

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.

LEGISLATIVE SESSION

ADVANCED GEOTHERMAL INNOVATION LEADERSHIP ACT OF 2019—
Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2657, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (S. 2657) to support innovation in advanced geothermal research and development, and for other purposes.

Pending:

Murkowski amendment No. 1407, in the nature of a substitute.

McConnell (for Ernst) amendment No. 1419 (to amendment No. 1407), to establish a grant program for training wind technicians.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

WOMEN'S HEALTHCARE

Mr. SCHUMER. Madam President, I just listened to the Republican leader, and there was a glaring omission in his speech. He did not mention what the rally yesterday, my speech, or the case before the Court was about—a woman's constitutional right to choose.

To the women of America: What we are talking about here, what I am fighting for here is your right to choose—an issue, of course, Leader MCCONNELL completely ignored in his speech. I feel so passionately about this issue, and I feel so deeply the anger of women all across America about Senate Republicans and the courts working hand in glove to take down Roe v. Wade.

I just read about a woman in Shreveport who, under the Louisiana law now before the Supreme Court, would have to travel over 300 miles to exercise her constitutional freedoms. And this is happening in States across the country.

Republican State legislatures are restricting a woman's right to choose so severely as to make it nonexistent, and the courts are now likely to go along because Senate Republicans have confirmed nominees they believe will strip away women's rights and fundamentally change this country, going so far as to deny a duly elected President the right to pick a Supreme Court Justice.

Republicans here in the Senate are afraid to confront this issue directly. So they try to accomplish through the courts what they would never accomplish in the court of public opinion, and they leave women out in the cold.

So, yes, I am angry. The women of America are angry. And, yes, we will continue to fight for a woman's right to choose. I will continue to fight for the women of America.

Now, I should not have used the words I used yesterday. They didn't come out the way I intended to. My point was that there would be political consequences—political consequences—

for President Trump and Senate Republicans if the Supreme Court, with the newly confirmed Justices, stripped away a woman's right to choose. Of course, I didn't intend to suggest anything other than political and public opinion consequences for the Supreme Court, and it is a gross distortion to imply otherwise.

I am from Brooklyn. We speak in strong language. I shouldn't have used the words I did, but in no way was I making a threat. I never—never—would do such a thing. Leader MCCONNELL knows that, and Republicans who are busy manufacturing outrage over these comments know that too.

What will remain long after the clamor over my comments dies down is the issue at hand: a woman's constitutional right to choose and Republican attempts to invalidate it.

The fact that my Republican colleagues have worked systematically over the course of decades to install the judicial infrastructure to take down Roe v. Wade and do very real damage to the country and to the American way of life—that is the issue that will remain, and we owe—I owe—an obligation to the women of America to fight for their constitutional rights.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. DURBIN. Madam President, I come to the floor this morning as a Senate colleague who may know CHUCK SCHUMER better than most. We lived under the same roof for almost 20 years. We know one another. We know each other's families. We have been together through moments of sadness and triumph. I know him well, and I come to the floor this morning to make this statement.

I respect Chief Justice John Roberts, but I respectfully disagree with the statement he made yesterday about Senator SCHUMER's comments before the Supreme Court Building. It is not in CHUCK SCHUMER's nature to physically threaten anyone—anyone—or to create a dangerous situation for any person. That is just not CHUCK SCHUMER. Even his passion, as you just heard about the issue of women's healthcare, would not lead him to that position. Yes, as he said, he could have chosen his words more carefully, but is there a person in public life who has ever stood in this Chamber or any other who wouldn't say the same about some public utterance?

What troubles me is his being admonished publicly by President Donald Trump for his use of words—being admonished by President Trump for his use of words. It just takes your breath away to think that this President, with his thousands of tweets and statements and utterances—outrageous as they have been—would be standing as a judge of others when it comes to the use of language.

I listened carefully this morning as Senator MCCONNELL, the Republican leader, came to the floor and spoke,

when he talked about his singular respect for the Supreme Court and judicial independence. He used the phrase repeatedly: “judicial independence.” He called the judiciary, rightly, a pillar of the American Government.

Does Senator MCCONNELL think we have forgotten what he did when it came to the Supreme Court after Justice Scalia passed away? He intentionally left a vacancy in the Court for almost a year for political purposes before it was filled.

We remember when President Obama, in the last year of his Presidency, offered the nomination of Merrick Garland, a highly respected circuit court judge for the District of Columbia. Do you remember what this Republican leader, Senator MCCONNELL, did in response—this man who so admires this pillar of the American Government, the judiciary? He refused to even personally meet with Merrick Garland, President Obama's nominee, and he instructed his colleagues on the Republican side to do the same, to shun him, to give him the cold shoulder, and to make it clear that, for a year, there would be a vacancy in the Court because he, Senator MCCONNELL, was praying he would get a political opportunity to fill that vacancy if a Republican were elected to the Presidency. And, of course, that is what happened in 2016.

So for Senator MCCONNELL to come before us and talk about his respect for the Court, keeping politics out of the Court, calling it a pillar of the American Government—has he forgotten what he did to Merrick Garland?

Incidentally, despite his constitutional contortion that, for some reason, in the last year of a Presidency, that President has given up any constitutional right to fill a vacancy, Senator MCCONNELL was recently asked: Well, what if that happens in the last year of President Trump's administration?

Well, he wasted no time saying: Of course, I would let President Trump fill the vacancy—as transparent as possible his partisan motives when it comes to that Supreme Court.

So if he wants to show respect for the Court, it certainly has not been demonstrated, starting with the vacancy of Justice Scalia.

And how about Senator MCCONNELL's single-minded effort to fill every Federal vacancy across the United States as quickly as possible, sadly, with many men and women who scarcely have any experience of service in our judicial system?

So far, President Trump has sent to this Senate, with Senator MCCONNELL's acceptance and approval, nine nominees for the Federal Judiciary who have been found “not qualified” by the American Bar Association, many of them unanimously—nine men and women who have such extreme backgrounds or such limited experience that they shouldn't sit on the Federal bench. But Senator MCCONNELL, with