that—exactly the opposite. She wrote that if a judge's personal views were to impede that judge's ability to impartially apply the law, then the judge should recuse herself from the case.

As the coauthor of that article and current president of Catholic University recently put it, ''The case against Prof. Barrett is so flimsy, that you have to wonder whether there isn't some other, unspoken, cause for their objection.''

It does make you wonder.

To those using this matter as cover to oppose Professor Barrett because of her personally held religious beliefs, let me remind you, there are no religious tests—none—for public office in this country. That is not how we do things here. Our government and our Nation are made better through the service of qualified people of faith. That will surely be true of Professor Amy Barrett.

I look forward to voting to confirm this accomplished law professor and devoted mother of seven later today, and I would urge our colleagues to join me.

Once we do, the Senate will advance another of President Trump's well-qualified circuit court nominees, Michigan Supreme Court Justice Joan Larsen, to serve on the U.S. Court of Appeals for the Sixth Circuit.

Justice Larsen is the second of three accomplished women whom the Senate will consider this week for appointment to our circuit courts. I assume that all three of these impressive women will receive strong support from our Democratic colleagues who never seem to miss an opportunity to talk about the war on women.

Here is what nominees such as Larsen and Barrett and the others we will consider this week represent for our Federal judiciary: equal justice under the law for all and a fair shake for every litigant. What a refreshing departure from President Obama and his so-called empathy standard for selecting judicial nominees—really just another of the left's ideological purity tests and one that was anything but empathetic for individuals on the other side of the case. If you are the litigant for whom the judge does not have empathy, you are in a tough position before such a judge.

Finally, I would like to express my gratitude, once again, to Chairman CHUCK GRASSLEY for his continued work to bring these outstanding nominees to the Senate floor.

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 and resume consideration of the Barrett nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Amy Coney Barrett, of Indiana, to be United States Circuit Judge for the Seventh Circuit.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Mr. President, Senator MCCONNELL has come to the floor to complain about what he calls obstruction of President Trump's judicial nominees. The majority leader must feel that many of us suffer from amnesia.

It was just last year Senate Republicans, under the leadership of the same Senator MCCONNELL, set a new standard of obstruction. The most prominent victim of Republican obstruction, Chief Judge Merrick Garland, was President Obama's nominee for the Supreme Court. Never, never in the history of the U.S. Senate has the Senate denied a Supreme Court nominee a hearing and a vote. Senator MCCONNELL led the Republicans last year in doing that.

Then, Senator MCCONNELL refused to even meet with Judge Garland, refused to give him the courtesy of a meeting, even though the judge's qualifications were unquestioned and even though he had been confirmed to the DC Circuit with broad bipartisan support.

The way Senate Republicans treated Merrick Garland was disgraceful, but Judge Garland was far from the only victim of Republican systematic obstruction during the Obama Presidency. In 2016, there were 30 noncontroversial judicial nominees—17 women and 13 men—who were denied a floor vote by Senate Republicans. All but two of these nominees were reported out of the Judiciary Committee with a unanimous vote of Democrats and Republicans. Some of these nominees—like Edward Stanton of Tennessee and Julien Neals of New Jersey—sat on the Senate calendar for more than a year, waiting for a vote which the Republican majority leader and his Members refused to give them.

During the last 2 years of President Obama's administration, the Republican-controlled Senate confirmed only 22 judges in 2 years. That is the lowest number of confirmations in a Congress since 1952. By comparison, in the last 2 years of George W. Bush's Presidency, the Democratic-controlled Senate confirmed 68 judicial nominees—22 under Republicans and Obama and 68 under Democrats for President Bush.

That is not all. Republicans also obstructed 18 Obama nominees by denying them blue slips. That is the permission slip from a Senator from the State of the judicial nominee. That included five nominees who had been State supreme court justices who were not approved by Republican Senators to move to the Federal bench: Lisabeth Tabor Hughes from Kentucky, Myra Selby from Indiana, Don Beatty from South Carolina, Louis Butler from Wisconsin, Patricia Timmons-Goodson from North Carolina.

Senate Republicans turned obstruction of judicial nominees into an art form under President Obama. Yet Senator MCCONNELL, day after day, has said: ''I think President Obama has been treated very fairly by any objective standard.''

He comes to the floor now regularly to complain about ''obstruction'' of Trump nominees. Senator MCCONNELL and the Senate Republicans set the standard for obstruction. If Leader MCCONNELL thinks President Obama was treated fairly with these facts, it is hard to understand why he is complaining about the treatment of President Trump's judicial nominees.

So far this year, the Senate has confirmed four of President Trump's circuit court nominees and four of his district court nominees. At the same point in his first year, President Obama had one circuit court nominee and three district court nominees confirmed. Twice the number have been confirmed under President Trump as were confirmed under President Obama in each of their first years. President Trump's nominees are moving twice as fast as President Obama's.

Senator MCCONNELL controls the floor schedule. If he wants to schedule more votes on judges, I suppose he has the power to do so. He is exercising that power by doing something that has never happened in the history of the Senate. Four circuit court judge nominees will be considered this week in the Senate.

Since the Republicans in the Senate are dedicating this week to judicial nominations, it gives us a good opportunity to look at the nominees President Trump has put forward for lifetime appointments to the second highest courts in the Federal system.

Time and again, we have seen President Trump nominate people who are far outside of the judicial mainstream. For example, there is John Bush, now a judge on the Sixth Circuit, who blogged about the false claim that President Obama wasn't born in the United States, compared abortion to slavery, and said in his hearing that he thinks impartiality is an aspiration for a judge, not an expectation.

There is Damien Schiff, nominee for the Court of Federal Claims under President Trump, who called Supreme Court Justice Anthony Kennedy ''a judicial prostitute.''

There is Jeff Mateer, a Trump nominee for the district court in Texas, who described transgender children as part of ''Satan's plan'' and who lamented that States were banning so-called ''conversion therapy,'' the pseudoscience of attempting to ''convert'' LGBT Americans into heterosexuals.

There is Thomas Farr, Trump nominee for the district court in North Carolina, whom the Congressional Black Caucus describes as ''the preeminent attorney for North Carolina Republicans seeking to curtail the voting rights of people of color.''

There is Greg Katsas, nominee for the DC Circuit, who refused to say at his hearing whether the torture technique known as waterboarding is illegal.

There is Brett Talley, a nominee by President Trump to be Federal trial judge in Alabama, who has never tried a single case and he wrote in a blog: ''I pledge my support to the National Rifle Association, financially, politically, and intellectually.''

There is Alabama district court and Trump nominee Liles Burke, who hung a portrait of Confederate President Jefferson Davis in his office and defended it at his hearing, saying it had ''historical significance.''

There is Oklahoma district court nominee Charles Goodwin, who received a very rare rating of ''not qualified'' to be a Federal judge from the American Bar Association.

The list of Trump nominees goes on.

Routinely, we see judicial nominees under President Trump who have a history of taking ideologically driven positions that are out of the mainstream. Nearly all of these nominees are members of the rightwing Federalist Society, which President Trump uses as his gatekeeper for the Federal bench.

Do you remember Neil Gorsuch, the Supreme Court Justice? Do you know how he was notified that he had been chosen to be a candidate for the Supreme Court? You would expect a call from the White House, right—maybe even a call from the President? No. The White House decided to delegate to the Federalist Society to notify him. They called Mr. Leo, their director, and said: Why don't you call Mr. Gorsuch and give him the good news? Well, it is no surprise to those of us who know that the Federalist Society, this conservative group, is now the gatekeeper of all the Federal judges under President Trump.

Many of these nominees have given no reassurance that they will be independent as judges. And the question obviously is, What impact will the President—who has unfortunately denigrated and pressured Federal judges in the past—have on them?

Let's consider the nominees before the Senate this week.

Professor Amy Coney Barrett, who has been nominated to sit on the Seventh Circuit Court of Appeals, is a distinguished professor at Notre Dame Law School. She has strong academic credentials. She clerked for Justice Scalia on the Supreme Court. But she has no judicial experience. And she told the Judiciary Committee that she could only recall three litigation matters that she worked on in her entire career—three. She has never served as a counsel of record in an appellate case or ever argued an appeal.

Given her lack of judicial record and her minimal record as a practicing lawyer, the Judiciary Committee looked at Professor Barrett's academic writings to try to understand who she is and what she believes. Basically, that is all we had to go on.

Much of Professor Barrett's writings deal with when she believes it is acceptable for judges to deviate from precedent. For example, in a 2003 law journal article, she called for ''federal courts to restore flexibility to stare decisis doctrine.'' In a 2013 article, she said that it is ''more legitimate for [a justice] to enforce her best understanding of the Constitution rather than a precedent she thinks clearly in conflict with it.'' These are extraordinary—some would say even extreme—views of the obligation of a Federal judge to follow established precedent from someone who is seeking a lifetime appointment to the second highest court in the land.

I would like to address Barrett's Law Review article. She co-wrote an article in 1998 with John Garvey in the Marquette Law Review entitled ''Catholic Judges in Capital Cases.'' This article was about what she perceived then as the recusal obligations of ''orthodox Catholic'' judges. The article said some provocative things. Here are some examples:

''A judge will often entertain an ideological bias that makes him lean one way or another. In fact, we might safely say that every judge has such an inclination.''

''Litigants and the general public are entitled to impartial justice, and that may be something that a judge who is heedful of ecclesiastical pronouncements cannot dispense.''

She wrote, when discussing the ''behavior of orthodox Catholics in capital cases,'' that ''the judge's cooperation with evil passes acceptable limits when he conducts a sentencing hearing.''

This is an article written by the nominee. This is an issue raised by the nominee. It was such a profound statement about the relationship between conviction, conscience, and religious belief, that it was the subject of many questions from many Senators on the Judiciary Committee.

For the last 2 days, Senator MCCONNELL has come to the floor and talked about the left asking questions about Amy Coney Barrett's religious beliefs. Obviously Senator MCCONNELL has not read the transcript from the Senate Judiciary Committee.

Some have suggested it was inappropriate for the Judiciary Committee to even question the nominee about the impact of religious belief on the discharge of her duties. Some of my colleagues have questioned the propriety of such questions in light of the Constitution's clear, unequivocal prohibition on religious tests. But I would remind the Senate that it was the nominee herself, in this 47-page Law Review article, who raised this issue on whether the teachings of the Catholic Church should have any impact on the discharge of judicial duties of a Catholic judge.

So was it any surprise that at least five different Senators—three Republicans and two Democrats—asked her about the article that she coauthored? It is no surprise that the gravity of this publication and the issue it raised led committee members on both sides of the aisle to ask questions about the nominee's religious beliefs, the contents of her writings, and how it would impact the discharge of her duties if she was approved by the Senate.

Who asked the first question about the religious beliefs of Amy Coney Barrett? It was the Republican chairman of the Committee, CHARLES GRASSLEY. He noted that Professor Barrett had been outspoken about her Catholic faith and asked her when it was proper for a judge to put religious views above applying the law. Chairman GRASSLEY also asked, in his second question, how she would decide when she needs to recuse herself on grounds of conscience.

Senator MCCONNELL comes to the floor and suggests that any reference to that article somehow raises questions of religious bias. Let me say for the record that I do not believe Chairman GRASSLEY is guilty of religious bias, nor have I ever seen any evidence of it. It was hard to imagine how he could avoid the obvious. She had written a lengthy article—coauthored an article on a subject, and he felt dutybound, as chairman of the Judiciary Committee, to ask her questions about her beliefs on the subject. I don't believe that Chairman GRASSLEY would ever apply a religious test to any nominee, but he and many of us felt it important to ask Professor Barrett to state her position clearly on the convergence of her faith, her conscience, and her duties as a Federal judge.

Similarly, Republican Senator ORRIN HATCH felt it necessary to ask Professor Barrett to make clear a judge's duty when the laws or Constitution conflicts with the judge's personal religious beliefs. Again, I do not believe Senator ORRIN HATCH, Republican of Utah, would apply a religious test to any nominee, but the nominee's writings and the questions those writings raised led him to ask the nominee that question.

Later in the hearing, Senator TED CRUZ, Republican of Texas, raised the same issue. I will quote what he said to Professor Barrett:

> I've read some of what you've written on Catholic judges and in capital cases, and in particular, as I understand it, you argued that Catholic judges are morally precluded from enforcing the death penalty. I was going to ask you to just please explain your views on that because that obviously is of relevance to the job for which you have been nominated.

That was from Republican Senator TED CRUZ. I do not suggest that he was guilty of any religious bias in asking the question about an article written by the nominee.

I take our Constitution seriously when it says there should be no religious test for public office, but many Senators on the Judiciary Committee—three Republicans and two Democrats, including myself—felt the writings of the nominee warranted an inquiry about her views on the impact of her religion on a judge's role. That is far from a religious test in violation of the Constitution.

At her hearing, I asked Professor Barrett several questions about her 1998 Law Review article. I asked her whether she still agreed with her article. She said in general that she did. I said that even though I am a Catholic, even though I have gone through 19 years of Catholic education, I have never run into the term ''orthodox Catholic,'' which she used in that article. I asked her if she could define it. What was she saying? Whom did she describe? She said it was an imperfect term but explained the context for her use of it. I asked her whether she considered herself in that category, using her term which she put forward as carrying certain obligations on judicial recusal. She acknowledged again that the term is a proxy and that it wasn't a term in current use.

Some have argued that I was imposing a religious test—somehow, the three Republican Senators asking the same question have not been challenged—or that I was insinuating that Catholics can't serve on the bench. That is absurd. I myself am Catholic. I deeply respect and value the freedom of religion in our country and the Constitution. And I will let my record speak for itself about the number of Catholic nominees whom I have appointed to the bench or tried to appoint to the bench with the concurrence of the Senate during the course of my career. I voted for many judicial nominees who are of the Catholic religion, including Judge Ralph Erickson, who is outspoken about his Catholic faith and whom I voted to confirm several weeks ago. I am also sure I voted against nominees who were Catholic as well because I didn't think they had the experience, judgment, or temperament to serve in the Federal judiciary.

At nomination hearings, I ask questions to try to understand how the nominee would approach the job of a judge. I asked Professor Barrett questions about issues she raised in her academic writings that could directly impact the discharge of her judicial duties.

I would note that Professor Barrett put forward her views as part of the academic legal debate. Contrast that with Paul Abrams, President Obama's nominee for the Central District of California, who was aggressively questioned by committee Republicans last year about statements he made while speaking at his synagogue. Republicans ultimately blocked Paul Abrams' nomination. No one on this side of the aisle—not this Senator or any Senator—questioned whether they were applying a religious test in rejecting his nomination.

When judicial nominees have put forward their views on issues like the intersection of law and faith as part of the academic legal debate, I think it is fair for members of the Judiciary Committee to ask them about it. That is no religious test by my measure.

I voted against Professor Barrett's nomination in committee because I don't believe she has sufficient experience to be a circuit court judge and because of her writings about precedent. No one doubts that she is smart, but she has barely spent any time in the courtroom. The only basis we have to judge her on is on her academic writings.

Let's be honest. If a Democratic President had put forward a nominee with as little practical legal experience as Professor Barrett and with a similar history of advocating for not following precedent, I think we know exactly how the Senators on the other side of the aisle would have voted. As it stands, I cannot support Professor Barrett's nomination.

NOMINATION OF JOAN LARSEN

I oppose the nomination of Michigan Supreme Court Justice Joan Larsen to the Sixth Circuit. She is one of the 21 Supreme Court candidates that the Federalist Society and the Heritage Foundation handpicked for President Trump. Clearly, those rightwing organizations are confident that they will like her rulings if she is confirmed.

When she appeared before our committee, I asked some simple questions, and I was troubled by the responses.

In 2006, Justice Larsen wrote an op-ed defending President Bush's use of a signing statement on the McCain torture amendment. The McCain amendment prohibited torture and cruel, inhuman, or degrading treatment. I asked Justice Larsen about that op-ed and asked her if she believes waterboarding is torture and illegal. She would not answer the question. The law is clear on this matter, and I have voted against nominees in the past who would not acknowledge this.

I also asked Justice Larsen about the $140,000 in ads that a dark money front group called the Judicial Crisis Network had run in support of her nomination. This is the same rightwing, dark money organization that spent millions of dollars in undisclosed donations running ads to oppose Merrick Garland's nomination to the Supreme Court and to support the nomination of Neil Gorsuch.

I am troubled that special interest groups are making undisclosed donations to these nomination front groups. These special interests likely have a stake in the cases that will come before these judges. The donations should be transparent so that judges can make informed decisions about recusal.

I asked Justice Larsen if she could call on this front group to stop running ads in support of her nomination unless donations to the groups are made public. She responded that this was a political debate on which she could not opine. I think that is an absurd position, given that the debate here is over her own nomination and getting information for her own recusal decisions.

I also asked Justice Larsen if she agreed, as a factual matter, with President Trump's patently absurd claim that 3 to 5 million people voted illegally in the 2016 election. I think that is an easy question. Justice Larsen ducked it, saying that this was a political debate. I am troubled by these answers. I believe Justice Larsen has not shown the necessary independence from the President or rightwing groups like the Judicial Crisis Network, and she does not earn my vote.

NOMINATION OF ALLISON EID

I oppose the nomination of Colorado Supreme Court Justice Allison Eid to the Tenth Circuit. She is another on the short list of 21 Supreme Court nominees that the Federalist Society and the Heritage Foundation assembled for President Trump. She has now been nominated to the seat of the Tenth Circuit once held by Supreme Court Justice Neil Gorsuch.

I am troubled by the dissents Justice Eid wrote in a number of cases. I asked her about one of those cases during her hearing. A 2015 case, Westin Operator, LLC v. Groh, involved a hotel that evicted a group of college-age, intoxicated friends into freezing weather one night. The young adults ended up getting into a car and driving away. The car crashed, and a person was killed. The family of Caitlin Groh, who suffered traumatic brain damage in the accident, sued the hotel for negligently evicting the guests into a foreseeably dangerous environment.

Justice Eid's dissent argued that the court should have dismissed the Groh's family claim on a motion for summary judgment. She said that she saw no material dispute of fact in the case because she claimed the hotel video showed there were taxis in the area that the evicted guests could have taken. But the majority of the court saw the same evidence, the same video, and came to the opposite conclusion.

The majority wrote:

> Video footage from hotel security cameras shows two taxis in the vicinity during the general timeframe of the eviction. No taxi is visible on screen during the time in which the group exited the hotel and walked to the parking lot en masse, but there is a police car parked at the entrance. It is unclear from the record whether the taxis visible at other times in the video were occupied or available for service, whether any member of the group saw the taxis, and whether the security guards evicting the group were aware if a taxi was immediately available. . . . One of the people evicted testified at his own deposition that he tried to look for a cab outside the hotel but didn't see one.

In other words, looking at the same evidence, the majority of the court could not reach the same conclusion. It is difficult to understand how Justice Eid saw this evidence as undisputed and why she wanted this case dismissed

on summary judgment—until you read the part of Justice Eid's dissent where she talks about ''the burden that the majority is placing on Colorado businesses.'' That appears to explain her ruling, not the facts in the case.

In written questions I asked Justice Eid if she had also considered the burden the court's decision would place on these young adults and their families. She did not respond.

This is one of her troubling dissents, but there were others. In the 2014 case of City of Brighton v. Rodriguez, her dissent would have denied workers' compensation for a city employee who fell down the stairs to her office and needed brain surgery. In the 2017 case of People v. Boyd, her dissent criticized the State's decision not to prosecute a person on appeal based on a marijuana possession statute that is no longer operative. The cases go on and give ample reason why I do not believe this troubling record justifies Justice Eid replacing Justice Gorsuch on this important court.

NOMINATION OF STEPHANOS BIBAS

The last nominee I will address is, I believe, one of the most unusual I have ever seen before the Senate Judiciary Committee—Stephanos Bibas, who has been nominated for a lifetime appointment to the Third Circuit Court. In 2009, Professor Bibas wrote a lengthy draft paper entitled ''Corporal Punishment, Not Imprisonment.'' In it, he said that for a wide range of crimes ''the default punishment should be non-disfiguring corporal punishment, such as electric shocks.'' He went on to call for ''putting offenders in the stocks or pillory where they would sit or stand for hours bent in uncomfortable positions.'' Professor Bibas then went on to say that ''bystanders and victims could jeer and pelt them with rotten eggs and tomatoes (but not rocks).''

For more severe crimes, Professor Bibas called for ''multiple calibrated electroshocks or taser shots'' with medical personnel on hand to ensure ''that the offender's health could bear it.''

He also wrote ''instinctively, many readers feel that corporal punishment must be unconstitutionally and immorally cruel, but neither objection withstands scrutiny.'' He then wrote that corporal punishment ''in moderation, without torture or permanent damage, is not cruel.''

Professor Bibas said at his hearing that he didn't ultimately publish the 60-page, footnoted paper because he realized that his writings were wrong and offensive. He now says that he rejects his paper. But his 2009 paper was not just scribblings on a notepad. This was a polished, heavily footnoted, 60-page draft law review article.

Professor Bibas admitted that he presented this draft paper at conferences—on June 8, 2009, a conference at the University of Pennsylvania Law School; on July 20, 2009, at George Washington University Law School; on September 12, 2009, at that Vanderbilt Criminal Justice Roundtable.

According to the website of the Federalist Society, Professor Bibas also gave presentations on this same article to three student chapters of the Federalist Society—on September 3, 2009, at George Mason; on October 21, 2009, at the University of Florida; on October 22, 2009, at Florida State. Incredibly, this presentation by Professor Bibas was advertised with the title ''Corporal Punishment, Not Imprisonment: The Shocking Case for Hurting Criminals.'' This is an insensitive title for a presentation that called for administering electric shocks to human beings.

In his draft article, Professor Bibas thanked nine other people for their thoughts and comments on this paper. This was not something the professor wrote as a child or even as a student. When he wrote this paper in 2009, Professor Bibas was a professor at the University of Pennsylvania Law School, and he had already worked as an assistant U.S. attorney. He wrote this paper after Congress had considered the McCain torture amendment.

At the hearing I asked Professor Bibas: Do you remember the debate we went through as Americans about the acceptable method of interrogation for suspected terrorists overseas? Do you remember the debate we had on the floor when Senator MCCAIN, the victim of torture himself as a prisoner of war in the Vietnam war, came forward and authored an amendment, which got a vote of 90 to 9, condemning torture, cruel, inhuman, and degrading treatment of prisoners suspected of being terrorists? I asked him if he remembered that debate, which occurred 3 years before he wrote this outrageous article.

He said at the hearing: Well, I want to make it clear that I don't support waterboarding.

I said: So you support electric shock on American prisoners, but you do not support waterboarding?

He said on the record, under oath: ''I [knew] it was a crazy idea.''

This is a man seeking a lifetime appointment to the second highest court in the land. This paper deeply troubles me. Not only did Professor Bibas go a long way down a dangerous path with his proposals, but this law school professor got the law wrong. The Supreme Court had made clear in 2002 in the case of Hope v. Pelzer that the corporal punishment practiced in the State of Alabama of restraining prisoners by tying them to a hitching post in uncomfortable positions constituted cruel and unusual punishment in violation of the Eighth Amendment.

Professor Bibas wrote his paper, workshopped it, took it to six different universities, and then ran away from it only after he heard how offensive his proposals were.

That is not my only concern about his nomination. We spent a lot of time at the hearing talking about his aggressive prosecution of Linda Williams. What was she charged with? The alleged theft of $7 from a cash register. The magistrate judge acquitted this defendant even before the closing argument from defense counsel. The case was weak, yet it was aggressively pursued by then-attorney Bibas. Professor Bibas apologized at his hearing for this prosecution, but we have seen over and over again that many people try to walk away from who they are and what they have done when it comes to a confirmation hearing.

I believe these cases that I mentioned, particularly this outrageous article, show a real insight into the judgment and temperament of this judicial nominee.

I have been a member of the Senate Judiciary Committee for a number of years, and I have seen many nominees. I will tell you without fear of contradiction that I have never seen a nominee who has written an article that is so unsettling and so worrying. I wonder about the temperament of this nominee. Given the power that we are about to give him to judge the fate of others for decades to come, can we really trust his temperament? Can we really trust his judgment?

Sadly, if the shoe were on the other foot, if this were a nominee who had been proffered by a Democratic President before that same committee, I know exactly what his fate would have been. He would never have been taken seriously or considered for such a high position.

Mr. President, the article by Amy Coney Barrett, ''Catholic Judges in Capital Cases,'' published in the Marquette Law Review can be found online at http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1443&context=mulr, and the article by Stephanos Bibas entitled ''Corporal Punishment, Not Imprisonment,'' can be found online at https://www.judiciary.senate.gov/download/stephanos-bibas-corporal-punishment, so that those who read my statement will understand exactly what it was based on.

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

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

RECOGNITION OF THE MINORITY LEADER

The Democratic leader is recognized.

RUSSIA INVESTIGATION

Mr. SCHUMER. Mr. President, yesterday morning we learned that two members of the Trump campaign—Mr. Manafort, his one-time campaign chairman, and Mr. Gates, a close associate of Manafort's—were indicted on a dozen charges as part of Special Counsel Mueller's investigation, including

money laundering, conspiracy to commit fraud, and conspiracy against the United States.

The fact that the activity in question took place partially before the Trump campaign offered Mr. Manafort the role of chairman in no way diminishes the gravity of the situation. If anything, it suggests that the Trump campaign was negligent in hiring as its chairman a man who was an unregistered foreign agent working for a pro-Russian proxy party in Ukraine. That man is now alleged to have been laundering large sums of money and concealing his identity as a foreign agent from the FBI and the Department of Justice, including during his time during the Trump campaign. Imagine having such poor vetting and poor judgment to hire such a person as your campaign manager.

We also learned that a Trump campaign adviser met with a Kremlin contact to discuss ''dirt'' they possessed on Secretary Clinton and had several email exchanges with other Trump officials about his outreach to the Russians. This disclosure should put an end to the idea that there was no communication or possible connection between the Trump campaign and Russia.

It is not fake news, Mr. President. It is not fake news. There was a connection between the Trump campaign and Russia. Who was involved, how much, and what happened are yet to be determined, but there was a connection, even though the President has denied that connection for months.

The President can assert whatever he wants on Twitter, but the facts are the facts. There were official members of the Trump campaign who were receptive to working with a hostile foreign power to obtain damaging information about their political opponent. These revelations should concern every Member of this body—Democrat, Republican, Independent, liberal, moderate, and conservative.

I understand the strength of the centrifugal forces in our politics that warp everything into a partisan battle between two sides. There are two sides to every argument, but no one is above the law, no matter what side of the argument one is on. The rule of law and American democracy are indisputable as our bedrock. We cannot abandon it for political expediency.

Special Counsel Mueller, who served both Republican and Democratic administrations—a lifetime public servant and a man of unimpeachable integrity—was appointed by President Trump's Deputy Attorney General. Mr. Mueller was a career prosecutor and is as straight of a shooter as they come. He must be allowed to finish the work he started without any interference. If he had nothing to fear, as he claims, President Trump would encourage Special Counsel Mueller to follow every lead and pledge his full cooperation. Instead, President Trump is again trying to divert our attention by making spurious allegations and trying to knock down anyone or anything in his way, playing right into the partisan, two-sides instinct of Washington. But this goes beyond partisanship. It goes right to the rule of law.

The President has a tendency to call anyone who disagrees with him and anyone who has facts that he doesn't like a liar, dishonest, and this, that, or the other thing. This has demeaned and degraded our Presidency and even our country. There are places where it must stop, and it should stop at the rule of law. I say that to President Trump, who may never listen, but I say that to my Republican colleagues here in this Chamber.

The Founders of the Republic put at the center of our civic life no religion, dogma, or sovereign, but rather the rule of law. It is what separated the American experiment from the hereditary monarchies of the era and outdated ideas like the divine rights of Kings.

The rule of law holds in check our people, including our President. Donald Trump is President, not King. He cannot decree things to go away or say that facts are not facts. He is as subject as anyone else to the rule of law. That is what makes our democracy so grand. No one—no one—is below the rule of law's protection, and no one is above its reproach, including the President of the United States. It safeguards our democracy from the usurpations of demagogues and would-be dictators. It is why this noble experiment—the American experiment—continues, and Donald Trump is shaking the foundation of that when he tries to get out from Special Counsel Mueller's due process.

What Special Counsel Mueller represents is the rule of law at work in 21st century American democracy. Intentionally and spuriously impugning his integrity or smearing his efforts as partisan is not only inaccurate, it is not only false, it is not only fake, but it is damaging to a core ideal in our country, the independent and impartial rule of law that no man—even the President of the United States, even Donald Trump, think what he may—is above the rule of law.

Special Counsel Mueller's investigation must be allowed to proceed unimpeded, and my friends on the other side of the aisle must help dispel the notion that his investigation is in any way partisan. To their great credit, many of my colleagues have done just that in the last 24 hours, and I salute them.

The American people must have faith that when the very foundations of our democracy are shaken by a hostile foreign power, our independent judicial system built on the rule of law will not be degraded by partisan politics. We must loudly reject forces and actors that will try to make it so—on both ends of Pennsylvania Avenue. Our leaders—our Republican leaders in the House and Senate—have an obligation to tell Donald Trump to lay off Mueller's investigation. Let it proceed where it goes. That is what our democracy is all about, and that is what leadership is all about.

REPUBLICAN TAX PLAN

Mr. President, according to their timeline, House Republicans are set to release the details of their tax plan tomorrow. We will see if they can do it and, if so, just how detailed it will be. What everyone in America should focus on is the question of who exactly the Republican plan will benefit. Will it be the poor, the working class, or the middle class, or will it be big corporations and the richest 1 percent?

We live in a time of immense inequality, so much so that it strains the bonds of affection that bind us together in this country. The wealthy have amassed astonishing wealth—and God bless them. We don't begrudge them for their success, but working Americans and middle-class Americans have slipped further and further behind. The President is surely aware of this. He rode into the White House by channeling the legitimate anger and anxiety of working-class Americans who have seen their wages diminished and their jobs shipped overseas.

Will President Trump and his Republican Party, once in power, turn around and rewrite the Tax Code to benefit the wealthy few at the expense of the middle class? Will he do a 180-degree turn from what he campaigned on and what he talks about and pass a plan for the hard right—those wealthy thousand people who give so much money to the Republican Party and think tanks? Will he bow to them against everything he campaigned on and what he says? It sure seems so.

On Wednesday, Republicans will likely propose to eliminate or substantially reduce the State and local tax deductibility, a bedrock middle-class deduction claimed by over one-third of all taxpayers—not just the wealthy—most of whom are in the middle class or the upper middle class. The proposal caused such angst in the House that it almost brought down the budget resolution. So Republicans have crafted a compromise that would allow taxpayers to claim State and local deductions on property taxes but not sales and income tax. That compromise would still cost taxpayers $900 billion.

Taxpayers in high sales tax States, like Tennessee, Florida, and Nevada, would get whacked, as would taxpayers in high income tax States, like New York, New Jersey, California, Minnesota, and Colorado. Go figure that high property tax States, like Texas, Chairman BRADY's State, would be better off under the proposal.

Picking winners and losers like this doesn't solve the problem. The new State and local compromise is still a nearly $1 trillion tax hike on the middle class to pay for tax giveaways to big corporations and the very wealthy.

I say to my Republican colleagues in the House, particularly to those from suburban and fairly affluent districts, middle-class and upper middle class

districts, that they vote for this compromise at the same peril as they voted for the bill that would totally eliminate State and local deductibility. The damage still remains, and don't think a small compromise—a small haircut—can let you escape from the political whirlwind you would reap if you vote for this bill.

The Republicans are also likely to unveil tomorrow what they plan to do with 401(k)s. We have heard reports that Republicans want to tax 401(k)s to get more revenue to pay for their tax giveaways to the rich. It is another clear example that this plan is not going to be for the middle class. The 401(k)s are one of the best tools we have to encourage Americans to start saving early for retirement. We know Americans aren't doing enough of that right now, at the same time that defined benefit plans are enjoyed by fewer Americans than in the past, as companies reduce or eliminate pensions. Why make it even harder for Americans to prepare for their retirement on their own by saving through 401(k)s? Why tax them so that you can give tax cuts to the very rich?

We Democrats have a better deal to offer the American people on 401(k)s. Rather than having Uncle Sam dip his hands into American retirement plans, we Democrats believe Americans deserve a helping hand when it comes to their retirement. In just a short time, we will release our 401(k) plan.

I yield the floor.

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

GUN VIOLENCE

Mr. MURPHY. Mr. President, last week, we voted on a judge who felt it necessary to sign up for a lifetime membership with a political organization in order to get his nomination forwarded back before this body.

The judge we voted on last week became a lifetime member of the NRA in between his appointment by President Obama and, then, his appointment by President Trump—a signal, apparently, to the new Republican White House that he would align with their interests and views on issues related to the regulation of firearms in this country.

We are going to see a parade of very interesting choices for the Federal judiciary come through this body, and they are going to be moved in rapid succession, as they are this week. I have been told that never before have we taken four votes on appellate nominees in a single week. Of course, that stands in contrast with the Republican Senate that refused to give even a hearing to one Supreme Court Justice over the entirety of 2016. I think it is worth noting that this body can move fast when it wants to, and yet we watched a Supreme Court seat be stolen by this Senate from a Democratic President who, by constitutional right, had the ability to make that appointment.

I bring up the lifetime membership in the NRA because it is increasingly clear that you have to signal a level of extremism on issues like firearms in order to get your name brought before this body. That signal is wildly out of step with where the American public is on many of these issues.

I have come to the floor over the course of the last 4 years every few weeks in order to talk about the fact that there is no other country in the world where 80 to 90 people every single day die from guns. The numbers are just absolutely stunning. Some 2,800 people a month die from guns, and 33,000 a year. The majority of those are suicides, but there are record numbers of homicides and accidental shootings in this country. Americans by and large don't accept this rate of slaughter. Americans want us to change our laws, and they don't want a judiciary that is going to stand in the way of Congress's ability to follow the wishes of our constituents.

I have been coming down to the floor to tell the story of the victims. My hope is that, although the data hasn't moved this Congress—90 percent of Americans want stronger gun laws—the data incontrovertibly shows that in places that have universal background checks or laws requiring you to get local permits before you buy a gun, there are less gun crimes.

Maybe if the data doesn't move my colleagues, the story of the victims will. Deon Rodney was shot on October 14 of this year, just a few weeks ago. He was working at Just Right Cutz, where he was a barber, in Bridgeport, CT. He was the 22nd homicide victim in Bridgeport this year.

He had just finished cutting a young boy's hair in a chair when a masked gunman chased somebody else into the barbershop. Police said Deon was protecting the young boy, shielding the young boy from this intruder who came running in. He jumped out of his chair to try to get in between the boy sitting in the barber's chair and the gunman, and the gunman shot him.

The owner of the barber shop said:

Deon had just finished his haircut and the boy was getting ready to go outside when the gunman came in. He saved everyone in the barbershop.

Deon was 31 years old. He left behind his wife, his mother, plenty of other family members, and an 8-year-old daughter.

Speaking about their daughter, Deon's wife said:

He loved her endlessly, unconditionally.

His mother said:

Deon is a part of me. He was my son, but he was also my friend.

His cousin said:

I know that everyone is recognizing his heroism now, but he was always like this. Always a role model and always willing to give. Always willing to go out of his way to help a stranger. Nothing has changed all these years. I guess I'm glad that the masses can now see this.

The owner of the barbershop went on to say of Deon:

He's dead because of these people running around with guns.

There are guns everywhere you look in cities like Bridgeport, New Haven, Hartford, New York or Chicago. People say: Why is that? Why are there all these guns—many of them, if not most of them, illegal guns—if you have strong gun laws in places like New York, Illinois, and Connecticut? The reason is that gun trafficking doesn't recognize State boundaries, and the guns used to commit crimes in places like Connecticut come from outside of Connecticut.

A comprehensive, groundbreaking survey of gun crimes in New York City found that 75 percent of the guns that are used to commit crimes in New York City come from outside of New York State. They come from States with looser gun laws, where you as a criminal can easily buy a gun without having to prove you are a responsible gun owner.

How do all these illegal guns get into Bridgeport such that somebody can turn a corner and walk into a barbershop with a weapon in their hand? It is because criminals with criminal records go into gun shows in States that don't require background checks at those forums, buy up dozens of weapons, load them into their cars, and then drive up to States with tougher gun laws and sell them on the black market.

Congress willingly allows this to happen because we have not moved our mandatory system of background checks to the places in which gun purchases are made today. Data is a little bit hard to pin down, but anywhere from 25 to 40 percent of gun sales today don't involve a background check. You can understand why. Sales have migrated to online. They have migrated to gun shows. They have gone to places where background checks aren't required.

I mentioned what the data tells us when it comes to background checks. The data tells us background checks save lives. Here is one slice of the data. In States that have universal background check laws, 47 percent fewer women get shot by an intimate partner than States without universal background check laws. That is because, in the heat of passion, domestic abusers often go to get a weapon and use it to perpetuate a domestic violence crime. You can't do that if you have a domestic violence history in a State with a universal background check law because wherever you go, you are going to be prohibited from buying that weapon.

Since November of 1998, more than 2.4 million gun sales to prohibited purchasers have been prevented because of background checks; 2½ million people who were criminals or who were addicts or who were seriously mentally ill were stopped from buying guns because of our background check laws. Because we now have at least one-quarter of all sales happening without background checks, that means there are hundreds of thousands of criminals,

hundreds of thousands of people with serious mental illness who are able to buy guns. It is not surprising that 90 percent of Americans, 90 percent of gun owners, 90 percent of Democrats, and 90 percent of Republicans support expanded background checks.

I would argue there is not another issue out there in American politics today that enjoys 90 percent support amongst Republicans and Democrats. Senator DURBIN corrected me the other day and said the latest survey states that the number is actually 94 percent support from Republicans and Democrats. The only slice of the American electorate that you can get under 90 percent support of background checks is NRA members. NRA members support universal background checks at a 75-percent clip. Background checks save lives, they are supported by the vast majority of the American public, and yet we can't get it done.

This month, I, along with a couple dozen cosponsors, introduced a new version of legislation allowing for background checks to occur in every commercial sale that is conducted in this country, with commonsense exceptions, making sure that when you are gifting a firearm to a family member or you are loaning a gun to a friend who wants to take it to go hunting, you don't have to conduct a background check under those circumstances, but if it is a traditional arm's-length sale, then you have to go through a process, which normally takes 10 minutes in order to prove you are not a criminal. Again, this proposal is supported by 90 percent of Americans. It is time we recognize that it is directly connected to this epidemic of gun violence that plagues the country.

Let me close by making another argument to you. I know a lot of my Republican friends talk a lot on this floor and on the cable news shows about the threat of terrorism to this country. When the terrorists decided to use planes as their weapon of choice to attack our country, we changed the way our law protects us from attacks by airplanes. We made sure we screened individuals before they got on these planes to make sure they don't have weapons or bomb-making material that could ultimately threaten the rest of us. We now all take off our shoes every time we get on an airplane because we recognized that we needed to change our laws to understand that these planes were being used to attack American citizens.

These terrorist groups have recognized that it is now pretty hard to get somebody with a weapon or an explosive device on a plane so they are now directing would-be attackers to a different forum. An issue of Rumiyah, which is Isis's propaganda magazine, encouraged recruits in the United States to take advantage of our loose gun laws. It specifically told people go to gun shows where you will not have to present identification or submit to background checks in order to buy military-style weapons that you can use to kill dozens of Americans. ISIS and al-Qaida are telling their potential recruits in the United States to go to gun shows so they don't have to submit themselves to a background check and so there is no paper trail of the gun they are buying in order to kill Americans.

Why wouldn't we adjust our laws to recognize that the new weapon of choice of terrorists is not an airplane, but it is today a tactical weapon bought outside of the background check system. I have a million more reasons why we should do what 90 percent of the American people want, and someday maybe we will get there.

So 33,000 people a year, 2,800 a month, 93 a day—that is a rate of gun violence that is not twice that of other industrialized nations. It is not 5 times, it is not 10 times, it is 20 times higher than the rate of gun violence in other industrialized countries in this world. It is not because we have more people who are mentally ill, and it is not because we spend less money on law enforcement. It is, by and large, because we have a set of gun laws that allow for illegal guns, dangerous weapons to flow into the hands of very dangerous people.

I hope my Republican colleagues will take a look at the new background checks legislation I have introduced with many of my colleagues, and we can finally get to a place that 90 percent of our constituents want us to be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Ms. WARREN. Mr. President, just last week, the Republican-controlled Congress rammed through a budget with the sole purpose of allowing Republicans to enact a tax plan that would take money from working Americans and put it into the pockets of giant corporations and wealthy individuals. The following week they killed an important rule that would have made it easier for Americans to hold big banks and corporations accountable when they lie, cheat, and steal from working families.

There have been countless stories of the Trump administration in disarray—juicy rumors of distrust and division between and among congressional Republicans and the White House, reports of Republicans' inability to advance key parts of their agenda, but that is only half the story. The other terrifying half is this. Since day one of this administration, President Trump and congressional Republicans have been working hard to make government work better and better for the rich and the powerful. While they have fumbled on their legislative agenda, they have been quietly working to help powerful interests capture our courts.

That shouldn't come as a surprise. For decades, those powerful interests have poured eye-popping amounts of cash into electing politicians who will promote their interests in Washington. They have hand-picked politicians who will enact laws that will make it easier for corporations to abuse their workers or cheat their customers or make an extra buck and make it harder for agencies to hold them accountable for wrongdoing. They have executed a well-funded campaign to rig the rules of the game so the powerful always come out on top and the people come out on the bottom, and they know the courts are the place where they can shape the law for decades to come.

Most Americans already know that while we have one set of laws on the books, we really have two different judicial systems. One justice system is for the rich and the powerful. In that system, government officials fret about being too tough on white-collar crime so wealthy individuals or giant corporations that break the law walk away with a small fine and a pinkie promise not to do it again, and when those executives break that promise, they get 2nd, 3rd, and 23rd chances. Every time they get caught, the cycle repeats. The corporation pays the fine, says some magic words, and everyone goes right back to breaking the law.

The second justice system is for everyone else. In that system, tough on crime is the name of the game. People are locked up long before they go to trial because they don't have the money for bail. Individuals who commit minor, nonviolent offenses are slapped with long prison sentences, and even after they serve those sentences and are released, they are branded with a scarlet letter that creates barriers to employment, to housing, and to opportunity. That second justice system even traps families, children, and elderly parents whose families are blown apart and whose communities are destroyed.

That second justice system has earned America the dubious title of holding the world's highest incarceration rate. Despite having less than 5 percent of the world's population, the United States holds more than 20 percent of the world's incarcerated population. Russia, China, and North Korea don't even come close—not only in raw numbers but in the percentage of their population behind bars. America's legal system is great at locking people up but terrible at doing what it is supposed to do, dispensing equal justice under law.

Those words—''Equal Justice Under Law''—are etched into the front of the Supreme Court. If we truly believe those words, we need to start making some changes, and in recent years, we have seen some progress. Some State and local governments have made real efforts to reduce crime and lower incarceration rates. Massachusetts is one of the States leading the way with elected officials in both parties debating transformative changes to the judicial system aimed at replacing this tough-on-crime policy with smart-on-crime policies. The call for reform also extends to corporate crime. Public outrage at corporate greed has created

pressure to hold the rich and the powerful a little more accountable, but President Trump is committed to reversing that trend. He is working hand in hand with this Republican Congress to ensure that the rich get to play by their own set of rules while everyone else gets crushed under the awesome power of law enforcement.

This week will be a big step forward for the two-part justice system as this Senate prepares to hand lifetime appointments to four judges whose careers make it clear that they have no interest at all in fixing our broken justice system.

Let's take a look at their records.

NOMINATION OF ALLISON EID

Colorado Supreme Court Justice Allison Eid, who was nominated to serve on the Tenth Circuit Court of Appeals, has used her power as a State Supreme Court Justice to shield corporations from accountability. She has voted to make it harder for individuals to bring class action lawsuits against huge corporations that break the law. Sound familiar? Ms. Eid would fit right in with the Senate Republicans, who just voted to make it easier for big banks and financial institutions to cheat people and walk away scot-free.

Ms. Eid also voted to deny workers' compensation to an employee who was injured at work and knocked unconscious because—get this—he couldn't remember the details of what happened. So Ms. Eid said that meant that there was going to be no liability there.

This kind of blocking and tackling for powerful companies that hurt consumers and workers should be embarrassing. With this President and this White House, though, it buys a lifetime appointment to the Federal bench in order to shield corporations from the law on an even bigger stage.

NOMINATION OF JOAN LARSEN

Ms. Eid is not the only nominee up for consideration who would leave working Americans out in the cold. Michigan Supreme Court Justice Joan Larsen, who has been nominated to serve on the Sixth Circuit Court of Appeals, voted again and again to block injured plaintiffs from having their cases heard. Giant companies and millionaires liked her so much that they spent over half a million dollars to get her elected to the Michigan Supreme Court. And why wouldn't they? Now she is going to be elevated to a lifetime appointment on the Federal bench, and that is a pretty good return on their investment.

Yes, these judicial nominees have bent over backward to help the wealthy and the well-connected escape accountability, but that is only half of the story. Trump nominees have a very different view of what justice means for individuals who lack the money or the resources to pay high-powered legal teams or to pay political campaigns to influence judge decisions and judge selection.

NOMINATION OF STEPHANOS BIBAS

This week, the Senate will also vote on the nomination of Stephanos Bibas to sit on the Third Circuit Court of Appeals. Mr. Bibas worked as a Federal prosecutor in Manhattan. You would think that there would be plenty of work for a Federal prosecutor with oversight of Wall Street and all of the other corporate executives in New York City. You would think that, but you would be wrong. Mr. Bibas's most famous case involved prosecuting a 51-year-old woman who was accused of stealing $7 from the cash register at her cafeteria job. That is right. While going to work every day in the shadow of Wall Street, Mr. Bibas decided that it was the best use of his time and Federal Government resources to pursue a $7 case. He eventually lost the case but not before the woman lost her job.

Then there is Amy Coney Barrett, President Trump's nominee for the Seventh Circuit Court of Appeals. She has also taken a throw-the-book-at-them approach to crime—at least to not-white-collar crime. She believes that the Miranda doctrine, which protects criminal defendants from coercive police tactics, is not required by the Constitution, and she has criticized efforts to reverse the damage that has been done by the sentencing disparity between powder and crack cocaine—a disparity that has been rightly criticized by Republicans, Democrats, religious leaders, and civic leaders across this country as rooted in our long history of racial disparities in law enforcement.

We have two justice systems in America—one for the rich and powerful and one for everyone else. Part of the way we fix that problem is by making sure that we put judges on the Federal bench who are fair, impartial, and committed to dispensing equal justice under the law. Fair and impartial judges are supposed to stand up for justice when prosecutors try to ruin someone's life over allegedly grabbing seven bucks from the cash register. They are supposed to stand up for justice when consumers and workers seek a day in court against giant companies that have injured them. But the judges before the Senate this week do not stand up for justice; instead, they stand up for the powerful against the people who desperately need someone who will be fair even to those who do not have money. These nominees are right at home in Washington's rigged system. They are judges who will continue to apply one set of rules to the rich and powerful and an entirely different set of rules to everyone else.

It is no wonder that Americans are so angry with Washington. They have had it up to their eyeballs with bought-and-paid-for politicians who spend more time catering to their wealthy benefactors than promoting the interests of constituents who are back home. They are tired of giant corporations getting a slap on the wrist for massive wrongdoing while people from their hometowns linger in prison for minor crimes. They know the legal system is deeply unjust and badly broken.

It is up to us—to every Member of this Chamber—to fix that broken system. Rejecting judicial nominees who will make it worse is a really good first step. It is not just the right thing to do, it is what the American people sent us here to do.

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.

Mr. LANKFORD. 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. LANKFORD. Mr. President, I have the opportunity to speak to this body today about Amy Barrett. Her nomination is currently pending to be a circuit court judge. There is a pretty high standard for those individuals because they handle some incredibly difficult constitutional cases. What is good about this is that Amy Barrett meets the high standard for those qualifications.

Professor Barrett received her B.A. in English literature magna cum laude from Rhodes College and her J.D. summa cum laude from Notre Dame University Law School, where she served as executive editor of the Notre Dame Law Review.

She currently serves as a research professor of law at Notre Dame University Law School. Professor Barrett teaches and researches in the areas of Federal courts, constitutional law, and statutory interpretation, publishing scholarship in leading legal journals, such as the Columbia, Virginia, and Texas Law Reviews. Those aren't easy areas to be able to publish in or an easy professorship to be able to land.

Before joining Notre Dame, Professor Barrett clerked for Justice Scalia of the Supreme Court of the United States and for Judge Silberman of the U.S. Court of Appeals for the DC Circuit. Following her clerkships, she was an associate, where she litigated constitutional, criminal, and commercial cases both in trial and appellate courts. Professor Barrett also served as a visiting associate professor at George Washington University Law School.

She seems to be eminently qualified. Then what seems to be the issue? Interestingly enough, she faced a very odd set of questions during her confirmation process—questions not about her legal scholarship, not about her qualifications, but, oddly enough, about her Catholic faith. It wasn't about her temperament. It wasn't about her fairness. It wasn't about scholarship. It was whether her Catholic faith would get in the way of her being a good judge. Quite frankly, it wasn't about whether she had chosen a faith; it was the problem that she actually seemed to live her faith that became a big challenge during the questioning time period.

It is odd for us as Americans because this seems to be an issue we resolved 200-plus years ago. We resolved it in article VI of the Constitution, which says that there is no religious test for any officer of the United States. There is no requirement to be of a certain faith or, if you are of a certain faith, to take that faith off if you are going to serve in the United States. We have in our Constitution a protection not of freedom of worship, which I hear some people say—they are free to worship as they choose—that is not our constitutional protection. Our constitutional protection is the free exercise of your religion—not just that you can have a faith, but you can both have a faith and live your faith according to your own principles. That is consistent with who we are as Americans, that we allow any individual to have a faith and to live their faith both in their private and public life or to have no faith at all if they choose to have no faith at all. That is a decision for each American.

But we don't ask individuals—as has been asked of this individual—whether faith will be the big issue and whether faith becomes a question in whether they are capable to serve other fellow Americans.

What is so dangerous, quite frankly, about her Catholic faith and her Christian beliefs as far as her being a judge? Are people afraid that she will actually live out what the Book of Proverbs says—to speak up for those who cannot speak for themselves, speak for the rights of all who are destitute, speak up and judge fairly, defend the rights of the poor and the needy? Is that what everyone is afraid of, that she will actually live out that Biblical principle?

I am a little confused why comments, such as ''The dogma lives loudly within you,'' were said during her questioning in the committee, and there were other questions to challenge her Catholic faith. Faith is a choice that each individual has, and it is an extremely personal but also extremely important choice.

Some individuals in America—myself included—choose to look past the mundane, day-to-day events and to think there is someone and something higher than us. We don't just look at the creation around us; we wonder about the Creator who made it. We don't just wonder about cosmic dust smashing into each other; we ask a logical question: If cosmic dust were to smash into each other in space and create all there is, who made space and who made the cosmic dust that smashed into each other, and how did that happen? Faith drives us to ask harder questions and to look a little longer at things that other people just see as plain in front of them. We ask what is behind it. A lot of Americans do. It is not irrational; it is a part of who we are and a part of how we are made.

It is a challenge to us as Americans to be able to challenge an individual and to say: That person is so radical that they believe in things like do not murder, do not steal, do not covet, honor your father and mother, or even things as radical as, in whatever you do, do unto others as you would have them do unto you.

It doesn't seem that radical of a belief that we would have to challenge and wonder whether one was able to be a judge if they believe in those things. We dare to believe in something beyond us, as do millions of other Americans.

I really thought that our Nation was past this, that our Nation that speaks so much of diversity and of being open to other ideas is somehow closing to people of faith. People who say they want to demand that everyone be included are afraid of people who have faith and live their faith. Why would that be? If we are going to be an open society, is it not open as well to people of faith to not only have a faith but to live their faith?

We hit a moment like this in the 1960s, and I thought we had moved past it. There was a Senator at that time who was running to be President of the United States. We know him as John Kennedy.

Senator Kennedy was speaking to a group of ministers in Houston, TX, in the 1960s, and he had to stand before them and explain his Catholic faith because, quite frankly, there was this buzz: Could someone be a Catholic and be President? What would that mean? Would you have difficulties with that?

The questions that were asked of Professor Barrett were strikingly similar to the questions that were asked of Senator Kennedy when he was running to be President of the United States. Here is how Senator Kennedy responded:

> For while this year it may be a Catholic against whom the finger of suspicion is pointed, in other years it has been, and may some day be again, a Jew—or a Quaker or a Unitarian or a Baptist. It was Virginia's harassment of Baptist preachers, for example, that helped lead to Jefferson's statute of religious freedom. Today I may be the victim, but tomorrow it may be you—until the whole fabric of our harmonious society is ripped at a time of great national peril. . . . And in fact, this is the kind of America for which our forefathers died, when they fled here to escape religious test oaths that denied office to members of less favored churches; when they fought for the Constitution, the Bill of Rights, and the Virginia Statute of Religious Freedom; and when they fought at the shrine I visited today, the Alamo.

JFK had visited the Alamo that day.

> For side by side with Bowie and Crockett died McCafferty and Bailey and Carey. But no one knows whether they were Catholic or not, for there was no religious test at the Alamo.

Then he made this closing statement:

> If I should lose on the real issues [of the Presidential race], I shall return to my seat in the Senate, satisfied that I had tried my best and was fairly judged. But if this election is decided on the basis that 40 million Americans lost their chance of being president on the day they were baptized, then it is the whole nation that will be the loser, in the eyes of Catholics and non-Catholics around the world, in the eyes of history, and in the eyes of our own people.

This should be a settled issue for us, not a divisive one. We are a diverse nation—diverse in backgrounds, perspectives, attitudes, and yes, diverse in faith.

I look forward to supporting Professor Barrett in this position, and I look forward to seeing her decisions as they come out of that court, consistent with the law—as she is well trained to be able to do—and consistent with our convictions as Americans.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AUTHORIZATION FOR USE OF MILITARY FORCE

Mr. KAINE. Mr. President, I rise to speak on a topic I have often spoken about on the floor.

We have been at continuous war since September 14, 2001, when Congress passed an Authorization for Use of Military Force to go after the perpetrators of the 9/11 attacks. That was 16 years, 1 month, and 18 days ago as of today.

The war in Afghanistan is the longest armed conflict in America's history, and it shows no signs of abating, even 6 years after the death of Osama bin Laden. The conflict has been going on for so long that many are somewhat immune to it. I heard a high schooler recently say: War is all I have ever known. It is the status quo. It is the background music to daily life.

Yet only 0.4 percent of the population of the United States serves in the military. That is down from 1.8 percent in 1968 and 8.7 percent in 1945, so it is increasingly unlikely that many of us even know those who are deployed and fighting in this ever-expanding global conflict.

Sadly, last week, for tragic reasons, these issues were brought to the forefront with the death of four brave American servicemembers in Niger: Army SGT La David Johnson, SGT Bryan Black, SGT Jeremiah Johnson, and SGT Dustin Wright.

Two of those killed—the two Sergeants Johnson—were part of a 12-man patrol whose mission is not clear. We know that their trained military occupational specialties—vehicle mechanic and chemical-biological specialist—were outside traditional combat roles.

In a June war powers letter, the Department of Defense described the mission of over 645 military personnel in Niger as ''advise and assist,'' but none of the varying accounts of what took place in early October seem to support that seemingly benign summary of what occurred.

Frustration over this lack of understanding of that mission and the events that transpired were shared by everyone from Secretary Mattis to all the Members here. I can't imagine what the servicemembers on duty and their families must be feeling. We see the strain that an ever-expanding operational commitment is having on our

military, from our servicemembers relying upon foreign countries or contractors to provide critical air support where servicemen are stranded on the battlefield for over a day, to our warships, for which schedules have been so strained that their crews are unable to safely navigate international waters.

Being a Senator from Virginia, a State with one of the largest military presences that is home to tens of thousands of servicemembers and their families, I have a personal responsibility to ensure that these strains don't lead to any more tragic mistakes.

The attack in Niger has also laid bare other issues: how little information is provided to Congress about U.S. troops deployed abroad equipped for combat; how little Congress exercises the authority and oversight of these issues and demands information to debate before the public; and the possible ''mission creep'' and growth of military forces in Africa—an increase by a factor of 17 over the past decade—in which hundreds of missions are being run daily in over 20 countries where there is no specific authorization for use of military force provided by Congress. The Niger operation really identified a gray area between advising and assisting in combat operations, which keeps some deployments just beyond the tripwire of requiring congressional notification.

SASC held a briefing last week with the Department of Defense to try to understand the scope of the Niger mission, the reason for the escalation of our footprint, and why this surprising attack left our troops without support for so long.

But beyond the immediate tactical answers, we need a strategic and fundamental understanding of how and where this country engages in military operations and if the war on terror has become the ''forever war'' with ever-changing objectives and no end in sight, absolving the need for Congress to weigh in and speak.

Yesterday, in Foreign Relations, we held a much overdue hearing on legal authorization for military force. We heard solid testimony and straightforward answers by Secretaries of State Tillerson and Mattis. I am encouraged that we had the hearing, and I am encouraged that our chair, at the end of the hearing, expressed the desire to move forward to finally, after 16-plus years, engage in a debate and a congressional vote on war authorization.

I was disappointed that the two Secretaries, who were being candid, took the position that the Trump administration needs no more legal authority to do what they are doing. But I have to acknowledge the position they take is actually the position that the Obama administration took, and it is exactly the position that the Bush administration took, so I was not completely surprised. In fact, we shouldn't be surprised when the administration says: We don't need any more authority. But of course, we are not playing ''Mother May I'' on this question. It is Congress's role, pursuant to article I, to declare war.

I disagree with the legal analyses offered by all three administrations. I was tough on President Obama about this, as well, that the 60-word authorization from 2001 covers military action all over the globe. But there is some legal dispute about the question, still.

Beyond the legal question, there are also questions of moral authority, political authority, and the abdication of responsibility in this body. Seventy-five percent of the Members of Congress today were not even here when the 2001 authorization was passed and, thus, have never had to cast a vote on it, even as our men and women risk their lives and, in some instances, are killed in action.

Simply put, the 2001 AUMF has become a golden ticket that justifies U.S. military action against terrorist groups all over the globe without the need for additional congressional approval. I am not surprised the Executive wants to keep it that way. Who wouldn't prefer such flexibility? But we have a job to do.

Here is what we need to do. This is what I think needs to happen. We need to end the legal gymnastics with the 2001 AUMF—a 60-word authorization against the perpetrators of 9/11. Applying that now to the fight against ISIL, Boko Haram, and others is a stretch. The AUMF outlines the focus of military action as follows: ''Nations, organizations, or persons [the President] determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons.''

There were 19 hijackers for the 9/11 attacks, and we have now used the 2001 AUMF in 37 instances to send forces prepared for combat and engaged in combat to 14 nations, including Libya, Turkey, Georgia, Syria, Iraq, Afghanistan, Yemen, Eritrea, Ethiopia, Djibouti, Somalia, Kenya, the Philippines, and Cuba.

Were all of these instances and nations and places really associated with planning or support of the attacks of 9/11? These legal interpretations are in addition to now countless ''train and advise'' missions around the world, to include those that took the lives of the four servicemembers in Niger.

This was not an unforeseen combat environment. I found this interesting. In April of 2014, the U.S. Government—the Department of the Navy—solicited contractual bids for ''Personnel Recovery, Casualty Evacuation, and Search and Rescue,'' aviation support in ''at risk'' environments in the following 14 countries: Algeria, Burkina Faso, Chad, Libya, Mali, Morocco, Niger, Nigeria, Cameroon, Cote D'Ivoire, Ghana, Benin, Togo, Tunisia and as directed by operational requirements. Only 5 of those 14 countries have ever been notified to Congress, pursuant to war powers letters, but we are planning to engage in casualty evacuation in connection with high-risk activities in all of these countries in Africa.

I would like to have a process that informs Congress—and informs the public—that is equal in transparency to what we put in contracting documents to inform military contractors. So Senator FLAKE and I have introduced an authorization for military force intended to keep the Congress and the American people not only informed of our military operations but also engaged in carrying out our constitutional duty. The intent is to recognize the fluid environment in which our military must operate to implement the counterterrorism campaign.

Terrorist organizations don't necessarily operate in just one country. They don't follow Geneva Conventions. It is a different kind of military action, but the requirement for congressional approval is no less important. We need to make our legal authorities, which are now dated, current and appropriately scoped.

I applaud my Foreign Relations chair, Senator CORKER, who, after the hearing yesterday, said that we would move to a markup and clearly, I suspect, an amendment of the proposal Senator FLAKE and I have put on the table. We have done a lot of work on it. A war authorization should be bipartisan. If anything in this body should be bipartisan, I think a war authorization should be. We don't pretend that we have thought of everything; we don't pretend that the bill cannot be improved.

In conclusion, I want to make a few comments. This week, the New York Times reported that President Trump has approved—without providing Members of Congress any information on why these changes are necessary—changes giving the Department of Defense and the CIA more latitude in pursuing ''counterterrorism drone strikes and commando raids'' against Islamic terrorist groups scattered across the world, all while using the 2001 AUMF as its legal justification. This expansion of war will only continue to magnify and mutate and will do so without public scrutiny, unless and until Congress steps up to provide the oversight and legal authority we are required to do.

I have come to the floor of the Senate since I came here in 2013 to speak about war powers, to speak about a need to revise the War Powers Resolution of 1974, to critique and challenge President Obama around the Libya mission, which had no vote from Congress, and to critique President Obama—who is a personal friend—over the offensive campaign against ISIL without requiring a congressional vote. Since I was clear and repetitive in my critiques of President Obama for using war powers without Congress being involved, I am going to do the same with respect to President Trump.

At the end of the day, my critique is more about this body. An Executive will overreach. An Executive will act, but that does not excuse inaction in this body.

I do worry about a progressive loosening of the rules from the Bush administration to the Obama administration to the Trump administration, which eventually has turned the 2001 AUMF into a golden ticket that allows for action against nonstate terrorist groups anywhere in the world on a Presidential say-so.

We shouldn't take our institutions and, frankly, the fairly radical rebalancing of powers in the Constitution for granted. When Madison and the other drafters put the declaration of war authority in the hands of Congress, they knew they were doing something pretty radical. They knew the world of the day—1787, 230 years ago last month—was a world of Kings, Emperors, Monarchs, Sultans, and Popes. War was primarily for the Executive, but they decided they wanted to do something different. Ten years after the Constitution was done, Thomas Jefferson, as President, was grappling with a nonstate terrorist group in Northern Africa—the Barbary Coast pirates—and what could be done about them? He wrote a letter to James Madison and asked what was behind the war-making powers in the Constitution's article I. Madison described it very well. He said: Our constitution supposes what the history of all governments demonstrates, that it is the Executive most interested in war and, thus, most prone to war. For this reason, we, with studied care, granted the question of war in the legislature.

They were trying to change human history. They were trying to say that we shouldn't be at war unless there was a legislative, collective judgment—not 116 years ago by 25 percent of the people who were there then, but a legislative, collective judgment expressed in an authorization that we should be in war. We are lacking that now.

It is not hard to imagine a future President, whether it is President Trump in the remainder of his term or Presidents in the future, using the expanding war authorities to increasingly justify initiating war without the permission of Congress.

We asked President Trump for the legal authority justifying the Syrian missile strike on Syria that he made in March, and they have not yet provided an answer about their legal authority. What Congress has done is basically told Presidents: You can do whatever you want. That has a way of creeping and growing, and I think it already has. I think the American people deserve better, but, especially, our troops deserve better.

I have said it before; I will say it again. I can't think of anything more publicly immoral—public, civic immorality—than ordering troops to risk their lives and be killed, as the four were in Niger, while Congress is unwilling to cast a vote because this would be a politically difficult vote: I would rather not vote; I would rather make the President do it and blame the President if it works out badly. A political calculation has caused Congress to abdicate a responsibility while others are shouldering the burdens of responsibility—and even losing their lives in the process.

Finally, Senator Jacob Javits wrote a book in 1973 entitled ''Who Makes War'' after Congress passed the War Powers Resolution during the Vietnam war. He offered a very prescient commentary. I will close here:

> Many advocates of presidential prerogative in the field of war and foreign policy seem to be arguing that the President's powers as Commander in Chief are what the President alone defines them to be. The implication that the Presidency is beyond the range of congressional authority to check in the exercise of the war powers raises a serious constitutional danger. If we accept such a view we accept a situation in which the American people are dependent solely on the benign intent and good judgment of the incumbent President. We may not always be fortunate enough to see a person with such qualities in the White House.

With that, I yield the floor.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. THUNE. 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. THUNE. I ask unanimous consent that I be able to speak until such time as my remarks are concluded.

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

TAX REFORM

Mr. THUNE. Mr. President, the House and the Senate are moving forward on a final draft of our tax reform bill, and I am excited about the progress we are making. We have one goal in mind with tax reform. It is to provide real relief to ordinary Americans—to the parents who are questioning whether they can afford the car they need to fit their growing family, to the single mom who is wondering how she is going to pay the bills this month, and to the middle-age couple worrying about a secure retirement. Everything in our tax reform framework is centered on providing relief to these Americans.

To start with, we are going to provide them with a substantial amount of direct relief by lowering their tax rates and doubling the standard deduction so that they are keeping more of their paycheck every month.

We are also going to significantly expand the child tax credit.

And we are going to simplify and streamline the Tax Code so that it is easier for Americans to figure out what benefits they qualify for and so they don't have to spend a lot of time and money filing their taxes.

All of these reforms mean more money in Americans' pockets. But we are not stopping there. We are also going to focus on reforming the business side of the Tax Code so that we can give Americans access to the kind of jobs, wages, and opportunities that will set them up for a secure future.

In order for individual Americans to thrive economically, we need American businesses to thrive. Thriving businesses create jobs. They provide opportunities. They increase wages and invest in their workers, and they invest in new equipment, facilities, and product lines to innovate and expand their businesses.

Right now, though, our Tax Code is not helping businesses thrive. Instead, it is strangling both large and small businesses with high tax rates.

Our Nation has the highest corporate tax rate in the industrialized world—at least 10 percentage points higher than the majority of our international competitors. That is a problem for American workers because high tax rates leave businesses with less money to invest in their workers, to increase wages, or to create new jobs. This situation is compounded when you are an American business with international competitors that are paying a lot less in taxes than you are.

It is no surprise that U.S. businesses struggling to stay competitive in the global economy don't have a lot of resources to devote to creating new jobs and increasing wages. A study from the White House Council of Economic Advisers estimates that reducing the corporate tax rate from 35 percent down to 20 percent would increase average household income by $4,000 annually.

A second study shows a similar pay increase. Boston University professor and public finance expert Larry Kotlikoff found that lowering the corporate tax rate to 20 percent would increase household income by $3,500 per year on average. That is a significant pay raise for hard-working Americans.

In addition to lowering the corporate tax rate, there is another important thing we can do to increase the availability of jobs here at home; that is, reforming our outdated, worldwide tax system. Under our worldwide tax system, American companies pay U.S. taxes on the profit they make here at home, as well as on part of the profit they make abroad, once they bring that money home to the United States.

The problem with this is that most other major world economies have shifted from a worldwide tax system to what is called a territorial tax system. In a territorial tax system, you pay taxes on the money you earn where you make it and only there. You aren't taxed again when you bring money back to your home country.

Most American companies' foreign competitors have been operating under a territorial tax system for years. So they are paying a lot less in taxes on the money they make abroad than American companies are, and that

leaves American companies at a disadvantage.

These foreign companies can underbid American companies for new business simply because they don't have to add as much in taxes into the price of their products or services. When foreign companies beat out American companies for new business, it is not just American companies that suffer. It is American workers. It is the American workers employed by these companies who live and work in literally every State in the Union, and it is the American workers who work for the small and medium-sized companies that form the supply chain here in the United States.

For every American company that operates in countries around the world, there are countless companies here at home that supply the raw material for the products that are sold abroad—businesses that handle the packaging and shipping of those product and enterprises that supply support services like accounting, legal, and payroll services.

America's global companies rely on a web of supporting businesses that spans the country, and when these global companies struggle, so do these supporting businesses and their workers.

By transitioning from a worldwide tax system to a territorial tax system, we will not be just boosting wages, jobs, and opportunities for American workers employed by these global companies, but we will also be increasing wages, jobs, and opportunities for workers at the countless small and medium-sized businesses throughout our country that make up the supply chain for America's global companies.

Finally, our tax plan will tackle the other key part of improving the playing field for American workers; that is, lowering the tax rates on small businesses.

Small businesses are incredibly important for new job creation, but like big companies, right now small businesses are being strangled by high tax rates. That can make it difficult for small businesses to even survive, much less thrive and expand their operations. Lowering small business tax rates and making it easier for small businesses to recover their invested capital more quickly will free up the money that small business owners need to expand their businesses to add workers or to give employees a raise.

Together, these aspects of tax reform are essential to reversing the lackluster economy of the last 8 years. Americans deserve better, and tax reform can be the key to putting this country back on the path to solid, sustainable economic growth.

Mr. President, before I close today, I wish to switch gears for a minute and talk about judicial nominations. We have had the chance to confirm some excellent nominees so far this year, many of whom Democrats have ultimately supported. But despite this fact, Democrats have insisted on delaying the process of almost every single nomination to a district or circuit court. That is pretty much the definition of partisanship—when you obstruct nominees based not on any disagreement you have with them but simply because you don't like the person who is doing the nominating.

Democrats' delays are ultimately pretty pointless. We are not going to stop confirming nominees just because Democrats are dragging out the process, but these delays are a disservice to the American people. There are a lot of important issues that the Senate needs to be debating, from spending bills to tax reform, and the time that we waste on pointless partisan exercises is time taken from those important issues.

While Democrats' partisanship is frustrating, there is a much more serious issue that has come up during these judicial confirmations; that is, the anti-religious sentiment displayed by some of my colleagues on the other side of the aisle during the hearing on judicial nominee Amy Barrett's nomination, which we will be voting on this week.

Ms. Barrett's qualifications are well known. The American Bar Association, which rates judicial nominees, has given her its highest rating of ''well qualified.''

As my colleague the minority leader has said, the American Bar Association's evaluation is the ''gold standard by which judicial candidates are judged.''

Despite her judicial qualifications, it became clear in the hearing on her nomination that some of my colleagues think she should be disqualified because she is a practicing Catholic. That is right. Apparently, practicing your religion is now grounds for declaring you unfit to be a judge.

Here is what the Constitution has to say about that. This is from article VI: ''No religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.''

Let me repeat that: ''No religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.''

In other words, in the United States, you can't be disqualified from serving as a judge because you are a believing Catholic or a believing member of any faith. The only qualification the Constitution imposes is a commitment to uphold the Constitution.

Yet the second-ranking Democrat in the Senate apparently thought it was appropriate to ask Ms. Barrett if she was a practicing member of her religion, with the implication that if she was, it might jeopardize her fitness for being a judge.

Democrats' questioning is not going to stop Ms. Barrett's nomination, but it is simply disturbing, nonetheless. It is a scary thing when leaders of a major political party imply that there is no role for religious people in public life.

I don't need to tell anybody that that is contrary to everything our Founders stood for. The right to be able to practice religion freely—yes, in public, too—was so fundamental to the Founders' understanding of liberty that they made it the very first freedom mentioned in the Bill of Rights.

People of faith have made incalculable contributions to our country, and faith has driven some of the greatest movements in American history, from the abolitionist movement to the civil rights movement.

I hope the Democratic Party doesn't move further down the path of excluding religious people from public life. If they ever succeed in excluding people of faith from government, they will have destroyed one of the freedoms on which our country rests.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. SULLIVAN. Mr. President, I ask unanimous consent for an appropriate amount of time to finish my remarks.

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

TRIBUTE TO CHRIS APASSINGOK

Mr. SULLIVAN. Mr. President, one of the privileges of being in the Senate is actually being able to preside, as the Presiding Officer is doing right now—to sit at the Chair and listen and watch my colleagues talk about issues that matter to them, and a lot of times issues that matter to their States. In this amazing country of ours we have so many great States, great stories, and great traditions. When I am presiding, some relate to Texas, where the current Presiding Officer is from, celebrating our unique traditions, while still appreciating that at our best we share values as Americans together—opportunity, liberty, justice, and fairness. It really is one of the things that makes the Senate a great body and what makes us strong as a nation.

One of the things I like to do is to come to the Senate floor and talk about some of the traditions in my State—some of the things that I think make Alaska the greatest State in the Nation. I know some of my colleagues will not fully agree with that, but we all get to brag about our State. When I do that, I like to talk about an individual whom we recognize as the Alaskan of the Week. Often, it is somebody who is doing something in a remote part of Alaska whom not a lot of people know about. It is very important to share that with my colleagues in the Senate and other colleagues watching on TV.

Today, I would like to recognize a young Alaskan from Gambell, AK, named Chris Apassingok, a young whaler who is helping to keep the tradition that we have in Alaska—Native whaling—alive and well. He is our Alaskan of the Week.

This year, Chris was a keynote speaker at the Elders and Youth Conference, which is a precursor to the

Alaska Federation of Natives conference held each year in one of our cities. It is the largest annual gathering in the United States of any Native peoples, and there is nothing like it in all the country. AFN, as we call it in Alaska, is certainly a highlight of my year. My wife and I and our kids always try to get there.

Let me spend a few minutes talking about why Chris's speech about whaling was so important and what happened after he landed a huge bowhead whale in Alaska and why that was so inspiring for so many in my great State and, really, around the country.

Gamble, AK, is where Chris comes from, a Yupik village of about 700 people on St. Lawrence Island, on the northwest edge of Alaska. It is 1 of 11 Alaska communities that participate in two whaling seasons, recognized and authorized by the International Whaling Commission. These are subsistence communities. What does that mean? They are subsistence communities because whale meat is actually a necessity in feeding these communities.

I should point out that we have no road systems at all in Northern Alaska. Most of Alaska has no roads connected from community to community, and certainly not in Gambell. The Presiding Officer and I have had the opportunity to travel around Alaska. He has seen our great State. He knows that many communities are only accessible by air or seasonal barge. Some areas can only be reached at certain times of the year because of the weather. These communities need food. They need whales.

The annual bowhead whale migration provides the largest subsistence resource available in these remote areas of our great State. Even so, when a whale is taken, the sharing does not stop with the residents of the community. Each whale produces between 6 and 25 tons of food, on average. This meat is shared with other subsistence communities in our State and with family members and elders throughout the State. That is a hugely important part of Alaskan Native culture. This is another example of the resourcefulness of the Alaskan Native peoples, which has enabled them to survive in the Arctic—with some of the toughest weather and conditions anywhere in the world for millennia—and which has shaped the culture of Alaska and the character of our State today.

Back to Chris, he is an extraordinary hunter, even by the standards of Gambell, a community of extraordinary hunters. He could aim and shoot a rifle at the age of 5. By 11, he had trained himself to strike whales, as one writer put it, ''standing steady in the front of the skiff with the gun, riding Bering Sea swells like a snowboarder.''

This past April, Chris and his father set out on a boat in the Bering Sea to do what their ancestors have been doing for thousands of years.

After they got a bearded seal, they spotted a spouting bowhead. Chris took the first shot, it was accurate, and it was a huge whale, 57 feet 11 inches. It took 2 hours to tow it to shore and 4 days for the community to carve it up. As always, when a whale is landed, it is time for celebration in the community, and this time was no different, but shortly after this, things unfortunately went sour for Chris and the community.

A radical special interest activist, with a large online following, read the story about Chris and the whale and he began to attack Chris and so did many of his followers, from all across the globe—hundreds of people, most of them adults, cyber bullying and attacking a 16-year-old boy from Gambell, AK, who had, at that point, only left his village once in his life.

They were shameful, no respect, no civility, and I mean vicious attacks. I will not repeat them here. It is enough to say they were greatly upset. In the community, Chris, his family, and his mother cried all night. Chris was angry that he and his family were being attacked for partaking in this necessary tradition that his community and his ancestors have been doing for thousands of years—thousands of years.

However, this young man, despite the hateful messages from adults, from adults who live a world away, despite the names they were calling him, Chris, now 17, cut through the noise, stood strong, and gave a great speech at AFN, that he will continue to hunt and feed his family and his community the way his ancestors have done for millennia.

At his speech last week at AFN, he asked: ''Will you stand with me as I continue my hunting [traditions of my family]?'' The crowd applauded, all of whom rose when he asked this: ''Will you stand with me'' as we continue our subsistence activities that we have undertaken for thousands of years?

I hope everyone across the country stands with this extraordinary young man—truly brave and courageous—as he continues his tradition and his right to hunt and feed his community.

This afternoon, I will be holding a hearing in the Commerce Committee about whaling in Alaska and how necessary it is for subsistence and the survival of these important cultures. I hope all Americans also stand with so many other proud Alaska whalers, protecting their rights to hunt the way their ancestors have hunted.

Thank you, Chris—a young man in Alaska, 17 years old—for standing tall for your people, for all of Alaska. I also want to thank his parents Susan and Daniel for raising such a fine hunter.

Congratulations, Chris, for being our Alaskan of the Week.

ECONOMIC GROWTH

Mr. President, I want to follow on with regard to what my colleague and good friend from South Dakota talked about in terms of tax reform. We are debating tax reform now. We are marking up a bill. The Finance Committee has not marked up the bill yet. It is working on the bill, but as Senator THUNE just mentioned, we have to have one common goal in this body, which tax reform should be driving, and that is the issue of economic growth—the issue of economic growth.

We would think this should not be a partisan issue, but one of the things I am struck by, in my little under 3 years in the Senate, is how little we have talked about economic growth.

I have tried to come down to the Senate floor and speak about this issue a lot. In my view, with the exception of national defense, this is the most important issue Congress can be focused on right here, this issue of growth. How is the U.S. economy doing? Is it strong? Is it weak? Are we healthy or are we sick? By any measure over the last 10 years, we are sick.

I bring this chart to the floor a lot to talk about what has gone on in the last several decades in terms of economic growth. This has the growth rates of every administration dating back to President Eisenhower. If you look at the numbers, this red line is the important line. This is 3 percent GDP growth. It is not great. It is not bad. Since the founding of the Republic, the average since World War II is closer to 4 percent, but 3 percent is OK. It is certainly what we should be focused on in terms of hitting.

If we look at this chart, in certain years, Eisenhower, Kennedy—by the way very bipartisan—we have had very strong growth. When people talk about what makes America great, this is what makes America great: strong economic growth. This is what has driven our country for decades.

We see some of the numbers, Kennedy, Johnson, 5, 6, 7 percent; Reagan, Clinton, 5, 6, 7 percent. Then we look at the last decade—boom, a giant dropoff. We haven't hit 3 percent GDP growth in well over 10 years—well over 10 years. As a matter of fact, President Obama was the first President ever to not hit it.

What happened? Did anyone talk about it? Did the last administration talk about it? They never talked about it. As a matter of fact, what they did is they started telling Americans: Don't worry. We are going to dumb down expectations. We are going to tell you—despite this chart, despite what this really means—this represents the American dream. Despite the fact that all previous administrations were focused on 3 percent, we are not going to talk about that. We will dumb it down and call this anemic growth back here—1 percent, 1½—the new normal.

What does that mean? That means we are going to surrender. We are going to say, well, this is really America hitting on all cylinders. This is what you as Americans should expect in the future.

I think this idea of the new normal, which a lot of people in DC talk about, is probably one of the most dangerous concepts in Washington, DC, right now. The new normal means that despite

this history of 3 percent or higher for decades, we are going to surrender because our policies have smothered growth, have smothered the American dream.

Here is the good news. I think we finally have a White House that is starting to focus on this issue. Certainly, the Congress is starting to focus on this issue, and the Senate is starting to focus on this issue with policies like tax reform, with policies like regulatory streamlining, with policies like infrastructure, with policies like energy. As the Presiding Officer knows, our two great States are part of the energy renaissance that can drive economic growth well above 3 percent.

As we focus on tax reform, as this body focuses on tax reform, I am hopeful my colleagues, on both sides of the aisle, can all agree that one of the key elements of what we are doing with regard to tax reform, and every other policy in this body, is to get us back to traditional levels of U.S. economic growth, to get us back to where people say: Wow. I have great opportunities. Look at this economy—not the doldrums and the anemic growth and the sub-3 percent new normal that we have been told by other Federal officials to accept as our fate.

That shouldn't be our fate. We should have policies, particularly tax reform, that are focused on getting back above that red line, and I am certainly hopeful that all my colleagues—all 100 U.S. Senators—can agree on that goal, strong economic growth for American families and reigniting the American dream with strong GDP growth that is much higher than what we have seen in the last 10 years.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON. Mr. President, I ask unanimous consent that I be allowed to speak despite the order for recess.

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

HURRICANE IRMA RECOVERY EFFORT

Mr. NELSON. Mr. President, it has been 2 months since Hurricane Irma hit Florida and basically covered up the State, and our people are still hurting because they don't have sufficient housing.

If you lived in a mobile home, if you lived in a low-lying area, your home was destroyed. It is uninhabitable. The ceiling is collapsing. The mold and the mildew, because of all the water which has now accumulated, makes it an uninhabitable home.

FEMA, through individual assistance, is supposed to provide temporary housing. This is the law. That is what the people of Florida are entitled to—just like the people of Texas are entitled to in the Presiding Officer's State—but it is not happening in Florida. Why? Because they get on the telephone, and they have to wait up to—documented—4 hours to get somebody on the phone from FEMA or, for home inspections, it takes 45 days before they can get an inspector to come out and see the home so they can be declared eligible for individual assistance. That is just unacceptable.

If they don't have the means—especially if they don't have a job as a result of the jobs being destroyed in the hurricane—where are they going to be able to get temporary assistance for housing? It is a fact that this is happening in the State of Florida, and it has to be changed.

Thus, you see the bipartisan effort of my colleague from Florida MARCO RUBIO and me writing to the head of FEMA today to say: Look, what happened? Years ago, during the debacle of Hurricane Katrina in New Orleans, they experienced an average wait time of 10 minutes before they could get FEMA on the line to help them. Now we have people waiting as much as 4 hours. I wanted to bring this to the attention of the Senate.

After a hurricane, 2 months later, we cannot have an aftermath where our people are hurting, they are suffering. They can't live in a healthy condition in the homes that have been destroyed in the hurricane.

I yield the floor.

RECESS

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

Thereupon, the Senate, at 12:59 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that I be recognized to speak as in morning business.

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

The Senator is recognized.

RECOGNIZING THE MAYO CLINIC

Mr. MCCAIN. Mr. President, I rise today to express my deepest gratitude to my friends at the Mayo Clinic's Arizona campus, where I was recently treated for cancer. This is not my first obligation to the Arizona branch of this landmark medical institution, which has been a synonym for medical excellence for more than 100 years. I received outstanding care for a prior, unrelated tumor in the year 2000.

In July of this year, I found myself at Mayo once again. It is no exaggeration to say that the team of doctors, nurses, and technicians who looked after me were my salvation. They located and removed a brain tumor—a glioblastoma—that threatened my life. I will always be indebted for their timely and skillful intervention and for the outstanding support provided to my family by the entire Mayo community. Their professionalism is unmatched, as is their compassion. Thanks to my physicians, I was able to return to the Senate after only 10 days of recuperation. Following my surgery, I received radiation and chemotherapy at Mayo in one of the most modern facilities in the world.

I mention this to draw attention to Mayo's renown as a center of excellence not only in the treatment of cancer but in virtually every field of medicine. A nonprofit institution, Mayo has large hospitals in Rochester, Minnesota, Phoenix, and Jacksonville, FL, which employ almost 50,000 people. Mayo also operates a network of more than 70 affiliated hospitals and clinics, to which more than 1.3 million persons turned for treatment this year, patients from all 50 States and 137 different countries. Moreover, the Mayo system operates several premier colleges of medicine and is a world leader in medical research. This breadth of activity, outstanding in each facet, is remarkable. It is no exaggeration to claim that the Mayo Clinic is central to the astonishing success of American medicine.

I have made my own career in public service, but as I reflect on my experience as a cancer patient, I am humbled by the example of service to mankind provided by the entire Mayo family. I am and will always remain deeply grateful to everyone involved in my care.

RECOGNIZING THE NATIONAL CANCER INSTITUTE

Mr. President, I come to the floor today to recognize a remarkable group of physicians, people to whom I and many others owe a profound debt. I refer to the team that has led my treatment at the National Cancer Institute of the National Institutes of Health in Bethesda, MD.

Every year, cancer claims the lives of hundreds of thousands of Americans and millions of others across the globe. It is a relentless and complex disease. It comes in many forms that demand varied and specialized treatments.

There are many centers of excellence in the struggle against cancer, but NCI plays a special role. The physicians assembled there are recruited from the most outstanding medical institutions of the world to lead the fight. Yes, NCI conducts its own research and treatment programs, and I am among its many patients, but more importantly, it oversees and funds our national effort against cancer, awarding grants and supporting a nationwide network of 69 NCI-designated cancer centers. NCI's role in the development of anticancer drugs has been especially noteworthy: Roughly two-thirds of cancer medications approved by the FDA have emerged from NCI-sponsored trials.

Despite the special tenacity of this disease, we have made enormous strides. To the lives of cancer patients, NCI has added decades where once there were only years and years where once there were only months. They are closing in on the enemy, in all its forms, giving hope to millions of families and offering a real prospect of