

and Proper Clause in *McCulloch v. Maryland*.

. . . [t]his provision is made in a constitution, intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.

McCulloch v. Maryland was decided in 1819. So the idea that we should merely consider the state of our society when we interpret the Constitution isn't new, it is old. It is very old. In fact, it is arguably older than the Senate Chamber we are standing in, which first opened in 1859.

Professor Liu's detractors have also accused him of believing that judges may "legitimately invent constitutional rights to a broad range of social 'welfare' goods, including education, shelter, subsistence, and health care." That is the accusation. This argument is based on an article Professor Liu wrote in 2008.

But if you actually read the article, you will find this statement right in the introduction. This is a quote from the article:

[B]ecause the existence of any welfare right depends on Democratic instantiation of our shared understandings, the Judiciary is generally limited to an interstitial role within the context of a legislative program. Courts do not act as 'first movers' in establishing welfare rights . . .

In other words, Professor Liu is being accused of saying judges can invent welfare rights because of an article he wrote where he said judges cannot invent welfare rights.

The final point I wish to address is the idea that Professor Liu somehow supports "using foreign law to redefine the Constitution." Professor Liu's critics cite an obscure speech he gave at a Japanese law school 5 years ago. According to his critics, he said in this speech that it is "difficult for him to grasp how anyone could resist the use of foreign authority in American constitutional law."

I went and got a copy of the speech. If you read it, you will see that Professor Liu was referring to a series of Supreme Court decisions written by Justice Anthony Kennedy, where Justice Kennedy reviewed the laws of foreign countries on certain issues. Justice Kennedy didn't use the laws of foreign countries to decide the cases before him, he used them to get a sense of how other countries were resolving the legal issues before him.

Professor Liu was basically saying he found it difficult to grasp how people could disagree with Justice Kennedy. He has repeatedly said in his testimony, under oath, that he does not believe that foreign law should be binding in any way on Federal law.

There are other critiques against Professor Liu that I will not go into further, but I urge my colleagues to dig behind these blanket statements. To paraphrase Gertrude Stein, I think you will find there is no there there.

I think what my colleagues will find is an extraordinary intellect, a fundamentally decent man, and someone

who will be a strong and impartial jurist. I urge my colleagues to vote for cloture and to vote to support his nomination.

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.

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

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

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent we now proceed to a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

TRIBUTE TO BRIGADIER GENERAL STEPHEN R. HOGAN

Mr. MCCONNELL. Madam President, I rise today to congratulate a friend of mine who is a valued servant to the people of Kentucky, BG Stephen R. Hogan. On March 12 of this year, the former colonel had his promotion ceremony to the rank of brigadier general. This promotion to general is a very special accomplishment, as very few career officers in our Armed Forces ever reach the general rank.

This promotion is well deserved for all that Brigadier General Hogan has done for his country. Serving as the assistant adjutant general for the Kentucky Army National Guard, he is responsible to the adjutant general for balancing the requirements of readiness, modernization, force structure, and sustainment of the National Guard for mobilization and domestic missions.

Brigadier General Hogan's significant duty assignments include tours with the 101st Airborne Division (Air Assault), Fort Campbell, KY; the 6th Infantry Division Light, Fort Richardson, AK; the Army Operations Center, the Pentagon; and with the Multi-National Corps Iraq based in Baghdad, Iraq. When not serving on Federal active duty, he has served in the Kentucky Army National Guard as an active-duty guardsman with the State's Counter-Drug Unit, and \$11 billion worth of illegal marijuana has been eradicated during his service.

Brigadier General Hogan's awards, medals and decorations include the Meritorious Service Medal, with three Bronze Oak Leaf Clusters; the Army Commendation Medal, with one Bronze Oak Leaf Cluster; the Army Reserve Components Achievement Medal, with one Silver Oak Leaf Cluster; the National Defense Service Medal; with one Bronze Service Star; the Iraq Campaign Medal; the Global War on Ter-

rorism Service Medal; the Armed Forces Reserve Medal, with "M" Device and Silver Hourglass; the Army Service Ribbon, the Overseas Service Ribbon; the Master Parachutist Badge; the Pathfinder Badge; the Air Assault Badge; the Kentucky Merit Ribbon; the Kentucky Service Ribbon, with three Oak Leaf Clusters; and the Kentucky Counter Drug Ribbon.

Despite all this accomplishment, at his promotion ceremony, Brigadier General Hogan said, "All I ever wanted to do in life is be a professional soldier." Well, we in Kentucky are certainly glad he got his wish. I want to congratulate him on his promotion, and I know my colleagues in the U.S. Senate will join me in honoring his service and his sacrifice for our country.

An article extolling the virtues of Brigadier General Stephen R. Hogan appeared recently in the *Marion Star*. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the *Marion Star*, April 18, 2011]

CONNOR HIGH GRAD NAMED BRIG. GENERAL—STEPHEN HOGAN SERVED AT PENTAGON, IN BAGHDAD

(By Stephanie Salmons)

FRANKFORT.—Conner High School graduate Stephen Hogan, of Frankfort, has been promoted to the rank of brigadier general.

A 1981 Conner graduate, Hogan is the son of Paul and Marilyn Hogan of Burlington. He is a 1985 graduate of Morehead State University and a 2008 graduate of the U.S. Army War College.

Hogan received his commission from the Morehead ROTC in 1985 and since 1993 has worked with the Kentucky Army National Guard as an active-duty Guardsman with the state's Counter-Drug Unit, where Paul Hogan says his son works for a marijuana eradication program.

His assignments have included tours with the 101st Airborne Division (Air Assault), Fort Campbell, KY.; 6th Infantry Division Light, Fort Richardson, Alaska; The Army Operations Center, Pentagon; and Multi-National Corps Iraq, Baghdad, Iraq.

Hogan has also received numerous awards during his time in the military.

The Hogans said they're proud of their son. "It's something you don't comprehend—when someone goes that far," Paul Hogan said.

Stephen Hogan has always had an interest in the military and has finally obtained his goal, Paul Hogan said.

"We're very pleased and proud of him. He's worked very hard," Marilyn Hogan said.

HONORING OUR ARMED FORCES

LANCE CORPORAL CHRISTOPHER S. MEIS

Mr. BENNET. Madam President, today I pay tribute to a young Coloradan, LCpl Christopher S. Meis, who died on March 17, 2011, from wounds he received while supporting combat operations in Helmand Province, Afghanistan. He was 20 years old. The loss of Lance Corporal Meis weighs heavily on his hometown of Bennett, CO, where he grew up dreaming of serving his country as a marine.