than dark money in political campaigns, it is dark money around courts, and that is the problem we face right now, and that is what requires looking into.

The PRESIDING OFFICER. Is there objection?

The Senator from Montana.

Mr. DAINES. Mr. President, reserving the right to object, I have already made my remarks about the hypocrisy on this issue of dark money.

I think it is also worth pointing out that it was a very different situation in 2016, when Merrick Garland was nominated by President Obama. In every White House controlled by one party and the U.S. Senate by another, the President of the Senate, going back to 1888—in an election year when both the Senate and the Presidency are controlled by the same party, you move forward; when not, you don't.

That is exactly what we did. We had an election in 2016. President Trump won, and here we are in 2020 with Republicans controlling the Senate, and the White House began to move forward.

So with that, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I would just add, that was not what Senator DAINES or anybody else on the Republican side said at the time. I was here at the time, and what was said at the time, particularly by Senator DAINES is ''I don't think it's right to bring a nominee forward in an election year''—not when the party's control is split in one way or another. ''I don't think it's right to bring a nominee forward in an election year'' because the American people should have their voice ''reflected.''

That has not changed. This new emphasis on the party difference is fundamentally the rule of ''because we can.'' If that is going to be the rule, if that is the rule that Republicans are prepared to adopt here—that what matters around here isn't precedent, isn't principle, isn't what is right, but is just because we can—then please don't feign surprise in the months and years ahead if we on the Democratic side follow that same rule that you are saying is the way to proceed today.

In the same way that it is at least ironic for Republicans to stand here complaining about dark money when it was the Republican Party that protected dark money here on the Senate floor, it will be equally ironic if the party should turn around later on and Democrats seek to use the measure of ''because we can,'' and you raise objections. You are basically here on the Senate floor forfeiting your right to make those objections in the way you are behaving on this nomination.

With that, I will yield the floor to Senator SCOTT.

The PRESIDING OFFICER (Mr. DAINES). The Senator from Florida.

Mr. SCOTT of Florida. Mr. President, I yield back.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, given the time, I will reserve the other unanimous consents I have. I understand that we are going to close, and we are close to that time. So I appreciate Senator SCOTT's coming to the floor to respond to those, but I yield back.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I will shortly ask to have a quorum call by noting the absence of a quorum, but before I do that, I wanted to point out just one issue of vocabulary, if you will, which is that the definition of ''court packing'' has actually two operative definitions on the Senate floor: One is to expand the number of judges; the other is to take advantage of existing vacancies and try to use them to change the balance of the courts and to put in judges who are predisposed to certain rulings.

That is, in fact, the meaning that Senator MCCONNELL gave to that term when he said that President Obama was seeking ''to pack the D.C. Circuit with appointees'' when he was filling vacancies; that Senator CORNYN used when he said President Obama wanted to ''pack the D.C. Circuit''; what Senator GRASSLEY used when he announced President Obama's ''efforts to pack'' the D.C. Circuit; and when Senator LEE of Utah accused President Obama of trying to ''pack the D.C. Circuit with unneeded judges simply in order to advance a partisan agenda.''

So when we describe all that has taken place across the last three nominations—all the procedural abnormalities, all the peculiarities of funding, all the odd political behavior on the other side, the 180-degree, tire-squealing reversals, all of that, we are actually following the vocabulary that you all used about the D.C. Circuit, just to be clear on that point.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DAINES:

S. Res. 758. A resolution expressing the sense of the Senate that the number of justices of the Supreme Court of the United States should remain at 9; to the Committee on the Judiciary.

By Mr. WHITEHOUSE:

S. Res. 759. A resolution expressing the sense of the Senate that dark money undermines the integrity of the judicial system and damages the perception that all people receive equal justice under law; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 3103

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. ROUNDS) was added as a cosponsor of S. 3103, a bill to amend title XVIII of the Social Security Act to restore State authority to waive for certain facilities the 35-mile rule for designating critical access hospitals under the Medicare program.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 758—EXPRESSING THE SENSE OF THE SENATE THAT THE NUMBER OF JUSTICES OF THE SUPREME COURT OF THE UNITED STATES SHOULD REMAIN AT 9

Mr. DAINES submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 758

Whereas the Act entitled An Act to amend the judicial system of the United States, approved April 10, 1869 (commonly known as the ''Judiciary Act of 1869'') (16 Stat. 44; chapter 22), states that ''the Supreme Court of the United States shall hereafter consist of the Chief Justice of the United States and eight associate justices'';

Where the Supreme Court of the United States has consisted of a Chief Justice and 8 associate Justices for 151 years;

Whereas previous attempts to increase the number of justices on the Supreme Court of the United States have been rejected and widely condemned by individuals of both political parties;

Whereas, in 1937, when former President Franklin Delano Roosevelt proposed the Judicial Procedures Reform Bill of 1937, a bill that sought to expand the number of justices on the Supreme Court of the United States from 9 justices to 15 Justices, he was harshly criticized by both parties and his own Vice President, John Nance Garner;

Whereas, the 1937 Senate Judiciary Committee report, in response to the Court-packing plan by President Roosevelt, decried the plan as ''a needless, futile, and utterly dangerous abandonment of constitutional principle'', that ''[i]ts ultimate operation would be to make this government one of men rather than one of law'' and that it was ''a measure, which should be so emphatically rejected that its parallel will never again be presented to the free representatives of the free people of America'';

Whereas, during the Trump Administration, Democrats have refused to recognize the legitimacy of nominations made by President Trump to the Supreme Court of the United States and have advocated for packing the Court with additional justices appointed by a future Democrat president;

Whereas, in 1983 during a Senate Judiciary Committee hearing, then-Senator Joe Biden noted that Court packing was a ''bonehead idea'' and ''a terrible, terrible mistake'' that ''put in question for an entire decade the independence of the most significant body—including the Congress, in my view—the most significant body in this country, the