

Barack Obama. Senate Republicans would upend our Nation's system of checks and balances rather than afford President Obama the same constitutional authority his 43 predecessors enjoyed.

Throughout the news today, it is said by all the Republican think tanks—or a lot of them—that it is more important for the Republicans to make sure Obama does not get a Supreme Court nominee on the floor of the Senate than it is for them to maintain the majority in the Senate. Think about that. That is not what I am saying; that is what they are saying.

A few minutes ago, the junior Senator from Delaware was here on the Senate floor reading George Washington's Farewell Address. He did a remarkable job. This man, who was the national debate champion twice, did a very good job.

In his address, President Washington warned of the partisan party politics that Republicans are now employing. He warned of their negative influence on our government. He said:

All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force; to put, in the place of the delegated will of the nation, the will of a party.

The American people are watching. They are watching the Republicans' obstruction on this issue and the direct contravention of the belief of President George Washington. The vast majority of Americans are wondering how Republicans can say the Senate is back to work—we hear that all the time from my friend the Republican leader—while at the same time denying a vote on a nominee who hasn't even been named yet.

I say to my friends across the aisle: For the good of the country, don't do this.

I hope my Republican colleagues will heed the counsel offered by the senior Senator from Iowa and chairman of the Judiciary Committee, CHARLES GRASSLEY, just a few short years ago when he said:

A Supreme Court nomination isn't the forum to fight any election. It is the time to perform one of our most important Constitutional duties and decide if a nominee is qualified to serve on the nation's highest court.

Elections come and go, but the centerpiece for our democracy, the U.S. Constitution, should forever remain our foundation.

I say to my Senate Republican colleagues: Do not manipulate our nearly perfect form of government in an effort to appease a radical minority.

Madam President, will the Chair announce the business of the day.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be

in a period of morning business until 5:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, it is my understanding that I can have 40 minutes at this point, and if I don't have that time, I ask unanimous consent for that time.

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

REMEMBERING JUSTICE ANTONIN SCALIA

Mr. GRASSLEY. Madam President, I rise today to pay tribute to Associate Justice Scalia of the Supreme Court. His recent death is a tremendous loss to the Court and the Nation.

He was a defender of the Constitution. Since his death, a wide range of commentators—even many who disagreed with him on judicial philosophy—have hailed him as one of the greatest Supreme Court Justices in our history. Justice Scalia was a tireless defender of constitutional freedom. In so many cases when the Court was divided, he sided with litigants who raised claims under the Bill of Rights. This was a manifestation of his view that the Constitution should be interpreted according to the text and as it was originally understood.

The Framers believed that the Constitution was adopted to protect individual liberty, and, of course, so did Justice Scalia. He was a strong believer in free speech and freedom of religion. He upheld many claims of constitutional rights by criminal defendants, including search and seizure, jury trials, and the right of the accused to confront the witnesses against them.

Justice Scalia's memorable opinions also recognize the importance the Framers placed on the Constitution's checks and balances to safeguard individual liberty. Their preferred protection of freedom was not through litigation and the Court's imperfect after-the-fact redress for liberty deprived.

Justice Scalia zealously protected the prerogatives of each branch of government and the division of powers between Federal and State authorities so that none would be so strong as to pose a danger to freedom.

We are all saddened by the recent death of Supreme Court Justice Antonin Scalia. I extend my sympathies to his family. His death is a great loss to the Nation.

This is true for so many reasons. Justice Scalia changed legal discourse in this country. He focused legal argument on text and original understanding, rather than a judge's own views of changing times. He was a clear thinker. His judicial opinions and other writings were insightful, witty, and unmistakably his own.

Even those who disagreed with him have acknowledged he was one of the greatest Justices ever to serve on the Supreme Court.

Today I would like to address a common misconception about Justice Scalia, one that couldn't be further from the truth. Some press stories have made the astounding claim that Justice Scalia interpreted individual liberties narrowly. This is absolutely untrue.

It's important to show how many times Justice Scalia was part of a 5-to-4 majority that upheld or even expanded individual rights.

If someone other than Justice Scalia had served on the Court, individual liberty would have paid the price.

The first time Justice Scalia played, such a pivotal role for liberty was in a Takings clause case under the Fifth Amendment. He ruled that when a State imposes a condition on a land use permit, the government must show a close connection between the impact of the construction and the permit condition.

Even though I disagreed, he ruled that the First Amendment's Free Speech clause prohibits the States or the Federal Government from criminalizing burning of the flag.

Congress cannot, he concluded, claim power under the Commerce clause to criminalize an individual's ownership of a firearm in a gun-free school zone.

Justice Scalia was part of a five-member majority that held that under the Free Speech clause, a public university cannot refuse to allocate a share of student activity funds to religious publications when it provides funds to secular publications.

He found the Tenth Amendment prohibits Congress from commandeering State and local officials to enforce Federal laws.

The Court, in a 5-to-4 ruling including Justice Scalia, concluded that it didn't violate the First Amendment's Establishment of Religion clause for public school teachers to teach secular subjects in parochial schools, as long as there is no excessive entanglement between the State and the religious institution.

Justice Scalia believed that the Sixth Amendment right to a jury trial requires certain sentencing factors be charged in the indictment and submitted to a jury for it to decide, rather than a judge.

He concluded with four other Justices that the First Amendment's freedom of association allowed the Boy Scouts to exclude from its membership individuals who'd affect the ability of the group to advocate public or private views.

Showing that original intent can't be lampooned for failing to take technological changes into account, Justice Scalia wrote the Court's majority opinion holding that under the Fourth Amendment, police can't use thermal imaging technology or other technology not otherwise available to the general public for surveillance of a person's house, even without physical entry, without a warrant.

He decided that notwithstanding the Establishment clause, a broad class of