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Senate

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

PRAYER

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

Let us pray.

God of us all, thank You for this moment that unites us in the fellowship of prayer. Make us conscious of Your presence and unite us in our efforts to do Your will on Earth.

Lord, inspire the hearts and minds of our lawmakers to strengthen the bonds between us, as they seek to live lives of integrity. May no partisanship mar the unity of spirit they must have to make America stronger, wiser, and better. Deliver them from every unworthy motive, as they labor to honor You. Lord, lift their burdens, lessen their fears, and give them Your peace.

We pray, in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

The PRESIDING OFFICER (Mrs. HYDE-SMITH). The Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask unanimous consent to speak in morning business for 1 minute.

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

JUDICIARY

Mr. GRASSLEY. Madam President, an independent judiciary is one of the cornerstones of our democracy. Judges serve lifetime appointments, free from political pressure so they can render impartial judgment without fear of retribution.

Yesterday, unfortunately, our country took a step in the wrong direction

with the Democratic leader's comments at a microphone in front of the Supreme Court.

The Democratic leader harangued and warned Justices Gorsuch and Kavanaugh by name. He said they would "pay the price" and "won't know what hit you if you go forward with these awful decisions."

At best, it was an injection of partisan politics into a process that should be immune to these Justices. At worst, it was a threat, targeting two sitting members of the Supreme Court. Either way, I encourage my colleague, the Democratic leader, to apologize to those Supreme Court Justices and to do it here on the floor.

I yield the floor.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

SUPREME COURT

Mr. MCCONNELL. Madam President, I planned to spend my remarks today discussing our bipartisan, bicameral agreement to fund the fight against the new coronavirus. I was looking forward to congratulating all my colleagues and discussing all the ways this funding will help our public health experts, frontline healthcare professionals, and State and local officials combat the spread of this virus and mitigate its effects. It is a serious agreement to meet a serious challenge, and today we will send it to President Trump's desk.

So today will be an important day for the country, and it was going to be a proud day for the Senate, but instead the Nation's eyes are on this body for an entirely different reason.

A few weeks ago, I spoke on this floor about a dangerous trend that threatens our self-governance. I explained how some in the Democratic Party appear more interested in attacking the insti-

tutions of our government than in working within them, how Democrats increasingly respond to political disappointments with extreme claims that our system of government itself must be broken. The failure can't be their own. It can't be that the left needs better arguments or ideas. No, the fault must lie with the Constitution itself.

Democrats have tried to cloak their anger at President Trump in rhetoric about protecting norms and institutions, but, in reality, it is their own side of the aisle where anti-institutionalism is rampant. Rampant. We can talk about attacks on the office of the Presidency, on the Electoral College, on the First Amendment, on the Senate itself, but most striking of all has been the shameless efforts to bully our Nation's independent judiciary, and yesterday those efforts took a dangerous and disturbing turn.

By now many already know what the Democratic leader shouted outside the Supreme Court yesterday morning. I am sorry to have to read it into the RECORD. First, he prompted a crowd of leftwing activists to boo two of the Associate Justices—as though Supreme Court Justices were professional athletes and Senator SCHUMER were jeering from the stands. Then the senior Senator from New York said this:

I want to tell you, Gorsuch! I want to tell you, Kavanaugh! You have released the whirlwind, and you will pay the price. You won't know what hit you if you go forward with these awful decisions.

I am not sure where to start.

There is nothing to call this except a threat, and there is absolutely no question to whom—to whom it was directed.

Contrary to what the Democratic leader has since tried to claim, he very, very clearly was not addressing Republican lawmakers or anyone else. He literally directed the statement to the Justices by name. He said: "[I]f you go forward with these awful decisions,"

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



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which could only apply to the Court itself. The minority leader of the United States Senate threatened two Associate Justices of the U.S. Supreme Court. Period. There is no other way to interpret that.

Even worse, the threat was not clearly political or institutional. As I will discuss in a moment, these kinds of threats are sadly nothing new from Senate Democrats. This was much broader—much broader.

The Democratic leader traveled to the workplace of the two Justices, and in front of a crowd of activists, he told those Justices “you will pay the price” right in front of the Supreme Court building and “you won’t know what hit you.” He said this right in front of the Supreme Court building.

If any American had these words shouted at them from a sidewalk outside their office, they would hear those threats as personal, and most likely they would hear them as threatening or inciting violence. That is how any American would interpret those words if they were directed at them. That is certainly how the press and leading Democrats would have characterized them if President Trump or any senior Republican had said anything even remotely—remotely—similar. We have seen much more hay made out of much less.

Perhaps our colleague thinks this is absurd. Perhaps he would like the most generous possible interpretation; that he got carried away and he didn’t mean what he said, but if he cannot even admit to saying what he said, we certainly cannot know what he meant.

At the very best, his comments were astonishingly reckless and completely irresponsible. Clearly, as the Chief Justice stated in a rare and extraordinary rebuke, they were “dangerous” because no matter the intention, words carrying the apparent threat of violence can have horrific, unintended consequences.

In the most recent year on record, the U.S. Marshal Service tracked thousands of threats and inappropriate communications against the judiciary—thousands of threats against the judiciary.

Less than 3 years ago, of course, an unhinged and unstable leftwing activist attempted a mass murder of congressional Republicans at a baseball field right across the river.

A Senate leader appearing to threaten or incite violence on the steps of the Supreme Court could literally be a matter of deadly seriousness.

So I fully anticipate our colleague would quickly withdraw his comments and apologize. That is what even reliably liberal legal experts like Laurence Tribe and Neal Katyal have publicly urged.

Instead, our colleague doubled down—doubled down. He tried to gaslight the entire country and stated that he was actually threatening fellow Senators, as though that would be much better, but that is a fiction. A

few hours later, the Democratic leader tripled down. Instead of taking Chief Justice Roberts’ sober and appropriate statement to heart, he lashed out, yet again, and tried to imply the Chief Justice was biased—biased—for doing his job and defending the Court. Let me say that again. He tripled down, and he lashed out, yet again, and tried to imply that the Chief Justice was biased for doing his job and defending the Court. Our colleague therefore succeeded in attacking 33 percent of the Supreme Court in a space of a few hours.

Throughout the impeachment and the Senate trial, for months, Washington Democrats preached sermons about the separation of powers and respect among equal branches.

So much for all of that. And sadly, this attack was not some isolated incident. The leftwing campaign against the Federal Judiciary did not begin yesterday—not yesterday. My colleagues will recall that during the impeachment trial the senior Senator from Massachusetts and outside pressure groups tried to attack the Chief Justice, sitting right in that chair, for staying neutral instead of delivering the outcomes that they wanted. These same groups came to Senator SCHUMER’s defense yesterday with gratuitous attacks against the Chief Justice for condemning the threats against his colleagues.

Last summer—last summer a number of Senate Democrats sent an extraordinary brief to the Supreme Court. It threatened to inflict institutional change on the Court if it did not rule the way the Democrats wanted. In other words, give us the ruling we want or we will change the numbers of the Court. Here is what they wrote: “The Supreme Court is not well. . . .”

Really?

The Supreme Court is not well. . . . Perhaps the Court can heal itself before the public demands it be “restructured. . . .”

What that means is, you rule the way we want or we are going to expand the numbers and change the outcome—a political threat, plain as day. As you read the document, you half expected it to end by saying: That is some nice judicial independence you got over there. It would be a shame if something happened to it.

It couldn’t have been more clear. Independence from political passions is the cornerstone of our judiciary in our country. Judicial independence is what enables courts to do justice even when it is unpopular, to protect constitutional rights even when powerful interests want them infringed. Judicial independence is what makes the United States of America a republic of laws rather than of men.

It has been almost a century since the last time Democrats threatened to pack the Supreme Court because they wanted different rulings. History still judges that disgraceful episode to this day.

I would suggest that my Democratic colleagues spend less time trying to

threaten impartial judges and more time coming up with ideas that are actually constitutional.

Fortunately, this extraordinary display contains one ironic silver lining. These clumsy efforts to erode a pillar of American governance have just reminded everyone why that pillar is so crucial. These efforts to attack judicial independence remind us that independence is essential. Every time Democrats try to threaten sitting judges, we are reminded exactly—exactly—why the Framers gave them life tenure and salary protection, precisely why they did it. Every time Democrats toy with packing new seats onto the Court, we are reminded exactly why, as Justice Ginsburg recently said, “Nine seems to be a good number.” Justice Ginsburg said, “Nine seems to be a good number.”

The distinguished men and women of the Supreme Court do not and must not serve at the pleasure of angry partisans—must not serve at the pleasure of angry partisans. They do not need to pay any mind to unhinged threats, as shameful as they may be. In fact, as the Chief Justice reminded us yesterday, they are duty-bound to pay such things no attention at all. Their job description is simple: to apply the law to the facts, as the Chief Justice put it, “without fear or favor from whatever quarter.” I have great confidence the Court will do just that. I am confident that if the facts and the Constitution would have led the Court to disappoint Democrats the day before yesterday, they would still feel free to do so today, tomorrow, and beyond, notwithstanding these shameful tactics.

I had hoped I would not need to reiterate what every Republican Senator told the Court in August after Senate Democrats sent their threatening brief, but today I have no choice but to say it again: Republicans are absolutely and unshakably committed to the core constitutional principle of an independent Federal judiciary—the core constitutional principle of an independent Federal judiciary.

As long as this majority holds the gavel, we will never let the minority leader’s dangerous views become policy. This majority will ensure that the only casualties of this recklessness are the reputations of those who engage in it.

RESERVATION OF LEADER TIME

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.