHEL L. NOLAN
ERNEST T. NORDMAN
SEAN P. NORTON
AARON J. NUTTER
MICHAEL C. OATES
DANIEL J. OCONNELL
JOHN D. OCONNELL
ANDREW W. ODONNELL
AARON E. OKUN
KYLE E. OSER
BRIAN P. OSIAS
EVAN Z. OTA
JAKE D. OWENS
JEREMY K. PACK
MARK P. PAIGE
RYAN W. PALLAS
DEWAYNE G. PAPANDREA
JASON A. PAREDES
JAEHONG PARK
DAVID B. PARKER III
PATRICK C. PARKS
AEMEE H. PARROTT
DUSTIN F. PARTRIDGE
ROBERT J. PAUGH, JR.
CHRISTOPHER W. PAULIN
JOSHUA W. PAVLISCHEK
JUSTIN K. PAVLISCHEK
BRANDON R. PEARSON
BRIAN S. PEGRAM
TIMOTHY A. PELTZ
LABAN M. PELZ
CHRISTOPHER PEREZ
TIFFANY PERNG
CHRISTOPHER A. PERRY
JAMES R. PETRONIO
KATIE R. PETRONIO
JONATHAN E. PETTIBON
CHAD T. PHILLIPS
MATTHEW O. PHILLIPS
CLAYTON W. PIERSALL
BENJAMIN A. PIMENTEL
MARK A. PINKERTON
SCOTT S. PISTOCHINI
ALLEN V. POLLARD, JR.
NICHOLAS E. POLLOCK
ADAM K. POPPLEWELL
DEREK I. PORTER
NICOLE L. PORTER
BRET R. PRESLEY
DARREL D. PRESTESATER
MICHAEL K. PROPHETER
BRIAN T. PUGH
TRAVIS K. PUGH
JOSE R. QUEZADA
TYLER C. QUINN
CARL A. QUIST
JASON C. RADABAUGH
TYSON J. RAE
KEITH D. RAINE
KELLY M. RAISCH
SYED Z. RASHID
DEREK G. RAY
CHRISTOPHER J. REARDON
JEFFREY D. REDMON
GAVIN K. REED
JENNA E. REED
MATTHEW T. REEDER
MILTON A. REHBEIN
KYLE T. REILLY
CHRISTINE M. REITER
JOSEPH P. RENEY
KRISTI D. REULE
ROBERT M. RHEA
RYAN P. RICHTER
ANTHONY D. RIPLEY
DEREK J. RISK
ENRIQUE RIVERA, JR.
ROBERT L. RIVERA II
CHRISTOPHER A. ROBINSON
LAMONT R. ROBINSON II
SAMUEL R. ROBINSON
DANIEL W. ROBNETT
FELIPE J. RODRIGUEZ
JUAN H. RODRIGUEZ III
PETER S. RODRIGUEZ
PHILIPPE I. RODRIGUEZ
EDMUND M. ROMAGNOLI
DUSTIN A. RORABAUGH
SCOTT J. ROSA
AARON J. ROSENBLATT
DAVID E. ROSENBROCK
ANDREW B. ROZIC
DAVID S. RUBIO
RONALD D. RUTTER II
MARCOS A. RUVALCABA
THOMAS B. RUYLE VI
JOSHUA J. RYSTROM
RICHARD K. SALA
ARMENIO G. SALAGUINTO, JR.
DESIREE K. SANCHEZ
GABRIEL D. SANCHEZ
EDWIN SANTIBANEZ
MARK SAVILLE
JOSEPH E. SAWYER III
JACKSON L. SCHADE
CHRISTOPHER G. SCHEELE
WILLIAM A. SCHICK
JONATHAN E. SCHILLO
NICHOLAS H. SCHROBACK
KYLE L. SCHULL
MATTHEW J. SCHULTZ
MICHAEL R. SCHULZ
SETH A. SCHURTZ
JAKOB K. SCHWAM
CHRISTOPHER M. SCHWAMBERGER
CRAIG D. SEBEK
MARGARET M. SEYMOUR
JOSEPH F. SGRO, JR.
BENJAMIN D. SHEA
JOHN C. SHECKELLS
BRIAN M. SHERMAN
JAMES R. SHERWOOD
JESSE R. SHOOK
ROBERT J. SHORTWAY
STEPHEN J. SHULL
MICHAEL A. SICKELS
DAVID A. SIERLEJA, JR.
KENNETH J. SIERRA II
VANESA E. SIGALA
KENNETH SIMMONS
MARK D. SIMMONS
DAVID S. SIMNING
JOHN N. SIMS
PHILLIP A. SKILLMAN
MATTHEW E. SLADEK
BRIAN K. SLUSSER
BRENDAN B. SMITH
JASON R. SMITH
NATHANIEL D. SMITH
PAUL S. SMITH
RORY H. SMITH
SARAH K. SMITH
SHAWN M. SMITH
STEVEN R. SMITH
JAMES S. SMOLUCHA
DAVID M. SNIPES
JEROMY I. SOMMERVILLE
JOHN A. SPALDING
KYLE P. SPARLING
BRIAN P. SPILLANE
TABATHA R. SPRIGGS
JUSTIN T. STAAB
DANIEL J. STAHELI
KURT M. STAHL
ANDREW D. STANFIELD
STEFAN Y. STANKO
JASON W. STAPLETON
MATTHEW A. STEEGE
MARK A. STEFANSKI
KIRK R. STEINHORST
DANIEL W. STELLER
JONATHAN P. STEVENS
EVERETT B. STEVENSON
ERIC R. STEWART
BRENT R. STOECKER
KEVIN A. STOGRAN
JOHN B. STRANGE, JR.
MICHAEL D. STREMER
STEPHEN F. STRIEBY
BRYAN J. TANNEHILL
CHRISTINE M. TARANTO
JUSTIN M. TARICANI
ALISSA L. TARSIUK
ANDRE O. TESTMAN II
PETER J. THERMOS
ANDREW M. THOMAS
JEREMY F. THOMAS
NATHAN C. THOMAS
REGINALD E. THOMAS III
RYAN E. THOMAS
ALAN D. THOMPSON
CHASE F. THOMPSON
CHRISTOPHER A. THRASHER
RYAN S. TICE
TYLER S. TIDWELL
TREVOR J. TINGLE
BERTRAND L. TOONE
WILLIAM W. TRAPP, JR.
TERRY O. TRAYLOR
JASON R. TREECE
PAUL C. TROWER
DEVON R. TSCHIRLEY
BENJAMIN D. TUCK
WESLEY A. TUCKER
JOHN R. TURLEY
SHAINA M. TURLEY
BRYAN L. TYE
CLARK C. UNGER
ADAM S. UNKLE
CHRISTOPHER G. UST
RICHARD J. VALKO
ELENA N. VALLELY
GERARD M. VANAMERONGEN
ALEX W. VANMOERKERQUE
DAVID P. VERHINE
NICHOLAS B. VERTA
HERIBERTO R. VEYRAN
DAVID C. VIEW
MICHAEL G. WADE
PETER T. WADSWORTH
GREGORY A. WAGNER
ANDREW S. WALKER
DANIEL C. WALKER
STEPHEN L. WALKER
CHRISTOPHER A. WALLACE
THOMAS R. WALLIN
MICHAEL A. WALSH
MICHAEL J. WALSH, JR.
BRANDON M. WARD
RAFIEL D. WARFIELD
NATHANIEL E. WARTHEN
ALISSON WEEKS
JON W. WEEKS
NATHAN M. WEINBERG
AARON M. WELLMAN
MATTHEW B. WENDLER
DANIEL C. WHEELER
STUART E. WHEELER
JUSTINE L. WHIPPLE
TERRY L. WHITAKER, JR.
MACKENZIE J. WHITE
LEAR H. WILLIAMS
WILLIAM G. WILLIAMSON, JR.
WILLIAM M. WILLIS
LAMONT D. WILSON
RICHARD K. WISE
STANLEY C. WISNIEWSKI III
GREGORY A. WOLF
ERIC P. WOLFE
SEAN M. WOLTERMAN
SARA L. WOOD
SCOTT R. WOOD
ZACH L. WORTH III
OWEN J. WRABEL

GARRETT E. WRIGHT
WILLIAM M. WRIGHT
JEFFERY D. WUNDER
SAMUEL I. WUORNOS
ADAM S. YOUNG
ADAM T. YOUNG
KARL R. YOUNG
JOHN M. YUNKER, JR.
DANIEL M. YURKOVICH
HOLLY M. ZABINSKI
THOMAS A. ZACKARY, JR.
KEVIN S. ZAFFINO
STEVEN C. ZALEWSKI
JONATHAN W. ZARLING
SAMUEL F. ZASADNY
PAUL M. ZEBB III
EUGENE V. ZIEMBA III
JONATHAN A. ZIER
MATTHEW J. ZIMNIEWICZ
CRAIG A. ZOELLNER

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S. C., SECTION 624:

To be lieutenant colonel

DANIEL W. ANNUNZIATA
LEAH R. PARROTT

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S. C., SECTION 624:

To be lieutenant colonel

JAMES R. REUSSE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOSE M. ACEVEDO
DAVID AHN
CHRISTOPHER P. ALLAIN
TIMOTHY D. ANDERLONIS
CHRISTOPHER E. ANNUNZIATA
MICHAEL ANTHONY, JR.
ZACHARIAH E. ANTHONY
JOEL R. ARCHIBALD
JUSTIN M. ARGENTIERI
JOSEPH A. ATKINSON
ROBERT E. BACZKOWSKI, JR.
NATHANIEL A. BAKER
PETER Y. BAN
JAMES H. BANTON, JR.
RICHARD S. BARCLAY
DONALD J. BARNES
RYAN D. BARNES
DANIEL M. BARTOS
JOSHUA R. BATES
JOHN R. BEAL
ZEB B. BEASLEY II
SCOTT M. BENNINGHOFF
RYAN P. BENSON
NEIL R. BERRY
BART A. BETIK
PAUL B. BISULCA
ADAM W. BLANTON
CHRISTOPHER G. BLOSSER
TIMOTHY F. BRADY, JR.
MARK P. BRAITHWAITE
BRIAN J. BRAUER
KEITH C. BRENIZE
KYLE A. BUCHINA
ROBERT S. BUNN
CHRISTOPHER M. BURNETT
STANLEY P. CALIXTE
GEORGE D. CAMIA
IAN S. CAMPBELL
MICHAL CARLSON
MICHAEL J. CARROLL
MICHAEL R. CASSIDY
JOSHUA E. CAVAN
BOLO S. CAVANH
GREER C. CHAMBLESS
MICHAEL K. CHANKIJ
DAVID P. CHEEK
TOM CHHABRA
ALAN J. CLARKE
ROSA A. CLARKE
MATTHEW B. CLINGER
DOUGLAS J. COBB, JR.
KEVIN T. CONLON
CHRISTOPHER S. CONNER
NEIL A. CORDES
TIMOTHY F. COSTELLO
WILFREDO CRAVE, JR.
WALTER D. CROMER, JR.
SAMUEL C. CUNNINGHAM
SCOTT A. CUOMO
JEFFREY S. CURTIS
MATTHEW T. DAIGNEAULT
JOSEPH P. DAMICO
BRIAN R. DAVIS
EVAN A. DAY
LANCE C. DAY
JEREMY R. DELBOS
CHRISTOPHER D. DELLOW
KENNETH J. DELMAZO
DAVID R. DENIAL
CHRISTIAN T. DEVINE
NATHANIEL P. DOHERTY
JAMES P. DOLLARD
BRIAN C. DONNELLY
DANIEL M. DOWD
MATTHEW S. DOWNS
JAMES P. DOYLE
ROY M. DRAA
SHARON L. DUBOW
DUANE A. DURANT
GARRETT C. EBEY
SHANE A. EDWARDS
ANDREW J. ERICKSON
RICCO A. ESPINOZA
LUKE T. ESPOSITO
MELVIN K. EURING
TERRY R. EVANS
BENJAMIN D. EVERETT
DOMINIC I. EWERS
STEVEN M. FAYED
RAYMOND P. FELTHAM
MARK R. FENWICK
MARK A. FERGUSON
DANIEL S. FITZPATRICK
MORINA D. FOSTER
JOHN J. FRANKLIN
KURT M. GALL
JAVIER A. GARCIA
JANINE K. GARNER
AARON M. GATES
ERIC L. GEYER
JASON R. GIBBS
PAUL L. GILLIKIN
CRAIG A. GIORGIS
DANIEL V. GOFF
DANIEL R. GOHLKE
ALBERT J. GOLDBERG
MARK S. GOMBO
GREGORY D. GOOBER
EVERETT M. GOOD
ANDREA C. GOODE
WILLIAM V. GORSUCH
JABBAR R. GOUGHNOUR
ANDREW G. GOURGOUMIS
MICHEAL R. GRAHAM
BENJAMIN W. GRANT
ROBERT C. GRASS
CHRISTOPHER G. GRASSO
BRYAN K. GRAYSON
JOSEPH I. GRIMM
JOHN E. GRUNKE
ADAM C. GUGELMEYER
JOHN D. GWAZDAUSKAS
CHRISTOPHER G. HAKOLA
JUSTIN J. HALL
CHAD P. HAMILTON
MARK A. HAMILTON
RYAN F. HARRINGTON
TRACEY L. HARTLEY
CHRISTOPHER B. HAUGHTON
THOMAS J. HELLER
RUSSELL R. HENRY
JASON E. HERNANDEZ
ROBERT E. HERRMANN
PAUL M. HERZBERG
CHANTELL M. HIGGINS
MICHAEL T. HLAD
GEOFFREY L. HOEY
DAVID B. HOLDSTEIN
THOMAS M. HOLLMAN
GEOFFRY M. HOLLOPETER
PAUL J. HOLST
JOHN K. HOOD
ANGELA R. HOOPER
CHRISTOPHER M. HOOVER
CHRISTOPHER R. HORTON
DANIEL E. HUGHES
DAVID W. HUGHES
JOHN M. HUNT
SEAN M. HURLEY
MICHAEL W. HUTCHINGS
CALEB HYATT
EMILY A. JACKSONHALL
LUKE J. JACOBS
WILLIAM T. JACOBS
CHARLES A. JINDRICH
CHRISTOPHER I. JOHNSON
JASON R. JONES
JOHN D. JORDAN
MICHAEL D. KANIUK
ANDREW W. KELEMEN
ANDREW W. KELLNER
JOHN F. KELLY
THOMAS W. KERSHUL
JOHN S. KINITZ
CHRISTOPHER T. KOCAB
TY B. KOPKE
DOUGLAS P. KRUGMAN
JI Y. KWON
LERON E. LANE
JARED A. LAURIN
AARON D. LENZ
SARAH B. LENZ
WARREN LEONG
WILLIAM B. LEWIS
MICHAEL D. LIBRETTO
CHRISTOPHER B. LOGAN
MICHAEL J. LORINO
DANIEL F. LOUGHRY
DAVID M. LOVEDAY
MICHELLE I. MACANDER
DANIEL J. MACSAY
ARTURO MANZANEDO
WILLIAM E. MARCANTEL, JR.
SEAN K. MARLAND
JASON T. MARTIN
RACHEL A. MATTHES
BRIAN D. MAURER
JOSEPH S. MCALARNEN
DANIEL C. MCBRIDE
ADAM C. MCCULLY
CHRISTOPHER C. MCDONALD II
ROBB T. MCDONALD
WILSON R. MCGRAW
DANIEL P. MCGUIRE
MICHAEL D. MCGURREN
MATTHEW T. MCSORLEY
MADELINE M. MELENDEZ
SEAN M. MELLON
ROBERT D. MERRILL, JR.
DAVID A. MERRITT
ROBYN E. MESTEMACHER
JAMES R. MEYER
MICHAEL T. MEYER
MATTHEW T. MILBURN
ERICK MIN
ROY L. MINER
TONY M. MITCHELL
MICHAEL V. MONETTE
SCOTT J. MONTGOMERY
RICARDO R. MORENO
KATE L. MURRAY
DAVID S. NASCA
CHARLES D. NICOL, JR.
JOSE A. NICOLAS
CHRIS P. NIEDZIOCHA
MARK A. NOBLE
ANDREW J. NORRIS
KYLE M. NUNEMACHER
DAVID A. ODELL
ERIC M. OLSON
BRIAN J. OSHEA
CHARLES E. PARKER, JR.
DANIEL L. PARROTT, JR.
JIEMAR A. PATACSIL
JEFFREY B. PATTAY
TRAVIS L. PATTERSON
IAIN D. PEDDEN
JAMES L. PELLAND
BRADY P. PETRILLO
BRADLEY A. PIERCE
LAWRENCE V. PION III
NICHOLAS M. POMARO
JACOB D. PORTARO
DEREK A. POTEET
JOHN V. PRICEVANCLEVE
AMY E. PUNZEL
CARL J. PUNZEL
ANTHONY J. RAYOME
WADE C. REAVES
FOREST J. REES III
JACOB S. REEVES
JAMES B. REID
JEFFREY M. ROBB
RICHARD H. ROBINSON III
JAYMES E. ROEDL
JOHN J. ROMA
JAMES T. ROSE
DANIEL H. ROSENBERG
MICHAEL H. ROUNTREE, JR.
IAN H. ROWE
KEVIN M. RYAN
MATEO E. SALAS
RUDY G. SALCIDO
MARK D. SAMEIT
GREGORY A. SAND II
ERIC A. SANDBERG
THOMAS W. SAVAGE
RUSSELL W. SAVATT IV
JASON S. SCHERMERHORN
MATTHEW P. SCHROER
MATTHEW T. SCOTT
TIMOTHY J. SCOTT
CHRISTOPHER R. SEIGH
PATRICK J. SEIPEL
PETRA L. SEIPEL
ARNOLD B. SELVIDGE
RYAN C. SHAFFER
PATRICK J. SISE
ERIC J. SJOBERG
MICHAEL F. SMITH
CRAIG R. SNOW
DAVID J. SON
TEMITOPE O. SONGONUGA
AMMIN K. SPENCER
PATRICK S. SPENCER
LESLIE M. STANSBERRY
KRISTOFOR W. STARK
WALTER SUAREZ
NATHAN E. SWIFT
ROBERT J. TART
ROBERT L. TAYLOR, JR.
DANIEL W. THOMPSON
STEVEN R. THOMPSON
JAMES D. THORNBURG, JR.
MEREDITH E. TOBIN
GORDON L. TOPPER
JAMES S. TOPPING
ANGEL M. TORRES
PABLO J. TORRES
THOMAS N. TRIMBLE
NATALIE M. TROGUS
RUSSELL A. TUTEN
JACOB C. URBAN
MATTHEW A. VANECHO
JORDAN W. VANNATTER
BLAKE E. VEATH
CHRISTIAN R. VELASCO
JACOB P. VENEMA
ROBERT S. VUOLO
NICHOLAS D. WALDRON
EARLIE H. WALKER, JR.
MARC T. WALKER
KEVIN C. WALSH
WILLIAM T. WALSH
ROBIN J. WALTHER
NICHOLAS G. WEBB
SCOTT D. WELBORN
JOSHUA O. WHAMOND
TREVOR A. WILK

ERIC L. WILKERSON
RICHARD T. WILKERSON
PATRICK S. WILLIAMS
JOSEPH M. WILLS
CARLTON A. WILSON
ADAM J. WINSLOW
ROBERT D. WOLFE
MATTHEW D. WOODS
ADAM J. WORKMAN
GENE C. WYNNE
FRANCISCO X. ZAVALA

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

HENRY CENTENO, JR.
CARL W. MILLER III
DAVID E. MOORE
JAMES L. SHELTON, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

RICHARD K. O'BRIEN

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MICHAEL J. ALLEN
NOEMI APONTE
DONALD E. CHARBONEAU
DALE M. DANIKEN
JARED M. ELLIS
DARREN R. FLINT
CHRISTOPHER T. HAMBRICK

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JEREMY T. FLANNERY
JUSTIN P. GIBSON
DOUGLAS A. MAYORGA
MICHAEL S. MCMILLAN
MARK L. OLDROYD

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JOSEPH W. HOCKETT

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

FRANCISCO D. AMAYA
JAMIE L. ARNOLD
TYSON E. PETERS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MICHAEL M. DODD
GEORGE H. FORBES III
RAYMOND M. HUNT III
DANIEL G. LAWRENCE
DAVID J. LEONARD, JR.
SEAN A. PAIGE
ROBERT E. ROBERTS III
ROBERT J. SNODDY

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DAVID S. GERSEN

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JOHN W. GLINSKY

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

KEITH A. STEVENSON

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

QUENTIN R. CARRITT
WILLIAM C. COX II
JAMES S. DAVIS, JR.
BRIAN D. POTTS
ERIC A. SHARPE

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

ANTHONY P. GREEN
RAYMOND W. HOWARD
SEAN M. MELANPHY
RAYMOND J. MITCHELL
PERRY L. SMITH, JR.
MICHAEL A. YOUNG

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JASON G. LACIS

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

STUART M. BARKER

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

KEVIN J. GOODWIN

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RICHARD CANEDO
JOSEPH M. FLYNN
MATTHEW C. FRAZIER
DAVID L. OGDEN, JR.

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN E. SIMPSON III

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

SEAN T. HAYS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

LUKE A. CROUSON
JASON C. FLORES

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

ARLINGTON A. FINCH, JR.
KEVIN M. TSCHERCH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

STEPHEN J. ACOSTA
KARL R. ARBOGAST
BRANDEN G. BAILEY
ROBERT O. BAILEY
WILLIAM J. BARTOLOMEA
SHAWN M. BASCO
WILLIAM E. BLANCHARD
ROBERT B. BRODIE
NGAIO I. BROWN
MICHAEL S. CASTELLANO
ROBERT T. CASTRO
FRANCIS K. CHAWK III
KEVIN E. CLARK
CRAIG C. CLEMANS
KEVIN G. COLLINS
AARON M. CUNNINGHAM
ALISON L. DALY
EDWARD J. DANIELSON
GEORGE J. DAVID
EDWARD J. DEBISH
DOUGLAS S. DEWOLFE
JUSTIN S. DUNNE
DAVID R. EVERLY
ROBERT B. FANNING
SEAN B. FILSON
ROBERT B. FINNERAN
KELVIN W. GALLMAN
ERIC GARCIA
BRUCE D. GORDON
CHRISTEON C. GRIFFIN
DARRY W. GROSSNICKLE
HOWARD F. HALL
TREVOR HALL
BRADLEY J. HARMS
BRENDON G. HARPER
TIFFANY N. HARRIS
RICHARD HAWKINS
EDWARD J. HEALEY, JR.
MANLEE J. HERRINGTON
KEVIN H. HUTCHISON
GILBERT D. JUAREZ
JASON W. JULIAN
JESSE A. KEMP
ROBERT M. KUDELKO, JR.
JON M. LAUDER
DOUGLAS LEMOTT, JR.
JOHN C. LEWIS
JOHN J. LYNCH II
ERIC C. MALINOWSKI
RICHARD E. MARIGLIANO
PATRICK W. MCCUEN
JAMES A. MCLAUGHLIN
ROBERT T. MEADE
PAUL M. MELCHIOR
GORDON D. MILLER
NATHAN M. MILLER
ROSS A. MONTA
COBY M. MORAN
MATTHEW T. MORRISSEY
KEVIN F. MURRAY
MATTHEW R. NATION
MATTHEW J. PALMA
KEITH A. PARRELLA
BREVEN C. PARSONS
JEFFREY M. PAVELKO
JASON S. PERRY
GREGORY T. POLAND
KATHERINE I. POLEVITZKY
ANDREW T. PRIDDY
STEPHEN PRITCHARD
MICHAEL P. QUINTO
CHARLES A. REDDEN
GARY R. REIDENBACH
MICHAEL D. REILLY
RALPH J. RIZZO, JR.
MATTHEW B. ROBBINS
CESAR RODRIGUEZ
WILLIAM H. ROTHERMEL
JAMES A. RYANS II
MATTHEW R. SALE
ROBERT W. SHERWOOD
CHARLES E. SMITH
JOHN W. SPAID
DAMIAN L. SPOONER
DAVID M. STEELE
KYLE M. STODDARD
STACEY L. TAYLOR
JOON H. UM
MARK E. VANSKIKE
JORDAN D. WALZER
ANDREW R. WINTHROP
ROBERT L. WISER
DANIEL J. WITTNAM
THOMAS D. WOOD
DONALD R. WRIGHT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOSHUA P. BAHR
MARC R. DAIGLER
JOHN P. KEARNS
DUY T. PHAM
ALAN J. SOLIS
PAMELA N. UNGER
JANHENDRIK C. ZURLIPPE

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JOHN T. BROWN, JR.
CHRISTOPHER M. BURRIS
JULIUS G. JONES

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ELI J. BRESSLER
JONATHON R. CAPE
CHRISTOPHER L. HARDIN
JAMES R. STRAND

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CHADWICK W. ARDIS
JAMES A. MARTIN
JOHN M. MERRITT
AARON B. STOKES
JOHN P. VALDEZ
BRAD J. WILDE

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DUANE A. GUMBS

CONFIRMATION

Executive nomination confirmed by the Senate April 04, 2017:

DEPARTMENT OF HOMELAND SECURITY

ELAINE C. DUKE, OF VIRGINIA, TO BE DEPUTY SECRETARY OF HOMELAND SECURITY.

N O T I C E

Incomplete record of Senate proceedings. Today's Senate proceedings will be continued in the next issue of the Record.