in the CARES Act for all legislation. But I and Senator MURKOWSKI are going to scrub every piece of darn legislation that comes out of here, and we are going to start calling out people, asking: Why are you discriminating against tens of thousands of people in my State who are indigenous?

Wrong. It is inexplicable, and it is even in the darn bill to compete with China. And I sure hope my colleagues will work with me to start making sure this doesn't happen anymore.

I yield the floor.

## SIGNING AUTHORITY

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, I ask unanimous consent that Senators CORTEZ MASTO, CARDIN, and HICKENLOOPER be authorized to sign duly enrolled bills or joint resolutions from July 21, 2022, until July 25.

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

## ELECTORAL COUNT ACT WORKING GROUP

Mr. CARDIN. Madam President, for the past 6 months, I have been pleased to work with a bipartisan working group of about a dozen Senators for potential reforms of the Electoral Count Act and some related matters. I particularly want to thank our leaders of that bipartisan group, Senators COLLINS and MANCHIN, for organizing the group, keeping us focused on getting results, and leading to a process that has resulted in a positive outcome.

This week, we are unveiling our proposed legislation. Our legislation, the Electoral Count Reform and Presidential Transition Improvement Act of 2022 will reform and modernize the badly outdated 1887 ECA. In 1887, the Electoral Count Act was passed. It is in bad need of reform.

On July 18, 2022, the Wall Street Journal ran an editorial authored by former President Jimmy Carter and former Secretary of State Jim Baker, who had previously served as Chief of Staff for President Reagan. In this editorial they wrote:

> We stand on opposite sides of the partisan divide, but we believe it is better to search for solutions together than to remain divided. This is particularly true of a vexing problem that could wreak havoc during the 2024 presidential election: the inadequacy of the Electoral Count Act of 1887.
>
> The act is an antiquated, muddled and potentially unconstitutional law that allows uncertainty during a critical step in the peaceful transfer of power. . . . Weaknesses in the law started to become apparent after the 2000 election.

The editorial continues:

> In 2021, the ambiguities of that law helped lead to the violent assault on the U.S. Capitol as efforts were being made to toss out several states' slates of electoral votes. Fortunately, those efforts failed, and the rightful winners took office. But the threat of confusion remains. Left unclosed, loopholes in the act could allow a repeat of the same destructive path that occurred in 2021.

The Washington Post has written several editorials on this subject as well. The June 19, 2022, editorial in the Post entitled ''Fix the electoral count law now, before Trump tries to exploit it again'' reviewed the recent House committee hearings on the January 6 insurrection. The editorial wrote:

> The House committee investigating the Jan. 6, 2021, Capitol attack heard damning testimony detailing how President Donald Trump and a coterie of partisan lawyers advanced a dangerous argument: that the vice president has the legal authority to overturn a presidential election when Congress meets to count electoral college votes. Trump official after Trump official testified that they knew it was wrong. John Eastman, a lawyer who advocated for the theory, acknowledged as much in front of Mr. Trump on January 4, according to testimony from Greg Jacob, who was Vice President Mike Pence's general counsel. But Mr. Trump and his allies nevertheless waged a relentless public campaign to pressure Mr. PENCE to betray the Nation's democracy. Belief in this antidemocratic nonsense spurred the January 6 mob, which infamously chanted, ''Hang Mike Pence.''

The Post editorial continued:

> Americans went most of their history without having to worry seriously about arcane electoral college procedures. Even in closely fought, acrimonious presidential elections, losing candidates accepted their defeats with grace rather than seeking the vulnerabilities in the law to exploit. The country no longer has that luxury. Congress should have no higher priority than fixing the electoral college process.

The recommendations that are coming out of this bipartisan group would do just that—fix the Electoral Count Act.

I want to thank the work of the American Law Institute, which convened a bipartisan working group to consider possible ECA reforms. In particular, I want to thank cochairs Bob Bauer and Jack Goldsmith for their contributions to our efforts. I also want to thank the staff at Protect Democracy for their suggestions and work here.

Our legislation aims to ensure that Congress can accurately and correctly tally the electoral votes cast by the States, which should be consistent with each State's popular vote for President and Vice President of the United States. Our legislation clarifies some of the ambiguities in terms of the appropriate State and Federal roles in selecting the next President and Vice President of the United States as set forth in the U.S. Constitution.

In our constitutional system, election law, like many other areas of law, involves shared powers between the Federal Government on the one hand and State and local governments on the other. Article I, section 4 of the Constitution provides:

> The Times, Places, and Manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof.

That clause of the Constitution continues by concluding:

> But the Congress may at any time [by law] make or alter such Regulations.

We have the power here, and that is what the Electoral Count Act is about.

Article II, section 1 of the Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

The Constitution also provides:

> The Congress may determine the Time of choosing of the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

The 12th Amendment to the Constitution, ratified in 1804, sets out a framework for Congress to tally and count the electoral votes from the States. Congress later passed the Electoral Count Act, the ECA, in 1887, in the aftermath of a contested Hayes-Tilden Presidential election of 1876 in which States sent competing slates of electors to Congress.

Our legislation takes several key steps to modernize the ECA and reduce the opportunity for constitutional mischief when it comes to Congress properly counting the electoral votes of the States.

First, the legislation helps to make it easier for Congress to identify a single, conclusive slate of electors from each State. The legislation requires each State's Governor as responsible for submitting the certificate of ascertainment identifying that State's electors. A State may designate another individual besides the Governor to carry out this function, such as the Secretary of State, if such an individual is named before the election day itself.

Again, the State executive official reporting their electoral votes to Congress must do such ''under and in pursuance of the laws of such State providing for such ascertainment enacted prior to election day.''

Our legislation, therefore, seeks to avoid circumstances in which a State attempts to change the rules after election day due to political pressure that may arise if a particular favored candidate loses the election.

Congress could not accept a slate of electors from an official not authorized to do so by State law enacted prior to election day. Our legislation provides that States following these rules will have their appointments of electors treated as conclusive by Congress subject to any subsequent State or Federal judicial relief granted prior to the date of the meeting of electors.

Our legislation states that the determination of the Federal courts shall be conclusive on questions arising under the Constitution or laws of the United States.

Second, the legislation modernizes the ''failed election'' language in the ECA to specify that a State could modify its period of voting on election day only as necessitated by ''extraordinary

and catastrophic'' events ''as provided under the laws of the State enacted prior to [the election day].''

This provision makes it clear, if a State legislature tries to override the popular vote in their State, that that would not be allowed.

Third, the legislation provides for the expedited judicial review of certain claims relating to a State's certificate identifying its electors. We have limited this special judicial review in our legislation to only be available to the aggrieved Presidential candidates. This special procedure allows for challenges made under Federal law and the U.S. Constitution to be resolved more efficiently by using a special three-judge panel with a direct and timely appeal to the U.S. Supreme Court.

Fourth, the legislation makes clear that the Vice President has a purely ministerial role in the joint session of Congress to count the States' electoral votes. In particular, our legislation states that the Vice President does not have the power to solely determine, accept, reject, or otherwise adjudicate disputes over electors. That specifically includes objections over the proper list of electors, the validity of electors, or the votes of the electors.

President Trump pressured the Vice President to use this illegal method in order to overturn the 2020 election results. Ultimately, this effort was rejected by Vice President Pence, in his capacity as President of the Senate, as he presided over the January 6, 2021, joint session.

Fifth, our legislation increases the threshold needed to lodge an objection to electors from one Senator and one Representative to one-fifth of the duly chosen and sworn Members of both the House and the Senate. Similarly, article I, section 5 of the Constitution provides ''the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those present, be entered on the Journal.''

This will reduce the risk and likelihood of frivolous objections being lodged, which requires a lengthy debate and vote in the separate Houses. The House has to vote separately; the Senate has to vote separately; and it takes a lot of time. For example, on January 6, 2021, the Senate voted to reject, by a vote of 6 to 93, the objection against the electors of Arizona and voted 7 to 92 on the objections raised as to the electors from Pennsylvania.

Sixth, our legislation clarifies that, if electors are not lawfully appointed or if an objection is sustained by Congress rejecting electors as not lawfully appointed, those electors would not be included in the denominator for determining the majority of the whole number of electors appointed.

That means we can reach a decision on the day that we count the votes.

The main focus of our work over the past 6 months has been on this sorely needed reform in the ECA, but our working group came up with a number of bipartisan reforms on some other matters related to elections.

The Presidential Transition Improvement Act would help promote the orderly transfer of power between Presidential administrations. As we saw in 2020, the failure of a timely ascertainment of the winner by the Administrator of the U.S. General Services Administration and the uncooperative attitude of the Trump administration led to a delay in providing transition resources to the incoming Biden administration. This legislation provides clearer guidelines for eligible candidates for President and Vice President to receive Federal resources to support their transitions, including allowing more than one candidate to receive these resources during the time period when the outcome of an election is in reasonable doubt.

The Postal Service Election Improvement Act seeks to improve the handling of mail-in ballots by the U.S. Postal Service and provides guidance and best practices to the States to improve their mail-in ballot processes if State law allows.

The Election Assistance Commission Reauthorization Act would reauthorize the Election Assistance Commission for 5 years. The EAC administers grants to States and develops nonbinding guidance and best practices for election officials in various areas, including cyber security, election audits, and voting accessibility.

What this legislation does not include is any substantive provision to strengthen voting rights in this country, which is desperately needed, and I am sorely disappointed by that omission. Our Nation has a long history of bipartisan work on voting rights issues. I repeatedly raised voting rights issues with our larger group as well as with our smaller subgroup on voting practices.

Let me take a moment to remind my colleagues of our voting rights history.

The Voting Rights Act of 1965 was approved by a broad bipartisan vote of 328 to 74 in the House and by a vote of 79 to 18 in the Senate, and Congress had a long bipartisan track record of clarifying its intent in response to restrictive Supreme Court decisions—that is, until recently.

In 1982, Congress amended section 2 of the Voting Rights Act after the Mobile v. Bolden decision in which the Supreme Court interpreted section 2 as prohibiting only purposeful discrimination. That was very restrictive, making the Voting Rights Act much less effective. Congress responded to that decision by clarifying that section 2 explicitly bans any voting practice that had a discriminatory result irrespective of whether the practice was enacted or operated for a discriminatory purpose. The 1982 amendments—these are the amendments that corrected the Supreme Court's restricted decision—passed the House by a vote of 389 to 24 and the Senate by a vote of 85 to 8. They were signed into law by President Reagan, a bipartisan action.

Over 20 years later, Congress acted to address two Supreme Court rulings to clarify congressional intent regarding section 5 of the Voting Rights Act. This reauthorization passed 390 to 33 in the House and 98 to 0 in the Senate. It was signed into law by President George W. Bush—again, a bipartisan action.

So, after the Supreme Court's decision in Shelby County v. Holder in 2013 and after Brnovich in 2021, Congress should have acted to clarify the intent of the Voting Rights Act, but it didn't, and now we are faced today with totally unnecessary partisan gridlock on voting rights. We saw this gridlock play out this January when the Senate refused to even take up and debate the Freedom to Vote: John R. Lewis Act.

Let me mention one section of the VRA in particular. Section 2 of the Voting Rights Act protects against discriminatory voting laws. It prohibits any jurisdiction from implementing a ''voting qualification or prerequisite to voting, or standard, practice, or procedure . . . in a manner which results in a denial or abridgement of the right . . . to vote on account of race,'' color, or language minority status.

For nearly 40 years, case law has interpreted section 2 to combat racial discrimination without partisan favor. Prior to the Brnovich case, the Supreme Court and several circuit courts had adopted a standard to ensure the effective implementation of these provisions consistent with the text and purpose of the Act as amended in 1982.

The Brnovich decision deviated from congressional intent behind section 2. The Court adopted an unduly narrow reading of section 2 and went beyond the statutory interpretation by courts for decades by outlining five new guideposts. The decision is not tethered to the statutory text and is inconsistent with the statute's purpose and historical usage.

It wasn't the first time the Court narrowed our law, but in previous efforts, we came together, Democrats and Republicans, to make sure that the Voting Rights Act was effective. So I am disappointed that we could not make progress in our working group to address the needed fix to section 2.

We should have also looked at the issue of the right of private action. Since the Voting Rights Act's enactment in 1965, Congress has intended that voters be able to sue directly to enforce the Voting Rights Act rather than depend entirely upon the U.S. Department of Justice, which has finite resources to protect voting rights.

I want to thank my colleague Senator MURKOWSKI for consistently raising this issue.

The Voting Rights Act's private right of action is settled law as Congress has repeatedly noted in its Voting Rights Act's amendments.

Even though the private right of action is clear and settled law, our group should have removed any ambiguity about its intent by proposing language making it more explicit the statute's existing right for private action. Just

as we resolved ambiguities in the ECA and its potential misinterpretation, we should have done the same with this critical right of private action under the Voting Rights Act—a missed opportunity.

As a recent report from the Brennan Center points out, State legislatures have been working to make it harder to vote after the 2020 elections, even after witnessing record turnout during the pandemic. The Brennan Center wrote that in 2022:

[S]tate lawmakers, who spent 2021 passing laws that made it harder to vote, have focused more intently on election interference, passing nine laws that could lead to tampering with how elections are run and how results are determined.

Election interference laws do two primary things. They open the door to partisan interference in elections, or they threaten the people and processes that make elections work. In many cases, these efforts are being justified as measures to combat baseless claims of widespread voter fraud and a stolen 2020 election.

The Brennan Center noted that in many of these same State legislatures, lawmakers have continued to introduce or enact laws that restrict access to the vote. Legislation is categorized as restrictive if it would make it harder for eligible Americans to register, stay on the rolls, and/or to vote as compared to existing State law.

Free and fair elections are fundamental to who we are as a nation. For this reason, I strongly support the bipartisan working group's proposal to reform and modernize the ECA. As we saw in the 2020 elections, different interpretations of the Electoral Count Act can lead down a dangerous path to another January 6-style insurrection, when former President Donald Trump and his enablers attempted to overturn a free and fair election won by President Joe Biden.

Congress's work will not be complete when we pass this bipartisan proposal. We still must take up and pass voting rights legislation in order to safeguard the right to vote, which should be a right guaranteed to all Americans, regardless of their race, wealth, or social status.

I yield the floor.

The PRESIDING OFFICER (Mr. HICKENLOOPER). The Senator from Maryland.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations en bloc: Calendar Nos. 1045, 1046, 1047, 1049, 1057, 1058, and all nominations on the Secretary's desk in the Foreign Service; that the Senate vote on the nominations en bloc without intervening action or debate; that the motions to reconsider be considered made and laid upon the table; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's actions; and that the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nominations of Leslie N. Bluhm, of Illinois, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2023; Lisette Nieves, of New York, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2022; Lisette Nieves, of New York, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2027. (Reappointment); Deborah R. Coen, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 2028; Enix Smith III, of Louisiana, to be United States Marshal for the Eastern District of Louisiana for the term of four years; Adair Ford Boroughs, of South Carolina, to be United States Attorney for the District of South Carolina for the term of four years; PN1948 FOREIGN SERVICE nomination of Sara C. Schuman, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of April 7, 2022; and PN1949 FOREIGN SERVICE nominations (3) beginning Alyce Camille Richardson, and ending Diane Jones, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 7, 2022, en bloc?

The nominations were confirmed en bloc.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

## SUPPORTING THE GOALS AND IDEALS OF COUNTERING INTERNATIONAL PARENTAL CHILD ABDUCTION MONTH

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 411, S. Res. 568.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 568) supporting the goals and ideals of ''Countering International Parental Child Abduction Month'' and expressing the sense of the Senate that Congress should raise awareness of the harm caused by international parental child abduction.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations.

Mr. CARDIN. Mr. President, I know of no further debate on the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 568) was agreed to.

Mr. CARDIN. Mr. President, I further ask that the preamble be agreed to and that the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

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

The preamble was agreed to.

(The resolution, with its preamble, is printed in the RECORD of March 30, 2022, under ''Submitted Resolutions.'')

## RECOGNIZING, HONORING, AND COMMENDING THE WOMEN OF UKRAINE WHO HAVE CONTRIBUTED TO THE FIGHT FOR FREEDOM AND THE DEFENSE OF UKRAINE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 412, S. Res. 589.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 589) recognizing, honoring, and commending the women of Ukraine who have contributed to the fight for freedom and the defense of Ukraine.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the resolving clause and insert the part in italic, and with an amendment to strike the preamble and insert the part printed in italic, as follows:

S. RES. 589

*Whereas, on February 24, 2022, Russian Federation President Vladimir Putin instigated an unprovoked, unjustified, and unlawful war violating the territorial integrity of the sovereign country of Ukraine;*

*Whereas, in response to this invasion, the people of Ukraine marshaled their will to defend their country and shared belief in a sovereign Ukraine in order to resist the imperialist ambitions of Vladimir Putin;*

*Whereas countless Ukrainian men, women, and children have done their part to defend democracy and freedom in Ukraine;*

*Whereas women have played a key role in defending Ukraine, keeping their families and innocent children safe and responding to the invasion by the Russian Federation;*

*Whereas, in the first 3 months of fighting in Ukraine, more than 6,100,000 Ukrainians, of which the majority are women and children, fled the country in response to Putin's war;*

*Whereas women play a critical role in facilitating the transit of children to safety, including by escorting the children of parents and guardians who cannot leave Ukraine so that such children are able to find safety in neighboring countries;*

*Whereas the women who remain in Ukraine contribute to all aspects of warfighting, including by fighting on the front lines and as part of the territorial defense, delivering supplies and weapons, and preparing cities for assaults by the Russian Federation;*

*Whereas between 15 and 17 percent of the armed forces of Ukraine are women;*