

put the \$500 million in for Louisiana, but the fund for Flint and other communities is totally paid for. So it adds insult to injury to families in Flint who have waited so long.

Again, I trust the chairman completely. What I don't trust is what I am hearing from the House of Representatives. Given that fact and given the fact that we have the ability to actually help them right now through the CR, I believe we should do that.

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#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 4 p.m.

Thereupon, the Senate, at 3:32 p.m., recessed until 4 p.m. and reassembled when called to order by the Presiding Officer.

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#### LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2017—Continued

The PRESIDING OFFICER. The Democratic leader.

##### NOMINATION OF MERRICK GARLAND

Mr. REID. Mr. President, this Republican Senate that had such promise, according to the Republicans, has been a flop. The Senate hasn't kept its word to the Nation. When Republicans assumed the majority in the Senate, the Republican leader made grand promises to the American people. He pledged bipartisanship. He promised to bring an end to the Senate's dysfunction, which he spearheaded.

As I mentioned this morning on the floor, how many filibusters Lyndon Johnson overcame in his 6 years as a majority leader is debatable—there was one for sure and maybe two—but it is easy to figure out as far as when I was majority leader for 8 years. There were 644 Republican filibusters.

The Republican leader pledged that the Senate would do its work. For all his lofty rhetoric, the Republican leader has failed to fill his promises time and time again. There is no better example than the Senate Republicans' refusal to consider the nomination of Merrick Garland to be a member of the U.S. Supreme Court. Chief Judge Merrick Garland was nominated by President Obama 195 days ago. For 195 days, Republicans have blocked this good man from getting a hearing or a vote in spite of the fact that Merrick Garland is extremely qualified.

Some ask, why wouldn't they hold a hearing? It is obvious. Merrick Garland would show the American people what kind of a man he is, what kind of a judge he would be, and it would be very hard for the Republicans to vote against him. So they decided to double down and not even allow a hearing. Even Republicans can't dispute his qualifications. The senior Senator from Utah, who formerly chaired the Judiciary Committee, said that there was "no question" that Garland could be confirmed and that he would be a "con-

sensus nominee." No one questions Judge Garland's education, his qualifications, his judicial temperament, his experience, or his integrity, but Senate Republicans refuse to give this person a hearing. It is shameful.

So I ask, where is the bipartisanship? The Republicans and Democrats agree that this man is exceptionally qualified. Yet his nomination languishes day after day, week after week, now month after month.

Where is the end of the dysfunction? Where is the regular order? There is no bipartisanship. There is a lot of dysfunction. There is no end to it. Where is the regular order? It doesn't exist. No Supreme Court nominee in modern times has waited this amount of time without at least getting a hearing. This is unprecedented.

As legal analyst Jeffrey Toobin has noted, there is only dysfunction to be found in the Republican leader's actions. This is what he said: "Such premeditated obstruction by a Senate leader, aimed at a President with nearly a full year remaining in his term, [is] without precedent."

Where is the hard-working Senate? With Republicans acting as they are, we have established that bipartisanship is really elusive. We have established that the dysfunction hasn't ended. We have established that there is no regular order. Now we have established that we are not working hard, and that is an understatement.

The Senate isn't attending to one of its basic constitutional duties—providing its advice and consent on the President's Supreme Court nomination. Instead, this Senate has worked the fewest days of any Senate in modern history. After we have this next 10-week break, it will be the longest break in some 80 years. How about that?

Chief Judge Garland deserves a hearing; he deserves a vote. Across the street from where we are standing now, at the Upper Senate Park, at 5 o'clock, Democratic Senators will be gathering at a rally in support of Merrick Garland. The people there are of good will, only interested in our country. At that time, they are going to call on Republicans, as we will, to heed their constitutional duty and act on Garland's nomination.

Republicans have another chance to keep the promises they made to the American people. Republicans should right this historic wrong on Judge Garland. They should give him a hearing and a vote, and they should do it right now.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I agree with what the Democratic leader said. We have waited far too long.

I would like to give some history. Eleven years ago this week, following the death of Chief Justice Rehnquist, the Senate confirmed John Roberts to the Supreme Court and as Chief Justice. He had his Judiciary Committee

hearing in September and was given full and fair consideration by the Senate. He was confirmed about 2 weeks later, September 29. All of us, whether or not we supported John Roberts, felt it was important to get this done so that the Supreme Court was not missing a Justice when it began its term on the first Monday in October, as it always does. The Senate acted responsibly. That was 11 years ago. There was a Republican in the White House. I was one of those who voted for Chief Justice John Roberts. There are others who voted against him, but he was confirmed. That is what we did then with a Republican President but not today. In fact, under Republican leadership, the Senate is deliberately leaving the Supreme Court shorthanded. None of us, whether for or against Justice Roberts, felt we should delay and have the Court come into session with a four-four makeup.

I believe Chief Judge Merrick Garland deserves the same consideration that Chief Justice Roberts received 11 years ago. What is the difference? There was a Republican President then, a Democratic President now. This is playing politics with the U.S. Supreme Court, and it hurts the credibility of our whole Federal court system.

Like Chief Justice Roberts, Chief Judge Garland is eminently qualified. Like Chief Justice Roberts, he hails from the Midwest. He is a D.C. Circuit judge who has earned the respect and admiration of those who work for him. But, unlike Chief Justice Roberts, who was confirmed in about 2 months, Chief Judge Garland has been pending before the Senate for more than 6 months. I mentioned that to my colleagues. I went back and checked the history. No Supreme Court nominee in the history of our country has waited that long. There has been no hearing, no vote, no consideration at all by the Senate because the Senate refuses to do its job—the job we are required to do under the Constitution.

Maybe the Republicans feel this somehow benefits their party. It doesn't. Our independent judicial branch is fundamental to our constitutional system of government. The Senate's duty to consider judicial nominations under the Constitution is not a political game. This Republican obstruction has consequences for all Americans. Because Senate Republicans refuse to do their jobs, the Supreme Court has been repeatedly unable to uphold its essential constitutional role as a final arbiter of the law. The uncertainty in the law has been harmful to businesses, and it has been harmful to law enforcement and to families and children across our country.

I don't know if the American people realize how much this refusal of the Republican leadership to do their jobs has hurt them. This term, the Supreme Court will consider cases that will impact our voting rights—all of us—our