Neil Gorsuch came before the Senate Judiciary Committee for his confirmation hearing. Senators from both sides had the opportunity to ask him questions. Both they and the American people were able to learn more about Judge Gorsuch, about the type of jurist he has been and will continue to be, about his character and temperament, and about his aptitude to serve on the Supreme Court.

His answers reflected what we have all come to find about the judge over the past several weeks. He has sterling credentials and a reputation as a fair and impartial jurist. He is also known to be a gifted writer, who is smart, kind, humble, and independent.

As I mentioned yesterday, his impressive testimony has caught the attention of publications, news outlets, and commentators from across the country and across the political spectrum. He has been under a great deal of pressure from the far left. We know that some Senate Democrats will continue trying to delay the confirmation process. It is not the first time we have seen our friends across the aisle engage in obstructionist tactics. In fact, we just saw a historic level of obstruction when it came to confirming the President’s Cabinet. We know that our colleagues are under a great deal of pressure from the far left. We know some of these groups are calling for them to “resist.” We know that even more than 4 months after the election, some on the far left are calling for them to “resist.” And we know that even more than 4 months after the election, some on the far left are calling for them to “resist.”

Another stated, “He is dedicated to the constitution, to our separation of powers, and to the independence of the judiciary.”

Today, our colleagues are under a great deal of pressure from the far left. We know some of these groups are calling for them to “resist.” We know that even more than 4 months after the election, some on the far left are calling for them to “resist.” And we know that even more than 4 months after the election, some on the far left are calling for them to “resist.”

Well, it is past time to move on from that mindset and return to the serious business of governing. One way we can do so is by confirming Judge Gorsuch as the next members of the Supreme Court. He is an outstanding intellect. He has an impressive resume. He has served as a judge and as a law professor. He is an outstanding intellect. He has earned the respect and admiration of so many—Democrats, Independents, and Republicans alike. He is also unques-

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The PRESIDING OFFICER. The morning business is closed.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. The PRESIDING OFFICER. The previous order, the leadership time is reserved.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE FEDERAL COMMUNICATIONS COMMISSION

The PRESIDING OFFICER. The previous order, the Senate will resume consideration of S.J. Res. 34, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 34) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Federal Communications Commission relating to "The Privacy of Customers of Broadband and Other Telecommunications Services."
The PRESIDING OFFICER (Mr. STRANGE). If no one yields time, time will be charged equally.

The Senator from Maryland.

END RACIAL AND RELIGIOUS PROFILING ACT

Mr. CARDIN. Mr. President, I rise today to talk about a bill that I have introduced called the End Racial and Religious Profiling Act of 2017. I am proud to have many of my colleagues as cosponsors on this legislation. These cosponsors include Senators BALDWIN, BLUMENTHAL, BOOKER, BROWN, CANTWELL, COONS, DUCKWORTH, DURBIN, FEINSTEIN, FRANKEN, GILLI- BRAND, HARRIS, HEINRICH, HIRONO, KAIN, MARKEY, MENENDEZ, MERRICK, MURPHY, MURRAY, SANDERS, STABENOW, UDALL, VAN HOLLEN, WYDEN, and WARR- En.

In the House of Representatives, the bill’s principal sponsor is Congressman CONVERS. It is needed now more than ever due to the episode related to that person’s religion and ethnic background.

We have seen in our community a large increase in hate crimes against the Jewish community. There have been a lot of bomb threats that have been sent to Jewish schools and to the Jewish Community Centers. We have seen physical attacks and the desecration of cemeteries. So the minority community feels threatened.

That has been escalating as a result of the actions of our President and his Executive orders. The Executive or- ders—he has issued two now that are dealing with the immigrant community—do raise the temperature in our community. Yesterday I was on the phone with a father from Harford County, MD, whose son was the victim of a hate incident. I say that for many rea- sons, one of which is that we have seen a large increase in hate crimes in our community.

Yesterday I was on the phone with a father from Harford County, MD, whose son was the victim of a hate incident. I say that for many reasons, one of which is that we have seen a large increase in hate crimes against the Jewish community. There have been a lot of bomb threats that have been sent to Jewish schools and to the Jewish Community Centers. We have seen physical attacks and the desecration of cemeteries. So the minority community feels threatened.

All of that has added to the concerns in America today. The legislation that I have introduced would make it illegal for discriminatory policing—for police to use a race as a factor in their actions a person’s race, religion, or ethnic background.

Discriminatory policing is against our values. Quite frankly, it is not what we stand for as a nation. We don’t target people because of their religion. I will always remember that shortly after the Trayvon episode, I met with community activists in Baltimore. Many told me examples of how they were with their parents when the po- lice stopped them randomly, for no rea- son at all, but solely because of the person’s race and how communities felt threatened as a result.

It is not what we stand for as a na- tion. It turns communities against po- lice, rather than working with the po- lice. It is a waste of resources. It does not work. It can be deadly as we have seen in too many communities in our Nation. In my own city of Baltimore, we had the episode concerning Freddie Gray, who died in police custody.

I went to Sandtown, where Freddie Gray came from, shortly after that epi- sophed and met with the community, and I heard comparable stories about how good community activists felt like they were betraying their community if they worked with the local police, because they were just stacked against their community and their race.

So let me, if I might, quote from the Department of Justice report on the Freddie Gray case. Our congressional delegation asked for a pattern or prac- tice investigation. In part of that in- vestigation, they came out with this finding:

There is overwhelming statistical evidence of racial disparities in Baltimore Police De- partment’s pedestrian and vehicle stops, and arrests. . . . BPD officers subject African- Americans to a disproportionate number of pedestrian and vehicles stops on Baltimore streets and African-Americans disproportionately during these stops. . . . The policing practices that cause the racial dis- parities in BPD’s stops, searches, and ar- rests, along with evidence suggesting inten- tional discrimination against African-Ameri- cans, undermine the community trust that is central to effective policing. . . . Indeed, we heard from community members who were reluctant to engage with the officers because of their belief that the Department treats African-Americans unfairly. These concerns were acknowledged by BPD leadership and officers, who explained that lack of trust—particularly in many of Balti- more’s African-American communities—in- hibits officers’ efforts to build relationships that are a key component of effective polic- ing.

I say that because racial profiling—discriminatory profiling—is ineffective and is counterproductive. It actually makes communities less safe. I have the honor of being the Special Rep- resentative for Anti-Semitism, Racism and Intolerance in the OSCE, or the Or- ganization for Security and Coopera- tion in Europe’s Parliamentary Assem- bly.

In that capacity, I have identified four major areas of concern within the 57 countries that represent the OSCE, including the United States. Those pri- orities are discriminatory actions against race, nationality, religion, the rise of anti-Semitism, the concerns of discrimination against the immigrant community, and also the concerns on discriminatory policing.

Discriminatory policing is very much engaged in many community members’ rise of anti-Semitism, racism, and intoler- ance. Now, I want to make it clear: The overwhelming majority of people in law enforcement are good people. They are professionals. They are trying to do their job. They are against racial profiling. But we need to protect the professionalism within the police de- partments and establish a national pol- icy against racial profiling.

My legislation is supported by over 1,150 organizations. Let me just, if I might, mention a couple of those, by quoting their leaders. Wade Henderson, president and CEO of the Leadership Conference on Civil and Human Rights, who supports this legislation said:

For centuries, discriminatory profiling practices have harmed communities of color. It is not enough to be ‘against’ racism and racial profiling. We need national leaders to end discriminatory practices. We know that profiling of any kind is ineffective and diverts law enforcement’s time, money, and assets from actual threats. The time is now to end racial profiling once and for all.

Then, lastly, Hilary Shelton, the di- rector of the NAACP Washington Bu- reau and the senior vice president for policy and advocacy, said:

For example, it tells us that we can’t use as descriptors a person’s race. We can do so when we are using it to de- scribe a particular crime, but not as a predictor of future crimes. Let me close by quoting from Ron Davis, the former police chief of East Palo Alto, CA, where he said:

There exists no national, standardized def- inition for racial profiling that prohibits all uses of race, nationality, or religion, except when describing a person. Person. Consequently, many state and local policies de- fine racial profiling as using race as the “sole” basis for a stop or any police action. This definition is misleading in that it sug- gests using race as a factor for anything other than a description is justified, which it is not. Simply put, race is a descriptor not a predictor. To use race along with other sa- lient descriptors when describing someone who just committed a crime is inappropriate.

That is what this legislation does. It establishes a national definition. It provides for training. It provides Federal grants for best prac- tices. It requires the Attorney General
to issue reports. It is legislation that is needed in our country.

Former Attorney General Eric Holder adopted it at the national level, and he said:

In this Nation, security and liberty are—at their best—partners, not enemies, in ensuring safety for all. In this Nation, the document that sets forth the supreme law of the land—the Constitution—is meant to empower, not exclude. . . . Racial profiling is wrong. It can leave a lasting scar on communities and individuals. And it is, quite simply, bad policing—whatever city, whatever state.

The 14th Amendment to the U.S. Constitution guarantees “equal protection of the laws” to all Americans. Racial and discriminatory profiling is abhorrent to those principles, and it should be ended once and for all.

Mr. President, I yield the floor.

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

TRUMP CARE

Mrs. MURRAY. Mr. President, I want to start by addressing the news last night that Republican leaders have decided to try to make their awful TrumpCare legislation even worse. TrumpCare wasn’t enough of a giveaway to insurance companies, and it didn’t do enough harm to women, seniors, and people with preexisting conditions, so Republican leaders decided to double down in efforts to appeal to their extreme conservative base.

They are now claiming that they can take away essential health benefits like maternity care, mental health care, and preexisting conditions through the reconciliation process, but here are the facts: Republican leaders know they can’t do that. That measure to take away these critically important protections cannot survive the reconciliation process and could never get 60 votes in the Senate. They are simply trying to sell conservatives a bill of goods today in the rush to jam this through, but the more they scramble, the more harmful this bill gets for patients and families and the worse it will be for any House Republican who will be held accountable for their votes on it.

As we all know, today marks 7 years since the Affordable Care Act was signed into law. While some here in Congress may view this as an ideal opportunity to ram through a reckless, harmful repeal of the law, I, for one, think about today a little differently.

I remember 7 years ago, standing with a young constituent of mine from Seattle, Marci Owens, as we watched President Obama sign the Affordable Care Act into law. I had met Marci when she was about 11 years old, in the midst of one of the most heated moments of the healthcare reform debate, and to this day, I will never forget the story she told me about her mom, who all of a sudden had become sick, was forced to miss work, and because of that, she lost her job and lost her health insurance. Ultimately, because she wasn’t even able to see a doctor or get any care, she died as a result of her illness.

I took that story with me, along with countless other stories of families unable to access care, pay for medication, or see a doctor. I used them as motivation as my colleagues and I worked tirelessly to pass the Affordable Care Act.

Just last month, I was proud to have Marci, who is now 18, attend President Trump’s joint address to Congress as my guest. Today, Marci is still sharing her story and advocating for affordable healthcare, as well as transgender rights. She, along with millions of others across the country, is once again standing up, speaking out, and making it clear that we cannot go backward.

I come to the Senate floor to share some of the stories of families in my home State of Washington who are worried, who are afraid, and whose lives will be at risk if President Trump and Republicans take us down this dangerous path to repeal, people whose voices we need to hear more than ever.

I want to make it very clear why we are here and what is at stake. The House Republican TrumpCare bill would have a profoundly negative impact on the lives and well-being and the financial security of people across the country, people who are truly terrified about the uncertain path forward. Yet, for having such a profound impact, Republicans are seemingly doing everything they can to limit public discussion on TrumpCare. This bill was rushed through four House committees without a single public hearing, no testimony, no expert view. House Republicans voted the bill out of two of these committees without a CBO score, without knowing how many people would be impacted.

In the Senate this week, every Senator on the Health, Education, Labor, and Pensions Committee called on the chairman to allow for a hearing to talk about this bill, but he refused. He ignored the request, and he held a hearing on other health policy instead. That the Health Committee—the Health Committee—has not been allowed to hold a single hearing to talk about and debate TrumpCare is appalling and shameful.

Not to be outdone, of course, the majority leader, instead of committing to give all Senators time to review and evaluate the bill, has now said the bill will go straight to the floor for a vote as soon as next week, prompting even Members of his own party to come out against this plan.

In all, these efforts are unprecedented. They are wrong—and they are dark volleys of the kind of bill they are trying to ram through, because we now know many of the facts of the bill.

This bill will kick 24 million people off their coverage. It will cause premiums to skyrocket. Seniors will pay more for their care. It will put at risk those who are struggling with mental illness and substance use disorders, including opioid addiction. It would end Medicaid expansion under the Affordable Care Act.

Predictively, it attacks women’s constitutionally protected healthcare and rights. It defunds Planned Parenthood and puts insurance companies back in charge of other critical parts of women’s healthcare, like maternity care, cancer screenings, and contraception. This bill undermines women’s access to healthcare and women’s ability to make their own healthcare decisions in virtually every way a piece of legislation could.

I oppose this bill in the strongest terms. I am going to do everything I can to fight back against it, and I know Senate Democrats will as well.

Families across the country are looking to us, and they have nowhere else to turn. Like many of my colleagues, I have constituents coming up to me constantly when I am at home, asking me what is going to happen if TrumpCare becomes law. They are bravely sharing deeply personal stories about their health, their families, and their fears—something they should not have to do. They deserve to be heard.

They are hearing from me, from the Senate of Washington. She has been a teacher for 19 years and teaches in two rural school districts, but because of her part-time standing in both districts, she is ineligible for insurance. If it weren’t for the Medicaid expansion under the Affordable Care Act, she would have no options.

As Erin puts it, she is “terrified” to learn that Medicaid would be gutted under TrumpCare. She has multiple disabilities, including autism and Ehlers-Danlos syndrome. She has had repeated surgeries following a difficult pregnancy. The medication she has to take every day is very expensive. There is no generic form. She is one of those millions of people.

I have to say that we are going to fight back in every way we can because the TrumpCare bill that is being rushed through the House with giveaways being given to Senators for their votes is not the way we take care of people in this country. And we are deeply worried about the process of this bill.

I see the Democratic leader on the floor, and I know how important it is for him to speak. I just want to say, as the ranking member on the Health Committee, it is appalling to me that we have had no hearings, no expert witnesses, no markup. We have not seen this bill, and it is being rushed through. It will impact every single American and deserves the time of day, not some created chaos and deadline driven, as we do the right thing for the American people.
Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

THANKING THE SENIOR SENATOR FROM WASHINGTON

Mr. SCHUMER. Mr. President, first, I would like to thank the senior Senator from Washington, the ranking member of the Health Committee, for her outstanding work on this issue. She knows this issue better than just about anybody in this Chamber. She is passionate and also fact-driven, and I think has had great influence on this Chamber.

I hope my colleagues on the other side of the aisle will review what she said. To rush through a bill for a campaign promise—a bill that is fraught with problems and difficulty, many of which will probably not come to light until after the bill comes to the floor—is the wrong thing to do. I thank the senior Senator from the State of Washington.

TERROR ATTACK IN LONDON

Mr. President, first, I want to just say a few words. My heartfelt condolences go to the families of the victims in London.

Terrorism strikes everywhere. It was so close to the symbol of Great Britain—Parliament, Big Ben, a place we have all seen in pictures and some of us have had the opportunity to see in person. It reminds us that the scourge of terrorism needs to be eradicated in any way we can. I am committed to that, and I know the 100 Members of this Senate body are as well.

Our hearts go out to those who were lost.

NOMINATION OF NEIL GORSUCH

Mr. President, now I will move on to the subject I wish to speak about at length this morning, and that is Judge Gorsuch.

I had the opportunity these past 3 days to watch Judge Neil Gorsuch in the Judiciary Committee and to review his credentials and record on the Tenth Circuit and before that.

I would particularly like to recognize the outstanding work done by every Democratic member of the Judiciary Committee. They were outstanding in questioning Judge Gorsuch despite his lack of candor and desire to answer. I would like to particularly call out our exceptional ranking member, Senator FEINSTEIN, who has done a wonderful job leading that committee.

I have thought long and hard about his nomination and what it means for the future of the Supreme Court and for the future of our country. What is at stake is considerable. The decisions we make here in the Senate over the next few weeks about Judge Gorsuch, as on any Supreme Court nominee, will echo through the lifetime tenure of that judge, through a generation of American history.

Discussions of the Supreme Court can get wonky and technical, with invocations of precedent and canons of interpretation. What is at stake, however, is not at all abstract; it is real and it is concrete for Americans, whose lives, health, happiness, and freedoms are on the line at the Supreme Court. Closely divided decisions recently have meant the difference between the ability to marry the one you love or not, the ability to have your right to vote protected or not, the ability to make personal choices about your own healthcare or not. The Supreme Court matters a great deal. It matters for workers who want to protect both their lives and their jobs, for employees who need to be able to seek redress for discrimination, and for parents who want their kids to get a fair shake in the education system.

It is with all this in mind that I have come to a decision about the current nominee. After careful deliberation, I have concluded that I cannot support Judge Neil Gorsuch’s nomination to the Supreme Court. His nomination will fail for one, failure to earn 60 votes for confirmation. My vote will be no, and I urge my colleagues to do the same.

To my Republican friends who think that if Judge Gorsuch fails to reach 60 votes, Senate rules, I say: If this nominee cannot earn 60 votes—a bar met by each of President Obama’s nominees and George Bush’s last two nominees—the answer isn’t to change the rules, it is to change the nominee.

This morning, I would like to lay out the reasons I will be voting no on this nomination.

First, Judge Gorsuch was unable to sufficiently convince me that he would be an independent check on a President who has shown almost no restraint from Executive overreach.

Second, he was unable to convince me that he would be a mainstream Justice who could rule free from the biases of populism. His career and judicial record suggest not a neutral legal mind but someone with a deep-seated conservative ideology. He was groomed by the Federalist Society and has not shown 1 inch of difference between his views and theirs.

Finally, he is someone who almost instinctively favors the powerful over the weak, corporations over working Americans. There could not be a worse time for someone with those instincts. Judge Gorsuch’s opportunity to disprove all of these objections was in the hearing process, but he declined to answer question after question after question with any substance. Absent a real description of judicial philosophy, all we have to judge the judge on is his record.

First, I want to address the first issue I raised, that of judicial independence. It is so clear that at this moment in our history, our democracy requires a judge who is willing to rule against this President. This administration seems to have little regard for the rule of law and is likely to test the Constitution in ways it hasn’t been challenged in decades. It is absolutely the case that this Supreme Court will be tried in ways that few courts have been tested since the earliest days of the Republic when constitutional questions abounded.

The President himself has attacked individual judges and the credibility of the judiciary at large. The President has attacked a three-judge panel of the Ninth Circuit and said if they didn’t decide with him, they would be responsible for the next terrorist act. I have never heard any President in my lifetime or read about any President in previous history who dared do that. We are in uncharted territory with this President and with judicial independence. It requires a strong independent backbone. Judge Gorsuch has shown none. Senators on the Judiciary Committee rightly asked Judge Gorsuch direct questions about this issue. I did so myself in my meeting with the judge. While the judge repeatedly asserted his independence, he could not point to anything in his record to guarantee it.

Judge Gorsuch offered the Judiciary Committee myriad platitudes on this point. “No man is above the law,” he said. He said he was “disheartened” by the President’s attacks on the judiciary. The President, for his sake, said that Judge Gorsuch didn’t mean him, and everyone left it at that.

If Judge Gorsuch had an ounce of courage, he would have said: No, Mr. President. No, President Trump, I did mean you. Instead, he just tells us in general that he is demoralized, disheartened. Telling us is not the same as showing us. He is asking us to take him at his word, but his record suggests that he has long been someone who has advocated extreme deference to assertions of broad Presidential power.

That leads me to my second point: that Judge Gorsuch was unable to convince me that he would be a neutral judge, free of ideology and bias. The hearings this week were an opportunity for Judge Gorsuch to explain his record, to tell us how he thinks and how his judicial philosophy does not fundamentally advantage the powerful. Instead, we got banalities and platitudes. We didn’t get any real answers to any real questions about what he thinks about the law and why. He refused to answer questions on dark money in politics, LGBTQ rights, the constitutionality of the Muslim ban. I couldn’t believe it, when I asked him: Is a law that bans Muslims, a law that just said all Muslims are banned from the U.S. unconstitutional, he just said all Muslims are banned. I couldn’t believe it, when I asked him: Is a law that bans Muslims, a law that just said all Muslims are banned from the U.S. unconstitutional, he couldn’t even answer that. He refused to say whether he agreed with Supreme Court decisions in seminal cases like Brown v. Board, Roe v. Wade, Griswold v. Connecticut, despite the fact that his predecessors, Justices Roberts and Alito, said they agreed with those cases.

He refused to answer questions about the emoluments clause, a section of the
Constitution that prohibits foreign corruption of U.S. officials. Instead of an umpire calling balls and strikes in baseball, what we really saw was a well-trained expert in dodgeball.

My friend, the ranking member of the committee, said it best and it best worries me,” she told the nominee. “Is that you have been very much able to avoid any specificity like no one I have ever seen before.”

Let me repeat. There is no legal standard, rule, or even logic for failing to answer questions that don’t involve immediate and specific cases that are or could come before the Court. It is evasion, just evasion, plain and simple, and it belies a deeper truth about this nominee.

If anyone doubts that Judge Gorsuch doesn’t have strong views, that thinks he would be a neutral judge calling balls and strikes as Judge Roberts once put it, just look at the way he was chosen. He was supported and pushed forward by the Heritage Foundation and the Federalist Society, and groomed by billionaire conservatives like Mr. Anschutz. President Trump simply picked someone from off their list. President Trump sought the advice and consent from the Federalist Society instead of from the U.S. Senate. Does anyone think the Federalist Society would choose someone who just called balls and strikes? Does anyone think he would put on their list a neutral, moderate judge when they haven’t ever supported anyone but judicial conservatives, almost all hard-right judicial conservatives in their history? The Federalist Society has been dedicated for a generation to influence the courts to favor corporations and special interests. If anyone doubts that Judge Gorsuch could be an activist judge with views eschewing the interests of average people, look at how he was selected—by a group that is not a neutral group that has been dedicated to changing the judiciary and placing activist, hard-right judges on the bench. Now that he is nominated, look at how much money, dark, secret, undisclosed money—it is a good bet from the very corporations Judge Gorsuch has been defending his whole career. If he were so neutral, would they be spending this money? I doubt it.

Anyone groomed by the Federalist Society will not call balls and strikes. Their views are best foretold by the ideology of the people who groomed them. To say Judge Gorsuch has no ideology whatsoever is absurd. He just will not admit it to the American people. To say he is just neutral in his views is belied by his history since his college days and by his own judicial record. He even tried to deny it. In the hearings, Judge Gorsuch repeated the hollow assertion that judges don’t have parties or politics. He said there are no Democrats or Republicans on the bench. Judges, but if that were true, we wouldn’t be here, would we? If that were true, if the Senate were merely evaluating a nominee based on his or her qualifications, Merrick Garland would be seated on the Supreme Court right now. Merrick Garland is not a Justice. We all know why. We all know my friends across the aisle held the Supreme Court seat open for over 1 year in hope that we would have the opportunity to install someone hand-picked by the Heritage Foundation and the Federalist Society to advance the goal of Big Money interests entrenching their power in the Court.

They didn’t think that this nomination is moving forward under a cloud of an FBI investigation of the President’s campaign. The Republicans held a Supreme Court seat open for a year under a Democratic President who was under no investigation but now are rushing to fill the seat for a President whose campaign is under investigation. It is unnecessarily and wrong to be moving so fast on a lifetime appointment in such circumstances.

Finally, Judge Gorsuch came into this hearing with a record that raises deep concerns about whether he would consider fairly the plight of the average citizen before the interests of powerful special interests. I examined his record. I saw a judge who, in unemployment discrimination, sided with employers the great majority of the time. I saw a judge who, on the issue of reasonable accommodation for those who are disabled, ruled against a trucker who was having been through two bouts of cancer, was advised by her doctors not to return to her job. She was fired for taking sick leave. Judge Gorsuch, true to form, voted to uphold that dismissal. Her daughter Katherine told us last week: “This decision to protect her health cost my mom her job. When Judge Gorsuch issued his ruling, he didn’t think about the impact that this has on our family. The law calls for ‘reasonable accommodation for those who are disabled.’”

Judge Gorsuch ignored the human cost.

Judge Gorsuch ruled against a truck-driver, Alfonse Maddin, who had to make a similar choice between his employer and his life. I met with him. He told me a harrowing story of being stuck in the cab of a tractor-trailer with frozen brakes, no heat, temperature down to 20 degrees below zero. He had a choice, leave the trailer with broken brakes and drive the cab to safety or stay in the trailer and freeze to death. He radioed his company to explain his predicament. They told him that the cargo was the most important thing; he couldn’t leave it. Rather than risk the lives of other motorists on a freezing highway by driving a trailer with broken brakes, Mr. Maddin struggled to unhitch his trailer and drive his cab to safety—returning later for it once he was not at risk of dying from the cold. For that, his company fired him. He sued. Seven judges heard this story with frozen brakes. Mr. Maddin struggled and consent from the Federalist Society to advance the opportunity to install someone hand-picked by the Heritage Foundation and the Federalist Society to advance the goal of Big Money interests entrenching their power in the Court.

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Mr. Maddin said that Judge Gorsuch’s nomination to the Supreme Court gives him “pause for concern” because he “demonstrated a willingness to artfully diminish the humane element that encompassed the issue.”

Judge Gorsuch also ruled against a parent of a severely autistic child, Luke Perkins, who sought protection with Disabilities in Education Act guarantees him—the right to an education that met his needs. Jeff Perkins, Luke’s father, is testifying before the Judiciary Committee today. Their story is powerful. Judge Gorsuch ruled that Luke was not entitled to attend a specialized school because he was able to make more than de minimis progress in the normal educational system.

Just yesterday, the Supreme Court unanimously—including Justice Alito and so many others who are so conservative—rejected Judge Gorsuch’s interpretation of the IDEA. The Court held that “when all is said and done, a student offered an educational program providing ‘merely more than a de minimis progress from year to year can hardly be said to have been offered an education at all.’” That puts Judge Gorsuch’s interpretation of the IDEA law to the right of even Justice Thomas—a very difficult feat.

Whom we put on the bench, their basic judgment, matters. While I do not think that the personal views and experiences should bear on the decisions of day-to-day cases, there is a reason we don’t program computers to decide cases. We do not want judges with ice water in their veins. What we want, and need are judges who understand the litigants before them and bring a modicum—at least a modicum—of human judgment into the courtroom. You can call this trait empathy or mercy. I think it falls in the category of common sense. It is common sense that results from each person’s own, unique life experience. Even Judge Gorsuch acknowledged this when he told the committee “I am not an algorithm.” Yet he wouldn’t tell us how, as a human—a person—he would uniquely approach a case.

When it comes to the application of the law, that empathy, that mercy,
that “humane element” of common sense—as Alphonse Maddin, the truck-driver, put it—is the most important judicial trait of them all because ultimately the law is abstract, but the people and situations are real. The task of the judge is to apply those abstract legal rules to very humane and sometimes very messy situations. It is a hard thing to do to bring fairness and justice to a world that is too short on both.

I am reminded of the words spoken by Portia, the great lawyer in “The Merchant of Venice,” who spoke of the blessings and necessity of mercy in applying the law.

He said:

The quality of mercy is not strain’d, It drops as the gentle rain from heaven Upon the place beneath. It is twice blesst: It blesseth him that gives and him that takes.

’Tis mightiest in the mightiest; it becomes The throne of Eden; and the sceptre shows the force of temporal power.

The alabute to awe and majesty, Wherein doth sit the dread and fear of kings; But mercy is above this sceptred sway, It is enthroned in the hearts of kings. It is an attribute to God himself.

Judge Gorsuch told us he is not God, and that is true, but his humanity does not excuse him from the attribute of mercy. Instead, his humanity should require it.

Alphonse Maddin sought the mercy of the law. The Hwang family sought the mercy of the law. Luke, the autistic child whose school was failing him, sought the mercy of the law. The man who had the power to see plain sense in their cases, who could rule in their favor and right the wrongs that had been done to them as other judges had done in each of those cases—Judge Neil Gorsuch—said no.

I am voting no on Gorsuch for Alphonse Maddin and workers across the country and across their family and others who do not want to choose between their health and providing for their children, and for the Perkins family, who loves their children just as they are and wants for them no fewer than the opportunities afforded to every other child in America.

The American people deserve someone who sees average litigants as more than incidental consequences of precedent, when that precedent produces an absurd result, whose view of the law is not arid and so arid as to wring out every last drop of humanity and common sense. It requires only the bare minimum of judicial decency to rule the right way in the cases I have mentioned, and Judge Gorsuch did not.

Therefore, all the evidence my colleagues should need to vote no, and I urge them and will urge them in the days ahead to do so.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MARKEY. Mr. President, today, we are truly in a historic fight, a fight to protect one of the most treasured and revered American values—our right to privacy. Make no mistake, our privacy has never been more in danger, and the American public knows it.

The American public knows its privacy is in danger when a smart TV can listen to its most intimate living room conversations with your children, with your parents, with your spouse.

The American public knows its privacy is in danger when it seems that every day is becoming one database of one of our country’s largest companies—Yahoo!, Target, Home Depot, JPMorgan Chase.

The American public knows its privacy is in danger when the Russian surveillance machine—firing on all cylinders—hacks the U.S. election, threatening to undermine our sacred democratic system.

The American public knows its privacy is in danger when both Chambers of Congress hold countless hearings, launch investigations, and receive briefings on the rapidly growing cybersecurity threat to our Nation and the impact both on our national security and to the public.

The American public wants us to do more to protect its privacy. The American public wants us to do more to protect its sensitive information. Yet what do the Republicans in Congress want to do today on the Senate floor?

They want to make it easier for Americans to sell their data for profit. They want to make it easier for companies to ignore reasonable data security and privacy laws. They want to do this today on the Senate floor?

Today, the Republicans are seeking a vote on a Congressional Review Act resolution that would allow Comcast, Verizon, Charter, AT&T, and other broadband companies to take control away from consumers and relentlessly collect and sell their sensitive information without the consent of that family.

That is sensitive information about your health, about your finances, even about your children. They want to track your location and draw a map of where you shop, where you work, where you eat, where your children go to school, and then sell that information to data brokers or anyone else who wants to make a profit off of you.

They want to document how many times you search online for heart disease, breast cancer, opioid addiction treatments, or AIDS treatment, and then sell that information to your insurance company. They want to know what games your teenagers play or shows they watch so they can then target ads to your family—and all of this done without your consent.

What is the Republican answer to this violation of your privacy? That is if Comcast’s or AT&T’s or Verizon’s policy is that you have no privacy, there is nothing for anyone to enforce. It would be impossible for the internet service provider to violate its own nonexistent or very low privacy protections. It would be impossible for the Federal Communications Commission to force any such violation.

Let’s be clear. When the broadband behemoths say “light touch,” they mean “hands off.” They mean hands off their ability to monetize captive consumers’ sensitive information.

Let’s be clear. When the big broadband barons and their Republican allies are firing their opening salvo in the war on net neutrality, they want broadband privacy protections to be the first victim.

When Republicans say we need to harmonize regulations, they really mean self-regulation. Self-regulation is the ultimate dream of the Republicans, who are beholden to those special interests. They really want to allow broadband companies to write their own privacy rules.

Is this really what the American public wants—a harmonized, light-touch approach? Is this really what they want? Is this really what they want from their broadband providers? Does the American public really want us to allow our broadband companies to ignore reasonable data security practices, making consumers’ sensitive information more vulnerable to breaches and unauthorized access?

This resolution does just that. The Internet service providers even oppose
following reasonable data security practices.

We should know better. The American public wants us to strengthen our privacy protections, not weaken them. The American people do not want their sensitive information collected, used, and sold by any third party, whether that be your broadband provider or a hacker.

At its core, this debate is about our values—our values as a society. While technology has certainly changed, our core values have not changed as a country. For generations, we have valued the right to choose whom we let into our homes, whom we communicate with, whom we share our most sensitive secrets with, but now the Republicans and the broadband industry are telling us that we must forgo those rights just because our homes are connected to the internet and our phones are connected to the internet.

With many Americans across the country having only a couple of broadband providers, at most, to choose from, they will not have the option of changing service providers if their privacy protections are not transparent or robust. And throughout it all, while the internet service providers monetize your personal information, the monthly bill will continue to show up for the service that is siphoning off your sensitive information.

My view is that the attack on the free and open internet is coming. Net neutrality is on the chopping block, and this is the first step in ensuring that the few and the powerful control the internet. We must stop this today, so I urge my colleagues to join with me.

The fundamental principle here is that every person should have the knowledge that information is being gathered about their families when they use the internet; second, that they have notice from the company that that information is going to be resold to a third party, to someone else, not to the broadband company; and third, that you have the right to say no, that you do not want that information about your family member to be resold.

When we were all younger and the salesman came to the front door and knocked, your mother told you to tell the salesperson you were not interested and sold, and sold by any third party, whether that be your broadband provider or a hacker.

We now hear more about the Russians, and we hear more about companies whose information has been hacked. Then the Republicans are crying their crocodile tears about the companies that have the personal information of our country, and then they come to the floor and take all of the information online in the family and allow it to be sold as a product. That is just fundamentally wrong. It goes contrary to the values of our country.

I urge very strongly a "no" vote from the Members of the Senate. Just remember: This is the privacy vote of all time on the Senate floor—of all time—because there has never been anything like the internet going into our homes. No one should allow the company to take all of that information and just sell it without getting their permission.

Mr. President, I urge a "no" vote on this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I just want to commend my colleague from Massachusetts for an excellent presentation. He has really outlined A to Z with respect to what this issue is all about. I commend him, and I also commend the ranking member of the committee, Senator NELSON, our colleague from Florida, for his excellent job.

Before he leaves the floor, picking up on the remarks of our colleague from Massachusetts, I am particularly struck by the fact that I have always thought that it is a classic conservative principle to empower the individual to make fundamental choices about what would be important to them and their family and their wallets and all of the activities that are central to the life of a working class family.

What we have been touching on—very eloquently by my colleague from Massachusetts—is we are going to be voting in a little bit to strip rights from individuals, to retreat from that classic conservative principle of empowering individuals and families to make decisions.

I think, for all of the reasons that my colleague from Massachusetts has talked about and that Senator NELSON has been talking about, this idea of stripping from individuals the right to make these fundamental decisions and allowing the gatekeepers of the internet to collect, share, and profit from personal information of consumers without their consent is an extraordinary mistake for our country at this time.

I serve on the Senate Select Committee on Intelligence. I think, for many people, these issues have, in effect, converged with respect to privacy policy as it relates to the private marketplace, which is what this ill-advised proposal that we are going to vote on today is all about.

We are constantly offered up ideas that suggest that you really are faced with what amounts to a flawed set of choices. In the intelligence area, we are consistently told: Well, you just have to give up a little bit of liberty to have security. And the reality is that liberty and security are not mutually exclusive. Smart policies give us both. They give us security and liberty. Unfortunately, around here, we are coming up with policies, like weakening strong encryption, that are reducing both—reducing security and reducing liberty. I think what we are dealing with here on this ill-advised resolution in the Senate, with respect to the FCC rule, is yet another set of false choices—that you can either have internet access or privacy. They are not mutually exclusive. Just as we can have security and liberty, we can have internet access and privacy for all of the reasons that my friend from Massachusetts has been outlining.

The FCC action takes the responsibility given to them by the Congress to protect browsing history—arguably the most intimate, personal information imaginable. Browsing history makes what the Senate did in the past with respect to the constitutionality of the intelligence agencies, what we have seen in the intelligence area, what we have seen with here on this ill-advised resolution in the Senate, with respect to the FCC rule, is yet another set of false choices. In the marketplace, which is what this ill-advised resolution does, it is not what we want, it is not what big companies want, it is what the consumer wants. The judgment was that by creating what are called "opt-in" consent agreements, that the consumer makes an affirmative decision about what they want—it is not what government wants, it is not what big companies want, it is what the consumer wants. The judgment was that by creating this opt-in consent agreement, the consumer would get a clear understanding of what their provider knows about them from, for example, their computer or from their smartphone.
The big internet service providers are in a unique position to see where information flows over the networks and can see more of Americans' data than probably anybody else in what we might call the internet ecosystem. The web sites we visit, what we look for, what time we are online—all of this—our location—would be considered highly personal and highly sensitive information.

The responsibility of the internet service provider to protect consumer privacy is compounded by the fact that the majority of broadband consumers have only one option for fast internet service to their home. There is only one company offering them service. It seems to me what we are talking about—a matter of which companies or providers, or ISPs, without their permission from an empowered consumer, to decide how private corporations collect, disclose, and sell their personal data, the FCC promulgated a rule to make sure that consumers can protect their privacy through transparency, choice, and data security. The rule's name explains its purpose: "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services." The FCC rule would not stop companies from selling consumers' information, but the rule would require ISPs to get consumers' consent before using, disclosing, or allowing others to access this information.

Recognizing that telecommunications companies have little incentive to tell consumers what they are doing with their personal data, the FCC promulgated a rule to make sure that consumers can protect their privacy. That's why I opposed the resolution. Mr. Wyden. I suggest the absence of a quorum.

Mr. LEAHY. Mr. President, I have been privileged to serve in this body for more than 42 years, and I thank my native State of Vermont for that.
When I joined the Senate, our country was still crawling out of an intracable war—a war which came to an end with a vote in the Senate Armed Services Committee in April of 1975. Since then, I have seen our country slide into new crises and even worse wars, as we have consumed this town and our Nation. I have seen horrific terrorist attacks that have shaken our country to its core, from Oklahoma City to 9/11, and others. All of these events, in different ways, have tested our country. But I have never seen a threat to our democratic institutions like I see today.

There is still much we do not know about Russia's influence in the 2016 Presidential election, but what we do know is deeply disturbing. Last night, reports indicated that there is evidence that certain Trump officials coordinated the release of hacked documents with the Trump campaign supportive of President Putin. The FBI has been investigating possible collusion between the Trump campaign and Russia since July of last year.

Already, the Intelligence Community has made its conclusion clear. Russian President Putin waged a multifaceted influence campaign to delegitimize Secretary Clinton and help Donald Trump win the Presidency. Worse, he intended to undermine public faith in our democratic process. What is even worse is that this interference did not end on November 8, election day. It is ongoing. That—whether you are a Republican or a Democrat—should concern every American.

According to the Intelligence Community, President Putin will continue using cyber-attacks and propaganda to undermine our future elections. This is nothing less than a challenge to our democracy. It should outrage all Americans, no matter what their political affiliation, and we need to know all the facts.

Frankly, my experience here tells me we need a thorough, independent investigation to discern the truth. That is the only way we can address those threats to our country. That is why I have called on the Senate Intelligence Committee to probe the President's actions to delegitimize Secretary Clinton and help Donald Trump win the Presidency. That is why I have called for those conversations to be made public. That is why I have called for the Senate Intelligence Committee to investigate all of the facts.

This was occurring as the President was claiming to have had no role in weakening the Republican Party's official position on Russia's incursion into Ukraine. Of course, we have now learned that this was false, and his campaign played a central role in softening his party's stance on Russia.

I do not believe that the President is so enthralled with President Vladimir Putin, a man who has shown such disregard for personal rights, even as he has made himself one of the wealthiest people in the world. It may be simply because this is heavily invested in the Trump brand. Years before the President denied having any financial relationships with the Russians, his son admitted that Russians own a disproportionate share of Trump assets, saying: "We see a lot of money pouring in from Russia." Now, just how invested Moscow is in Trump is not known. The President broke with precedent of both Republicans and Democrats and did not release his tax returns. There could be quite a sign of relief if the only secret in the President's full tax returns were that he did not pay his share of taxes and paid far less than the average American.

The President, though, is not the only one in his administration incapable of telling the truth when it comes to Russia. His Attorney General provided testimony that was not true before the Senate Intelligence Committee in response to questions from me and Senator FRANKEN about Russian contacts, and we know his first National Security Advisor, Michael Flynn, resigned after lying to Vice President Pence about his conversations with the Russian Ambassador.

President Trump's former campaign chairman, Paul Manafort, also resigned after questions were raised about his extensive activities in Russia and Ukraine. Of course, now it has been reported that Mr. Manafort earned $10 million per year for secret work on behalf of Putin.

Another former adviser, Roger Stone, had had early warning of the release of hacked documents. He has admitted to having conversations with "Guccifer 2.0," the Russian-connected hacker responsible for the cyber-attack on the Democratic National Committee. That is when there is smoke there is fire. There is so much smoke there that it is getting hard to breathe. The President unfortunately continues to make matters worse. This week alone, he continued his untrue about ordering the wiretap of the President personally ordering a wiretap of Trump Tower, something everybody knows is not true. I think members of his own administration's inner circle are embarrassed every time they have to explain it on television.

On Monday, the President ramped up his own influence campaign to undermine the integrity of this investigation, tweeting "fake news" as the Director of the FBI prepared to testify under oath in the House of Representatives.

Now, I have no reason to doubt the integrity of the FBI's investigation thus far, but I have every reason to believe it is eventually going to be at risk. That is why we need somebody independent—indeed, independent of the Congress, independent of the administration. We need an independent special prosecutor to lead this investigation and to make sure there is sufficient evidence to prosecute. A special prosecutor would not report to the Attorney General, who himself is a witness to this investigation. And a special prosecutor, unlike the Attorney General or even the FBI Director, cannot be fired by the President.

I have thought long and hard about this. I went on my experience here with administrations beginning with President Gerald Ford straight through to today. It takes a lot of thought to call for a special prosecutor, but this is one where we need it, where the American people have to have somebody they can trust outside Republicans, Democrats, and the Congress, and certainly outside the administration.

Our Nation is at a precipice. We can either confront what happened in our election and get to the bottom of it with an independent investigation and make sure it never happens again. Or we can just pretend this is another Washington scandal and allow it to be filtered through a familiar partisan lens. That would be a terrible mistake. In all my years here, I have never seen a time when another country—one that has shown its animosity toward us—has tried to interfere in our elections. If Russia can get away with interfering with our elections, what else can they interfere with in our democratic Nation? They do not share the ideals we do. They do not allow free elections. They do not allow freedom of expression. They do not allow their people to speak out. Why would anyone think that they would have America's interests at heart?

Today we have a counterintelligence investigation into the campaign of a sitting President. There is evidence that this campaign colluded with a foreign adversary to impact our Presidential election. This is not normal. We must not treat it as such. I would feel this way no matter who had won the election—no matter if they were Democrat or Republican, because it goes beyond one party.

President Putin's goal last year was to undermine our democracy in the 2016 Presidential election. This is not normal. We must not treat it as such. I would feel this way no matter who had won the election—no matter if they were Democrat or Republican, because it goes beyond one party.

President Putin's goal last year was to undermine our democracy in the 2016 Presidential election. This is not normal. We must not treat it as such. I would feel this way no matter who had won the election—no matter if they were Democrat or Republican, because it goes beyond one party.

This is a responsibility that we as Senators have to our great Nation: not to think of ourselves for the moment, but to think where this Nation is 10 years, 20 years, 30 years from now. We must do that. We owe that to the American people. Republicans and Democrats alike, we owe it
to the American people. We take an oath to uphold our Constitution.

We come here, all of us—and I have great respect for every Senator here in both parties—we come here hoping to do the best for our Nation. Our Nation is in peril. All of us would stand together to get all the adverse attack us. All of us would stand together if somebody declared war on us. We have done that in the past. We did that after Pearl Harbor. We did that other times in our Nation’s history. Well, because this is beyond the scenes, it is a great attack on us.

As I said, President Putin’s goal last year was to undermine our democratic institutions—to corrode Americans’ trust and faith in our government, no matter who is President. If we do not get to the bottom of Russian interference, he will no doubt be successful. And if anybody doubts it, if he is successful, he will try it again.

That is why we should stand united and conduct an independent investigation. The American people deserve nothing less. We can sit here and talk about this bill and that bill, but it is so rare that we have something overriding. This is overriding. Let’s have an independent investigation. This Senator is willing to accept that which ever way it goes.

I see our distinguished majority leader on the floor.

I will yield the floor.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. McCONNELL. Mr. President, I ask unanimous consent that at 12:15 p.m. today there be 10 minutes of debate, equally divided in the usual form, remaining on S. Res. 34; further, that, following the use or yielding back of that time, the joint resolution be read a third time and the Senate vote on the resolution with no intervening action or debate; finally, notwithstanding rule XXII concerning disposition of the joint resolution, the Senate vote on the motion to invoke cloture on Executive Calendar No. 20, David Friedman to be Ambassador to Israel.

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

If no one yields time, the time will be charged equally.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally for a truly independent resolution.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BLUMENTHAL. Mr. President, the matter of the Federal Communications Commission recently promulgated—and when I say “recently,” it was October, only months ago—expanded the concept of privacy and consumer protection as applied to broadband. Now we are on the verge of rescinding those rules through S. J. Res. 34.

This resolution is a direct attack on consumers’ rights to privacy rules that afford basic protection against intrusive and illegal interference with consumers’ use of social media sites, websites, that often they take for granted. Many Americans simply don’t understand how broadband and video providers, as the carriers of all internet traffic, are also able to collect and use consumer data, to put together a detailed picture of who they are, what they do, where and when they buy things, where they go, what they like to do—all of it an array of data that people assume is private, all of it freely available to those internet providers.

Even when data is encrypted, our broadband providers can piece together significant amounts of information about individuals’ use of the internet, information, medical conditions, financial problems—based on online activity. It is a mine that can be used—more valuable than a gold mine—because that information can be sold and bought and used. A right to privacy becomes a completely evanescent and illusory feature of our lives.

Consumers wanting to switch broadband providers are often hit with hefty termination fees, and they have to engage in a huge amount of work to get service at home—something that most simply don’t have the luxury to do or endure in today’s connected society where internet is accessible. They have no meaningful choice about how to safeguard broadband privacy. They have one choice if they want speeds above 25 megabits per second. That is why I applauded those rules when they were promulgated by the FCC back in October, finalizing broadband privacy protections. I applaud them because they signing up for the internet should not mean you sign away your rights to privacy.

Just as telephone networks must obtain consumer approval before selling customer information, broadband providers ought to be required to obtain consumers’ affirmative consent before selling their sensitive browsing or app usage data to advertisers. The FCC rules that this resolution would decimate, utterly destroy, essentially seek to protect privacy by regulating the only way the FCC’s broadband privacy rules protect consumers is through an affirmative opt-in consent. That is the only real protection that works.

These rules also prohibit pay-for-privacy schemes that would require consumers to waive their privacy protections as a precondition to receiving service. They establish data security and breach notification standards for broadband providers. They also have important national security implications. Just last week, the Department of Justice indicted four individuals, including Russian spies, for hacking into Yahoo! systems in 2014 and obtaining access to at least 500 million Yahoo! accounts. According to the indictment, these Russian intelligence officers spied on U.S. Government officials and private sector employees of financial companies. One defendant also exploited the data for financial gain.

Without clear rules of the road, broadband subscribers will have no certainty or choice about how their private information can be used, no protection against abuse, and no assurance that security standards will be bolstered against that kind of attack that the Russians and their spies launched.

The FTC doesn’t have jurisdiction over the security and privacy practices of broadband, cable, and wireless carriers. If the Ninth Circuit’s recent decision in FTC v. AT&T is upheld, adopting a “status-based” instead of “activity-based” interpretation of the ATF’s common carrier exemption, the FTC’s jurisdiction and ability to impose privacy and security obligations would be even further curtailed.

And if anybody doubts it, if he is successful, he will no doubt be successful. This is overriding. Let’s have an independent investigation. The American people deserve this.

As I said, President Putin’s goal last year was to undermine our democratic institutions—to corrode Americans’ trust and faith in our government, no matter who is President. If we do not get to the bottom of Russian interference, he will no doubt be successful. And if anybody doubts it, if he is successful, he will try it again.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum. Without objection, it is so ordered.

Mr. HARRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.
Ms. HARRIS. Mr. President, I rise to celebrate the anniversary of one of the most significant legislative achievements in the passage of the Patient Protection and Affordable Care Act, also known as ObamaCare.

I rise in strong opposition to the American Health Care Act, a callous and purposefully written bill that would roll back progress and strip health insurance from millions of Americans.

I rise on behalf of people like Chryystal from my home State of California. You see, I know Chryystal. She works in my dentist’s office. In early 2011, just after I was elected attorney general of California, I went in for a checkup. It had been a while since I had seen her. Chryystal asked me how I had been, and I asked her how she had been, and then she shared with me great news. She was pregnant.

As a dental hygienist, she was working for a few different dentists and wasn’t on the payroll of any of them as a full-time employee. This was before the ACA was in place, so Chryystal was on private insurance with only basic coverage, just enough to cover her annual exams.

When Chryystal found out she was pregnant, she went to her insurance company to apply for prenatal coverage. She was denied. When I asked her why, she told me that she said she had a preexisting condition. So can you imagine asking her: Are you OK? What is wrong? What is the preexisting condition?

She told me she was pregnant.

When she applied to another healthcare company for insurance, again, she was denied. Why? Preexisting condition. What was it? She was pregnant.

So this young woman was forced to go into her sixth month of pregnancy before she received a sonogram. Instead, thankfully, there was a free clinic in San Francisco, so she could get her prenatal care.

Thank God she had a strong and beautiful baby boy. His name is Jackson. They are both doing well today.

Thank God that situation is no longer the reality for millions of Americans.

I share Chryystal’s story to remind us what America’s healthcare system looked like only a few years ago.

We should not forget that before the ACA, 48 million Americans lacked health insurance. That is more people than the entire country of Canada.

Before the ACA, when these people got sick, they had three choices: Go without treatment, go to the emergency room, or go broke.

Before the ACA, 122 million people—almost one out of every two Americans—could be denied insurance coverage because of preexisting conditions. And the minute you got sick, your insurer could dig up some flimsy reason to drop your coverage. You could be denied coverage for chemotherapy or insulin if you had cancer or diabetes. You could be denied prenatal coverage if you were pregnant, like Chryystal. You could even be denied health coverage if you were a victim of domestic violence.

Before the ACA, healthcare costs were crushing low-income and middle-class Americans. Premiums—which, of course, we still pay for our insurance—were going up and up. Sky-high medical bills were the No. 1 reason Americans went broke, causing them to sell their homes, their cars, and even pawn their jewelry to pay off their debts.

One of the worst things about facing the healthcare system without coverage before the ACA was that it left you feeling utterly alone. Most Americans know what I am talking about: that knot in your stomach when you know something is wrong with your health or the health of your child or your parent, but you are not sure what it is, whether it can be fixed or whether your insurance will cover it, and the frustration, the anger as you try to make sense of the fine print and codes on the medical bill that has so many zeros.

How many of us have walked into an emergency room with a loved one and felt time just stop? Maybe it was the fear of not being able to pay for your own care or for your partner’s care, knowing you’re having trouble breathing. Maybe your partner is being rushed in with a possible heart attack. All you will know is that something is wrong. All you know is that you are overwhelmed and scared, and you know that you should not also have to fight on the phone with an insurance company or wonder if a doctor will even see you at all. That is how millions and millions of Americans experienced our healthcare system.

It was not right or fair. So the ACA set out to make things better, and 7 years ago today, President Barack Obama signed the Affordable Care Act into law. It finally extended good, affordable health insurance to Americans like Chryystal all across the Nation. Vice President Biden was absolutely right when, at the time, he said that it was a “big”—and then I will not quote the next word; let’s call it blinking—“deal.”

It is a shame that people have been playing politics with this law and with America’s health. The former Speaker of the House said that the ACA would be “Armageddon.” A Republican Presidential candidate who now sits in the cabinet called it “Obamacare” and these are his actual words—“the worst thing that has happened in this nation since slavery.”

Earlier this month, the President of the United States tweeted that the ACA is “a complete and total disaster.” Well, I say: Tell that to the people of California because when a State wants to make the ACA work, it works—whether that is California or Kentucky, and people living real lives know it.

For example, I recently heard from Myra from Sherman Oaks, CA, who was diagnosed with an aggressive form of breast cancer. She wrote:

We had a Silver Blue Shield plan that covered . . . well over a billion dollars in bills to date. I am happy to report I am now well, but without insurance, I was facing a death sentence. Without the ACA, we would certainly have had to sell our home to pay my bills and try to figure out how to make ends meet.

She wrote that it covered well over a million dollars. That is what the ACA does.

Here is how Cindy from Oakley, CA, has experienced real life. She wrote:

My daughter was diagnosed with an eating disorder at 13 years old and I can directly thank the excellent care I received at Kaiser Northern California for her good health today at age 17. Without the ACA and the mental health parity it helps provide . . . I would have had treatment options available to me.

Again, coverage for mental health treatment—that is what the ACA does.

Honoree, a single mom from Samoa, CA, living with a spinal cord injury that has kept her from working for 3½ years, wrote to me and said:

I wanted to let you know that I love ObamaCare! My health care has steadily improved since the ACA was enacted . . . . I can’t tell you how AMAZING it felt to get my teeth cleaned and cared for after waiting more than a decade.

I walked around for weeks saying, “thanks, ObamaCare!” whenever I sensed how good my teeth felt.

I would be saddened to see the ACA get scrapped. It’s made a huge difference in our lives. Actually, I’d be more than saddened, I’d be very scared.

Again, this is testimony about the ACA, in this case about dental coverage and improved healthcare. That is what the ACA does.

I will state that I believe there is a huge disconnect between the over-the-top criticism of the ACA and the law’s actual impact. There is a disconnect between the politics and how people are actually living and thriving under the ACA. In fact, in a recent poll, one in three Americans didn’t even realize that the ACA and ObamaCare were actually the same thing, and they are. So, everybody, let’s be clear about this. The Affordable Care Act is ObamaCare, and ObamaCare is the Affordable Care Act.

We all know, of course, that there are ways to improve the ACA, but ending it is not the answer. The truth is that the ACA has largely done what it was supposed to do—expand, protect, and reduce—expand coverage, protect consumers, and reduce the pace of rising healthcare costs. Thanks to the ACA and Medicaid expansion, 20 million
more Americans have health insurance. That is the population of the entire State of New York. Thanks to the ACA, premiums are going up at the slowest rate in half a century. Thanks to the ACA, doctors are innovating and providing better care at lower cost. Thanks to the ACA, millions of underserved Americans in rural towns and in cities and everywhere in between have access to care for the first time. Thanks to the ACA, young people can stay on their parents’ insurance until they are 26. Thanks to the ACA, 55 million women have insurance that works—mammograms, checkups, and birth control with no copays. When you pick up your prescription at the pharmacy and see that the bill is zero dollars, well, that is the ACA. And thanks to the ACA, you can’t be discriminated against if you have a preexisting condition, including that preexisting condition called being a woman.

Of course, navigating the healthcare system is still daunting, but things are better. There are now some rules of the road to keep insurance companies from taking advantage of you during some of life’s most vulnerable moments. Because of ACA, before ObamaCare, you could sleep a little easier at night and know that your care will be there when you need it.

Let’s fast-forward to today. Today, we mark the seventh anniversary of this historic life-changing law. But all that it covers and protects could also be ripped away, and that is because of the American Health Care Act, the Republican healthcare plan on the House side. That is what it will do—rip it all away.

They have done their best to mislead folks about their plan. They have criticized objective news reports, and they even questioned the Congressional Budget Office—which, as we know, is, by the way, a nonpartisan, independent office. They then crunched the numbers and found that this new plan would cause millions of Americans to lose insurance coverage.

Before we leap on to this new bill, let’s all ask some key questions. Let’s all think about what this plan really would and would not do.

First, will this bill provide insurance for everybody, as President Trump promised? Well, the answer is no. In fact, the independent Congressional Budget Office says that under the GOP plan, 24 million Americans will lose their health insurance by the end of the decade. That is equal to the population of 15 States combined.

Which are these people? These are middle-class families who struggle with opioid addiction, have a child that needs support for autism, or have an aging parent who needs a nursing home. This bill threatens them all.

Let’s ask: Will the plan help the folks who need care most? The answer is no. The politicians that taxed the credits are based only on age, with no consideration of income level. So what that means is that a 40-year-old cashier making $10,000 gets the exact same amount as the 40-year-old banker making $70,000. Doesn’t matter whether you live in downtown Manhattan or the Cleveland suburbs or rural Alaska.

Let’s ask: Will monthly costs go down for low-income and middle-class families who are stretched horribly thin right now? The answer is no. According to that same independent analysis, the Republican plan will immediately increase American families’ health costs five times as much as other Americans, meaning your high cholesterol your doctor diagnosed could cost you $3,200 more a month.

Let’s ask: Will all women still have access to affordable family planning? The answer is no. This new bill will give Americans choice in healthcare, but the women of America will not have choice. The bill denies women tax credits if they get a plan that covers abortions. It prohibits Planned Parenthood from providing care for millions on Medicaid. Some 2.5 million patients choose Planned Parenthood every year, including roughly 1 million in California. They should be able to see the provider they choose and trust.

Let’s ask: Will the plan protect Medicaid, as President Trump promised? Well, the answer is no. Medicaid covers many people whose jobs don’t offer healthcare, and it also pays for half of all the births in this Nation. It supports people with disabilities and children with special needs. Most people don’t realize that Medicaid is the primary payer for treatment of opioid addiction and substance abuse. But this new plan being offered by House Republicans would cut Medicaid coverage and cut nearly $1 trillion in Medicaid benefits over the next decade.

Let’s ask: Does the plan put American families ahead of insurance company interests? The answer is no. Under this plan, if you lose your job and it takes more than 2 months to find another, you will be charged a 30 percent penalty on top of the monthly costs you are already paying. That money goes right into the insurance company’s pockets.

So, by now, you are probably wondering: Who exactly does this bill help? Well, here is your answer. It gives millionaires a $50,000 average tax cut every year. It gives the top 0.1 percent in this country a $195,000 tax cut every year. It gives insurance companies a $145 billion tax break over the next decade. The President and the Speaker who believe this plan is good for American families, but under their bill, the only thing that gets healthier are the insurance companies’ bottom line.

As far as California is concerned, this bill would devastate our families. Here are the facts, and, frankly, here is the fight. Over 5 million Californians have received insurance through the Affordable Care Act. I say they are worth fighting for.

Since the ACA went into effect, California’s uninsured population has been cut almost in half, from 17 percent to about 7 percent. I say they are worth fighting for.

Medi-Cal went from covering 8.5 million Americans to 33.5 million today. One in two children are covered under Medicaid. I say they are worth fighting for.

The community clinics and health centers that so many Californians rely on will be cut back and closed. I say they are worth fighting for.

A UC Berkeley study estimates that repealing the ACA would cost California up to 200,000 jobs, everyone from home healthcare aides and janitors to cooks in retail, and accounting. I say they are worth fighting for.

I rise today to emphasize that it is really important that we understand the everyday consequences of this bill. We are talking about real people. If you are a farmer in the Central Valley on Medicaid, you can lose that coverage. If you are a Los Angeles senior with diabetes, you may no longer be able to afford coverage on the individual market. If you are a family in Shasta County with a child dealing with a prescription drug addiction, substance abuse treatment likely will not be covered. If you are a couple in Humboldt County with an ailing parent, your request for home health services could be denied. These are the kinds of Californians and the kinds of Americans who this plan would hurt.

When these folks wake up at 3 a.m. worrying about an ache or pain or their next chemo appointment, when they wake up with that concern and that thought at 3 a.m., I promise you, they are not thinking about that through the lens of being a Republican or a Democrat. They think about themselves as fathers, mothers, parents, daughters and sons, and grandparents. They worry about their health needs and how their health needs will affect not only themselves but their loved ones. These concerns are not about politics. These are universal concerns, and we have all been there that this plan is.

It is because all of us share these concerns and because all of us would be badly harmed by this new plan that
this bill is opposed by the American Medical Association, the American Hospital Association, the American Nurses Association, the American Heart Association, the American Cancer Society, the American Diabetes Association, and the AARP. They are the most vocal and patient advocacy groups in this country, and they know what is at stake.

Ultimately, I believe this bill is not just about medicine or math; I believe this is about morals. The plan that the House is voting on today is a values statement, and it is not a good one. As our former President said about the ACA, this is more than just about healthcare; it is about the character of our country, and it is about whether or not we look out for one another.

I think we need to take a good, hard look in the mirror and ask: Who are we as a country? Are we a country that cuts the deficit by cutting care for our most vulnerable? Are we a country that sees healthcare as a privilege for a few or a right for all?

I believe that is what we have to decide.

The ACA is not perfect. It can be strengthened, and I am willing to work with anyone who will work in good faith to do that, but it is time to stop playing politics with public health.

Our government has three main functions: public safety, public education, and public health. We shouldn’t be turning these responsibilities into partisan issues. Instead, we should be figuring out how to improve the lives of all Americans, whether we are Democrats or Republicans.

People are counting on us, people like one of my constituents in Kern County—a woman who is suffering from lung disease, who said:

"Are we a country that sees healthcare as a privilege for a few or a right for all?"

I say to my colleagues: Do not take away American people’s healthcare. Let’s make it better.

Today, we are going to make that worse. That is because broadband providers know our complete browsing history. Think about that for a second. They know everything we do online, everything we search for on a daily basis. Think about how personal that information is, how it paints a picture of who we are. It is totally reasonable and reasonable for customers for their consent before they take that information—our browsing history, what we do online—and sell it to a third party.

That will no longer be the case after the Republicans vote for this bill and it is enacted into law. Broadband providers will be able to take your browsing history and sell it without your permission. The FCC spent months on this rule, and by using the CRA to get rid of it, Congress is taking away the FCC’s authority to do anything like it ever again. That will mean there is no protection for consumers—the FTC, the FCC—that will even have jurisdiction over the issue of privacy for broadband providers.

What is the solution here? We should work with the private sector, the FCC, and the FTC to find a comprehensive solution together.

At a time when data collection and use is increasing exponentially, Republicans should not be rolling back protections for consumers. This is yet another repeal without replace.

Fifty-five years ago this month, President Kennedy gave a seminal speech about consumer rights. He spoke about the march of technology—that innovations are necessarily absent: the Senator from Georgia (Mr. ISAKSON) and the Senator from Kentucky (Mr. Paul).

The PRESIDING OFFICER. Without objection, all time is yielded back.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. SCHATZ. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Under the previous order, the joint resolution having been read the third time, the question is, Shall the joint resolution pass?

The clerk will call the roll.

The bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON) and the Senator from Kentucky (Mr. Paul).

The PRESIDING OFFICER (Mr. ROUNDS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 48, as follows:

YEAS—50

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Yeas—50
The yeas and nays resulted—yeas 52, nays 46, as follows:

**[Rollcall Vote No. 95 Leg.]**

**YEAS—52**

- Alexander
- Baldwin
- Bennet
- Blumenthal
- Booker
- Brown
- Cantwell
- Carper
- Casey
- Coons
- Coons
- Cruz
- Daines
- Duckworth
- Durbin
- Ernst
- Feinstein
- Franken
- Isakson
- Johnson
- Klobuchar
- Menendez
- Merkley
- Murphy
- Flake
- Harris
- Hassan
- Heinrich
- Hirono
- Kaine
- King
- Leahy
- Donnelly
- Klobuchar
- Leahy
- Manchin
- Klobuchar
- Manchin
- Leahy
- Murphy
- Murray
- Wicker
- Young

**NAYS—48**

- Alexander
- Baldwin
- Bennet
- Blumenthal
- Booker
- Brown
- Cantwell
- Carper
- Casey
- Coons
- Coons
- Cruz
- Daines
- Duckworth
- Durbin
- Ernst
- Feinstein
- Franken
- Isakson
- Johnson
- Klobuchar
- Menendez
- Merkley
- Murphy
- Wicker
- Young

People will look at this confirmation and say: U.S. support for Israel now exists largely on a partisan basis. Let's be clear. It does not. I support every penny that goes to Israel. I think it is critical that the country maintains its qualitative military edge in the region, and I take a backseat to no one in my personal or professional passion for the United States-Israel relationship.

That is why I cannot support Mr. Friedman's nomination to be the U.S. Ambassador to Israel. He has radical views. He has made outrageous and offensive statements on a wide range of issues.

Here is a sampling of his past comments. Mr. Friedman has said that the State Department is anti-Semitic. He has said that the two-state solution solves a "nonexistent problem." Mr. Friedman has called for Israeli citizens who wish to be stripped of their civil rights. He has also called for Israel to be "kapos," which is a term for the Jews who worked for the Nazis in concentration camps. These are more than just provocative statements by Mr. Friedman; they are lies.

For decades, the United States has stood firm as an honest broker of peace. We have said to both sides that they can trust us to help end this conflict, and that is based on the principle that the United States is passionate about peace in Israel but dispassionate about how we get there. Mr. Friedman is not objective about how we get there. On the contrary, he is very passionately for settlements, and he is very passionately against the two-state solution, which means he is basically against decades of bipartisan U.S. foreign policy.

Just a few months ago, the organization he led advertised that they have a new program that will train students to passively support the notion of a two-state solution. This group is actively working to take the two-state solution off the table.

I understand that the Senate is not fully aligned on U.S. foreign policy when it comes to Israel. I understand we have our disagreements. We may disagree on whether the solution is best, on where our Embassy should be located, and on how to approach the peace process, but there are some things we ought to be able to agree upon: that our Ambassador to Israel should not be a provocateur; that they wouldn't even be welcome at the negotiating table, and that our Ambassador should not be the kind of person who uses language to inflame passions and to create a qualitative military edge in the region. That means we should be able to agree that our Ambassador to Israel cannot be Mr. Friedman.