Intelligence, after an intelligence assessment, determines that Russia is, once again, interfering in our elections so that before he even does it, he has a very clear understanding of what the price is going to be.

Men like Vladimir Putin operate as cost-benefit analyzers. They weigh the costs against the benefits, and then they decide what action to take. There is no doubt, in 2016, he saw that the costs of what he did were very low. He thought he could hide it. He thought, by the time we would have figured it out, it would have been too late. He thought that America would be in such disarray that it wouldn't be able to get its act together and actually impose any additional sanctions. He saw the benefits as extraordinary, so he took action, and he will do it again if he doesn't think the costs are high enough.

My hope is, over the next few days and in a short period of time, we will figure out a way, in working together as Americans on this issue, to set aside all of the stuff about yesterday—that probe will continue, and our work on the Intelligence Committee will continue—and focus on the future.

No matter how you feel about 2016, who among us would say that if Russia interferes in 2018—or in any year for that matter—it shouldn't be punished? Who among us would say, if we had the opportunity to put into law strong consequences for interference that could deter such an attack, we wouldn't want to do it? That is why I hope that no matter how you may feel about the other things that are going on that the Senate can come together and work together to pass this law, because, otherwise, we are leaving our Nation vulnerable.

I will close with something I said back in October of 2016, which is that Vladimir Putin is not a Republican, and he is not a Democrat, and he is not a conservative, and he is not a liberal. Do not ascribe to him any of the attributes of American politics. He interfered in 2016 in order to create chaos and controversy, not to elect any particular party or individual. By far, that was his strongest motivator, and he will do it again.

I believe, if left unchecked, he will target Members of the Senate who he thinks are his opponents. He will target Members of Congress. Eventually, he will even target our debates outside of elections. I believe, if left unchecked, he is going to take the next step and not just leak information but will make it up. He is going to come up with 9 emails that will be real and will embed a 10th that will be fake. It will be reported, and it might cost one an election or might cost someone enough heartache that one has to resign.

Information is a very powerful weapon. If you go online, you will already see the ability to produce these deepfake videos that look real, videos that only an expert could tell are fake. They are of people saying or doing things they never said or never did. Imagine those being in the hands of a nation-state and being leaked 2 days before an election. A nation-state is going to do these things. It is going to happen if we do not deter it from happening and if we do not prepare our Nation and the American people. If you think this is chaotic, then allow that to happen without informing us and preparing us and strengthening us and putting in place a deterrent against that. Then you will know chaos—a chaos that will shake us to our core.

I hope that we can take this small but important step of coming together as Americans and protecting our elections for years to come against an adversary who is determined to tear us down in order to build himself up. This is reality. This is the world and the threat we face. The sooner we address it the safer our Nation and our people will be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

BLUE-SLIP TRADITION

Mr. MERKLEY. Mr. President, the nomination of Ryan Wesley Bounds is just the latest in more than a year of attacks that have been based on a strategy of converting the United States from a nation that is based and organized on and that fights for the principle of ''we the people'' into one that bows to the powerful and the privileged.

His nomination has already strained and degraded the Senate's blue-slip tradition as our colleagues rush to pack our courts with extremist judges to advance that vision—not of judges who call balls and strikes but of judicial activists who want to rewrite the Constitution to put down workers, to put down healthcare rights, to lay out and tear down consumer rights and women's rights—so many opportunities and empowerments diminished in the favor of the privileged and the powerful. That is what is going on with the packing of the Court.

This deed of putting forward this nomination on the floor tonight changes a 100-year tradition of comity in the U.S. Senate and the recognition that the home State Senators have something important to say about the integrity of the individual who is being put forward. At stake in this confirmation is the Senate's advice-and-consent responsibility as applied through the blue-slip tradition—a tradition that incentivizes consultation and bipartisan cooperation. When you take away the blue-slip tradition, you diminish the incentive for consultation and cooperation. This tradition has existed since 1917. It was 101 years ago when Senator Thomas Hardwick objected to President Wilson's district court nominee, and he wrote his objection on a blue slip of paper—thus, the name.

No judge until now—101 years later—has ever been confirmed by this body having not received a single blue slip from a home State Senator. Until this administration, just five had been confirmed without both blue slips having been returned. This tradition has been honored by both parties. It has been a bipartisan tradition. When the Democrats have been in power, the Republicans have wanted it to be honored. When Republicans have been in power, the Republicans have honored it. In fact, in 2009, at the start of President Obama's term when the Democrats controlled both the Executive Office and this Chamber, my Republican colleagues wrote a letter. They wrote that they expected the blue-slip tradition to be observed evenhandedly and regardless of party affiliation. It was not just that letter from which we have heard over time. We have heard from Chairman GRASSLEY.

Chairman GRASSLEY wrote clearly about this:

> For nearly a century, the chairman of the Senate Judiciary Committee has brought nominees up for committee consideration only after both home State Senators have signed and returned what is known as a ''blue slip.'' This tradition is designed to encourage outstanding nominees and consensus. . . . I appreciate the value of the blue-slip process and also intend to honor it.

He intended to honor it, he wrote, in 2015. Yet putting this nomination through the committee dishonored the tradition. Bringing it to the floor dishonors this tradition. It doesn't honor it because it violates it.

During the time that President Obama was in office, the Republicans used the blue slips to block 18 nominees. The nominees never progressed without the return of two of those slips.

We can turn back to the former chair of the Judiciary Committee, ORRIN HATCH, who wrote in The Hill:

> Weakening or eliminating the blue slip process would sweep aside the last remaining check on the president's judicial appointment power. Anyone serious about the Senate's constitutional ''advice and consent'' role knows how disastrous such a move would be.

The current chair and the former chair were pretty clear, and now they intend to tear it down—a moment of opportunity to sacrifice a century of comity and consultation.

The clear factor is one principle when in the minority and tearing down that principle when in the majority. It is one principle for Obama's nominees and a different principle for Trump's nominees. Where has all of the honor and principle gone in this Chamber? There were no hearings for Obama's nominees without blue slips. There have been hearings for four of Trump's nominees without blue slips.

Now, the majority leader helped to drive this change. He said: Republicans now will treat a blue slip ''as simply notification of how you're going to vote.'' That is what he said. It is simply notification. So it is up to the chair of the committee, the former chair of the Judiciary Committee, and all of

the members who signed that 2009 letter saying how important this was to this Chamber to stand up and actually exhibit some trace of consistency with the position put forward just a short time ago.

So now he is coming to the floor for a vote. This is a nominee on whom there was no consultation. We had a committee out in Oregon, set up by my senior colleague, Senator WYDEN. We told the White House: Wait to make your choice until after the committee submits its list. This is the Oregon bipartisan—bipartisan—judicial selection committee. But the President was in such a hurry to pack the court that he didn't wait for consultation.

I happen to have heard a Member across the aisle saying: Well, the White House said they consulted. Well, let me tell you that they didn't consult. They didn't ask me. They didn't ask Senator WYDEN.

What does that mean for the White House? Is it the case that everything we have heard in the last year and a half is accurate out of the White House, because I have heard virtually every Member across the aisle say otherwise.

So here you have the two of us having asked the White House to wait so they can get some consultation and get some advice from Oregon, but they didn't wait. That was certainly the wrong thing to do.

At the end of 2017, the nominations go back, and the White House has to resubmit them. We said: Here is another chance for you to honor the concept of consultation. And what happened? The White House did it again. They didn't care about consultation.

If we hear from our colleagues tonight, this week, and in the days to come that they are going to push this nomination forward, don't expect consultation from any future President when you happen to be in the minority because that is what you are striking down—a tradition that encouraged, expected, supported, and promoted consultation.

Have no doubt that this isn't an ordinary nominee. When asked about anything else in his record that they should know might be inflammatory, this nominee didn't breathe a word about key writings in his past. When this nominee was asked about his views on diversity and how they might have differed from before, he didn't breathe a word about his former views—and maybe they are his present views.

What did this nominee say on diversity? He said students who work ''to promote diversity . . . contribute more to restricting consciousness, aggravating intolerance, and pigeonholing cultural identities than many a Nazi bookburning.'' That is his attack on diversity, but that isn't all he said. He said diversity training is a ''pestilence'' that ''stalks us.''

That isn't the only topic that he weighed in on in such a way that is way out of the mainstream and exhibiting massive intolerance for diversity here in the United States, where we come from every corner of the world. When it came to the process of a campus holding accountable young men involved in sexual harassment, young men involved in rape, he also said: ''There is nothing really inherently wrong with the university failing to punish an alleged rapist.''

I see that my colleague is here to speak, and I appreciate his coming down. He is coming down to speak on the principle of the blue slips and how it enshrines cooperation, and so I am delighted he is here.

I will have more to say later, but at this moment, I defer to my colleague, Senator BLUMENTHAL.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, first of all, I want to say how honored and grateful I am to follow my friend and distinguished colleague, who has outlined some of the reasons that I would vote against this nominee. I especially respect his raising this issue of the blue-slip approval process, which is probably unknown to the vast majority of Americans.

Let me begin by saying, as a member of the Judiciary Committee, as a litigator who has spent about 40 years in the courtroom before Federal and State judges of all kinds all over the country, why the blue slip from a U.S. Senator matters to justice.

We debated this issue on the Judiciary Committee. It is a time-honored tradition that Senators be consulted, that they return a blue slip; that is, approval of a nominee from their State. That is because Senators, such as Senator MERKLEY and Senator WYDEN, are rooted in their States. They know the lawyers. Many of us are lawyers. They know the colleagues of people who may be nominated to the U.S. district court or the court of appeals in the jurisdictions that cover the areas that they serve. They know the lawyers who have appeared before these judges—their qualifications and sometimes their faults. Also, they know the opinions of these lawyers, their records in court, and how they have performed. They know their character, their integrity, and they know their records outside of the courtroom as well.

You have just heard tonight from Senator MERKLEY some statements that are extraordinarily revealing. The American people deserve to know them, and my colleagues deserve and need to consider them.

For generations, the blue-slip process has ensured that judges are well-suited for the States where they will preside. The majority's decision to ignore this process and, for the first time—very, very significantly—to ignore it with respect to both Senators from a State is a precedent that is profoundly damaging to this institution and to American justice.

It isn't about us. It isn't about our prerogatives or our pride. It isn't about our hurt feelings or our sense of insult. The sun will rise tomorrow on all of us in this Chamber, and we will go on to do the business of this Nation, but for many people who will go into a courtroom where Ryan Bounds may preside, they will experience a lesser standard of justice than they deserve, a lesser standard of justice than most judges provide. They deserve better. They are ultimately the losers, not we. It is not about us. The American people are the losers if we destroy this principle and norm that Senators must approve nominees who are from their own State.

Only rarely, very rarely, is a fraction of the nominees found unacceptable by the Senators from their States. In my experience, in my 8 years here, I think there have been maybe a few, and with good reason. But this President shows that no principle is safe and no norm is inviolate in the rightwing fringe's campaign to remake the Federal judiciary and to remake it in the image of the far right in this country.

They have an ideological agenda and no respect for quality in deciding who will serve on the judiciary. Those groups that are trying to remake the court of appeals and the Federal district courts—that is, to remake judges at the lower level—whether it is the Federalist Society or the Heritage Foundation, are also responsible for the President's decision to make himself a puppet of their recommendations, letting them pick judges who meet their anti-choice and anti-healthcare litmus tests.

Those tests really are President Trump's test. He said: I am going to appoint judges who are pro-life. He berated the Chief Justice because he was responsible for upholding the Affordable Care Act and clearly showed that he would appoint judges who would strike it down.

His decision to pick a Supreme Court Justice nominee who believes that the President should be above the law perhaps should surprise no one, but his outsourcing of that decision to those same rightwing groups that are trying to remake the lower courts is truly unprecedented. He has become a puppet of those groups in all of his judicial nominees and most particularly in his Supreme Court nominee.

I know my colleagues will want to speak tonight about Ryan Bounds and other related issues, but let me just say about Judge Brett Kavanaugh of the Court of Appeals for the DC Circuit that he has shown that he meets the Trump litmus test because he has been vetted and screened by those rightwing groups. He has shown that he would automatically overturn Roe v. Wade and that he would, in fact, strike down significant protections—indeed, protections for millions of Americans under the Affordable Care Act—from preexisting conditions.

He also believes that a President can refuse to comply with a law if he believes it is unconstitutional—if he

alone believes it is unconstitutional—even if the law was duly passed by Congress and upheld by the courts. He has written: ''Under the Constitution, the President may decline to enforce a statute that regulates private individuals when the President deems the statute unconstitutional, even if a court has held or would hold the statute constitutional.''

Judge Kavanaugh has also written that the President should be immune from even investigation for criminal or civil wrongdoing. Under his view, a President could not be investigated or indicted, could not be held accountable under the law, and would not have to respond to a civil suit or a subpoena or a request to be investigated by law enforcement. That is the rule he believes should be adopted.

It is clear from Judge Kavanaugh's position on Executive power that he is a staunch supporter of, in effect, an imperial Presidency. He believes a President is above the law and immune from checks and balances. This view is antithetical to our democratic principles and tradition. It is in keeping with Donald Trump's view of the Presidency. It is out of sync with what our democracy needs now, especially with this President.

President Trump has repeatedly expressed his admiration of dictators like Kim Jong Un or Vladimir Putin. His apologists will tell us to ignore Judge Kavanaugh's view of Executive power—pretend like they don't exist—but we have a responsibility to consider them, to take into account these extreme views on Executive power. They must be a central issue in this confirmation battle.

He would, in effect, welcome legislation enabling the President to fire a special counsel for any reason or no reason at all, and if we have learned anything over the last 24 hours, it is that the special counsel's investigation must be protected. It must be protected against the concerted and coordinated, concentrated effort of the Trump surrogates and cronies to discredit or derail it. It must be protected against efforts to impeach Rod Rosenstein. It must be protected against the President's own threats, continuing to call it a witch hunt, when we see more and more in indictments and convictions that it is real and significant. Donald Trump cannot be permitted to derail it.

We will talk again about Judge Kavanaugh.

As to Ryan Bounds, the decision is for now, and because he has been rightly denied approval through the blue-slip process, because the abandonment of that process does such grave potential damage to American justice, and because Ryan Bounds is unfit by virtue of many of his views and past statements to serve on the Federal bench, I will oppose and vote against him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I wish to join my distinguished colleague from Connecticut in commenting on the qualifications and prospects of these two nominees whom we are facing now on the Senate floor. I thank him for his comments.

I would like to take my time to bring to the attention of this body some of the concerns that—what I think are in the nature of concerns that if we do this now, we will learn to rue the day we made these mistakes.

Let me begin, as I did in my comments about Judge Kavanaugh, with just a quick overview of how our Founding Fathers felt about the judicial branch of government and about the jury and what it was there for. The Founders were experienced politicians. They were adept at history. They read widely. They prided themselves on the expertise they had developed in how you design a government, and they were very conscious about doing something that was unprecedented and that they wanted very desperately to have work right. So they put their hearts and souls into trying to get it right, this American experiment of ours.

From sad experience in the Colonies, they knew big special interests could come in and could completely dominate a legislative body; that the legislative body would be at the beck and call of big, private special interests. They had also seen Governors in the Colonies become corrupted by influence. So they were very concerned that it was not enough that you separated the legislative and executive branches and created some degree of rivalry between the two because that left the prospect still that the big special interests that commanded the legislature could also command the executive branch. Then, where would the ordinary citizen go? Where would you go for relief when some big and powerful interest controlled those two branches of government? You would go to the courts. That is why they made the judiciary independent. That is why they insisted and fought so hard to make sure the institution of the jury made it over from England, made it to the Colonies. It was part of our battle with England that the King had tried to interfere with our juries. We took the power of the jury and the independence of the court seriously, not just as a matter of providing justice to an individual person but as part of the architecture of our Constitution, as part of the architecture of freedom that our Constitution represents.

There is something that is interesting about the jury and the courts, but the jury, in particular, that makes it a little bit different than a lot of the rest of what went on in that Constitution because, clearly, the Founding Fathers were concerned that the power of government would be co-opted by powerful interests and then evil work would be done with that power against ordinary people. So a lot of our constitutional structure is designed to protect all of us regular Americans against the power of government, but in the courts, and specifically in the jury, there is a different power that was at issue.

Blackstone was the predominant legal figure in the Colonies at the time. The reference that lawyers of the Revolutionary era used was ''Blackstone's Commentaries.'' Blackstone described how, within the larger context of the judicial branch, the jury was a defense for regular people not against the government, interestingly—possibly against the government—but also, and perhaps more importantly, against the more wealthy and powerful citizens. It was set up so the courts would provide equality between an ordinary American citizen who was being run over by a big, powerful, wealthy American citizen, and they would be treated fairly. It would be the chance where you could stand up against wealth, where you could stand up against power, and even if they controlled the legislature, even if they controlled the Governor, you still had your shot before that jury of your peers and in those courts.

So that is the context for looking at these judges who are being put forward by a special interest apparatus of perhaps unprecedented power in our country's history—certainly unprecedented power in our country's history since Teddy Roosevelt broke the back of the big trusts and the Big Business interests that had dominated in his era.

Here, we have these two characters coming through, and one is Mr. Bounds. Mr. Bounds has a considerable problem with himself, which is that he is filling a seat on the Ninth Circuit that is designated to the State of Oregon. It has, until this moment, always been the tradition of the Senate that the home State Senators associated with that seat have the ability to say no. It is part of our checks and balances. The people from that State who are likely to know him the best—the Senators who are here—have the chance to say no. Both of the Oregon Senators have said no. Has that mattered one whit to the Trump administration? No, they have broken this tradition.

Regrettably, our Republican colleagues are complicit in letting this happen. They are complicit in letting this happen. It is a sad day for the Senate because the blue-slip process—the process by which home State Senators are allowed to say no—is also the only process that defends that this is an Oregon seat in the first instance. There is no other check on the President's power to appoint. So there are a lot of reasons why Bounds is disqualified, but the most compelling one to me is because the two home State Senators have both said no to this person.

Things do turn about. I have been in the majority here, and I have been in the minority. I have been here with Republican Presidents, and I have been here with Democratic Presidents. Things do turn about. When the day

comes that we have a Democratic President making these appointees and when we have Democratic control so we can confirm these appointees, Republican Senators are going to regret that they threw their own blue-slip rights away today on this nomination, and throwing their blue slips away doesn't just mean they lose their vote as to the Oregon Senator for this seat, it means they lose their vote that defends that this needs to be an Oregon judge in this seat.

There is nothing, after the blue slip is gone, that would allow our colleagues from Texas to prevent a Democratic President from appointing a New York City judge to Texas seats on the circuit court of appeals.

So if that starts to happen, don't come crying back to us now about this. Today is your chance to stop that—to stop all of that—and to put the Senate back to respect for our colleagues' judgment, a mutual and bipartisan respect for our colleagues' judgment that has been the standard of the Senate for a century now. It is going today, and it is going today under what pressure? Why would we want to turn to other colleagues and say: For the first time ever, your views don't count about the judge from your home State, Senator. The only reason for that is the power of the political pressure behind these appointees, and that is the big special interests that are putting these nominees forward, that have precleared them through this mysterious, dark process that the Federalist Society runs, that have pushed forward these political campaigns to support them through this mysterious, dark process that is funded through the Judicial Crisis Network, and they are going to be telling them what to do through a mysterious, dark process of funded so-called friends of the court—amici—who are going to be there in the court all day long telling them what to do. That is the process that is breaking the blue slip, and it oughtn't to. It is not right on its own, and it certainly isn't right to break the blue slip.

The last thing I will say is about this character Oldham, who is coming in. Among the leading Republican special interests are the great polluters. They got Scott Pruitt in. What more proof do you need that the polluters are in control than to put Scott Pruitt in charge of the EPA? The man was a joke, and yet in he went, confirmed by the Senate.

Now comes Oldham, who has said that the entire administrative state is enraging to him—enraging to him. It is the illegitimacy of it, he says. ''It is the entire existence of this edifice of administrative law that's constitutionally suspect.''

No, it is not. We have an entire body of law, the delegation doctrine, that controls what is appropriate for Congress to delegate to an administrative agency. It has been that way for decades. This is fanciful stuff, but it is a wonderful red flag waved for the big polluters, saying: Whenever you disagree with a regulatory agency that tries to keep you cleaning up your act, I am going to be with you. That is what the Oldham nomination is all about. It is all about telling the big polluters that we have a friend for you on the courts now.

If there is one thing that ought not to happen in this country, it is that somebody walks up the steps of the courthouse, and before the argument is even made, they know they are going to lose the case, not from the arguments in the brief but from the identity of the party on the front page of the brief.

That is why Oldham is going on the court, so that the big polluters can know they will win their cases in front of him without him even having to read the brief. All he will need to do is look at the cover, see that the big polluters are on the cover, and know he is there to attack the administrative state making them keep the water clean, making them keep the air clean, or making them keep their carbon emissions under control.

That is what this is about. This is not right. It is not right that the blue slip is being torn apart today on the Senate floor. It is not right that somebody who doesn't think that the EPA ought to even exist is being put forward as a judge.

But the connections come back to that same initial point, which is that the big special interests who like to control legislatures and who like to control executive branches would also love to control the courts, because that is the place where they can still be held to account.

So it is with real regret that I face this day in the Senate.

I yield my remaining time.

Mr. MERKLEY. Mr. President, will my colleague yield for a question?

Mr. WHITEHOUSE. Of course.

Mr. MERKLEY. I very much appreciate his laying out this basic framework under which this conversation is taking place. But just for clarity, the Senator made the point that there is no law that requires a member of a circuit court to be in a particular State and that it is only under this tradition and agreement among the Members of this body that a judge reside in a particular State as part of a circuit court.

Mr. WHITEHOUSE. That is absolutely correct. There is not a law that assigns within the Ninth Circuit which judges will be treated as Oregon judges and which judges will be treated as California judges. Within Rhode Island, we are part of the First Circuit Court of Appeals. There is one seat on that court that, by tradition, is designated to Rhode Island.

Mr. MERKLEY. So if we lose this blue-slip tradition for circuit courts, it would be the case that when the seat comes open that is now held in Rhode Island, an administration could nominate and conceivably a majority could confirm someone who lives, say, in Arizona.

Mr. WHITEHOUSE. It would mean that the Senators from that State would have no defense against that change. It would mean that the next Democratic President could appoint Rhode Islanders to Texas. It would mean that the next Republican President could appoint Texans to Rhode Island, and neither the Senator from Texas nor the Senators from Rhode Island would have any defense left against that without the honoring of the blue slip.

Mr. MERKLEY. So, in essence, if our colleagues across the aisle vote for this confirmation, they are basically saying that they are voting to give up the understanding among this body that has ensured that they would have a voice in making sure that a member of their circuit court was residing in their State and someone they felt had the qualities of integrity and understanding necessary to administer justice.

Mr. WHITEHOUSE. They would either be giving up the one defense they have to make sure that the seats on the court that are allocated to their State are in fact filled with judges from their State, or they would be suggesting that there should be two different sets of rules that apply—that there be one blue-slip rule for a Democratic President and that there would be a different blue-slip rule for a Republican President.

I don't think that is credible. I think that once the blue slip is torn down, reestablishing it is virtually impossible. I think the day will come when Senators come to regret that they are trying to get a home-State person appointed from Idaho or Colorado or New Mexico or Texas, and they have given up their ability to see to it that happens, and that a lawyer from San Francisco or from New York City or from Florida or from anyplace else can be dropped into their circuit court seat, and they have nothing left to do about it, because the one tool they have to stop that and to enforce that prerogative is the blue slip, and it dies today.

Mr. MERKLEY. Mr. President, I appreciate so much my colleague from Rhode Island laying out what is at stake here.

Why has this 101-year tradition maintained itself over a period of time in which so many things have changed in our culture? The country has been transformed, but for over a century, there has been this mutual understanding that, when it comes to the circuit court, it is appropriate to have members serving on that circuit who have roots in and approval and understanding related to different States within that circuit. That is what has held it together.

If I tear it down for one of my colleagues, I tear it down for myself. If I tear it down for their circuit, I tear it down for my circuit. That is what has held it together—that we each want the circuits to be able to reflect individuals who have an understanding of

the issues that might come up in that circuit.

There is embodied in the law a residency requirement for some positions on a circuit court. But that residency requirement isn't the same as a blue-slip requirement. You can establish residency very easily in another State. Previous decisions of the court have made sure it is possible to easily establish residency in another State. Therefore, it is the blue slip that has maintained this balance.

We were taking a look at some of the writings of the individual who is up for this particular position that so bothered and concerned me and concerned the senior Senator from Oregon, my colleague Senator WYDEN. I shared a little bit about his stated written views on diversity, that students working to ''promote diversity . . . contribute more to restricting consciousness, aggravating intolerance and pigeonholing cultural identities than many a Nazi bookburning.'' That was a direct quote. He referred to diversity training as a ''pestilence'' that ''stalks us.''

I have an article he wrote entitled ''Labor Unions and the Politics of Aztlan.'' This is about students who are part of a minority group on campus, and whether they should be able to take up an issue, and, at his campus, they did. They took up an issue about the ability of workers to organize into labor unions.

He said: ''I would hardly suggest that no student group should be able to take up a political matter, if it is of direct relevance to its reported mission.'' He said: I wouldn't say that any group shouldn't be able to, but the sundry ethnic centers or the clubs that derive many a material benefit from those ethnic centers should not be able to take up an issue related to their mission. I am paraphrasing here, but I will come back to it and make sure I give the exact words.

Here, we have it. He said, essentially, that for the Chicano or Latino Stanford students who protested against a hotel chain for firing workers who tried to form a union, if they stood up for those workers, he felt it was the wrong thing for them to be able to do so. He said: ''I would contend, however, that no student group that is affiliated with an ethnic center or any other department of this university has any business holding political issues central to its mission.''

Can you imagine? He says he wouldn't weigh in that any group couldn't pursue issues on campus, but when it comes to the ethnic groups, it is just plain wrong, in his opinion, for them to be able to take a position on an issue. That is a pretty significant situation, for somebody who is going to be a judge on a body to be able to say that, in his opinion, if it is an ordinary student group, they have every right to get involved, but if it is a Latino or Chicano group or an ethnic group, they shouldn't be allowed to get involved in an issue. How can people come before that judge and expect anything that resembles a fair hearing, here in the United States of America, where we have a vision of opportunity for every single American, where we have a 1964 Civil Rights Act that was passed long before this nominee attended college and that threw out the notion that discrimination was acceptable?

I am delighted that my colleague from Massachusetts has arrived to weigh in on this issue of the appropriateness of a nominee coming to the floor of the Senate who, in the judgment of the two home-State Senators, isn't appropriate either because of views they have carried that bring into question their ability to fairly administer the law and, therefore, bring into question the entire integrity of the court at that moment, or because the individual also demonstrated a completed lack of integrity by failing to provide this information about their writings when they were asked to do so.

I yield to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Ms. WARREN. Mr. President, I thank Senator MERKLEY for bringing us here this evening to give us this chance to talk about a Supreme Court nominee and to have us all here to talk about a whole range of issues, because this Supreme Court nominee will affect the lives of every single human being. So I thank Senator MERKLEY for doing this.

Since day one, the Trump administration has been plagued with chaos, corruption, and broken promises. Candidate Trump promised to drain the swamp in Washington, but this administration is teeming with shady, corrupt political appointees using their government service to line their own pockets and to do the bidding of their benefactors.

Candidate Trump promised to take care of everyone—to make sure that every American was, in his words, ''beautifully covered.'' Instead, he is trying to rip up the Affordable Care Act, permit insurance companies to discriminate against tens of millions of people with preexisting conditions, and knock millions more off healthcare coverage.

Candidate Trump promised to raise taxes on the rich. Remember that one? Yes. Instead, he handed out an eye-popping $1.5 trillion tax giveaway to giant corporations and the superrich.

For hard-working American families, the Trump Presidency has turned into a nightmare. Trump hasn't broken his promises to everyone—no, not by any stretch. For millionaires, billionaires, and giant corporations, Trump has kept his promises all the way. Nowhere has that been more obvious than with our courts.

''Equal Justice Under Law''—those are the words inscribed over the top of the Supreme Court. That is what the American judicial system is supposed to be all about—a fair, neutral forum governed by the rule of law; a place where everyone can be heard; a place where individual rights are respected; a place where nobody is above the law. Those are high aspirations, but these ideas never sat well with the wealthy and well-connected. They are used to getting special deals, and a judicial system that protects everyone, no matter their wealth or status in this country, is a challenge to their unchecked power.

For years, they have engaged in a concerted campaign to turn our courts into one more rigged game, a place that carefully protects the rich and powerful and kicks dirt in everyone else's face. Billionaires and giant corporations have been working on this plan for decades.

Today, the rich and powerful do their best to drown our elections in money and tilt our government in their favor. Every day, they use their money to buy favors in DC. Every day, they deploy armies of lawyers and lobbyists to bend the laws passed by Congress to their will. Every day, they push this government to do just a little more for the rich and powerful and a little less for everyone else.

They are doing the same in our courts too. Since Donald Trump was elected, we have seen judge after judge come through the Senate, some barely qualified, some with deeply offensive records. But nearly all these judges have one key quality: a demonstrated willingness to put a thumb on the scales for those at the top at everyone else's expense.

This week, we will vote on two more Trump-nominated appeals court judges. If they are confirmed, they will continue to tilt the courts away from equal justice under law.

Nowhere is this effort more obvious or more damaging than with the President's Supreme Court selections. During the Presidential campaign, Donald Trump asked one group to draw up a list of acceptable candidates to serve on the Supreme Court—one group, one very influential group, one extremist group—the Federalist Society, a radical, rightwing group deeply committed to overturning Roe v. Wade. Trump promised publicly that if he was elected President, he would select Supreme Court nominees exclusively from the Federalist Society's list.

The idea of a Republican President outsourcing the selection of judges has never been so nakedly public. For decades, the Federalist Society has been one of the leading rightwing, billionaire-funded groups working to capture our courts. Their agenda? To impose their extremist agenda on the entire country, undermining critical rights like women's rights, workers' rights, voting rights, and environmental protections.

The courts are at the heart of the Federalist Society's plan, so the group has been laser-focused on filling the Federal bench with people who are precommitted to serving the interests

of the rich and powerful instead of dispensing equal justice under law.

By allowing them to handpick the Justices who sit on the Supreme Court, Trump gave the Federalist Society an unprecedented opportunity to impose their extremist agenda on the entire country. What is at the top of their list? Overturn Roe v. Wade. A top conservative explained that Leonard Leo, the Federalist Society's longtime executive vice president, was the man to get the job done. ''No one has been more dedicated to the enterprise of building a Supreme Court that will overturn Roe than the Federalist Society's Leonard Leo.'' Criminalize abortion, punish women—that is the Federalist Society's plan.

Donald Trump has been happy to dance to their tune. During the 2016 campaign, he said: Yes, women should be punished if they try to get an abortion. And if he could appoint two or three Justices, Roe would be automatically overturned.

Since taking office, President Trump has made it abundantly clear that he plans to fulfill his promise to select candidates exclusively from the Federalist Society's list. Just days after his inauguration, Trump nominated Neil Gorsuch—one of the candidates on the Federalist Society's list—to fill the vacancy on the Supreme Court. Judge Gorsuch had a long record of twisting the law in ways that favored the interests of large corporations over women, over workers, over consumers, and over just about everyone who wasn't wealthy and well-connected. Republicans were so dedicated to getting Gorsuch on the Court that they actually changed the Senate rules to get him through the Senate nomination.

From his powerful perch on the Supreme Court, Judge Gorsuch has continued to make it harder for Americans to find justice. In just 1 year on the Court, he has voted to gut the ability of public sector unions to negotiate for higher wages, better benefits, and improved working conditions for teachers, nurses, firefighters, police officers, and other public servants; he has voted to undermine workers' ability to hold their employers accountable for breaking the law; and he has voted to uphold President Trump's immoral Muslim ban.

The same powerful people who handpicked Justice Gorsuch know they will have another ally in Brett Kavanaugh. Frankly, it is not hard to see why. Like Justice Gorsuch, Judge Kavanaugh's record shows that he will continue to tilt the scales of justice in favor of the rich and powerful and against everyone else. Don't take my word for it; take a look at his record.

Judge Kavanaugh voted to limit the ability of women to make their own healthcare decisions. He opposed a ruling protecting women's access to birth control under the Affordable Care Act. He voted to make it harder for agencies to protect public health, safety, and economic security. He ruled that the Consumer Financial Protection Bureau—the agency that has returned $12 billion directly to people who were cheated by corporate lawbreakers—is unconstitutional. He suggested that Federal judges might substitute their own personal policy judgments for those of expert Federal agencies that have been directed by Congress to enforce the law.

Judge Kavanaugh had a lot of competition to get selected to fill the vacancy on the Supreme Court. After all, the Federalist Society had pulled together a whole list of people prescreened to overturn Roe v. Wade and help out the powerful corporate interests that are really calling the tune in Washington. Why pick Judge Kavanaugh? Why him instead of someone else on the list?

There is something special that makes Judge Kavanaugh a lot more attractive to President Trump. Judge Kavanaugh believes that, while in office, a sitting President should be above the law. He has argued that sitting Presidents should not face personal civil suits or criminal investigations or prosecutions while in office.

After the spectacle broadcast live on television around the world of President Trump attacking American intelligence agencies and American law enforcement officers while sucking up to Vladimir Putin, we should all question Judge Kavanaugh's willingness to protect the President no matter what. After Trump's deeply embarrassing performance, Republicans who actually want to stand up for the United States of America and stand up to Trump instead of hiding behind carefully worded tweets could refuse to rubberstamp Trump's Supreme Court nominee. Republicans who believe that no one is above the law could vote no on Judge Kavanaugh.

There is a lot more that makes this nominee particularly attractive to President Trump. Judge Kavanaugh has demonstrated incredible hostility toward efforts to rein in public corruption and to break the stranglehold of money on our political system.

Substituting your personal views for the will of Congress is not the job of a judge, and it is certainly not conservative. Stripping rights away from women, voters, workers, and immigrants, while expanding the rights of corporations and rich people isn't fair, neutral, or equal.

Judge Kavanaugh didn't make this stuff up on his own, no. Judge Kavanaugh is part of a movement to twist the Constitution in ways that are deeply hostile to the rights of everyone but those at the top. He has been a part of that movement for the majority of his professional life, both before and after he became a judge, and now he has a record of 12 years of judicial decisions that demonstrate his loyalty to that radical ideology.

All of this makes Brett Kavanaugh a dream candidate for the rightwing, extremist Federalist Society; a dream candidate for rightwing, extremist Republicans; a dream candidate for the rightwing groups and billionaires who want to buy off our political system; a dream candidate for a sitting President whose campaign is under an active, ongoing FBI investigation that eventually could land in the U.S. Supreme Court; a dream candidate for all of them and a nightmare for everyone else.

President Trump has made his choice. Here is the thing: President Trump is not a King. The Constitution demands that the Senate have a say in who gets to serve on the Supreme Court, and that means every single Senator has a vote. Think about what is at stake. One Justice, one vote could determine whether women can make their own healthcare decisions. One Justice, one vote could determine whether workers can join unions to negotiate for better pay, better working conditions, and better benefits. One Justice, one vote could determine whether millions of people with preexisting conditions can still get health insurance. One Justice, one vote could make decisions on voting rights, civil rights, immigration, criminal justice, consumer protection, and environmental protection. One Justice, one vote could decide whether everyone or just those at the top can find justice in America.

The Justices who sit on the highest Court in the country should not be prescreened by extremist groups whose agenda is to tilt the scales of justice against Americans who are most vulnerable. They should not work to hand our courts over to corporate giants and wealthy individuals. The Justices who sit on our highest Court should be unequivocally committed to one principle: equal justice under law.

Judge Kavanaugh's record shows that he is not the right candidate to spend a lifetime making decisions that will touch the lives of every American. Every American who believes that our courts should not be another puppet of the rich and powerful should speak out, and every Senator who believes in equal justice under law should say no to Judge Kavanaugh.

Mr. President, I yield the floor to my colleague from Oregon.

The PRESIDING OFFICER (Mr. ROUNDS). The Senator from Oregon.

Mr. WYDEN. Mr. President, I thank my colleague from Massachusetts for eloquent remarks. I particularly want to thank my colleague from Oregon for putting together this time to speak on issues so important to our State, as Senator WARREN has noted, and issues important to our country. In the context of talking about Ryan Bounds, I am going to talk about how, unfortunately, the handling of the Bounds nomination moves the Senate even further away from what I think the Senate has always been about, which I would describe as principled bipartisanship.

As I indicated, Ryan Bounds, an important judicial nominee, is being considered as a candidate from my home State of Oregon, and we will vote on him before the end of the week.

As I have indicated, I believe the debate about Ryan Bounds is not a typical debate on a typical nomination for reasons I am going to outline tonight.

In my view, it is vital that the Senate look at this nomination in a broader context, particularly as it relates to what I call the decline of principled bipartisanship in the Senate. I want to be clear about what I mean when I mention the words ''principled bipartisanship'' and the reason I describe it that way—bipartisanship born of principle.

Bipartisanship is not about taking each other's bad ideas. I see my friend from South Dakota in the chair of the Presiding Officer of the Senate. I wouldn't come up to him in the name of bipartisanship and ask him to take a flawed idea, and I am quite sure he wouldn't ask that of me because I know the Presiding Officer well enough to know he has had an interest over the years in bipartisanship built around principle.

So bipartisanship is not about taking each other's lousy ideas; it is about taking each other's good ideas.

The fact is, the Senate has certainly been very polarized, very divided this session, and yet we have been able to do it when we kept that lodestar of principled bipartisanship in mind.

If you had said in January of 2017 that the U.S. Senate would enact a 10-year Children's Health Insurance Program, an improved, expanded Children's Health Insurance Program, I think people would have said: You are hallucinating. It can't happen. Because my colleague, who sits right over there, Chairman HATCH, and I talked about this was a chance to help children and save money, we are able to do something nobody thought was possible because both of us shared an interest in the well-being of children and cost-effective approaches in healthcare.

I know my colleague knows about this. Senator CRAPO, who sits a few seats from Chairman HATCH, and I lined up more than 270 forestry groups because the whole system of fighting fire was broken, and we said we have to do something very different. We have to end the incentive, basically, for raiding the fire prevention fund to put the fire out, and then the problem got worse. It didn't make any sense in South Dakota; it didn't make any sense in Oregon; it didn't make any sense anywhere, but because Chairman CRAPO and I found common ground around principles that this wasn't a cost-effective approach to discriminate against fire prevention, and we saw how important it was to take a balanced approach on natural resources so we could have forest health and get fiber in the mills and protect our land, air, and water, it was an agreement based on principled bipartisanship.

So two big issues, not immigration or trade that are in the headlines, but an awful lot of people in America and in our part of the world are going to benefit from the principled bipartisanship that led to an unexpected breakthrough in terms of meeting the healthcare needs of our children and a transformative approach—not my words, the words of the Forest Service—in terms of fighting fire.

The fact is, the handling of these judicial nominations, and Ryan Bounds in particular, is a break, a dramatic, sharp break from this tradition of principled bipartisanship.

I would like to say, by the way, that in Oregon, we have followed the idea of principled bipartisanship as it related to judicial nominations as well. I have had the pleasure of working with two Republicans very closely on these judicial nominations: the late Mark Hatfield, a revered figure in Oregon, the chairman of the Senate Appropriations Committee, and my former colleague Gordon Smith, two Republicans. Nobody ever thought Gordon Smith and I would work together.

We had a race in 1996. I won by a little bit. He won the next one. Nobody ever thought we would work together, but we worked together on those judicial nominations, literally, hand in glove, a Democrat and a Republican.

Senator MERKLEY, who defeated Senator Smith, brought exactly the same approach to this, and he said: Well, how did it work in the past? I said: Well, we had a judicial selection process that was bipartisan, and we would have all our offices represented.

I remember, when I was the junior Senator and Mark Hatfield was the senior Senator and Bill Clinton had been elected, I said: Senator, I can't imagine that you and I aren't going to find common ground through our selection process and the effort to come together around judges that make sense for our State and our country—and we did.

Year after year, that has been the case for almost 20 years. I have been the senior Democrat in our congressional delegation. It has been an extraordinary privilege that the people of Oregon have afforded me. Year after year after year, we would come together not because we always agreed on someone's philosophy or their view on a particular issue but because we felt, in the name of fairness and principled bipartisanship, we ought to strive to find common ground and make it possible to generally send three nominations to the White House that a President would pick from.

The nomination of Ryan Bounds is a total rejection of the idea of principled bipartisanship. I am going to talk a little bit more about how the selection process works, but I want to begin by making clear that I am troubled by the incendiary, intolerant writings by Mr. Bounds that came to light only after he was nominated.

I am, in fact, more troubled by the fact that he concealed those writings from the independent and bipartisan Oregon committee that reviews potential candidates for nomination. In my view, moving forward with this nomination, in the face of those revelations, is going to have regrettable and irreversible consequences. It not only tramples on Oregon's bipartisan judicial selection process, as I am going to outline—and my colleague from Oregon already has touched on this—it tramples on a century-old tradition of what is just collegiality, good relations among Senators, courtesy, allowing home State Senators to review judicial nominations.

My view is, this approach cheapens the constitutional responsibility of the Senate to provide or withhold advice and consent on nominees. It has the potential to forever lower the basic standards of honesty and decency to which the Senate holds the nominee. It will be a signal that a nominee can conceal information the public has a right to know—histories of prejudice and scorn that the potential nominees could find embarrassing and disqualifying should that information come to light.

It signals that the Republican majority believes the end justifies the means in the course of seating judges, a prospect that certainly speaks to the larger debate the Senate is going to have on the Supreme Court in the months ahead.

I am going to begin by walking through a number of the issues, beginning with excerpts from the writings Mr. Bounds failed to disclose to our bipartisan judicial selection committee.

I want to make it clear again that I find much of what was written to be disgusting and baffling, and I am again especially concerned that it was concealed from the committee.

First is a passage in which Mr. Bounds targeted ethnic minorities and expressed a dripping disdain for multicultural values.

Mr. Bounds wrote:

> During my years in our Multicultural Garden of Eden, I have often marveled at the odd strategies that some of the more strident racial factions of the student body employ in their attempt to ''heighten consciousness,'' ''build tolerance,'' ''promote diversity,'' and otherwise convince us to partake of that fruit which promises to open our eyes to a PC version of the knowledge of good and evil.

Mr. Bounds said:

> I am mystified because these tactics seem always to contribute more to restricting consciousness, aggravating intolerance, and pigeonholing cultural identities than many a Nazi [talking about book burning.]

Now, my colleagues who are following this, I am the child of Jewish refugees who fled Nazi terror in Germany. Not all of our family got out. We lost family at Theresienstadt. One of our very dear family members was gassed at Auschwitz.

To compare, as Mr. Bounds did, the work of organizations that promote multiculturalism and tolerance here in the United States to Nazi bookburning rallies is beyond extreme. Our diversity

is a core strength of America. The Constitution protects the right of minority Americans to celebrate their diversity. Mr. Bounds clearly doesn't see it that way.

In an even more sarcastic passage, he wrote:

> The opponent is the white male and his coterie of meanspirited lackeys: ''oreos,'' ''twinkies,'' ''coconuts'' and the like. He enjoys making money and buying material things just to make sure that people with darker skin don't have access to them. He enjoys killing children and revels in the deaths of minorities. If you are white male and pro-choice, for instance, it is often ascribed to your desire for poor black and Hispanic women to abort their children as frequently as possible.

These are his words—words that invent an absurd sense of victimhood based on a fictional reading of how ethnic minorities view others.

I would just ask my colleagues, how can somebody who wrote and published statements like those—statements that were printed in Stanford's newspaper for anybody to read—be capable of hearing a case involving matters of race in an impartial fashion?

After intoxicated athletes vandalized a gay pride monument at Stanford, Mr. Bounds wrote:

> We hear of sensations of personal violation and outrage and of suspicion that male athletes and fraternity members are bigots whose socialization patterns induce this sort of terrorism. Perhaps all of this is true, but the castigation of athletes and frat boys for flagrantly anti-homosexual prejudices is predicated on a motivation for this vandalism that has not been articulated.

He continued:

> The vandals might face hate-crime charges, fraternity members—regardless of their individually demonstrated prejudices (or, for that matter, sexual orientation)—face mandatory sensitivity training . . . and sensitivity insinuates itself a little further into the fissures of our community.

So in that passage, Mr. Bounds somehow managed to make victims out of homophobic vandals and attack the concept of sensitivity. It is a sort of division in American society. It is as if he believed being sensitive to minorities who are the targets of hate and prejudice on a daily basis was an unreasonable prospect.

Next I will turn to Mr. Bounds' views on sexual assault on campus. He wrote:

> There is nothing really inherently wrong with the University failing to punish an alleged rapist—regardless his guilt—in the absence of adequate certainty; there is nothing that the University can do to objectively ensure that the rapist does not strike again.

He continued:

> Expelling students is probably not going to contribute a great deal toward a rape victim's recovery; there is no moral imperative to risk egregious error in doing so.

Now, I would be the first to say that a disciplinary proceeding in a university is not a courtroom. They don't operate under the same legal standards. However, universities that receive Federal dollars do have a legal obligation to protect the young women on their campuses. Once again, this is something that the nominee, Ryan Bounds, seems not to comprehend.

So when you take these writings together—the merit of diversity, the advancement of ethnic minorities, the protection of survivors from sexual assault—these are issues at the heart of some of the most significant cases that come before Federal judges. Mr. Bounds' writings reflect that he held shocking views on these matters as a young adult—views that he hid by concealing the writings I have touched on.

There are plenty of inflammatory examples beyond those I quoted here today that touch on additional topics.

I hope Senators and those following this would find my judgment not something you can debate. This is indisputably appalling stuff. I believe, having talked to some colleagues, they might want to dismiss the writings because they came when Mr. Bounds was a young man, and one would certainly hope that people mature as they age. I would agree with that if Mr. Bounds had done two things: first, if he had disclosed the writings to our independent and bipartisan Oregon committee—in other words, been candid with the bipartisan and independent committee like the Oregonians who came before him for close to two decades. I don't think that is asking too much—to be candid, to be straightforward, as those other Oregonians who went on to distinguished service on the Federal bench did for almost two decades. In addition to disclosing these writings to the independent and bipartisan committee, if he had recanted and apologized for these horrendous remarks. In my view, he failed to take either action.

When you think about this, nobody would ask Mr. Bounds to recant every utterance, every writing, every belief he held as a young adult. I think we would all widely think that is unreasonable. I understand that when there is a Republican in the White House and a Republican in charge of the Judiciary Committee, I am not going to see eye-to-eye with every judicial nominee who comes up for a vote. That is why I have gone to some lengths tonight to mention that I have been the senior Democrat for essentially two decades. Whether it be Mark Hatfield or Gordon Smith, two very thoughtful Republicans, and now our colleague JEFF MERKLEY, we have always, always tried to be deferential, tried to find common ground in recognizing what party was in the White House and what party controlled the Senate.

I am not asking Mr. Bounds to transform himself into Thurgood Marshall. It is completely reasonable to expect an admission that comparing the promotion of diversity to Nazi rallies was wrong.

I can only imagine what my late parents, both of whom fled the Nazis at a very young age—and all they wanted to do was to serve in our military, wear the uniform of the United States. My dad wrote propaganda pamphlets that we dropped on the Nazis. I can only imagine what my parents would say to Mr. Bounds' idea of comparing diversity to Nazi rallies.

Dismissing the value of diversity is wrong, and insisting that it is not worth protecting the victims of sexual assault because it is impossible to guarantee safety from rape is wrong. Instead, Mr. Bounds hid these writings rather than recant, take back their content.

The comments he has made since they came to light, in my view, suggest that Mr. Bounds sees this as a matter of clumsy word choice and youthful indiscretion. He only acknowledged it after it became a threat to his nomination. I don't think it was a true apology. It is as if he believed he could wave the writings off as a messy, isolated little episode from the past.

In my view—and something I am going to talk about going forward—nominees for the Federal bench must be held to a higher standard. If you are up for a lifetime appointment on a powerful Federal court, you have to be truthful and forthcoming in your nomination process. Ryan Bounds has not, and that ought to be a reasonable judgment from what I have outlined thus far.

Now I want to touch on the second important issue, and that is the way this nomination has literally trampled on our bipartisan selection process for judicial nominees.

As I have said, I am proud that for the better part of two decades, prospective judicial nominees have been identified and vetted by our bipartisan committee made up of Oregonians from across the State and from all over the legal community.

As I indicated, it was especially important to me to partner with my Republican colleagues to ensure that all sides had a voice in this issue—in fact, even before I came to the Senate because I was the senior Democrat in our delegation then as a Member of the House. I always wanted to hear Senator Hatfield's views and what he thought was in Oregon's interest.

When there is a vacancy on the bench, our selection committee performs a thorough statewide search for candidates. It conducts very rigorous interviews. It provides a list of recommended potential nominees to Oregon Senators.

Senator MERKLEY and I review these recommendations closely, and we respect that not everyone on the list is going to be somebody we would have chosen ourselves. They are not all people we would agree with 100 percent. After our review, the two of us submit a short list to the President for his consideration. For us, this is the beginning of how we put advice and consent into practice.

When the Trump administration came to office, Senator MERKLEY and I wrote to the White House Counsel to guarantee that he was aware of our longstanding bipartisan selection process.

As part of the independent committee work, candidates are asked to disclose anything from their past that could have a negative impact on their potential nomination. It ought to be obvious to any lawyer—even to anybody with a casual interest in American law and history—that the incendiary writings, particularly about minorities, would qualify as potentially threatening to a nomination. This was the exact point at which Mr. Bounds withheld any and all information about his writings.

It is not as if Mr. Bounds simply declined to look back far enough into his past when he was interviewed. In fact, Mr. Bounds cited certain activities from his precollege days going back to high school in an effort to paint a picture of diversity and tolerance. So the reality is, he misled the committee by omitting the writings that I have described tonight.

When his writings came to light in February, five of the selection committee's seven members, including the chair, said they would have changed their decision to include Mr. Bounds among their recommended candidates. I think that is a very important statement.

It is not widely known that it will always say in the newspaper that the distinguished President of the Senate recommended so-and-so and the President chose his recommendation. We all know that is generally not the case. We forward a list of individuals—usually three—that our bipartisan committee feels would be qualified to serve on the bench.

In the case of Mr. Bounds, when his writings—the ones he neglected to tell the committee about—came to light, five of the selection committee's seven members, including the chairman, said that they would have changed their decision to include Mr. Bounds among the recommended candidates.

Our local bar association wrote that Mr. Bounds' writings ''express insensitive, intolerant, and disdaining views toward racial and ethnic minorities, campus sexual assault victims, and the LGBTQ community.''

The association's statement went on to say that it ''strongly disavows the views expressed in those articles''—the ones I have read tonight—''as racist, misogynistic, homophobic, and disparaging of survivors of sexual assault and abuse.'' I will repeat that last part: ''racist, misogynistic, homophobic, and disparaging of survivors of sexual assault and abuse.''

Those are not my words. Those are the words of Mr. Bounds' local bar association based in Portland. The association, in addition, requested that Mr. Bounds resign from the chairmanship of its equity, diversity, and inclusion committee, which he complied with.

Other member groups of the Oregon legal community added their voices and urged the leaders of the Judiciary Committee to turn to other potential nominees. The leaders of the Oregon Women Lawyers and the Oregon Asian Pacific American Bar Association wrote the following:

> These were not comments from the Twittersphere or errant social media posts. These were well thought-out, carefully constructed, published articles in which [Bounds] repeatedly diminished, mocked, and advocated wholeheartedly against the principles of inclusion for which our organizations have fought.

That is really an important point. Mr. Bounds wasn't sitting down at his laptop, his iPad, pounding out a couple hundred characters. He was thinking carefully; these were published articles that he clearly had spent a lot of time trying to get the words to reflect what was on his mind. And people have recognized it—no 280 characters for those articles.

The Oregon Hispanic Bar Association and the LGBT Bar Association of Oregon wrote the following:

> We believe Mr. Bounds' failure to disclose these writings—and his conduct related to their disclosure—demonstrates Mr. Bounds does not show the appropriate judgment and discernment to faithfully uphold and apply the laws of the United States of America.

These are the voices of Oregon's legal community. The nominations process is supposed to be responsive to those voices. Apparently, none of what I have gotten into tonight has been of any interest whatsoever to the chairman of Senate Judiciary Committee, the majority leader, or the White House, because they simply moved forward with the Bounds nomination anyway. Really, there were no substantive discussions with them at all. It appears now that the White House simply had no interest in respecting the bipartisan, 20-year history of tackling these nominations in a way that reflects principled bipartisanship. Mr. Bounds was their choice from the beginning, and no revelation, no red flag—no matter how big—was going to change him.

Our independent group of experts—people with bipartisan roots that go back decades—had no interest in delay. But if blowing up a decades-old bipartisan tradition is bad, then blowing up a tradition that dates back more than a century is even worse.

For 101 years, going back to Chairman Charles A. Culberson of Texas, the Judiciary Committee has sought input from Senators on judicial nominees from their home States. It is done by returning what are known as blue slips. It is the definition of senatorial collegiality—courtesy, if you will, in an effort to make sure that all felt they were going to be heard.

The committee sends blue slips to home State Senators when a nomination comes up. At that point, the home State Senators have a few options. Once they review the nomination, they can return the blue slip with a positive or negative recommendation, and the committee moves forward. Or the home State Senators can withhold the blue slip.

Senator MERKLEY and I withheld our blue slips. We have not consented to a hearing, a markup, or a debate on the floor. We have done that because Mr. Bounds purposefully misled the independent Oregon committee that reviewed his candidacy by concealing the disturbing writings from his young adulthood. In my view, that is exactly the way the blue-slip process is supposed to work.

History shows that this tradition has benefited both sides. It is a check on the power of the President and a moderating, democratic force on the Judiciary. It helps to ensure that administrations are not seating flawed nominees or extremist judges whose views are simply far from the mainstream of the lives that they have considerable power to change, if confirmed.

In fact, let me quote a letter from the entire Senate Republican conference sent to the last President at the very beginning of his term in 2009. What that means is every member of the Senate Republican caucus sent to President Obama, at the beginning of his term in 2009, a letter with one of the very first lines saying:

> Unfortunately, the judicial appointments process has become needlessly acrimonious. We would very much like to improve this process, and we know you would as well.

So at a time when that side of the Chamber—everybody over there—was out of power and they had no choice but to appeal to the other party's good will, they went ahead and struck a bipartisan chord. Their letter described the ''shared constitutional responsibility'' in the nominations process. They wrote that dating back to the Nation's founding, the Senate has had ''a unique constitutional responsibility to provide or withhold its Advice and Consent on nominations.''

They continued:

> The principle of senatorial consultation (or senatorial courtesy) is rooted in this special responsibility, and its application dates back to the Administration of George Washington. Democrats and Republicans have acknowledged the importance of maintaining this principle, which allows individual Senators to provide valuable insights into their constituents' qualifications for federal service.

Here is the heart of the letter that came from that side of this body:

> We hope your administration will consult with us as it considers possible nominations to the federal courts from our states. Regretfully, if we are not consulted on, and approve of, a nominee from our states, the Republican Conference will be unable to support moving forward on that nominee.

So there you have the heart of the fury that we represent tonight. When a new Democratic administration came into office, my Republican colleagues sprang into action to defend the blue-slip process. That letter was sent on March 2, 2009, to President Obama, and our colleague Senator LEAHY was then the chairman of the Judiciary Committee. The letter clearly indicates that Leader MCCONNELL and his Republican colleagues believed that nominations should not go forward without blue slips having been returned.

That was when there was a Democrat in the Oval Office. A Democrat held the

gavel in the Judiciary Committee. They had the power to tell the Republicans in the minority to get lost; take a hike. Democrats did no such thing.

We upheld the blue-slip tradition on this side of the Chamber, where my good friend Senator MERKLEY and I sit. We went along with the unanimous request from that side of the Chamber in honoring blue slips.

There were no hearings of judicial nominations when a Democrat held the gavel in the Judiciary Committee, when neither home State Senator had consented. In fact, the Judiciary chairman, Senator LEAHY, has emphasized that he went above and beyond what several committee leaders before him had done to respect the rights of the Republican minority.

Someone watching in the Gallery or on TV, someone who is hoping to see the Congress pick up again on what I have described as principled bipartisanship, probably hoping to hear Republicans are operating with the same bipartisan comity now that they are in power—those people are in for some serious disappointment. If the Senate approves the Bounds nomination, it will be the first time in more than a century that a judge has been confirmed without a blue slip from either home State Senator.

The fact that Mr. Bounds wrote the appalling things I have described ought to have at least slowed this nomination down. For him to have hidden the writings is disqualifying. I don't think the matter can be ignored or wished away.

The fact that these writings are embarrassing and reflect poorly on him in retrospect does not in any way give him a license to conceal them. In my view, my colleagues in the majority ought to look at this issue the same way.

The Republican majority, working hand in hand with the Trump administration, is now on the verge of breaking a century of bipartisan tradition to seat a nominee with very serious red flags. In fact, Chairman GRASSLEY has now held hearings on four circuit court nominees who didn't have blue slips from one or both of their home State Senators.

Recently, Leader MCCONNELL changed his tune on what the blue slip was about. He was quoted as saying that the blue slip ''ought to simply be a notification of how you're going to vote, not the opportunity to blackball.''

I have two reactions to that. Senator MERKLEY and I have been called a variety of things over the years, but I don't believe anybody has ever said that we are interested in blackballing people. We are interested in doing our jobs. We are interested in carrying out our constitutional responsibilities, our constitutional responsibilities to our constituents.

Second, blue slips have never been simply an indication of how Senators will vote. Leader MCCONNELL knows it. The letter he and his colleagues sent in 2009 is proof. To invent this new interpretation of how the process should work demonstrates, as I have indicated, that the Republican majority has changed the rules of the game.

My colleagues on the other side ought to be aware of this new responsibility because of how the administration, the majority leader, and the Judiciary Committee have handled the Bounds nomination. This, colleagues, is going to be the end of the blue-slip process. This is lights-out for a process that ensured fairness for each Senator. I would wager that when the next Democratic administration comes in and the Democrats hold the gavel in the Senate, a Republican letter that demands a say in judicial nominations will find it hard not to be treated like a takeout menu that is shoved unsolicited under the doorway—straight to the dustbin.

I have outlined the letter my Republican colleagues sent to President Obama in 2009. It talked about a shared constitutional responsibility, but the administration seems to define ''advise and consent'' as Senators rubberstamping whatever nominations are sent their way. This is a historic moment and, I think, a sad one. As I indicated, it is part of a larger context—part of a pattern of the majority violating norms, misleading the public, and bending rules to their absolute limits in order to reshape the judiciary and seat judges who are far from the mainstream.

Justice Scalia passed away unexpectedly with 237 days left in President Obama's second term. During the process of deciding on a nominee to fill the open seat, President Obama did something he didn't have to do—something that upset many progressive Democrats. He specifically chose a moderate nominee as a show of good faith. After all, in 2010, when another seat opened up, my friend who chairs the Finance Committee called Justice Garland a fine man, a consensus nominee.

What a difference a few years makes. Judge Garland didn't even get a hearing in 2016. The Republican majority in the Senate ran out the clock on his nomination. Now that Republicans control the White House and the Senate, they changed the rules in the Senate so they could confirm Supreme Court Justices without needing a single Democratic vote—a clear double standard.

The Trump administration has outsourced the selection of judicial nominees to a right-wing group called the Federalist Society, which is funded by powerful corporate interests and individuals with deep pockets. They are answerable to no one but their well-monied backers, certainly not the public at large.

Ryan Bounds is a Federalist Society hand-picked nominee. So was Neil Gorsuch, who now sits in the Supreme Court seat that Leader MCCONNELL and Chairman GRASSLEY held open for months and months. So is Brett Kavanaugh, whose nomination the Senate will debate at great length in the months to come.

These are nominees who adhere to a backward-looking, corporatist, rightwing judicial philosophy that is packaged in the branding of so-called ''originalism.''

The guiding principle of originalism is ostensibly that our rights as a people are contained within our founding document, but in practice, originalism provides cover for rightwing jurists to empower corporations over downtrodden workers and the wealthy over the vulnerable. It is a political agenda masquerading as a judicial philosophy.

For example, you would find it impossible to locate in the Constitution where it says that unscrupulous healthcare providers can lie to pregnant women about the services they do and do not provide, but a right-leaning Supreme Court just said they are allowed to deceive women in that way.

Originalist judges regularly trample on the Fourth Amendment, giving the government the power to peer deep into the lives of citizens.

And in an example that is particularly relevant to my home State, which has had a ''death with dignity'' law on the books for decades, originalist jurists, including Justice Gorsuch and Judge Kavanaugh, deny that Americans suffering with terrible illness have a right to make their own decisions about their own lives and bodies without interference from the State.

Twice, Oregonians have passed ballot measures approving death with dignity. Oregon's Death with Dignity Act has been in place for two decades, and it was upheld by the Supreme Court in Gonzalez v. Oregon.

And as I have said on this floor in previous debates, there is nothing in the Constitution that gives the State the power to deny suffering Oregonians the right to make basic choices about the end of their lives.

Justice Gorsuch and Judge Kavanaugh disagree. They would put the State between patients and their doctors, and their view that our rights are only those enumerated in the Constitution conveniently ignores key precedent and the text of the Ninth Amendment, which says:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

. . . shall not be construed to deny or disparage others retained by the people.

So there is a clear implication written into our founding documents that there are rights held by the people that are not overtly laid out in the text of the Constitution.

Furthermore, the originalist viewpoint ignores what Justice Douglas referred to in Griswold v. Connecticut as the ''zone of privacy created by several fundamental constitutional guarantees.''

It was that zone of privacy that formed the basis of his opinion that

guaranteed the right of married couples to use contraceptives. That right was later extended to unmarried individuals.

A similar legal theory guaranteed the right of all American women to make their own choices about their reproductive health.

And it is that case, Roe v. Wade, that is now in the crosshairs of the right wing as the Kavanaugh nomination moves forward.

Colleagues, Roe is settled law—it has been that way for 45 years—but it is the right-wing agenda, wrapped in the cloak of originalism, that seeks to overturn it.

Overturning Roe would turn the clock back to the dark days when women's healthcare choices were made by the State—nevermind the flimsy legal argument for it. That prospect is overwhelmingly opposed by the American people. The imagery of back alley abortions and risky procedures performed in secret is well understood, in part because those horrors are not all that far back in our history as a Nation.

And the fact is, the women who have the most to lose if Roe is overturned are the vulnerable and the poor. It is the women who will lose access to the doctors of their choosing in small town clinics. It is the women who cannot afford to a fly to another State where the reproductive healthcare services they need are legal, safe, and available. It is another step that cleaves our laws and our healthcare system in two, going back to another era when healthcare in America worked only for the healthy and the wealthy.

These questions are all part of the broader context I felt the need to address here today as the Senate debates the Bounds nomination.

As somebody who has done my best to operate in a bipartisan manner throughout my career, it saddens me to see the majority party change the rules of the road in this way pushing through nominees that are far outside the mainstream, destroying bipartisan traditions that have stood for decades, even more than a century, reshaping the judiciary at the behest of extremist, right-wing outside groups that put the interests of the wealthy and powerful over the vulnerable.

These actions by the majority collectively pull bricks from the democratic foundations of our government. They will bring to the judiciary same vitriolic discourse that Americans find so disgusting in the Congress. They undermine the public trust.

In the long run, it will be an open question whether the current structure of the courts will survive.

As for today, I want my colleagues to understand what is at stake as the Senate prepares to vote on the Bounds nomination. This nominee concealed disturbing, intolerant writings from his past, misleading the bipartisan committee that reviewed his candidacy.

The White House and Republican leaders here in the Senate have apparently decided that does not matter, and now, a century-old bipartisan tradition that protects our power as Senators and acts as a moderating force on the courts is on the ropes. In my view, this will forever change how judicial nominations are handled. It will further divide the Congress, and it will further divide the courts along partisan lines.

And this will only be a preview of the tense debate on the judiciary that is sure to come in the months ahead.

I will close with one last point.

There are values on the line now that are important to the people of my State and to Americans, particularly the right of all American women to make their own choices about their reproductive health and their healthcare. The Roe case is settled law, and it has been that way for 45 years, but now there is really a prospect of its being turned back. The poor and the vulnerable have the most to lose. These are all issues that are part of the broader context I wanted to address here tonight. I am not sure if Senator MERKLEY was here at the particular moment.

I see my colleagues who have been very patient because my time has expired.

We had a bipartisan selection committee for judges in our State, with the late Mark Hatfield and Gordon Smith, who was Senator MERKLEY's predecessor—Democrats, Republicans—all of whom said we don't want to bring the same vitriolic discourse to judicial selection that constitutes so much of the public debate today.

What we sought to do in the Oregon congressional delegation—Senator MERKLEY, Senator Hatfield, Gordon Smith—was to buttress the public trust. What we are seeing now in Oregon and with the judges who are being given, in my view, such short shrift—such unfair treatment—raises the question of whether the current structure of America's courts can survive. That is what is at stake in these votes.

I think what we are discussing tonight is going to only be a preview of the tense debate on the judiciary that is sure to come. I think we are capable of better. Oregon has shown it for two full decades as it relates to judicial selection.

I urge the Senate to return to that kind of collegial process, exemplified by the blue slip, exemplified by the Oregon bipartisan selection committee. Until that happens, I will have to urge a ''no'' vote on the Bounds nomination.

I thank my colleagues for their patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise not even, I guess, 24 hours since the news broke across the airwaves about what the President was saying and what he was not saying in Helsinki with Vladimir Putin being just a few feet away from him. That was a terrible moment for our country.

Yet, in the aftermath of that, folks came together from across the country and from across all kinds of usual lines of division. Democrats and Republicans came together to express both outrage at the insult but also, I think, to express a sense of solidarity about the path forward—that this moment of crisis in our national security has to be met with bipartisan consensus. Thank goodness that has prevailed so far. We have a long way to go, but that was a good moment for the country after a very bad moment.

I am not here tonight to talk about that, but I want to point to it as an example of the sides coming together on a big issue. I think there have been other moments this year. At one point, when we passed appropriations legislation, there was a strong investment in national security and national defense but also investments in priorities like education and healthcare and the opioid crisis and childcare and the National Institutes of Health—on and on. Great investments for our country will help us grow and make us stronger. The farm bill recently passed the Senate. That was overwhelmingly bipartisan. So there have been good moments.

I am afraid, on the Judiciary, we have had, unfortunately, the opposite. Since I have been in the Senate—and as Senator WYDEN referred to earlier—I have had the privilege of working with colleagues on nominations for the U.S. district court in Pennsylvania—for the Eastern District, the Middle District, and the Western District. It has been a collaborative process. Since 2011, in working with Senator TOOMEY, even though we are on opposite sides of the aisle, we have confirmed—I think it is—14 judges because we have collaborated. There has been give-and-take, and there has been review and scrutiny and then, ultimately, consensus in allowing a candidate to go forward.

No Federal judge in those years would have gone forward without the signing of the blue slip that has been referred to tonight by both Senators. It happened in the past when there were two Republican Senators, but now, with a split delegation, that tradition continues in our State. It is a good tradition. It is the right way to do it.

That tradition prevailed until recently, when it came to appellate court judges—in my case, in the U.S. Court of Appeals for the Third Circuit, which includes Pennsylvania, New Jersey, Delaware, and the Virgin Islands. Even at the very end of the Obama administration, my colleague from Pennsylvania objected and would not return a blue slip. That nomination for the Third Circuit, at that time, did not go forward. I respected the blue slip that my colleague decided not to sign. The Obama administration respected it, and that nomination didn't go forward. I didn't like it, but that is what the agreement was.

Now we are into this new world where, just recently, as our two colleagues from Oregon are talking about

what has happened in the Ninth Circuit, which is in the northwestern corner of our country, and in the Third Circuit, which is where I live and where I work, we had a nomination go forward without a blue slip that had been signed by me. My point of view was disregarded by both the White House and the Senate Judiciary Committee in contravention of years of tradition—and not tradition for the sake of tradition but of practice because it allows you to arrive at a consensus pick that both parties have to agree on.

That is not good for the Senate. It is not good for the judiciary. It is, ultimately, not good for the American people because, if one party has total control, as the Republican Party has now with both Houses of Congress and the administration, you are going to get judges with only one point of view. That leads me to my last point for the night, which will take a few minutes, but I want to make sure this gets on the record.

Another piece of bad news, in terms of the judiciary, unlike the other good news about consensus in other areas of our work, is what has happened under this administration with regard to the selection process for the Supreme Court. This has never happened before when, during a campaign, organizations—in this case, only two—come together and present a list of names. That list of names is, in essence, a bargain between a candidate and those groups. Then that is carried forward to the administration. Now we have a list of just 25 names—25. The last time we checked, there were about 700 Federal judges in the United States of America. The President could pick any one of those Federal judges. Many of them—I don't know how many—had been chosen by Republican Presidents. Many of them are very conservative or conservative, and some are moderates.

Apparently, the only way you get on that list is to be hard right. You have to pass whatever tests are applied by the Heritage Foundation and the Federalist Society. This list has been designed to do the bidding of corporate special interests that are determined to handle healthcare in a fashion that none of us would want it handled—by giving the power back to insurance companies to make decisions on healthcare. It is a corporate agenda that crushes unions or seeks to crush unions. It represents working men and women and promotes policies that, in my judgment, will leave the middle class further behind. So any judge on this list, which I would argue is a corrupt bargain between the advocate and those groups and now the President and those groups, is fruit of a corrupt process.

Just by way of example, the Heritage Foundation is an extreme rightwing organization. That organization just released a new proposal to end protections for people with preexisting conditions, to gut Medicaid for seniors, people with disabilities, and children. They recently hosted a press conference for Republican attorneys general who are trying to eliminate those protections through the courts. Just in one State, Pennsylvania, more than 5.3 million people have preexisting conditions. That is almost half the population of Pennsylvania. Those 5.3 million people include over 643,000 children who have preexisting conditions.

The Heritage Foundation wants to take us back to those dark days in which you could be denied treatment or coverage because of your having a preexisting condition. I don't know many Pennsylvanians who want to go back to those days, to turn back the clock in that fashion.

The Heritage Foundation also called labor unions cartels. Labor unions, of course, helped to build the greatest middle class ever known to man. In my State, from the formation of the first permanent Pennsylvania local labor union in Philadelphia in 1792 to the Lattimer massacre in Northeastern Pennsylvania, which is one county away from me, to the Homestead strike in Western Pennsylvania—in all of those struggles, Pennsylvania's workers have led the way to ensuring that working people have basic rights, good wages, and of course benefits like healthcare. Yet you have organizations in the United States of America that want to rip away protections that people recently gained when it comes to healthcare.

The last thing—the very last thing—working men and women in Pennsylvania need is another corporate judge on an increasingly corporate court.

Here is some evidence for that assertion. A review by the Constitutional Accountability Center shows the consequences of the Court's corporate tilt, finding that the U.S. Chamber of Commerce has had a success rate of 70 percent in cases before the Roberts Court since 2006, a significant increase over previous Courts that were thought to be conservative, I guess.

In the most recent term, the Court sided with corporate interests in 9 out of 10 cases in which the U.S. Chamber of Commerce advocated for a position.

I was elected by the people of Pennsylvania to represent all Pennsylvanians and to advance policies, especially when it comes to making decisions about judges and Justices in a fashion that would give meaning and integrity to what is inscribed on the Supreme Court: ''Equal Justice Under Law.''

I was not sent here to genuflect to the hard right or to any organization. In this case, I certainly was not sent here to genuflect to the hard right with regard to groups funded by corporate America.

President Lincoln said it best about what he hoped our Nation would be. He called on our Nation to work to ensure ''that government of the people, by the people, for the people, shall not perish from the earth.''

It seems that some in Washington today—and I have to say, the administration with them, with this nomination to the Supreme Court, most recently announced—are determined to pack the Court with a government of, by, and for extreme right, corporate special interests. So I oppose the President's nomination because it is a corrupt bargain, as I said before, with the far right, big corporations, and what can only be called Washington special interests.

On a night like tonight, when we are talking about major matters of justice—how our courts will function, whether they will be balanced, whether there will be mainstream judges and Justices—I hope we will go back to that model that still prevails in some States—I would say in most States—when it comes to district court judges: collaboration between and among Democrats and Republicans. It is now being jettisoned at the appellate court level, certainly in the Third Circuit and now apparently in the Ninth Circuit and several others. Of course, on the Supreme Court, there is no consultation. There is consultation with two groups; that is it—and maybe some others who get to be in the room. But if you are a conservative judge in America today, appointed by a Republican, you need not apply to become a Supreme Court Justice. You have to be hard right enough to be on that list of 25. You could be one of those hundreds of conservative judges, but you are not going to get on the list of 25 because you haven't demonstrated that you are hard right enough.

I think it pains all of us that we are at this point. There were days, not too long ago, when Presidents consulted with both parties before—before—a Supreme Court nomination. We know that. That is on the record, as clear as day. But now we have this list, and only the list for the Supreme Court. Now we have blue slips that are being thrown out the window or not honored when it comes to the appellate courts. I hope that this kind of cancer doesn't go all the way to the Federal district courts.

I think all of us wish we were in a different place, and I hope we can return to those traditions that lead to consensus and, I think, lead to bipartisan collaboration and, ultimately, better fulfillment of that goal and that value of equal justice under law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I rise today to join many of my colleagues who have come to the floor to speak about our country's third branch of government; that is, our courts.

Senators have a solemn obligation to advise and consent on the President's nominees to our Federal courts. As a member of the Judiciary Committee, I take that obligation very seriously.

As Senator MERKLEY—who is heading up this evening's speeches and has brought a number of people together—knows, it is not just an obligation of

members of the Judiciary Committee; it is also an obligation of Senators, when they look at the judges who are coming out of their particular States, to make sure that this is a person—whoever the nominee is—who represents our country as an independent voice and someone who respects precedent as a member of the Federal bench, whether it is on the Supreme Court level or whether it is on the circuit or Federal district court levels.

In the U.S. Senate, we are here to do the people's business and not the President's business. This is an important job, particularly when it comes to nominees to our Nation's highest Court. The next member of the Supreme Court will make decisions that will affect the lives of people across the country for generations.

In the last decades, the Supreme Court has decided whom you can marry, where you can go to school, and—for people like my grandpa, who was a miner and who worked 1,500 feet underground his whole life—how safe your workplace is. Those are decisions that affect people and their lives.

The next Justice of the Supreme Court will make decisions that will affect the lives of people across the country, determining whether health insurers can deny coverage to people who are sick or have a preexisting condition or whether women's rights are protected. These are all cases that will be coming to the highest Court of the land. It is for this reason that it is critical that here in the Senate, we do our jobs and thoroughly examine Judge Kavanaugh's record.

This is part of our jobs in evaluating Supreme Court nominees, regardless of which party controls the White House. In fact, when Justice Elena Kagan's nomination was considered, because she had worked for an administration, approximately 171,000 pages of documents were made available.

Given Judge Kavanaugh's years of service on the DC Circuit, as well as his previous work in the Bush administration, we will need to do due diligence in reviewing the record. That is part of our job.

For a lifetime appointment to our Nation's highest Court, the American people deserve no less. This is especially important because, for me, many of Judge Kavanaugh's past rulings are very troubling.

One area that I am concerned about is, of course, related to Judge Kavanaugh's record on consumer issues. I have done a lot of work in this area, and, of course, I am concerned about the Executive power issue. I would say that is a paramount concern, as well as some of his other decisions regarding healthcare and women's healthcare, but I want to discuss the consumer issues because I don't think they get a lot of attention, and they should. They matter to people in their everyday lives.

In his current job, Judge Kavanaugh ruled that the Consumer Financial Protection Bureau, which protects consumers when it comes to everything from credit cards, loans, and mortgages, was unconstitutional. He also went out of his way to dissent against net neutrality.

Judge Kavanaugh also wrote a dissent that would have limited a woman's access to contraception, and he ruled against allowing a woman the right to control her own reproductive health in a decision that was later reversed by the full DC Circuit.

We also know that Judge Kavanaugh has criticized the case called Chevron, which ensures that health and safety rules stay on the books. It is about how you consider agency decisions and the experts in the agencies. As I noted in Justice Gorsuch's hearing, overturning Chevron would have titanic, real-world implications, jeopardizing rules that protect health and public safety, requirements against lead-based paint, and clean water protections for our Great Lakes.

Finally, as I noted at the beginning—I will sort of end with my discussion of his rulings as I began—there are concerning implications to Judge Kavanaugh's writings, which support an expansive view of Executive power. It is an important moment, this moment in our country's history. We just saw the President of the United States stand next to Vladimir Putin and not publicly raise any of the issues that I thought should be raised, and we have Members of both parties gravely criticizing those decisions.

What I can say to the people of our State is, no matter what happens in the White House, our Founding Fathers set up a system of checks and balances. There is a check because of the courts, which can make decisions when they interpret our Constitution. There is also a check because of the House of Representatives and the U.S. Senate.

What does Judge Kavanaugh say about this? When they are in school, kids are told—and I know I was told this—that no one is above the law. But decisions he has made and his writings would not lead you to that same conclusion, that simple lesson that we were taught.

When you look at the article he wrote for the University of Minnesota Law Review, as well as one in the Georgetown Law Journal, he has an incredibly expansive view of Executive power. He has said that we shouldn't even have a special counsel process, when in fact Members of the Senate, including those on the Judiciary Committee, Democrats and Republicans, have gone the other way and said: Yes, we want the check of a special counsel investigation when it is necessary—as it has been found to be in this case by the Trump Justice Department—but we want to make sure that the special counsel is protected. That is what the Judiciary Committee said.

We passed a bill out of the committee that strengthened that law and made it harder for someone to fire the special counsel. Yet in his writings, Judge Kavanaugh said that the President should be able to fire the special counsel. He also said that the President should be able to deem whether or not a law is constitutional. These are certainly questions I will be asking about in the Judiciary Committee, and I think we have a right to do that.

Yes, we can ask about a case that is before the Court, but before I came to the Senate, I had seen numerous nominees, including Supreme Court nominees, answer questions about cases such as Brown v. Board of Education and Griswold v. Connecticut. Justice Alito answered a question about that case.

A number of the nominees on the Supreme Court today have answered questions about settled precedent, and I believe we should be able to ask Judge Kavanaugh those questions and receive answers, especially for cases that are 45 years old.

People can have certain views on issues. Everyone does; judges do. But they have an obligation to follow the Constitution, to follow the law, and to respect precedent, and that is going to be our job so that the American people can understand where this nominee is coming from.

First, we will review all of those documents I talked about that are sure to come our way, and then, secondly, we will ask the questions the American people expect us to ask and get the answers they deserve to have.

I would also like to briefly address one of the two circuit court nominees before the Senate this week, because even as we review the President's Supreme Court nominee, we cannot lose sight of the importance of our lower Federal courts. The overwhelming majority of cases are decided by these lower courts. That is why it is imperative to have judges who are fair and committed to equal justice under the law for all Americans.

One Senate tradition that has been key to the appointment of good judges has been the blue slip. The blue slip is a check and balance that has promoted cooperation and better decision making about judges across party lines. It is for that reason that I am deeply concerned that the Ninth Circuit nominee now on the Senate floor will be receiving a vote, despite not having a blue slip from either home State Senator.

Prior to his nomination, no judge has ever been voted out of the Judiciary Committee—since I have been there—without a blue slip from either home State Senator. Since the tradition has been in existence, we have said that there should be a blue slip. There is no blue slip in this case. If Mr. Bounds is confirmed, he will be the first judge in history to be appointed to the Federal bench without a blue slip from either Senator from his home State.

This is all the more concerning, as noted by Senator MERKLEY and Senator WYDEN, because they have tried to

work with the White House in a bipartisan manner to find a qualified nominee to fill this vacancy. They convened a bipartisan committee of Oregon lawyers to review applications and make recommendations. This committee included attorneys chosen by those two Senators, as well as by Republican Congressman GREG WALDEN.

This is how judicial vacancies in Oregon have been filled for the past two decades, including the time when former Republican Senator Gordon Smith was in office.

So it is extremely unfortunate that my colleagues have disregarded this process. I respect them very much. I think they should have had a say. I think they should have been consulted, and I think we should follow the blue-slip process.

Thank you very much, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. SCHUMER. Mr. President, I rise alongside my colleagues tonight to speak on two incredibly controversial circuit judge nominees that the Senate considers this week.

The first, Ryan Bounds, of the Ninth Circuit, has not received the approval of either home State Senator. The majority is unfortunately moving forward with his nomination anyway, breaking a tradition that goes back 100 years—a bipartisan tradition, a moderating tradition, a tradition we need.

This is merely the latest example of the majority's sustained effort to toss aside the rules and the customs that have guided the judicial nomination process for 100 years. In May, Michael Brennan became the first circuit court nominee to be confirmed over the blue-slip objection of a home-State Senator.

If Judge Brennan's confirmation wasn't proof enough, the majority, by moving to vote on Bounds over the objections of both Oregon Senators, is signaling loud and clear that future Presidents need not work with Senators to ensure the selection of consensus nominees to fill these lifetime appointments.

For the past 20 years, including during the Bush administration, the Oregon Senators have convened a bipartisan judicial panel to interview candidates. Although Bounds was one of the candidates approved by the committee, it was later discovered that Bounds misled the committee about a number of highly controversial articles he wrote while in college. The majority unfortunately is moving forward on his nomination anyway.

Five of the seven members of the committee—a bipartisan committee—including the chair, said they would not have recommended Bounds if they knew of his writings at the time they interviewed him. The majority is unfortunately moving forward with his nomination anyway.

In light of these inflammatory writings—and they were truly inflammatory and nasty, unbecoming of someone being a town circuit judge, let alone a court of appeals judge—and the bipartisan committee's assertion that they should be disqualifying, Senator MERKLEY and Senator WYDEN, correctly and wisely, refused to support his nomination, but the majority is moving forward on his nomination anyway.

I might say about Bounds that he is not a judge. He doesn't have much of a history. He practiced in a private law firm. It seems he is a member of the Federalist Society—hard right. That is his only real qualification. Is he a thoughtful jurist? Obviously not. Is he a moderate jurist, neither far right nor far left? Obviously not. This is what we are doing on the bench these days. The hard right, the Federalist Society, which is probably in the 10 percent furthest to the right in America, chooses the judges, and nobody objects on the Republican side.

Now, another nominee, Mr. Andrew Oldham, for the Fifth Circuit, is even more disturbing for a lifetime appointment on the Federal bench. Mr. Oldham's career leaves no doubt that, if confirmed, he would be the living embodiment of a judicial ideologue. This is a hard-right warrior. He helped to defend a Texas law that would make it virtually impossible for women in rural areas to exercise their constitutionally guaranteed freedom to make decisions about their reproductive health. It was a law designed to tell rural women that they couldn't have freedom of choice. It was an absurd law, struck down by the Supreme Court in 2016. This is the kind of man we are putting on the bench.

As the Texas solicitor general, he defended the State's extremely restrictive photo ID laws, which a Federal court of appeals ruled created an unconstitutional burden on the right to vote, had an impermissible discriminatory effect against Hispanics and African Americans, and was imposed with an unconstitutional discriminatory purpose. The purpose that this nominee had in this law was to prevent people of color and poor people from voting. There was very little evidence of any fraud. This is the kind of person we are adding to the bench?

Mr. Oldham helped to lead the charge on litigation challenging the constitutionality of our healthcare law—a law that most Americans support. He lost at the Supreme Court, once again. Now the Republicans want to give him a promotion, putting him in a position to rule on future cases concerning the law.

Here is what Mr. Oldham said about the EPA: It is ''illegitimate.'' He repeatedly helped Texas to join Oklahoma—and then-Oklahoma Attorney General Scott Pruitt—to sue the EPA. Let me repeat that. Oldham considers the EPA illegitimate. The rightwing media has gone crazy about ''Abolish ICE.'' Meanwhile, the Senate Republican majority is about to vote to give a lifetime appointment to a man who wants to abolish the EPA.

''Abolish the EPA'' is a position I think none—none—of my Republican friends would dare support in public, would dare vote for—get rid completely of the Clean Water Act, the Clean Air Act? But they are happy to vote for a judge who believes in it and might help do it for them.

Mr. Oldham is so far out of the political mainstream that he doesn't represent the average Republican, let alone the average American. I hope his nomination will be objected to.

The truth is that Bounds and Oldham are part of a decades-long campaign by the hard right to install conservative ideologues on the Federal bench. They started it. Bork did not start this. It started when George W. Bush became President and his deal with the hard right was this: I will put these new nominees on the bench who are ideologues. They don't want to interpret law; they want to make law. That is what the Republicans have been doing.

When Clinton was President and when Obama was President, most of the judges they chose were moderate to liberal. They were not extreme. But the hard right has such a grip on the Republican Party these days—the Federalist Society, the Heritage Foundation, way out of the mainstream.

Most Americans don't believe in repealing Roe v. Wade. It is the mission of the Federalist Society. Most Americans don't believe the government should get out of healthcare altogether—Medicare, Medicaid, ACA. It is the goal of the Heritage Foundation. But they put these judges forward. President Trump has gone along with their lists and their nominees. Unfortunately, we don't hear a peep out of our Republican colleagues as the hard right hijacks the judicial bench in America.

The goal of this campaign is to achieve by judicial fiat what Republicans have been unable to accomplish through legislation. This hard-right agenda—extremely pro-corporate, extremely anti-consumer, anti-environment, anti-gun safety—must be pursued through the courts because the hard right—the Koch brothers and all of these hard-right groups—realize that they never get things through even a body like the Senate, where they have a majority of the Republicans, or the House. They want the one nonelected branch to turn the clock back decades, if not centuries. It will hurt America. It will fractionalize America. The middle class will be worse off. But the hard-right knows that these types of nominations don't get much focus.

An apotheosis of this is the nomination of Brett Kavanaugh to the Supreme Court as well. Kavanaugh was groomed as a partisan lawyer in the Clinton and Bush eras. He was added to a list of 25 judges vetted and approved by these two groups—the Heritage Foundation, dedicated to getting rid of Medicaid, getting rid of Medicare, getting the government out of healthcare altogether and letting people struggle,

letting those parents who have kids with illnesses never get insurance; and the Federalist Society, dedicated by its leader, by its own admission, to repealing Roe v. Wade. An analysis of the judicial philosophy of Kavanaugh by Professor Lee Epstein found that Judge Kavanaugh would be the second most conservative Justice on the bench, even to the right of Justice Gorsuch and second only to Justice Thomas, one of the most extremely conservative judges who has ever been on the bench.

That political and judicial history is key to understanding how Kavanaugh would rule as a member of the Supreme Court. On issues like healthcare and reproductive rights, on which the President has been crystal-clear about picking judges who are anti-Roe and hostile to healthcare, Judge Kavanaugh will have an enormous and unfortunate impact, if confirmed. After what the President has said, after knowing what the Federalist Society and the Heritage Foundation stand for, does anyone think Judge Kavanaugh would have been nominated by those parties if they weren't sure he would repeal or dramatically limit the ACA or Roe v. Wade?

Judge Kavanaugh, like Mr. Oldham and like Mr. Bounds, is outside of the political mainstream—dramatically outside—even outside of the Republican mainstream. It is part and parcel of the hard-right campaign that Republicans bow down and go along with to install conservative ideologues on the bench.

So I would say to my fellow Americans: No matter what your political persuasion—Democrat, Republican, Independent—everyone should want a more representative process for choosing judges and Supreme Court Justices in the Senate. Instead, humming in the background of the Senate's more newsworthy business, the Republican majority has confirmed a conveyor belt of nakedly partisan, ideological judges to the bench. Senators from both parties, in an America that wants moderation, should lock arms and put a stop to it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I so appreciate my colleagues from Minnesota and New York coming to the floor to share their insights on this challenge that we are in, where a 101-year-old convention is about to be smashed to smithereens by the majority in a determination to pack the courts and corrupt the constitutional application of law and in a determination to have judges who are not at all interested in the way the people envision our Nation. They are not at all interested in the rights of workers. Rather, they twist each provision to enable the powerful in our country to repress the workers of our country, to enable the interests of our country that simply want to roll on, on a commercial plane, to take away the ability of consumers to get a fair shake. They want to take away the ability of individuals to have fair access to healthcare. They want to take away one right after another after another on behalf of the wealthy and the well-connected. This corruption—this legislating from the bench that is occurring from the far right—absolutely flies in the face of the fundamental nature of our Constitution.

But here it is. Not only is it their quest to put the powerful in the catbird seat to rule over everyone else in this country, to undermine the fundamental strategy of the distribution and equal voice principle that Jefferson so forcefully articulated, but they are even willing to run roughshod over their own rights in the future, because each and every person who votes for a judge who has no blue slip—not one, not a single blue slip—is saying that in the future they are giving up the ability to be consulted when it is an individual who has been assigned to their State for the circuit court. That is how intense they are at this moment of dancing to the tune played by the Koch brothers and the Federalist Society. It is really one of the saddest things we have seen in a series of abuses of the process here in the U.S. Senate.

This nomination ends a tradition that has served our country well for over a century. It is a tradition that—just a brief span of time ago, my colleagues across the aisle were pleading with the Democratic majority to respect their rights. But not now. Not now. This is one of those cases where, in the transition from minority to majority, views have been flipped 180 degrees—a tradition since 1917, when Senator Thomas Hardwick objected to President Wilson's district court nominee, writing his objection on a blue slip of paper. That is where the phrase comes from. Not since then has any judge for the circuit court or district court ever been confirmed without a blue slip.

In 2009, my Republican colleagues wrote a letter. All signed on to it. They wrote: We expect the blue-slip tradition to be observed evenhandedly and regardless of party affiliation.

I ask you, which Member across the aisle has the consistency to stand up and honor the very principle they asked to be honored when then in the minority? Who? We are waiting. We are waiting for just one to come to the floor and be consistent in honoring the principle they begged the Democrats to honor when we were in charge.

To be sure, when the tide turns and they again say suddenly that they love this tradition, and won't the Democrats once again honor the tradition they begged us to honor in 2009, 2010, 2011, 2012, 2013, and 2014? They begged us to honor it. They are going to be back asking again. But you cannot expect that after smashing this tradition, you can ask to have it back. So when it comes your turn, if you don't have any integrity today to honor the principle you begged for yesterday, don't let us hear you begging for it in the future.

What did people have to say in the past? The former chair of the Judiciary Committee at the time, in 2014, said: ''Weakening or eliminating the blue slip process would sweep aside the last remaining check on the President's judicial appointment power.'' That is what the Republican chair said when President Obama was in office. He said: ''Anyone serious about the Senate's constitutional 'advice and consent' role knows how disastrous such a move would be.'' Why isn't one of my colleagues today coming down to say how disastrous it would be?

Our majority leader said just recently that Republicans will now treat a blue slip as simply notification of how you are going to vote. Is that the way each and every one of you wants it to be from this floor, that while you have had the privilege in the past of weighing in on an individual assigned to your State, no more will you be treated differently from any other Senator because you are just being given a chance to indicate how you are going to vote? That is what the majority leader says we are going to reduce your Senate prerogative to, which means it is gone, it is no different from any other Member here.

There was a whole logic behind this blue-slip process, a logic that each circuit should have input from Senators whose States were represented on those circuit courts and that when the individual came from those respective States, it made sense to get the insight of the Senators from that State, not have decisions about your particular circuit court made by somebody from across the Nation. But that is where we are headed to now.

This nomination was tainted from the start because the President didn't consult with our senior Senator from Oregon, Mr. WYDEN, or with the junior Senator; didn't call us up; didn't sit down; didn't invite us to a meeting; didn't hold a conversation; didn't have a dialogue; didn't consult. So don't expect any consultation in the future if you vote for this nominee.

Then at the end of the year, when the nomination was returned, we told the White House: You have another chance to wait until you get some consultation done, until you talk to us. No. They just forwarded it back again—no consultation. So there it is.

When this individual, Ryan Bounds, was interviewed by our committee in Oregon, he was asked to provide anything that was potentially controversial from his past, and he didn't. He was asked about his views on diversity and what information he had put out in the past, and he didn't supply any. So not only are there the controversial viewpoints of the past, there is a lack of integrity in the present. It isn't as if Senator WYDEN and I took it lightly. But how can you expect people to get a fair hearing or believe they have any chance of getting a fair hearing with these types of opinions being expressed?

What did he say on diversity? He said that students working to ''promote diversity . . . contribute more to restricting consciousness, aggravating intolerance . . . than many a Nazi bookburning.'' So if you advocate for diversity, you are compared to being an individual who burns books—not just any individual; a Nazi burning books.

That wasn't his only comment on diversity. He wrote quite extensively. Another phrase he used is that diversity training is a ''pestilence'' that ''stalks us,'' as if it is some kind of grim reaper to encourage people to reach out and embrace people who come from a different point of view or a different color or come from a different State. That is what he thought, that any training you might have in how to understand your own internal prejudices is a pestilence that stalks us.

He didn't like the fact that the university was trying to address the issue of men abusing women. He said that there is ''nothing really inherently wrong with the University failing to punish an alleged rapist.'' That is what you want to vote for?

He said more. He really disliked minority groups on campus taking a position on anything. In his essay ''Labor Unions and the Politics of Aztlan,'' he said: ''I would hardly suggest that no student group should be able to take up a political matter, if it is of direct relevance to its purported mission.'' So he is not objecting to most groups weighing in on something related to their vision, but, he said, ''I would contend, however, that no student group that is affiliated with an ethnic center or any other department of this university has any business holding political issues central to its mission.''

So if you are a member of a student group that isn't an ethnic group, it is wide open—demonstrate, argue, involve yourself, engage. But if you happen to be a member of an ethnic club or group on campus, then no way. You have no business taking a position.

How can anyone expect to get a fair hearing with someone with this extensive hostility toward ethnic diversity or ethnic groups? That is a pretty serious question to ask yourself in your responsibility of advice and consent, in your responsibility to ensure that there is not just integrity on the court but a perception of integrity, not just fairness on a court but a perception of fairness. How does anyone get a perception of fairness with these writings?

Mr. Bounds had the opportunity to inform the committee of these writings, but he chose not to. He kept them hidden away. The head of the Oregon selection advisory committee wrote the following: ''Mr. Bounds failed to disclose these writings when specifically asked by the committee about his views on equity and diversity.''

He did get asked about them later when they were discovered. There was a hearing in the Judiciary, and he had a chance to respond in questions for the record. He wrote in response that he regretted the rhetoric in the articles, but he didn't repudiate the viewpoint. He regretted, apparently, the particular words he used to express it, but he didn't say that he repudiated the viewpoint on his commentaries attacking diversity, attacking diverse clubs, saying that every other club has a right to participate and engage itself in issues relevant to its mission except the ethnic clubs. He didn't repudiate that. How do you expect to get a fair hearing before this judge?

At his hearing before the Judiciary Committee, in questions for the record, Senator BLUMENTHAL asked if he regretted not turning over the writings to the Oregon screening committee. He replied that it seemed reasonable to him that there wouldn't be a lot of interest in writings that have no bearing on someone's professional practice. These writings have everything to do with his professional practice, his consideration as a judge—a circuit court judge, not a district judge. He is not being nominated for the bottom rung; he is being nominated to the rung next to the Supreme Court. You don't think it has a bearing that you have written these things? You don't think it has a bearing that you hid them from the committee? That in itself tells you a great deal.

It is why this nomination is opposed by so many groups: the AFL–CIO, the Leadership Conference on Civil and Human Rights, the National Women's Law Center, the Oregon Women Lawyers Association, the Asian Pacific American Bar Association of Oregon, the Oregon Hispanic Bar Association, the LGBT Bar Association of Oregon.

Why wouldn't they oppose when you have an individual who failed the integrity test by hiding the writings, doesn't repudiate the writings, and has it in for diversity and minority groups?

Records are being broken. Two nominees up this week would mean 23 appeals judges confirmed. A lot are being confirmed. There are a lot in waiting. Why not bring someone to the floor who doesn't have these deep flaws? Why not vote down this individual and put up the next one?

We have already broken the record for confirmations in the President's first year, last year. Obama's 14 circuit court nominees waited an average of 251 days; Trump is half that at 125 days—less than half. We are marching through this.

Why not bring someone else to floor? Why not set this one aside? Because it fails the test of being fairminded and fails the test of integrity. Putting this judge forward does something else. It is not just a judge who fails the test on integrity and fairness; it is also the destruction of your rights, each and every Senator here, to have a say on circuit court nominees in your circuit. Is that really the place you want to go?

We have seen judges come before us who have had hearings held without ABA evaluations. We have had two considered who were unanimously rated ''not qualified.'' We certainly, therefore, have a lot that has changed dramatically. Last year was the first time that a seat had been stolen from one administration and set a year into the future. That is a precedent everyone here should regret—to have failed advice-and-consent responsibilities, which is a failure that no other set of Senators ever failed before. Fifteen times before, there have been open seats during an election year. Fifteen times before, the Senate debated the nominee. Fifteen times before, they voted on the nominee. But not last year.

The leadership of this body failed the test of leadership by failing to consider a nominee from the President for the Supreme Court. Is that the precedent you want to live with for the future?

Of course, now we have a new nominee for the Supreme Court. Not only does this nominee come from a list secretly compiled by the Federalist Society to make sure that they met the test the President had put forward—opposing Roe v. Wade, opposing the Affordable Care Act that has provided healthcare to another 30 million people across this land, 400,000 in my own State, but also the President chose off that list the one person best suited to write him a get-out-of-jail free card because of the massive, expansive view of Presidential power—a view of Presidential power you can find nowhere in the Constitution; a view that is completely at odds with the checks and balances our Forefathers so carefully crafted into that document; a view that says that a President should never be indicted and, even more extraordinary, never be investigated. That is a President above the law. That is a President beyond the law. That is something that is not a President. That is a King. That is a tyrant. That is a dictator who answers to no one because he or she is above the law. That is not a President in a constitutional democratic republic where there are checks and balances.

Indeed, this nominee has said that if a President deems a law to be unconstitutional because it is his or her opinion, the President doesn't need to follow the law. Can anyone remind this nominee for the Supreme Court that our system was designed to let the Supreme Court weigh in on what is and isn't constitutional, not to have a President dictate that? It is a scary proposition, an unworthy proposition to have that individual considered on the floor of this Senate.

In Federalist Paper 76, James Madison said that it is the duty of the Senate to prevent the appointment of unfit characters. Each and every Member of this Senate on both sides of the aisle has that responsibility.

These are questions you have to ask yourself: Is the person fit when they say the things that Ryan Bounds said? Is a person fit to serve on the bench

when they say that no student group affiliated with an ethnic center has any business holding political issues central to its mission right after he writes that other groups should have that power?

Is the individual fit who says that promoting diversity contributes more to restricting consciousness and aggravating intolerance than a Nazi book burning?

Is the person fit who says that training in diversity—training that each and every one of us has to take and our staff members have to take in this body—is a pestilence that stalks us, as if embracing the notion of understanding one's own biasses is an evil thing?

Is the person fit who said there is nothing wrong with the university failing to punish an alleged rapist?

Is the person fit who hid these writings from the selection committee?

Is the person fit when the selection committee said that based on these writings, they would vote overwhelmingly not to recommend this individual?

Is the person fit when they fail the test of integrity and are asked to produce their views on diversity and hide them?

I contend that standard that James Madison laid out for the responsibility of advice and consent—that standard of voting down individuals who are unfit—has rarely had a clear opportunity to be executed and should be executed 100 to 0 in turning down this nomination and in preserving the blue-slip tradition.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER (Mrs. ERNST). Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 10:09 p.m., adjourned until Wednesday, July 18, 2018 at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

JAMES MORHARD, OF VIRGINIA, TO BE DEPUTY ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, VICE DAVA J. NEWMAN.

SURFACE TRANSPORTATION BOARD

MARTIN J. OBERMAN, OF ILLINOIS, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 2018, VICE DANIEL R. ELLIOTT III, RESIGNED.

MARTIN J. OBERMAN, OF ILLINOIS, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2023. (REAPPOINTMENT)

DEPARTMENT OF STATE

KEVIN K. SULLIVAN, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

THE JUDICIARY

DAMON RAY LEICHTY, OF INDIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF INDIANA, VICE ROBERT L. MILLER, JR., RETIRED.

JOHN MILTON YOUNGE, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE MARY A. MCLAUGHLIN , RETIRED.

DEPARTMENT OF JUSTICE

NICHOLAS A. TRUTANICH, OF NEVADA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEVADA FOR THE TERM OF FOUR YEARS, VICE DANIEL G. BOGDEN, TERM EXPIRED.

G. ZACHARY TERWILLIGER, OF VIRGINIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS, VICE DANA J. BOENTE, RESIGNED.

WILLIAM TRAVIS BROWN, JR., OF LOUISIANA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS, VICE KEVIN CHARLES HARRISON, TERM EXPIRED.

NICK EDWARD PROFFITT, OF VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS, VICE ROBERT WILLIAM MATHIESON, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 17, 2018:

FEDERAL RESERVE SYSTEM

RANDAL QUARLES, OF COLORADO, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2018.

DEPARTMENT OF EDUCATION

JAMES BLEW, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR PLANNING, EVALUATION, AND POLICY DEVELOPMENT, DEPARTMENT OF EDUCATION.