

I say to the Republicans on the other side of the aisle: Please do your job. Your constituents elected you to this position to follow the Constitution. If you don't like the nominee the President has selected, vote no, but at least follow the process. After the President selects his nominee, we then go through a courtesy process where the nominee calls upon each Senator. Then there is a hearing—and maybe there are several days of hearings—and then there is a vote.

I am calling on the Senate to follow the process that was mandated by the Constitution and mandated by our traditions. After the President nominates someone, let's meet with the nominee. Let's hold the hearings and follow the process, and then let's bring it to a vote. Over the last 40 years, the average time it has taken for the Senate to act has been only 67 days from nomination to confirmation, so to say we don't have enough time just doesn't work. We have 10 months, or 330 days, left in this President's administration to do this job.

Some of my colleagues say there is precedent for this obstructionism. Chairman GRASSLEY, the chair of the Judiciary Committee, cited four times in our history where a President did not nominate someone to fill a vacancy during an election year. Well, those numbers are right, but guess what. The vacancy occurred after the Senate had adjourned for the year. None of those Presidents could have nominated a candidate because the Senate wasn't in session.

For the past 100 years, every Supreme Court nominee has been acted upon. Even if they got a disapproval vote in the committee, they still got a vote in the Senate.

In 1987, Robert Bork was voted down in the committee, but he still got a vote on the floor where he was voted down.

In 1991, Clarence Thomas, one of the most contentious and controversial Supreme Court nominations that I ever participated in, was voted on by the committee without a recommendation. He got a vote on the floor and was approved 52 to 48.

Each of these candidates had their day to be evaluated. Each Senator had the ability to apply their advice and consent or, in some cases, nonconsent. I didn't always vote yes on the nominee, but I certainly supported the process that we have here. We have never denied a sitting President his duty to provide a nominee. This is of utmost importance to our Nation. It really is.

The Supreme Court is unique. It is the highest Court of the land with real and lasting impacts on American lives. To obstruct a Supreme Court nominee for political reasons would be absolutely unprecedented. Until this vacancy is filled, the Supreme Court is left with eight members with the potential for tie votes. If there is a tie vote in a decision, the ruling of the lower court remains as if the Supreme

Court never heard the case. In some cases, that leaves disagreement among courts, leaving our laws at odds with each other.

If this vacancy lasts until the next President, the Supreme Court could be left without eight members for two terms on the Court. Some of the cases with the most impact on our history have been decided in 5-to-4 votes. That brings up some cases that are of particular concern to me.

What if there were a tied decision in a case and we were left stuck in a gridlock? The Senate knows that I am very involved with equal pay for equal work. There was the famous Lilly Ledbetter case—Lilly Ledbetter v. Goodyear Tire and Rubber Company. It was decided by a 5-to-4 vote. She faced injustice not only at her job, but also in the courts. At the urging of Justice Ginsburg, the Senate provided a legislative remedy to correct that injustice. If we had a tie, we might not have ever been able to resolve that issue both through the Court and through the Senate. This is what democracy is supposed to be.

There was another amazing case, which was Bush v. Gore. Everyone remembers the election in 2000 when we had the hanging chads in Florida and we really weren't sure who won the election—Al Gore or George Bush. This is America, so banks stayed open, there were no tanks in the street, school children were able to go about learning what America was all about and get ready for the new century. We were moving ahead because the process moved through the courts.

The Bush v. Gore case was decided with a 5-to-4 vote. Can you imagine if we had a tied Court now? We would have a constitutional crisis, and we would have a crisis over who was the legitimate President of the United States. We can't have that happen again.

When the voters make their decisions in November on who they want to have as the next President, I hope it is clear and decisive and we don't end up before the Supreme Court, but surely we need to have a Court that is not going to end in a tie and that we have done our job to make sure that there are nine—N-I-N-E—on the Supreme Court.

First of all, follow the Constitution. It is in the best interest of our country. Do your job so we can say to the world: We are a Nation of laws. We encourage people all over the world that are emerging from authoritarian regimes or chaotic political situations to write a Constitution and live by it. Well, we wrote a Constitution, so let's live by it. We need to follow what we say we were elected to do and that we swore an oath to do.

President Obama must do his job. I urge the Republicans to do their job. Let's follow and live up to the Constitution. When the President makes his nomination, let's open our doors so we can meet with that nominee. Let's hold a hearing or multiple hearings, if necessary, and then let's hold a vote on

the Senate floor. Let's be accountable by the deeds of our vote and not simply avoid our responsibility.

I yield the floor and 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.

#### ORDER OF BUSINESS

Mr. McCONNELL. Mr. President, for the information of all Senators, Senator MURKOWSKI and Senator CANTWELL and many others continue to work diligently on a way to wrap up the Energy bill and to deal with the Flint issue. In the meantime, I will be shortly filing cloture on a motion to proceed to the opioid bill, and I am hopeful we can reach an agreement to finish this bill with just a handful of amendments next week.

#### COMPREHENSIVE ADDICTION AND RECOVERY ACT OF 2015—MOTION TO PROCEED

Mr. McCONNELL. Mr. President, I move to proceed to Calendar No. 369, S. 524.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 369, S. 524, a bill to authorize the Attorney General to award grants to address the national epidemics of prescription opioid abuse and heroin use.

#### CLOTURE MOTION

Mr. McCONNELL. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 369, S. 524, a bill to authorize the Attorney General to award grants to address the national epidemics of prescription opioid abuse and heroin use.

Mitch McConnell, Daniel Coats, Dan Sullivan, Orrin G. Hatch, Shelley Moore Capito, John Cornyn, Lindsey Graham, Roy Blunt, Ron Johnson, Chuck Grassley, Rob Portman, Susan M. Collins, Jeff Flake, Cory Gardner, Lamar Alexander, John Barrasso, John McCain.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum call under rule XXII be waived.

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

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