

stations are still unmanned, but the Democrats cannot stop salivating over the possibilities for partisan gain.

Former Vice President Biden says he sees this tragedy as an “incredible opportunity . . . to fundamentally transform the country.” Biden said it is an “incredible opportunity . . . to fundamentally transform the country.”

Speaker PELOSI said: “I see everything as an opportunity.”

A cochair of the Congressional Progressive Caucus said: “For me, the leverage is that there is enormous suffering.” “The leverage is that there is enormous suffering.” There are 80,000 Americans who have died and more than 20 million who have lost their jobs. I call that a crisis; they call it leverage.

This week, the Speaker published an 1,800-page seasonal catalog of leftwing oddities and called it a coronavirus relief bill. So here we go again. It includes a massive Tax Code giveaway to high earners in blue States. Working families are struggling to put food on the table, but the House Democrats are prioritizing millionaires on the coasts. It would print another round of checks—listen to this—specifically for illegal immigrants. Can you believe it? We forgot to have the Treasury Department send money to people who are here illegally. My goodness. What an oversight. Thank goodness the Democrats are on the case.

The Speaker's bill also tries to use the virus as cover to implement sweeping changes to election laws that the Democrats have literally wanted for years, like forcing every single State to embrace California's sketchy ballot harvesting whether they want to or not.

Then there is the cherry on top. It is the bold new policy from the Washington Democrats that will kick the coronavirus to the curb and save American families from this crisis. Here it is—new annual studies on diversity and inclusion within the cannabis industry. There is not one study but two of them. Let me say that again. The Democrats' supposed coronavirus bill includes taxpayer-funded studies to measure diversity and inclusion among the people who profit off of marijuana.

The word “cannabis” appears in this bill 68 times—more times than the word “job” and 4 times as much as the word “hire.” Maybe that is just as well because when their proposal does try to treat the economic crisis, it proposes stifling, anti-work policies that would only make it harder for Americans to get their jobs back. For example, they literally propose to raise taxes on small business and drain more cash from Main Street during a Main Street meltdown. So maybe it is best if the House Democrats focus on cannabis studies and leave economics to the rest of us.

This is a totally unserious effort. Even the mainstream media says: “Neither this bill nor anything resembling it will ever become law. It's a Democratic wish list.”

Forget about making law; this thing even fails as a messaging bill. That is what is so remarkable. The House Democrats had a blank slate to write anything they wanted to define the modern Democratic Party—any vision for the society that they wanted—and here is what they chose: tax hikes on small businesses, giveaways to blue State millionaires, government checks for illegal immigrants, and sending diversity detectives to inspect the pot industry. The House gave itself no assignments for 2 months except to develop this proposal. Yet it still reads like the Speaker of the House pasted together some random ideas from her most liberal Members and slapped the word “coronavirus” on top of it—an unserious product from an unserious House majority that has spent months dealing itself out of the crisis.

The House Democrats have been missing in action for months. While the Senate was passing the CARES Act, the Democratic House was on the sidelines substantively and literally. They had already gone home. Nearly 2 months later, the Senators are back at our duty stations with new precautions. We have been back for 2 weeks. We are holding major hearings on the pandemic. We are legislating and confirming nominees. Yet the House is still at home. And when it does contribute, it is not serious.

The House Democrats have checked out of this crisis and left governing up to the Senate. They even intend to shatter congressional history and jam through remote voting so they can continue to be counterproductive from the comfort of their homes. Let me say that again. They even intend to shatter congressional history and jam through remote voting so they can continue to be counterproductive from the comfort of their own homes.

Look, here in the real world, the Senate Republicans are working seriously to help the country reopen. The crushing unemployment figures, even with the CARES Act, show that no amount of Federal spending could substitute for the entirety of the U.S. economy. We need to be smart, and we need to be safe, but we have to find a more sustainable middle ground.

This week, Chairman ALEXANDER and the Committee on Health, Education, Labor, and Pensions heard from Dr. Fauci, Dr. Redfield, and other top experts on exactly this subject. There are at least two big things our Nation will need to start recovering: stepped-up testing nationwide and legal liability protections so that K-12 schools, universities, charities, and employers are not invaded by trial lawyers the instant they unlock their doors.

On testing, fortunately, the Senate has already done a great deal. The executive branch and especially the States are in the driver's seat, but we have already sent billions of dollars to help scale up testing nationwide. On legal liability reform, the work lies ahead of us. As my Republican col-

leagues and I have made clear, strong legal protections will be a hard redline in any future legislation.

That is what is happening here in the Senate—serious leadership on a serious crisis like we have been doing for months. This half of the Capitol is doing our job.

#### 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

#### USA FREEDOM REAUTHORIZATION ACT OF 2020—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 6172, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (H.R. 6172) to amend the Foreign Intelligence Surveillance Act of 1978 to prohibit the production of certain business records, and for other purposes.

The PRESIDING OFFICER. The majority whip.

#### CORONAVIRUS

Mr. THUNE. Madam President, as the majority leader just pointed out, the Senate has been and will be focused on responding to the coronavirus crisis in this country in a way that hopefully will enable the American people to recover and that will restore our economy—that will get things back to normal. As he pointed out, that requires dealing with the health emergency as well as with the economic emergency crisis that has been created by this.

With respect to the health emergency, the leader pointed out that there are literally tens of billions of dollars being spent now on vaccine research, on anti-viral therapeutics, and on testing. We believe that, in order for us to get our economy fully back, we have to deal with the health emergency in front of us, so dollars have been made available—hundreds of billions of dollars—to healthcare providers, hospitals, doctors, nursing homes, and providers who are on the frontlines of this crisis and trying to deal with the challenges it presents every single day. That is what we have focused on. In addition, we have focused on the economic crisis and the impact it has had on our small businesses and on our workers.

Everything that has been included in the bills that have already been passed here in the U.S. Senate—now we have No. 4—and have been signed into law by the President have been singularly

focused on trying to assist people and get them through this time as a bridge to hopefully get the worst of this behind us and get us to a time at which the economy begins to open up again.

Clearly, the focus was on helping families directly, making sure those families who particularly needed the help the most got some additional financial assistance. So checks went out—\$1,200 per individual, \$2,400 per married couple, and \$500 for each additional child—as direct assistance. It went into the pockets of families across this country.

Then, with respect to workers and small businesses, there was the Paycheck Protection Program, which by all accounts has been very, very successful. I think the reason for that is that businesses across this country recognize that they, too, want to keep their employees employed. They do want to keep those jobs, hopefully, until that time when the economy starts to open up again, so they heavily subscribe to this program.

Interestingly enough, there has been a lot of talk on the other side, as there usually is—a demagoging of how this helps rich people and all of that. Yet the average loan in the most recent round of PPP funding is about \$80,000 on a payroll of about \$28,000. Businesses can use that principally for payroll. Seventy-five percent has to be used to be able to keep their employees employed, to keep their workers employed, to keep those jobs there, while 25 percent has to be used for some fixed cost, which might be utilities, which might be rent, which might be debt service, those types of things. The whole purpose of the program is to keep workers employed. It is a pro-worker program, and it has been from the very beginning.

Then also, for those who through no fault of their own have lost jobs and have been laid off, there has been a significant plus-up in the unemployment insurance accounts—to the tune of \$600 per person per week for individuals in this country—on top of what their States might already pay. There is a significant number of dollars being put out there for people who have lost jobs through no fault of their own.

These are pro-worker pieces of legislation, pro-unemployed people legislation. These are pro-small business—keeping those small businesses working out there. Obviously, they are very much pro-health emergency—trying to drive dollars toward the solutions, the cures, the vaccines, the anti-viral therapeutics, and the testing that are necessary to help us get through this. That is what Republicans here in the Senate have been focused on for the past several months and will continue to be focused on in the future.

As the leader pointed out, the House Democrats, who are not here but who, remarkably, from afar have evidently put together this fantasy wish list of things they would like to see accomplished—if you can imagine an 1,815-

page bill, they mention “cannabis” way more times than they mention “jobs.” The amazing thing about this—and they will come here and argue that the Republicans’ proposals benefit the wealthy, benefit the rich. As I just pointed out very clearly, it is the opposite that is true, for it has been directed directly at families and workers. Everything we have done has been designed to keep jobs, to be very pro-worker.

Yet, in part of the 1,815-page proposal that the Democrats have out there, they have a couple of tax proposals, one of which would deliver 56 percent of that tax cut to the top 1 percent of the wage earners in the country. This is 56 percent of the benefit of a proposal under the House Democrats’ fantasy wish list that would go to the top 1 percent of the earners in this country. Now, that doesn’t sound to me like something that is very pro-worker or that is trying to help people who are in the lower income categories, who are suffering the most economically as a result of the coronavirus crisis. It seems, to me at least, like something that is sort of a payoff to some of their big donors and to the big blue States.

Nonetheless, that is a feature of the 1,815-page bill that the leader just described and talked about. It is one of many features—part of the permanent agenda—that has nothing to do with solving the crisis in front of the American people right now but has entirely to do with an ideological wish list. They are all of the things that have been on their agenda for a really long time, none of which should ever be considered seriously in terms of dealing with the crisis that is in front of us right now.

As I said, responding to this coronavirus crisis has been and will continue to be at the top of our agenda for the foreseeable future.

H.R. 6172

Madam President, in addition to our pandemic response, the Senate is also focused on the other priorities on which the American people are relying on us to take care of—from funding the government to protecting our Nation.

This week, the Senate is taking up legislation to reauthorize three expired provisions of the Foreign Intelligence Surveillance Act, including the provision that allows the FBI to wiretap lone wolf terrorists—terrorists not affiliated with a specific terrorist organization—and the roving wiretap provision that prevents the FBI from having to seek a new wiretap warrant each time a terrorist suspect changes his phone number.

These provisions lapsed in March, after the House blocked a temporary extension that was passed unanimously in the Senate, leaving law enforcement and intelligence officials without key tools in their anti-terrorism fight. I expect the Senate will pass this bill today, and I hope the House will move quickly to send it to the President’s desk.

Every day, our law enforcement and intelligence personnel are engaged in the difficult and, at times, dangerous work of tracking terrorist threats. We need to make sure they have the tools they need to do their jobs and to keep Americans safe. The bill before us combines extensions of these key anti-terrorism tools with new accountability measures that will ensure that law enforcement is held to the highest standards when pursuing surveillance of suspected terrorists and foreign agents.

I urge my colleagues to support this legislation when we vote on it later today.

REMEMBERING TOM COBURN

Madam President, I would like to take a moment to pay tribute to my friend and a former Member of this body, Senator Tom Coburn, who died in March.

Tom and I first met in the House of Representatives, where we both served, and then came to the Senate at the same time as part of the class of 2005.

I have been privileged to meet many principled men and women in my time in public service, but Tom, literally, was one in a million. He was fiercely principled and uncompromising, often to the chagrin of fellow Senators. He didn’t care if he were 1 against 99 if he believed he was in the right. He stuck to his guns come hell or high water. He voted against politically popular legislation and bills that no other Senator would oppose. Yet he held the enduring respect of his constituents and, indeed, of his colleagues, proving that sometimes principle can win you more lasting friendship than compromise. He was here for a purpose—in particular, to protect our children and grandchildren from the burden of an ever-increasing national debt by exposing government waste and Washington’s spending habits.

He got into fierce fights on the floor in service to that mission, but he knew how to keep fights to the office. Prickly on the floor, outside of it, he was warm and personable, and he didn’t let politics get in the way of friendships. As he once said himself, he disagreed with President Obama on 95 percent of the issues, but that didn’t stop him from developing a lasting friendship with the President or from working with him on legislation when he was in the Senate.

No discussion of Tom would be complete without mentioning his deep faith. He was an outspoken witness for Christ. If you were his friend, as I was privileged to be, he was interested not just in your present good but in your eternal good as well.

As I said earlier, Tom Coburn was one in a million, and it will be a long time before we see his like again. That is a particularly great loss because the Senate should always have a Tom Coburn—a man or woman of uncompromising principle, of fierce dedication to the national good, someone willing to stand alone in defense of the right, who provides a constant reminder that principle is more important than politics

and that what is important is not winning elections but doing the right thing.

My thoughts and prayers are with his wife, Carolyn, and his daughters, Callie, Katie, and Sarah, and his nine grandchildren.

Your husband, your father, and your grandfather is sorely missed.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. SCOTT of Florida). The Democratic leader is recognized.

CORONAVIRUS

Mr. SCHUMER. Mr. President, it has been 2 weeks since Leader MCCONNELL called us back into session. In that time, it was announced that 30 million Americans filed for unemployment. Just this morning, we learned another 3 million Americans filed jobless claims this week. Yet the Republican leader has scheduled exactly zero votes—zero—on legislation related to the coronavirus. Instead, Leader MCCONNELL has resisted urgent and necessary action to fight the pandemic. He said that now is the time to “press the pause button.” Tell that to someone trying to feed his or her children. Tell that to some small business person who has kept a business going for 20 years and now is ready to go bankrupt. Tell that to workers at every level of this economy who are losing their jobs. Time to press the pause button when we have faced the greatest health and economic crisis since the Depression?

MCCONNELL has said Republicans have yet to “feel the urgency of acting immediately.” How many of our Republican Senators have yet to feel the urgency of acting immediately? How many? I would urge the constituents of Senators in every State to call them and ask them that question. Do you agree with Senator MCCONNELL that we have yet to feel the urgency of acting immediately? Well, I could give our Republican colleagues more than 30 million reasons to feel the urgency of acting immediately.

We are staring at a period of prolonged economic misery for millions of American workers and families—Americans who for the first time don’t know if they will be able to keep a roof over their heads, put food on the table, pay the rent; Americans who for the first time are waiting in staggering lines at food banks, cars lined up for miles, snaked across parking lots, people who would never have imagined they would be lining up at a food bank. How long will it take and how much economic hardship will suffice before Senate Republicans feel the urgency to act?

It is not just Democrats who are pleading with the Republican majority to wake up to the economic reality in this country—oh, no. Governors spanning the country in both parties know darn well that this is not a blue State/red State issue. How cheap. A firefighter who is laid off in Florida and a firefighter who is laid off in New York are both hurting, and they are not

looking to what kind of State they are in. So the Governors are calling for help. States, cities, and localities are being forced to lay off teachers, police officers, firefighters, and food health safety workers. It is Governors of both parties. Listen to the NGA, led by a Republican Governor. They need to get unanimous consent for most of the things they do.

It is not just Governors and politicians. The Chairman of the Federal Reserve, Jerome Powell—hardly a Democrat—a Trump appointee, said yesterday that “the scope and speed of this downturn are without modern precedent, significantly worse than any recession since World War II.” He went on to say that “additional fiscal support could be costly but worth it, if it helps avoid long-term economic damage and leaves us with a stronger recovery.” That is the Chairman of the Federal Reserve, Jay Powell, appointed by President Trump, telling Republicans to get off their hands and do something. Powell has used almost every tool in his monetary toolkit. He knows we need fiscal relief—more of it. But Leader MCCONNELL has so far rejected doing another emergency relief bill. His party is slowly drafting legislation to give legal immunity to big corporations that put workers in dangerous situations.

That is not the nub of the issue. We know that. We have so many diversions on the Republican side—liability, China. Let’s solve the problem right now. What are we going to do for people who are out of work? What are we going to do for people who can’t feed their families? What are we going to do for businesses that are going under?

Senate Democrats have had to relentlessly pressure our Republican colleagues to hold even the most routine oversight hearings on the coronavirus. Our Republican colleagues say: Well, we don’t want to spend any more money; we have to know how it is spent. Yet they are not having a whole raft of hearings that they should to see how the money is spent. Instead, they are talking about appointing rightwing judges who want to repeal healthcare to the bench. Wow. How out of touch.

The Republican leader made sure the Judiciary Committee had time to consider his protege, a rightwing judge, to sit on the second most powerful court in the country, even though there is no particular need for that nomination at the moment.

The chairman of the Senate Homeland Security and Government Affairs Committee told committee members that next week he was planning on delving into baseless, Kremlin-coined conspiracy theories against the son of Joe Biden, the Democratic nominee for President. Russia comes up with a theory, and the Republicans embrace it instead of doing what they are supposed to be doing.

The Republican majority doesn’t have time to call in the SBA Administrator or FEMA Administrator or hold

a hearing on the shortage of PPE, which our workers on the frontline so desperately need, but all of a sudden, they have time to use a Senate committee to try to slander the President’s political opponent? What world are they in? How out of touch can they be?

We are in the middle of a public health and economic crisis, and Senate Republicans are diving head-first into the muck, pursuing diversionary, partisan conspiracy theories to prop up President Trump when President Trump should be focusing on solving this crisis—once again trying to achieve what the President tried to achieve in the Ukraine scandal by another means, sully his opponent with baseless conspiracy theories. Don’t our Republican friends see the folly of following President Trump in this regard? Don’t they know the American people are wise to this kind of stuff? There are over 30 million people without work, tens of thousands losing their lives, and pursuing baseless conspiracy theories is what the Republican majority seems to be focused on.

Unfortunately, Republicans in Congress aren’t the only ones unwilling to do the urgent and necessary work of the moment. President Trump and his administration are guilty of the same offense. Yesterday, Dr. Fauci—one of the most respected health experts in the country—warned that the reopening of schools and businesses too quickly could lead to unnecessary suffering and death. Asked about Dr. Fauci’s comments, President Trump said Dr. Fauci “wants to play all sides of the equation. . . . [T]o me—it’s not an acceptable answer.”

President Trump, Dr. Fauci isn’t playing all sides of the equation. He is giving you one side of the equation: the truth—the truth, President Trump, without you lurking over his shoulder or contradicting him at a press conference or yelling at a reporter who asks a legitimate question.

We don’t need Dr. Fauci to tell us there are risks to reopening too soon and without proper preparation. That is obvious to just about everyone. That is the truth. But President Trump just inveterately abases the truth if it doesn’t fit with the fantasy he has constructed in his head. The first fantasy was that it was a hoax. The second fantasy was that it will go away in the warm weather.

Well, here we are. It is May. Has it gone away, Mr. Trump? Is it a hoax, Mr. Trump? No, of course not.

Now, one of his latest—that Fauci is making things up or is wrong. He will rush us back to work before we have the proper testing, and we will pay a price. That is what the scientists tell us, and they know best. They are not politicians.

Thankfully, in this big, grand, diverse, and beautiful country, you cannot suppress the truth for too long. Over the past week, a parade of truth tellers has begun. On Tuesday, it was

Dr. Fauci; on Wednesday, Jerome Powell; today, HHS official Rick Bright is testifying in the House. The President may try to shroud the truth from the American people or even from himself, but eventually, inevitably, the truth will come out about how poorly the administration has dealt with this crisis. It is one of the worst performances by a President in American history.

The American people have been following stay-at-home orders for months on end, doing their part to slow the spread of this pernicious disease. Those many millions who sacrificed their routines and livelihoods have bought this country precious time to prepare for life after the pandemic; precious time to ramp up testing, produce PPE, and formulate a plan for nationwide contact tracing. What has the Trump administration done with this precious time? They have wasted it—wasted it.

The President wants to reopen the country as quickly as possible but could not be less interested in the strategies that would allow us to do it safely.

President Trump, do you want to get the country open quickly? Do you want to get people back to the malls and riding on the airplanes? Get the kind of testing that other countries have done. We are still leagues behind on testing.

He said 2 months ago—another Trump fantasy—on March 6 that anyone who wants a test can get one. Tell that to millions and millions and millions of Americans who want testing and cannot get it.

A de facto nationwide lockdown has been going on for weeks. Yet our testing capacity has not approached the number just about every expert says is required. The President, in an emergency, which we certainly have, hasn't requisitioned American manufacturing to produce the tests we need and has been slow to dispense congressional funds intended to help the States do the job. We voted for those a few weeks back. The States are still waiting.

Businesses, schools, sports leagues, and families are going to need guidance from public health experts on how to open as safely as possible.

I talked to hotel executives and sports executives yesterday. They know that without testing, they are not going to come back. If they could test every person walking into a large arena and turn away anyone who might have COVID, people would be far more likely to sit in the seats. In Georgia, where Governor Kemp has been most forward, pushing people to open up, something like 6 to 8 percent of the people showed up. This is 2 weeks after he opened up the malls and the stores. People are not going to go out unless they are sure they won't get COVID, and they can't be sure they won't get COVID unless we have many, many more tests.

What is the President waiting for? He cuts his nose to spite his face. He wants to get us back to work, but he doesn't push testing. The anomalies of

this man—and that is a kind word—just go on and on and on.

People also want to know the guidance—what should they do, what they shouldn't. They want it from scientists. The CDC prepared guidance. The President has held it back so that he and his political appointees can edit it to suit their purposes.

Yesterday, I tried to ask the Senate's consent to release the unredacted, unedited CDC guidance, and Senate Republicans, of course, blocked the request. The junior Senator from Indiana said he didn't want "career regulators"—meaning the experts, meaning scientists at the CDC—to advise the country on how to reopen safely. That the President and his team of political advisers should be able to decide that—is there anyone left in this country, except the most diehard partisans, who trusts this administration to issue medical guidance properly? Come on.

Here is the bottom line: The sacrifices of the American people gave this administration time to prepare the country to return to some semblance of normal. Those sacrifices have been squandered by Trump and his Republican acolytes.

We all want to get back to work—I certainly do—but there is a smart way to begin reopening the country, a way to do it safely, with precautions and testing and tracing, to avoid a resurgence of the disease, and then there is a reckless way. President Trump has so far chosen the reckless way and seems to have no plan to right the ship.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL. Mr. President, I wanted to start by stating that I know a lot of people look at us speaking on the floor and think, you know, well, why aren't they wearing masks?

I saw Senator SCHUMER. He put on his mask after he finished his talk and left. I have my mask here. I just took it off. I am going to put it on after I finish speaking.

You know the way this works. I wear this mask to protect you, and you wear a mask to protect me, and that is the way we protect each other in this pandemic. I don't think there is any doubt that wearing a mask saves lives, and that is how we are going to overcome in this pandemic.

I see people around New Mexico all the time when I am back home wearing masks and really taking this pandemic seriously and taking our Governor's orders seriously.

H.R. 6172

Mr. President, reauthorization of the Foreign Intelligence Surveillance Act, or FISA, is now before us. We have an opportunity to reform this statute, to protect both our constitutional rights and our security. In the immediate aftermath of 9/11, Congress hurriedly passed the PATRIOT Act and authorized extraordinarily broad authority to the Executive and the executive branch that threatened America's and Ameri-

cans' privacy rights and liberty interests.

In October 2001, I was 1 of 66 Members in the House of Representatives who voted against the PATRIOT Act. It was not an easy vote, but in the years since, it is clear that it was the correct vote because the PATRIOT Act ultimately allowed the government to invade the privacy of millions of innocent Americans.

Exhibit 1: section 215 of the act. Section 215 has been greatly abused, resulting in the bulk collection of hundreds of millions of Americans' phone records and email contact lists.

The Nation was shocked when we found out about this bulk collection in 2013. In 2015, we passed the FREEDOM Act to cure some of the abuses. It did not cure them all.

Section 215 and two other provisions of the PATRIOT Act are up for reauthorization. That is the bill before us. Congress has the opportunity to protect our civil liberties even as we protect national security.

And while the House bill made improvements, it is still flawed. The House version still allows large-scale collection of Americans' sensitive information, and it doesn't reform the FISA Courts to prevent abuses. We should learn the lesson of October 2001 and not rush this through the Senate. We should include amendments to better protect Americans' civil liberties.

I support the Wyden-Daines amendment that prohibits collection of Americans' internet website browsing and internet search history information without a search warrant. It is a missed opportunity for the Nation that the amendment failed yesterday, although by one vote—by one vote.

Right now, the Federal Government can digitally track articles Americans are reading online, social media they are using, where they are shopping, which restaurants they are thinking about going to, and the list goes on and on. Just imagine thinking about everything you do on the internet and your devices. That is open game.

The Fourth Amendment protects us against unreasonable searches. In this day and age, when so much of our life is conducted over the internet, Americans must have assurance that their web browsing, which can reveal highly sensitive information, will not be unreasonably intruded upon by Federal authorities without a search warrant and without probable cause. This information provides an intimate window into our lives. It can reveal a person's medical conditions, political and religious views, and far more.

We need to make clear that government must demonstrate probable cause to collect this type of personal information.

Second, we need to strengthen the oversight of FISA Courts. We know these secret courts are subject to abuse. In 2015, Congress authorized FISA Courts to appoint amici—friends of the court—in cases involving novel

or significant interpretation of the law. This was a positive step forward to provide independent oversight, but it appears there have been only 16 cases in which amici have actually been appointed. Yet there have been more cases than 16 in which novel issues were raised and many more cases where an independent voice is needed to defend civil rights in FISA Court proceedings.

The recent Department of Justice inspector general report examining 25 FISA applications underscores this need. The IG found errors and inadequately supported facts in every application. An expanded amicus role is necessary to bring greater accountability to the application process.

I voted in support of the Lee-Leahy amendment that expands amici participation to significant First Amendment activities; to matters where a religious or political organization, a public official or candidate or the news media is involved; and to matters approving new technology or reauthorizing programmatic surveillance.

Third, we must make sure FISA applications are completely accurate and all exculpatory evidence is disclosed. Accuracy and transparency are critical to maintaining integrity within our justice system.

The Lee-Leahy amendment strengthens the requirements for accuracy and disclosure of all information—including exculpatory information—in FISA applications.

I am pleased this body stood in support of strengthening safeguards in the FISA Court process. However, our failure to protect Americans from the Federal Government looking over their shoulders while they are on the internet and collecting personal information is unacceptable. National security does not require the Federal Government intruding upon the private lives of Americans without probable cause and a search warrant.

Our liberties and freedoms define us as a nation. Either we should reconsider the Wyden-Daines amendment—a motion to reconsider is allowed at this point—or we should vote no on FISA reauthorization. We don't need to sacrifice our liberties and freedoms for an illusion of security.

One of our Founders way back in this country, Ben Franklin, said it a little bit differently. He said: "Those who would give up liberty in the name of security deserve neither."

#### REMEMBERING DENNIS CHAVEZ

Now, Mr. President, before I yield the floor today, I would like to commemorate one of New Mexico's great heroes, Senator Dennis Chavez, who, 70 years ago this week, on May 12, 1950, stood on this floor of the U.S. Senate and was the first in the Senate to sound the alarm against Senator Joseph McCarthy, who had begun his reign of terror that year.

Dennis Chavez was born into a farming family in territorial New Mexico. He had a seventh grade education and

rose to become a Georgetown University Law School graduate, the first American-born Hispanic U.S. Senator and, at 27 years, the longest serving Hispanic Senator in the history of our country.

Senator Chavez, or "El Senador," as we call him in New Mexico, was a man of great integrity. In February 1950, McCarthy had charged—without proof—that there were 205 card-carrying Communists working in the State Department. By March, he accused American scholar Owen Lattimore, among others, of being a Communist. That accusation—also without evidence—spurred Senator Chavez to take to the Senate floor, to come down here and to speak out.

He told the Senate:

I would like to be remembered as the man who raised a voice—and I devoutly hope not a voice in the wilderness—at a time in the history of this body when we seem bent upon placing limitations on the freedom of the individual. I would consider all of the legislation which I have supported meaningless if I were to sit idly by, silent, during a period which may go down in history as an era where we are permitted curtailments of our liberties, a period when we quietly shackled the growth of men's minds.

Dennis Chavez.

The fact is, we are seeing chilling similarities between the Joseph McCarthy of seven decades ago and the situation we are in today.

Mr. President, this week marks the 70th anniversary of a courageous address to this body. Seventy years ago, on May 12, 1950, the senior senator from New Mexico—Dennis Chavez—was the first to call out the unfairness of Joe McCarthy's communist witch hunt.

In May of 1950, it was still four and one-half years before the Senate would vote to "condemn" the senator from Wisconsin. But, even at that time, early in McCarthy's crusade, Senator Chavez recognized the present danger.

That day, Senator Chavez took to the floor, with 77 other Senators in attendance. That was a time when Senators engaged in genuine, spontaneous debate in this chamber. Senator Chavez counseled his colleagues: "... a man is ultimately remembered by what he does in relation to his times, and the fact that we do our assigned duty may not be enough; sometimes we must step out and sound the alarm."

And sound the alarm against McCarthy, he did.

Dennis Chavez—born Dionisio on April 4, 1888—came from humble and honorable beginnings. He came from generations who had farmed in Los Chavez—a small community along the Rio Grande, south of Albuquerque, in territorial New Mexico. When he was seven, his family moved to Albuquerque in search of better opportunities. He learned English in school but, at age 13, when he was in 7th grade, he had to leave school to help support his family.

Dennis, however, never left his education. He studied engineering, American history, and great political leaders

at the Albuquerque Public Library. In his early 20's, he worked for the City of Albuquerque Engineering Department, and also became active in Democratic politics. He joined the Democratic Party, even though most Hispanics at that time in New Mexico were Republicans. He saw in the "Democratic party a political philosophy that placed human rights above property rights."

In 1917, a newly elected Democratic Senator from New Mexico took Dennis to Washington where he worked for the clerk of the Senate. Dennis took and passed the entrance examination for and eventually graduated from Georgetown University Law School—all with less than a 7th grade education.

He returned to New Mexico to practice law, and was first elected to the U.S. House of Representatives—representing New Mexico's one at-large district—in 1930. In 1935, he was appointed to a Senate seat that had become vacant, and was elected in his own right the next year. Senator Chavez served in the Senate until his death in November 1962.

In so many ways, he was far ahead of his time. In the 1940s, he fought for civil rights legislation. In the 1950s, he chaired the Public Works Committee and sat on the Appropriations Committee, and helped usher in major infrastructure projects all over the nation, including water and military projects critical to New Mexico's development.

"El Senador", as we call him in New Mexico, was the first American-born Hispanic elected to the Senate and, at 27 years, remains the longest serving Hispanic Senator in history.

Joseph McCarthy began his reign of terror on February 9, 1950, a speech charging, without proof, that there were 205 card carrying members of the Communist Party working in the U.S. State Department.

By March of that year, McCarthy had accused American scholar Owen Lattimore, among many others, of being a Communist. That accusation, again without evidence, was too much for Senator Chavez and it gave rise to his denunciation on the floor of the Senate.

At that time, in 1950, Republicans held the presidency and both houses in Congress. And no matter one's party—bucking any anti-Communist sentiment could be politically costly.

But Senator Chavez took his chances against Joe McCarthy—in the name of what was right.

He told the Senate that day, "I would like to be remembered as the man who raised a voice—and I devoutly hope not a voice in the wilderness—at a time in the history of this body when we seem bent upon placing limitations on the freedom of the individual. I would consider all of the legislation which I have supported meaningless if I were to sit idly by, silent, during a period which may go down in history as an era where we are permitted curtailments of our

liberties, a period when we quietly shackled the growth of men's minds."

Dennis Chavez's entire career is defined by his courage, by his integrity, by his commitment to justice.

The similarities between Joseph McCarthy and Donald Trump between McCarthyism and Trumpism are—chilling. Both are demagogues. Both lie to the American people. Both try to destroy reputations and lives based on falsehoods.

But the lessons learned from that dark period in our history are lessons we can all learn from today.

First—is the lesson of courage.

In 1950, there were few—of any political party—willing to go up against Senator McCarthy.

But there were exceptions. Less than a month after Senator Chavez's floor speech, the junior senator from Maine—Margaret Chase Smith—the first woman to serve in both the House and Senate—delivered her "Declaration of Conscience" on the Senate floor. Joined by six other brave Republicans, the "Great Lady of Maine" denounced the "hate and character assassination sheltered by the shield of congressional immunity."

Where is that courage now? There are those in the Senate majority who understand the incompetence of this president. That he has an uneasy relationship with the truth. That his words and actions so often undermine basic American values.

But so few ever speak out. No one challenges his lies, his divisiveness, his singular focus on his own ambition to the exclusion of the welfare of American people.

In 1950, there were seven Senate Republicans who challenged Joseph McCarthy.

In 2020, who has the courage to stand up to say, "The Emperor has no clothes"?

Second—is the lesson of truth-telling.

Senator McCarthy—and his chief counsel and chief henchman, Roy Cohn—stacked lies upon lies, wild accusations upon wild accusations. They attacked hundreds of government employees, those in the entertainment industry, academics, and labor-union activists.

Careers were destroyed. Reputations damaged. Lives devastated.

Is this much different than what the President does to those who question, disagree with, testify against him?

The impeachment proceedings against President Trump may seem distant now. But history will remember them. Ambassador Marie Yovanovitch, Lieutenant Colonel Alexander Vindman, Ambassador Bill Taylor, Deputy Assistant Secretary George Kent, Fiona Hill, Pentagon official Laura Cooper, State Department official David Holmes, OMB official Mark Sandy—all told the truth. Stood up to the President and his threats. And all are American heroes.

There is a direct line between Joe McCarthy and Donald Trump: they

chose the same lawyer, Roy Cohn. And the President's threats to the brave men and women who testified are right out of Roy Cohn's playbook.

Third—is the lesson of demagoguery.

Joe McCarthy was a demagogue. His anti-communism met the times. He played upon and stoked fear. And he accused those who spoke out against him of disloyalty to the nation.

As Senator Chavez so eloquently put it on the Senate floor that day: "We have embarked upon a course which breeds hysteria and confusion—a course so dangerous that few dare to oppose the drift lest they be the next marked for destruction."

But before us today—is Donald Trump—and his demagoguery is even more dangerous. He too plays upon fear—and anger. He accuses the free press of being "enemies of the people." He rails against immigrants invading our country, stoking hatred and racism.

He promises working class Americans greater prosperity.

But, in the end, he gives the tax breaks to the rich, uses the office for personal gain, and ignores the needs of everyday Americans.

And—in the middle of the most devastating pandemic our nation has faced in a century—he's told the American people no one saw a pandemic was coming, that it's a hoax, that the virus will "magically" disappear, that we have the best testing system in the world all while promoting snake oil remedies that could actually harm Americans.

But—the American people are not fooled. They see the emptiness of his promises, the division he sows, and the lies he tells.

Seventy years ago, Senator Chavez said: "It matters little if the Congress appropriates hundreds of millions of dollars to check the erosion of soil if we permit the erosion of our civil liberties, free institutions, and the untrammelled pursuit of truth."

Those words resonate as much today as they did then.

Members of Congress, of this body—must not permit the erosion of our constitutional institutions, must not permit the erosion of truth.

Now—more than ever—we must aspire to the courage of Senator Chavez. History will be the judge—by rewarding courage and exposing cowardice.

I will finish with one passage from 70 years ago. Senator Chavez said:

It matters little if the Congress appropriates hundreds of millions of dollars to check the erosion of soil if we permit the erosion of our civil liberties, free institutions, and the untrammelled pursuit of truth.

That is our own Senator from New Mexico, Senator Dennis Chavez. Those words resonate as much today as they did then.

I see my good friend Senator PAUL is here on the floor, so I believe he is the next in line.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 1586

Mr. PAUL. The PATRIOT Act was begotten of the most unpatriotic of ideas—that liberty can be exchanged for security. The history of the PATRIOT Act shows that the exchange is a poor one.

As our liberty wanes and wastes away, we find that the promises of security were an illusion. The history of the PATRIOT Act is really a history of how power corrupts and how bias and malfeasance grow when power is unchecked.

The PATRIOT Act allowed a secret court, FISA, to grant generalized warrants to collect personal data from millions of Americans. The spies who run these surveillance programs then lied—for years and years—to us.

One of the most notorious of these liars was James Clapper. When cross-examined under oath by Senator WYDEN, James Clapper denied that the government was collecting data on millions of Americans.

A month later, the whistleblower, Edward Snowden, revealed that Clapper had lied. Snowden revealed that Clapper and others were using the PATRIOT Act to spy on virtually every American. Snowden revealed that the secret FISA Court was allowing a single court order to command the collection of millions of Americans' personal phone data.

Most Members of Congress had no idea that this was going on. In fact, one of the authors of the PATRIOT Act publicly expressed his shock that such a massive surveillance of Americans was occurring with no notification of Congress.

Clapper and others, though, said that is not true. They justified their actions by saying: We have been briefing the Elite 8 Congressmen.

Who were the Elite 8, and who made them elite? The Elite 8 are the majority and minority leaders of the House and the Senate and the majority and minority leader of the Intelligence Committees of the House and the Senate—eight people.

When they were quizzed about this program, most of them said they couldn't remember ever being briefed on it.

But the real constitutional question is, have we not changed and subverted the Constitution to make eight people more important than the rest of us?

So this was a program where they were collecting the data on everybody's phone calls—everybody in America—and you would think there would have to be a debate and approval by Congress, but there were only eight people, and those eight people seemed to be confused that they had approved the program as well.

The idea that a single court order can allow the collection of personal data from millions of people is antithetical to the intentions of the Fourth Amendment.

The Fourth Amendment dictates that the government must identify an



individual and the items and the location to be searched. The Fourth Amendment was intended to forbid general warrants or writs of assistance that, historically, Monarchs had used indiscriminately to collect vast amounts of either belongings or possessions of individuals.

The Fourth Amendment was written to prevent that from happening.

The PATRIOT Act essentially allows for generalized warrants and the bulk collection of personal data. The Fourth Amendment also dictates that a search can only occur when the government proves to a judge that there is probable cause that a crime has been committed. However, under the PATRIOT Act they have lowered the standard.

So there is the constitutional standard—the Fourth Amendment. But, under the PATRIOT Act, the standard now becomes if it is relevant to an investigation. That is a much looser, broader standard, and it is not a constitutional standard.

So the question is, Through these special, secret courts and through the PATRIOT Act, can we allow things that the Constitution actually prevents. What we have done is eroded protections for Americans.

So some of us have said the Constitution should still apply to Americans. If you want to look at the data of foreigners or spy on foreign countries or potential terrorists, by all means, do it, but Americans should still be protected by the Constitution.

The PATRIOT Act doesn't provide this protection and allows anybody to be investigated if the government can prove that it is relevant to an investigation. That standard is so broad that it could mean almost anything. It is hard to imagine something that could not be argued to be relevant to an investigation.

To those of us who prize the rights guaranteed in the Bill of Rights, the PATRIOT Act is a violation of our most precious rights. The PATRIOT Act, in the end, is not patriotic. The PATRIOT Act makes an unholy and unconstitutional exchange of liberty for a false sense of security. I, for one, will oppose its reauthorization.

Today we are also here, though, to discuss the FISA Court that interacts and uses some of these extra powers, these extraconstitutional powers.

It has been revealed over the last few years that the FISA Court was manipulated, lied to, and ultimately condoned the investigation of a political campaign.

I believe that the authors of the FISA Court, who intended to restrain unconstitutional searches, would be appalled at what the FISA Court has become. They would be appalled that this secret court intended to be used to investigate foreign spies and terrorists was turned into a powerful and invasive force to infiltrate and disrupt the political process.

It should not matter whether you are a Democrat or a Republican or a Liber-

tarian; we should all be appalled at this abuse of power.

The question is, How do we fix it? To my mind, there are two approaches. No. 1, we could try to make the FISA Court less bad by adding procedural hurdles to make it more like a constitutional court or, No. 2, admit that the FISA Court cannot be made constitutional, admit that FISA uses a less-than-constitutional standard when it allows searches to be performed that do not meet the Fourth Amendment.

The Fourth Amendment requires probable cause that you have either committed a crime or are committing a crime. The FISA Court only says the government must prove or assert that there is probable cause that you are connected to a foreign government.

As we have seen, the standards were so lax that when they went to the Trump campaign and said that a certain person was related to a foreign government, it turns out it was untrue. They didn't present facts to the court that actually argued that he wasn't an agent of the foreign government, and that person had no one to argue for him.

The deficiency of the FISA Court and why it is not constitutional is that you don't get a lawyer. You actually don't even get told you have been accused of a crime. The only reason we know that President Trump's campaign got caught up in this is that he won. Because he won and now has the power to open and put sunlight on this, we are now able to see in.

If this had been an ordinary American caught up in this, you would never be told, you would never get a lawyer, and you would be brought before this investigative body and subjected to a search of vast amounts of your private information without probable cause. That is not constitutional, and I don't think we can make it constitutional. I think we should admit that we can't constitutionally allow Americans to be subjected to a search that doesn't follow the Fourth Amendment.

I believe there is no fixing the FISA Court to make it constitutional for Americans. I believe the only solution is to exempt Americans from the FISA Court.

If government wants to investigate a political campaign, which should be a very rare and a very unusual circumstance, to have the government involved in a political campaign, governments should request a Fourth Amendment search from an article III constitutional court.

Some will say: Oh, it is hard; we will never get it. Guess what—even constitutional warrants are mostly granted. The vast majority of them are granted. But guess what—a judge will be a little reticent to get involved in the political process because they know how heated it is and how important it is to our Republic. But that is the way you should investigate a campaign if you are going to.

Opponents of doing the tried and trusted constitutional way will argue

that it takes too long and it is too hard. But guess what—the Constitution was meant to be an onerous standard. The Constitution was meant to be rigorous. Our Founding Fathers understood that justice cannot be achieved in secret courts that neither notify the accused nor let the accused have legal representation. You can't find justice where there is no adversarial process, where you don't get a lawyer.

I think it is high time we quit letting fear overrun our constitutional duty. Today, I offer an amendment that restores the Constitution for all Americans and forbids the secret FISA Court from ever again meddling in our political process.

Mr. President, I call up my amendment No. 1586 and ask that it be reported by number.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. PAUL] proposes an amendment numbered 1586.

The amendment is as follows:

(Purpose: To amend the Foreign Intelligence Surveillance Act of 1978 to prohibit the use of authorities under such Act to surveil United States persons and to prohibit the use of information acquired under such Act in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation, and for other purposes)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . LIMITATION ON AUTHORITIES IN FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

(a) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—

(1) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following:

#### **“TITLE IX—LIMITATIONS**

**“SEC. 901. LIMITATIONS ON AUTHORITIES TO SURVEIL UNITED STATES PERSONS AND ON USE OF INFORMATION CONCERNING UNITED STATES PERSONS.**

**“(a) DEFINITIONS.—**In this section:

**“(1) PEN REGISTER AND TRAP AND TRACE DEVICE.—**The terms ‘pen register’ and ‘trap and trace device’ have the meanings given such terms in section 3127 of title 18, United States Code.

**“(2) UNITED STATES PERSON.—**The term ‘United States person’ has the meaning given such term in section 101.

**“(b) LIMITATION ON AUTHORITIES.—**Notwithstanding any other provision of this Act, an officer of the United States may not under this Act request an order for, and the Foreign Intelligence Surveillance Court may not under this Act order—

**“(1) electronic surveillance of a United States person;**

**“(2) a physical search of a premises, information, material, or property used exclusively by, or under the open and exclusive control of, a United States person;**

**“(3) approval of the installation and use of a pen register or trap and trace device to obtain information concerning a United States person;**

**“(4) the production of tangible things (including books, records, papers, documents, and other items) concerning a United States person; or**

**“(5) the targeting of a United States person for the acquisition of information.**

“(c) LIMITATION ON USE OF INFORMATION CONCERNING UNITED STATES PERSONS.—

“(1) DEFINITION OF AGGRIEVED PERSON.—In this subsection, the term ‘aggrieved person’ means a person who is the target of any surveillance activity under this Act or any other person whose communications or activities were subject to any surveillance activity under this Act.

“(2) IN GENERAL.—Except as provided in paragraph (3), any information concerning a United States person acquired under this Act shall not be used in evidence against that United States person in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation.

“(3) USE BY AGGRIEVED PERSONS.—An aggrieved person who is a United States person may use information concerning such person acquired under this Act in a criminal, civil, or administrative proceeding or as part of a criminal, civil, or administrative investigation.

“(d) WARRANTS.—An officer of the United States seeking to conduct electronic surveillance, a physical search, installation and use of a pen register or trap and trace device, production of tangible things, or targeting for acquisition of information with respect to a United States person as described in subsection (b) may only conduct such activities pursuant to a warrant issued using the procedures described in the Federal Rules of Criminal Procedure by a Federal court other than the Foreign Intelligence Surveillance Court.”

(2) CLERICAL AMENDMENT.—The table of contents preceding section 101 is amended by adding at the end the following:

“TITLE IX—LIMITATIONS

“Sec. 901. Limitations on authorities to surveil United States persons and on use of information concerning United States persons.”

(b) LIMITATION ON SURVEILLANCE UNDER EXECUTIVE ORDER 12333.—

(1) DEFINITIONS.—In this subsection:

(A) AGGRIEVED PERSON.—The term ‘aggrieved person’ means a person who is the target of any surveillance activity under Executive Order 12333 (50 U.S.C. 3001 note; relating to United States intelligence activities) or any other person whose communications or activities were subject to any surveillance activity under such Executive Order.

(B) PEN REGISTER; TRAP AND TRACE DEVICE; UNITED STATES PERSON.—The terms ‘pen register’, ‘trap and trace device’, and ‘United States person’ have the meanings given such terms in section 901 of the Foreign Intelligence Surveillance Act of 1978, as added by subsection (a).

(2) LIMITATION.—Except as provided in paragraph (3), any information concerning a United States person acquired under Executive Order 12333 (50 U.S.C. 3001 note; relating to United States intelligence activities) shall not be used in evidence against that United States person in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation.

(3) USE BY AGGRIEVED PERSONS.—An aggrieved person who is a United States person may use information concerning such person acquired under Executive Order 12333 in a criminal, civil, or administrative proceeding or as part of a criminal, civil, or administrative investigation.

Mr. PAUL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BLUMENTHAL. I ask unanimous consent that the order for the quorum call be rescinded.

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

VOTE ON AMENDMENT NO. 1586

Mr. BLUMENTHAL. Mr. President, I ask that the question be called on the vote.

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

The question is on agreeing to the Paul amendment.

Mrs. FISCHER. 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 bill clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Arizona (Ms. MCSALLY), and the Senator from Nebraska (Mr. SASSE).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted “nay” and the Senator from Arizona (Ms. MCSALLY) would have voted “nay.”

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

The PRESIDING OFFICER (Mrs. FISCHER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 11, nays 85, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—11

Blackburn	Kennedy	Paul
Braun	Lee	Scott (FL)
Cruz	Moran	Sullivan
Daines	Murkowski	

NAYS—85

Baldwin	Gillibrand	Reed
Barrasso	Graham	Risch
Bennet	Grassley	Roberts
Blumenthal	Harris	Romney
Blunt	Hassan	Rosen
Booker	Hawley	Rounds
Boozman	Heinrich	Rubio
Brown	Hirono	Schatz
Burr	Hoeven	Schumer
Cantwell	Hyde-Smith	Scott (SC)
Capito	Inhofe	Shaheen
Cardin	Johnson	Shelby
Carper	Jones	Sinema
Casey	Kaine	Smith
Cassidy	King	Stabenow
Collins	Klobuchar	Tester
Coons	Lankford	Thune
Cornyn	Leahy	Tillis
Cortez Masto	Loeffler	Toomey
Cotton	Manchin	Udall
Cramer	Markey	Van Hollen
Crapo	McConnell	Warner
Duckworth	Menendez	Warren
Durbin	Merkley	Whitehouse
Enzi	Murphy	Wicker
Ernst	Murray	Wyden
Feinstein	Perdue	Young
Fischer	Peters	
Gardner	Portman	

NOT VOTING—4

Alexander	Sanders
McSally	Sasse

The PRESIDING OFFICER. On this vote, the yeas are 11, the nays are 85.

Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is not agreed to.

The amendment (No. 1586) was rejected.

The PRESIDING OFFICER. The Senator from North Dakota.

UNANIMOUS CONSENT REQUEST—S. 849

Mr. CRAMER. Madam President, I rise today on behalf of the 74 fallen Vietnam veterans our government has forgotten known as the Lost 74.

On June 3 of 1969, the USS *Frank E. Evans* was participating in a training mission 100 miles from the Vietnam war combat zone, having been sent there in between combat missions; that is to say, neither coming nor going. During the night, the ship collided with an Allied aircraft carrier and sank, killing 74 sailors. Remember, this is just outside of the combat zone, between combat missions.

These 74 Vietnam veterans died in service to our country. The ship had served on several combat tours and had many more scheduled. The Vietnam Veterans Memorial on the National Mall here in Washington, DC, memorializes over 58,000 military members who paid the ultimate sacrifice during the Vietnam war by displaying their names on its wall.

People from around the world come to see the memorial and pay their respects to those who fought and died for the freedoms we all hold dear.

Yet, because of a technicality, the names of the Lost 74 sailors are excluded from the Vietnam Veterans Memorial. As requirements now stand, veterans must have perished in or on their way to a combat zone. Since the *Frank E. Evans* was participating in a practice exercise in between stints in fighting off the Vietnam coast, the names of these sailors have been left off of the wall.

Imagine that. These sailors, deployed overseas in the service of our Nation—they left their homes, their families, their friends, and their loved ones on behalf of our Nation. They paid the ultimate sacrifice, like every other man and woman who was lost. Yet their names have been left off the iconic memorial constructed in their honor. As a parent, I can't imagine the pain that some of these families must have felt.

I first learned of this injustice during a talk radio townhall in 2018, when a family member of Fargo resident and *Frank E. Evans* survivor Dick Grant called in to the program.

After hearing his story, I learned about one of his shipmates, Robert Searle, a fellow North Dakotan from Grand Forks, who was also on board the ship and perished in the accident. Robert enlisted in the Navy Reserves in 1967 and reported to the *Frank E. Evans* in May of 1968. Later that year, he married his wife, Thelma.

Robert was on watch in the forward fire room with three other men when the collision occurred. All four were killed. His twin sons were just 4 months old.

North Dakota paid a great price when the USS *Frank E. Evans* sunk. Yet my State does not grieve alone.



The Lost 74 encompasses sailors from 29 different States, and the bill before us today represents that diversity, spanning the political aisle.

Before I ask for unanimous consent, I would like to yield some time to the distinguished Senator from New York, the Democratic leader.

Mr. SCHUMER. Madam President, I will be brief because I know my colleagues wish to join in this wonderful activity here to try and get good recognition.

I join my colleague from North Dakota in strong support of a cause near and dear to my heart: the effort to add the names of 74 sailors to the Vietnam War Memorial who perished in a training accident that sunk the USS *Frank E. Evans* in June of 1969.

As my friend from North Dakota explained, the names of the 74 who died on the USS *Frank E. Evans* have been omitted because they died just outside of the combat zone, but they had seen the heat of battle in Vietnam. The USS *Frank E. Evans* had been part of the Tet offensive and was scheduled to return to the combat zone before sinking.

That these men's lives ended in the tragedy of a training accident rather than in the line of fire makes no difference in the final analysis. They went off to war and laid down their lives in the service of the country they loved.

I was fortunate to know Larry Reilly, Sr., of Syracuse, NY—known to us as Chief Reilly, who was serving on the *Frank E. Evans* alongside his son, Larry Reilly, Jr., on that fateful day in 1969. Larry Sr. survived that day. Junior did not.

For the rest of his life, Chief Reilly petitioned his country to give his son and his fellow shipmates the very least it could give to them—due recognition.

I sat in Chief Reilly's living room, and I have sat on Maryann Buettner's back porch and listened to her tell me all about her son, Terry Lee Henderson, who had also seen combat in Vietnam and also died in that awful accident.

Chief Reilly passed away 2 years ago this month, but his cause does not die with him. These were living, breathing boys who lost their lives wearing the uniform of this great country. To inscribe their names on a memorial is but a small measure of peace for the families they left behind, the rightful act of a nation that recognizes the sacrifices of all its sons.

I yield to my colleague from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I am here to add my voice to the eloquence of both Senator CRAMER and Senator SCHUMER about the need to recognize those people who were lost on the *Frank E. Evans*.

We had two sailors from New Hampshire who were lost that day: Ronald Arthur Thibodeau of Manchester, NH, joined the Navy in 1967, and he was assigned to the *Frank E. Evans* as radar-

man. Ron was on watch during the collision, and he was lost at sea, leaving behind a young son.

And Gary Joseph Vigue, of Farmington, NH, was also on watch that night during the fatal collision. Gary had married his high school sweetheart a few weeks before he reported to the *Frank E. Evans* in 1968. Gary also left behind a young son and his two brothers who still live in New Hampshire.

These two men, Gary and Ron, gave their lives for this country. These men were supporting operations during the Vietnam war, and they were planning to return to Vietnam waters once the training exercise was over. So, just like all those other people who were lost in Vietnam, they gave their lives for this country. And just because they were outside some artificially designated combat zone doesn't mean they shouldn't be recognized in the same way the others who were lost in Vietnam have been recognized.

Now, this is May, the month of May. Memorial Day is approaching, a day during which our Nation honors the men and women who have died while serving in the U.S. military. As we recognize the sacrifices of our fellow Americans, I think it is appropriate that the Senate take up and pass the U.S.S. *Frank E. Evans* Act, legislation I am honored to cosponsor with my colleague Senator CRAMER from North Dakota because it is legislation that will ensure the 74 men—those Lost 74—are rightfully honored by adding their names to the Vietnam War Memorial.

I urge my colleagues to support this measure. I thank the Presiding Officer and Senator CRAMER for this effort to ensure that the Lost 74 are recognized.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CRAMER. Madam President, whether North Dakotans, Granite Staters, or New Yorkers, these stories are very moving.

When I first heard from Mr. Grant's family, I was a Member of the House of Representatives. I looked into his request and introduced an amendment to the 2018 National Defense Authorization Act to inscribe the names of the Lost 74.

While the measure unanimously passed the House, it was blocked here in the Senate. So, when I came to the Senate last year, introducing this legislation was one of my very first actions and high priorities.

And I have had some success. We have 20 cosponsors—10 Republicans and 10 Democrats—including the chairman and the ranking Democrat on the subcommittee that has jurisdiction. When Members from Montana to Maine, North Dakota to New Hampshire, and New York can come together on an issue as important as honoring the fallen sailors, I would hope this would garner some attention—and it has. It has.

Last summer, the U.S.S. *Frank E. Evans* Act received its first-ever hearing before a Senate Energy Subcommittee. I thank the chairman and

my colleague from Alaska for providing the opportunity for the story of these sailors to be heard.

It was there when I first heard opposition to the bill, however. I have yet to hear any real opposition to the legislation voiced by anyone except the bureaucrats and special interests that would actually be charged with carrying it out. In other words, nobody objects to this except the people who would have to do something about it, and that is a common theme in this town, I have noticed.

For example, the Acting Director of the National Park Service said of the bill: "If passed, it would necessitate substantial modification of the Vietnam Veterans Memorial wall as it exists today." No kidding. Of course it does. That is the point of the bill.

The idea that we should continue to turn a blind eye to forgotten veterans because the work would be substantial is offensive. It is certainly offensive to the shipmates and the families and the survivors of the Lost 74.

Forgive my lack of sympathy for bureaucrats who feel inconvenienced by the death of 74 war heroes. The country that landed man on the Moon the very same year that this accident happened certainly can figure out how to fix a wall to honor these war dead. More to the point, shouldn't we be looking for more ways to honor our fallen rather than fewer?

The opposition's argument simply does not add up. Since the wall was built, hundreds of names have been added, and more work still needs to be done. According to the Washington Post, one soldier's name was etched three times. Thirteen soldiers had their names etched twice. While the wall bears 58,390 names, they represent 58,276 different people. The Vietnam Veterans Memorial Fund, which is responsible for the wall, conducted a study which showed that flaws exist with names etched in the memorial. To think that we would not add the names of the Lost 74 when we know corrections already need to be made seems counterintuitive, if not downright lazy.

Yet, despite all of this, despite the veterans being forgotten, despite this legislation being sent here twice by the House, despite a successful hearing on the bill, progress in the Senate has stalled. That is why my colleagues and I have asked the Department of Defense to address this issue as well.

The Department has a mixed, if not negative, record with this issue. They tell you what you want to hear until you go away and hope you never come back. Similar to this body, we have been met with complete silence—not a yes, not a no, not a maybe, not a suggestion to make the proposal better.

We find their silence unacceptable; therefore, I am going to ask for unanimous consent to pass the *Frank E. Evans* Act. The Lost 74, their loved ones, and their shipmates have waited long enough. No matter how it can be spun, the choice before this Chamber is

to give the veterans the recognition they deserve or to stand in their way.

Madam President, with that, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of S. 849 and the Senate proceed to its immediate consideration. I ask unanimous consent that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Ms. MURKOWSKI. Madam President, reserving the right to object, I have the honor to serve as the chairman of the Energy and Natural Resources Committee, which does have jurisdiction over S. 849, the U.S.S. Frank E. Evans Act, but in that capacity as chairman, I now have the unenviable position of having to rise to register an objection at this moment.

I want it to be clear to my colleague from North Dakota, my colleague from New Hampshire, my colleague from New York, and all of those for whom this is a measure on which they are seeking this legislative endorsement—know that I have the absolute highest regard for the men and women who serve our country and the sacrifices they have made for all of us.

As the Senator from New Hampshire just mentioned, as we approach Memorial Day, I think what we seek to do is to try to find ways to honor more of those who have served our great Nation and a recognition that those who lost their lives on the *Frank E. Evans* deserve a form of recognition—a recognition of all those who lost their lives in Vietnam. The story that has been relayed by colleagues here of the USS *Frank E. Evans* is truly one of the most tragic that occurred during the Vietnam war. I am absolutely sympathetic. I have had these discussions with my colleague Senator CRAMER. I appreciate the efforts that he is making now and that he has made prior to his time here in the Senate to recognize these sailors who gave their lives in the incident.

The reality that we face in the Energy and Natural Resources Committee—again, we are the committee of jurisdiction, as we have the oversight of the National Park Service. But it is not the National Park Service that determines what or who is eligible for inscription on the wall. It is the Department of Defense that is responsible for determining whether members' names are eligible for inscription. This is based on very specific criteria that is set not by those of us here in Congress, not by those of us on the Energy Committee; it is set specifically by the Department of Defense.

As has been raised here on the floor, the criteria do not allow or accommodate the timing. The Evans sailors do not meet the eligibility criteria the DOD has set out because it was not in the defined combat zone of Vietnam at the time of the 1969 mishap.

I agree with my colleagues that it is indeed unfortunate that we have this designation, this eligibility criteria that has left the honor that is due these sailors open and unaddressed. It is unfortunate that we are here today and that I stand left in a position to object despite the efforts that my staff on the Energy and Natural Resources Committee and I have made to work with Senator CRAMER, work with his team, work with DOD to find an approach that we should all be able to agree on to memorialize these sailors.

As we are looking for that path, I do stand to object to discharging this bill from the committee, but I will make this commitment: This is a matter that must be addressed. It is long overdue. We will find a way to honor these sailors. But at this juncture, there remain practical, legal, and technical considerations we have to resolve with the text with regard to the effort that my colleague from North Dakota is offering today. At this time, I would like to note my objection.

The PRESIDING OFFICER (Mr. YOUNG). Objection is heard.

The Senator from North Dakota.

Mr. CRAMER. Mr. President, if I might address a couple of things, first of all, we are here to change legal objections. That is why we are the legislative branch. We are the policymaking branch. The Department of Defense, with as much respect as I have for them and particularly for the Secretary—they work for us. We don't work for them.

I appreciate the commitment of the chairman. I look forward to working with her and the committee on getting to a markup and passing the legislation so that we don't have to submit ourselves to the bureaucracy but, rather, can get things turned around to where the bureaucracy submits itself to the legislative branch.

I thank the President, and I thank my colleagues from New York and New Hampshire and certainly the chairwoman of the Energy Committee and look forward to working on a resolution soon.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. DUCKWORTH. Mr. President, I ask unanimous consent to begin the vote immediately.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Ms. DUCKWORTH. Mr. President, 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 legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Arizona (Ms. MCSALLY), and the Senator from Nebraska (Mr. SASSE).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea" and the Senator from Arizona (Ms. MCSALLY) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 16, as follows:

[Rollcall Vote No. 92 Leg.]

#### YEAS—80

Barrasso	Gardner	Peters
Bennet	Gillibrand	Portman
Blackburn	Graham	Reed
Blumenthal	Grassley	Risch
Blunt	Harris	Roberts
Booker	Hassan	Romney
Boozman	Hawley	Rosen
Braun	Hoeven	Rounds
Capito	Hyde-Smith	Rubio
Cardin	Inhofe	Schumer
Carper	Johnson	Scott (FL)
Casey	Jones	Scott (SC)
Cassidy	Kaine	Shaheen
Collins	Kennedy	Shelby
Coons	King	Sinema
Cornyn	Klobuchar	Smith
Cortez Masto	Lankford	Stabenow
Cotton	Leahy	Sullivan
Cramer	Lee	Thune
Crapo	Loeffler	Tillis
Cruz	Manchin	Toomey
Daines	McConnell	Van Hollen
Duckworth	Menendez	Warner
Enzi	Moran	Whitehouse
Ernst	Murkowski	Wicker
Feinstein	Murphy	Young
Fischer	Perdue	

#### NAYS—16

Baldwin	Hirono	Tester
Brown	Markey	Udall
Burr	Merkley	Warren
Cantwell	Murray	Wyden
Durbin	Paul	
Heinrich	Schatz	

#### NOT VOTING—4

Alexander	Sanders
McSally	Sasse

The bill (H.R. 6172), as amended, was passed.

The PRESIDING OFFICER. The Senator from Wisconsin.

#### MORNING BUSINESS

Mr. JOHNSON. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

The PRESIDING OFFICER. The Senator from Minnesota.