

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECESS

Mr. MORAN. Mr. President, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 10:58 a.m., recessed until 12 noon and reassembled when called to order by the Presiding Officer (Mrs. ERNST).

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Delaware.

Mr. THUNE. Madam President, I rise today to voice my strong support for the nomination of Karen Dunn Kelley to be confirmed as the Deputy Secretary of Commerce.

Ms. Dunn Kelley is well qualified to serve in this critical leadership role at the Department of Commerce, which she has ably filled on an acting basis for the past year.

Ms. Dunn Kelley was already confirmed once this Congress, without opposition. She has served at the Department since August 3, 2017, as the Under Secretary for Economic Affairs, a position to which the Senate confirmed her by voice vote.

Ms. Dunn Kelley has considerable economic and managerial expertise, cultivated through her more than 30 years of experience in the financial investment sector.

In her current capacity as Under Secretary for Economic Affairs, she leads the Economics and Statistics Administration, which provides economic analysis and distributes national economic indicators.

She also serves as the Department's administrator of statistical programs, including the U.S. Census Bureau and the Bureau of Economic Analysis.

Since being named as Acting Deputy Secretary of Commerce, she has been responsible for the management, coordination, and implementation of the Department's Strategic Plan, focusing on job creation and economic growth across the Department's 12 bureaus and agencies.

The Commerce Department's mission, as stated in its 2018–2022 Strategic Plan, is to “create the conditions for economic growth and opportunity.”

The breadth of activities the Department undertakes to accomplish its mission range from promoting commercial space activities to enhancing weather forecasting, and from fishery management and trade promotion to standards setting for emerging technologies, cybersecurity, and privacy, to name just a few.

The Department of Commerce deserves a well-qualified and experienced

leader to continue to foster the unprecedented economic growth we see today and preserve American leadership.

Throughout her career, Ms. Dunn Kelley has exhibited the kind of leadership that will ensure the Department of Commerce will continue its critical missions to promote economic growth, job creation, and innovation.

I urge my colleagues to support Ms. Dunn Kelley's nomination.

I yield the floor.

UNANIMOUS CONSENT REQUEST— S. 2644

Mr. COONS. Madam President, I am proud to join the Senator from Arizona and the Senator from New Jersey on the floor today in calling for action on a bipartisan bill—a bill that has been crafted to protect our institutions and safeguard the rule of law in this country not just right now but for future Congresses and administrations as well.

Today, we will be asking our colleagues to give the Special Counsel Independence and Integrity Act the consideration here on the floor of the Senate that it deserves. This bill would do something simple but powerful: It would codify Department of Justice regulations that prevent the removal of a special counsel without good cause. That might seem like a small detail, but it is important. Independence is required to ensure that a special counsel can do his or her job and find the facts.

Our bipartisan bill would put this restriction in statute and give the special counsel a clear legal remedy. If removed without cause, the special counsel would have a 10-day period to take the case to a three-judge panel for expedited consideration. If the special counsel doesn't wish to contest his removal, it would proceed without interference.

Both Republicans and Democrats recognize that removal of the current special counsel without a valid basis would be a significant, even a catastrophic event. It would be a constitutional crisis that would threaten the Presidency and the rule of law. We can work together to prevent a crisis.

President Trump should be the first person to support this bill. He has raised concerns about oversight of the special counsel. He has accused the prosecutors of making partisan, politically motivated decisions. This act would ensure that regulations providing for supervision and oversight of the investigation are not just codified but strengthened. It would ensure that Congress gets a complete picture at the end of the investigation.

My colleagues Senators GRAHAM, TILLIS, BOOKER, GRASSLEY, and FEINSTEIN were instrumental in crafting this balanced legislation, and it passed the Judiciary Committee by a strong bipartisan margin of 14 to 7, 7 months ago. The time to take up and pass this bill in the Senate is now.

Some have questioned the need for this legislation. They have said the President would never fire Special Counsel Mueller, and I hope and pray they are right. I don't think it would be in President Trump's interest to remove the special counsel and certainly not in the interest of our country.

The President has repeatedly, publicly, and directly attacked the special counsel and his investigation. Just yesterday, he called his investigation a “phony witch hunt” that is “doing tremendous damage to our criminal justice system.” The President has already fired the FBI Director and forced the resignation of the Attorney General, citing grievances related to this investigation in both cases.

We have an Acting Attorney General not confirmed by the Senate, with no nominee in sight to conduct oversight of this investigation, which is unprecedented and not acceptable.

This bill addresses threats not just to this special counsel but future special counsels. I would ask my colleagues who are holding back this bill to consider whether they may wish it were the law in a Democratic administration as well. We should all appreciate the ways in which this protects the rule of law.

Let me close by quoting what my colleague Chairman GRASSLEY said when he expressed his view back in April that this should be considered by the full Senate during our Judiciary Committee markup on the bill:

In some ways, today's vote will say a lot about how each of us views our responsibilities as Senators. We took an oath to protect and defend the Constitution of the United States, but we're not judges or Presidents. We are stewards of the legislative branch. The Founders anticipated that we would wield the powers the Constitution affords us with great ambition so that we could effectively check the powers of the other branches. This bill certainly does that.

I am confident that, if allowed to go to a vote, this bill would pass with more than 60 votes.

History will judge us for how we work together to confront the challenges that face our Nation. The rest of the world is watching. It is important to take up and pass this bill.

I now recognize my colleague, a cosponsor of this legislation, the Senator from New Jersey.

Mr. BOOKER. Madam President, thank you very much.

I want to thank my colleagues from Arizona and Delaware for being here today and for their leadership. I join them in asking the Senate to pass the Special Counsel Independence and Integrity Act by unanimous consent.

The Special Counsel Independence and Integrity Act is a bipartisan bill. Again, I repeat, this is about the legislative branch asserting a commonsense check and balance on Presidential overreach. It is not divided along party lines; it is a bipartisan bill.

This bill is about ideals that we all are aligned with—*independence, integrity, and the ability of the special counsel and future special counsels to do their job effectively, without interference from a President. This is a proactive bill aimed at ensuring that now and in the future, we have appropriate checks and balances in place to prevent a constitutional crisis.*

The bill is becoming more urgent. We know that there was an attack on our democracy. We know that there were and are foreign agents who attempted and are attempting to manipulate and undermine our democratic institutions. We need to understand what happened and how to prevent it from happening again and to hold those people accountable for their actions.

The preservation of the special counsel investigation is indeed a matter of national security, but we know that the special counsel is in danger. We know he is in danger because even just yesterday, the President was again maligning and mischaracterizing the special counsel investigation. We know there is danger because just a few weeks ago, the President fired Attorney General Sessions and named Matthew Whitaker as the Acting Attorney General to oversee the Mueller investigation. We know that Acting Attorney General Whitaker has a history of criticizing and debasing the very investigation he is now responsible for overseeing. In 2017, he wrote an op-ed calling this investigation into our national security a “witch hunt.”

This investigation must be allowed to continue without interference. This investigation must continue for our national security. We are all stewards of our democracy. It has been sustained by this ideal: that no one, not even the President of the United States, is above the law. We must act quickly to protect and secure this fundamental democratic ideal. This is a sobered, measured, bipartisan bill that will achieve those ends.

I now yield to my colleague from Arizona.

Mr. FLAKE. Madam President, I thank my colleague from New Jersey and my colleague from Delaware for working together on this issue.

I rise today once again to speak in defense of Special Counsel Robert Mueller and to speak of the importance of the investigation he is leading and the attacks on our electoral system during the lead-up to the 2016 election. One wouldn't expect that such an investigation would be controversial, but somehow it warranted a tweet from the President earlier this week—one of several tweets—calling Special Counsel Mueller a “conflicted prosecutor gone rogue” and claiming that the “\$30 million witch hunt” is doing nothing but ruining lives. To be clear, this is the same investigation that brought indictments for more than a dozen Russian nationalists for attempting to influence the 2016 election. Why shouldn't we be up in arms about that?

Why does that warrant a tweet from the President—many tweets—trying to go after the special counsel?

The findings of this investigation are too important to our national security and the well-being of our democratic institutions to be halted or watered down. Mr. Mueller must be able to preserve the work he has done by completing this very thorough investigation, and his findings must be made public. This legislation has been proposed to ensure this outcome.

S. 2644, the Special Counsel Independence and Integrity Act, serves one purpose: to protect the integrity of the special counsel's investigation and to prevent the executive branch from inappropriately interfering in an independent investigation in the future.

This legislation passed out of the Judiciary Committee in a bipartisan manner nearly 8 months ago. It has been awaiting action on the Senate floor ever since. It passed on May 26. Since that time, the Judiciary Committee has been busy. We have been busy here on the Senate floor. We have processed more than 50 judges and passed them here on the Senate floor. That is a good thing, but the priority now needs to be to protect the special counsel.

Some of my colleagues have said that this legislation is not necessary because there hasn't been any indication that Mr. Mueller will be removed from office. But with the President tweeting on a regular basis, a daily basis, that the special counsel is conflicted, that he is leading the so-called 12 angry Democrats, and demeaning and ridiculing him in every way, I believe to be so sanguine about the chances of him being fired is folly for us. We have already seen the forced resignation of the Attorney General the day after the election. It is clear, therefore, that something has to be done to protect Mr. Mueller's investigation.

Let me just say it wasn't just that the Attorney General was fired; it is that the investigation—or oversight for the investigation—was taken from the Deputy Attorney General, where it properly belonged and where it was before. It was taken from him and given to somebody who is in an acting capacity—somebody who has not been confirmed by the Senate. Should we in the Senate be OK with that? I would argue no, we can't be.

That is why a few weeks ago my colleague from New Jersey and my colleague from Delaware came to the Senate floor to ask unanimous consent to bring this bill to the floor. After our efforts were blocked by an objection, we promised to come to the floor again and again, and that is why we are here today. We will continue to do so until this vital investigation is completed.

So I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 393, S. 2644; I further ask that the committee-reported substitute amendment be agreed to, the bill, as amended, be considered

read a third time and passed, and that the motions to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from Utah.

Mr. LEE. Madam President, reserving the right to object, I ask unanimous consent for 2 minutes to articulate the basis of my concern.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEE. Madam President, for reasons articulated by Justice Scalia in his classic opinion in *Morrison v. Olson*, the prosecutorial authority of the United States belongs in the Department of Justice.

The Department of Justice answers to the President of the United States. Its principal officers consist of people appointed by the President, serving at the pleasure of the President, after being confirmed by the U.S. Senate.

This is a fundamental component of our liberty. The separation of powers protect us. That doesn't mean we are always going to agree with what every President in every administration does. But as Justice Scalia explains, we cannot convert an office like this one—an office like the previously existing Office of Independent Counsel—without creating a de facto fourth branch of government, fundamentally undermining the principle of separation of powers that is so core to our liberty.

On that basis, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Delaware.

Mr. COONS. Will my colleague from Utah consider a question?

Mr. LEE. I am very late for another meeting, but, yes, I will, because I like my friend from Delaware.

Mr. COONS. Was Justice Scalia's dissent in *Morrison v. Olson* a majority opinion?

Mr. LEE. No, it was not. At the time it was written, it was somewhat novel; it was somewhat new. Since then, it has become a widely adopted view—a view adopted by people across the political spectrum, regardless of their political ideology.

I challenge every one of you to read it. It is right.

Mr. COONS. Madam President, will the Senator yield for another question?

Mr. LEE. I am very late.

Mr. COONS. Let me just conclude by saying that the DC Circuit reconsidered this issue just this year and in their decision said that *Morrison* remains valid and binding precedent.

I know we have other urgent business to move to, but I will simply say that I am grateful for the work of my colleague from Arizona. Despite the objection of my colleague from Utah, I am convinced this is an important bill that we should continue to bring forward on the floor of the Senate.

Thank you.

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

Mr. WICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 248 Ex.]

YEAS—62

Alexander	Graham	Nelson
Barrasso	Grassley	Paul
Blunt	Hatch	Perdue
Boozman	Heitkamp	Portman
Burr	Heller	Risch
Capito	Hoeven	Roberts
Casey	Hyde-Smith	Rounds
Cassidy	Inhofe	Rubio
Collins	Isakson	Sasse
Corker	Johnson	Schatz
Cornyn	Jones	Scott
Cotton	Kennedy	Shaheen
Crapo	King	Shelby
Cruz	Kyl	Sullivan
Daines	Lankford	Tester
Donnelly	Lee	Thune
Enzi	Manchin	Tillis
Ernst	McCaskill	Toomey
Fischer	McConnell	Wicker
Flake	Moran	Young
Gardner	Murkowski	

NAYS—38

Baldwin	Gillibrand	Peters
Bennet	Harris	Reed
Blumenthal	Hassan	Sanders
Booker	Heinrich	Schumer
Brown	Hirono	Smith
Cantwell	Kaine	Stabenow
Cardin	Klobuchar	Udall
Carper	Leahy	Van Hollen
Coons	Markey	Warner
Cortez Masto	Menendez	Warren
Duckworth	Merkley	Whitehouse
Durbin	Murphy	Wyden
Feinstein	Murray	

The nomination was confirmed.

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

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Thomas Alvin Farr, of North Carolina, to be United States District Judge for the Eastern District of North Carolina.

Mitch McConnell, Chuck Grassley, Lamar Alexander, John Cornyn, James M. Inhofe, John Kennedy, Mike Crapo, Roger F. Wicker, Mike Rounds, Michael B. Enzi, David Perdue, John Boozman, Tim Scott, Lindsey Graham, James E. Risch, Steve Daines, Thom Tillis.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination

of Thomas Alvin Farr, of North Carolina, to be United States District Judge for the Eastern District of North Carolina, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 249 Ex.]

YEAS—50

Alexander	Gardner	Paul
Barrasso	Graham	Perdue
Blunt	Grassley	Portman
Boozman	Hatch	Risch
Burr	Heller	Roberts
Capito	Hoeven	Rounds
Cassidy	Hyde-Smith	Rubio
Collins	Inhofe	Sasse
Corker	Isakson	Scott
Cornyn	Johnson	Shelby
Cotton	Kennedy	Sullivan
Crapo	Kyl	Thune
Cruz	Lankford	Tillis
Daines	Lee	Toomey
Enzi	McConnell	Wicker
Ernst	Moran	Young
Fischer	Murkowski	

NAYS—50

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

(Mr. PORTMAN assumed the Chair.)

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes in the affirmative, and the motion is agreed to.

EXECUTIVE CALENDAR

The VICE PRESIDENT. The clerk will report the nomination.

The legislative clerk read the nomination of Thomas Alvin Farr, of North Carolina, to be United States District Judge for the Eastern District of North Carolina.

The PRESIDING OFFICER (Mr. MORAN). The Senator from Ohio.

LEGISLATIVE SESSION

UNANIMOUS CONSENT AGREEMENT—S.J. RES. 54

Mr. PORTMAN. Mr. President, as if in legislative session, I ask unanimous consent that notwithstanding rule XXII, the Senate proceed to legislative session, and Senator SANDERS, or his designee, be recognized to make a motion to discharge S.J. Res. 54; further, that there be time for debate of the motion until 4 p.m. and of that time, 10 minutes be under control of the chairman and 10 minutes for the ranking

member, and the remaining time be equally divided between the two leaders or their designees; that at 4 p.m., the Senate vote in relation to the motion to discharge; that following disposition of the motion, the Senate resume executive session and the time spent in legislative session count postcloture on the Farr nomination.

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

The PRESIDING OFFICER. The Senator from Vermont.

MOTION TO DISCHARGE—S.J. RES.

54

Mr. SANDERS. Mr. President, pursuant to section 1013 of the Department of State Authorization Act, fiscal years 1984 and 1985, and in accordance with the provisions of Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, I move to discharge S.J. Res. 54 from the Committee on Foreign Relations.

The PRESIDING OFFICER. The motion is pending.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. MURPHY. Mr. President, I want to speak very briefly on behalf of the resolution being offered today by Senator SANDERS, Senator LEE, me, and several others. I encourage my colleagues to support it. I want to use my brief time to respond to some of the arguments that the administration has made over the course of the last few days as to why we should not stand together as a body and say that without a congressional declaration of war, the United States cannot and should not be involved in a disastrous civil war in Yemen.

This is as important a vote as we will take in the Senate. Lives are at stake; lives are in the balance. I don't need to repeat everything Senator SANDERS and others have said about the humanitarian catastrophe that exists inside that country. Yet this is different than other famines. This is different than other cholera outbreaks. This is different than other humanitarian nightmares in which tens of thousands of children lose their lives because we are not just a spectator in Yemen; we are participant. The bombing campaign that is causing the worst humanitarian nightmare in the world today is caused by a military campaign of which the United States is a major player and participant. So we have something to say today about whether this civil war ends. We have something to say about whether this Congress is going to allow the administration to continue to perpetuate a war that has had no debate in the U.S. Congress.

Let me take the four arguments the administration uses to try to argue against our resolution and talk to you a little bit about them.

The first argument that has been made—it is probably the most clear in