



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 115<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 164

WASHINGTON, WEDNESDAY, MARCH 21, 2018

No. 49

## Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. HATCH).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible, God only wise, we praise You that those who trust in You will not lack any good things. We thank You that You are the source of our strength and the strength of our lives.

Guide our lawmakers in all their undertakings. Stay close to them and infuse them with Your Spirit of Wisdom. May they strive for Your approval instead of seeking the approbation of humanity. When our Senators face troubles, rescue them from each one, enabling them to tell of Your excellent greatness. Lord, give them the grace to receive things as they are, while resolving by Your grace to make them what they ought to be.

And, Lord, we pray for the victims and families of the Great Mills school shooting.

We pray in Your strong Name. Amen.

### PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. SULLIVAN). The majority leader is recognized.

### SCHEDULE

Mr. MCCONNELL. Mr. President, I would like this morning to give an up-

date to my colleagues, given the challenges associated with the weather—and also as we move toward a conclusion of the omnibus.

I have spoken to the Democratic leader. It is my expectation that we will move forward with votes today. We are hoping to move them forward on the sex trafficking bill, moving them up in the day, hopefully, to accommodate safe travel. So we will notify everyone when votes are scheduled.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

### RESERVATION OF LEADER TIME

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

### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

### ALLOW STATES AND VICTIMS TO FIGHT ONLINE SEX TRAFFICKING ACT OF 2017

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 1865, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1865) to amend the Communications Act of 1934 to clarify that section 230 of such Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sexual exploitation of children or sex trafficking, and for other purposes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Mr. President, I ask unanimous consent to enter into a colloquy on this legislation with some of my leadership colleagues who are present: first, Senator JOHN THUNE, the chair of the Commerce Committee, who has been very involved in this issue; Senator RICHARD BLUMENTHAL as well, who is the coauthor of the legislation and cochair of the trafficking caucus; Senator CLAIRE McCASKILL, who is ranking member of the Subcommittee on Investigations; and Senator HEIDI HEITKAMP, one of the original cosponsors of this legislation.

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

Mr. PORTMAN. Mr. President, I am pleased to be joined by my colleagues this morning in this Chamber as we begin the process of debating the amendments that are being offered and moving toward a final vote on this important legislation to deal with sex trafficking which, unbelievably, in this century and in this country is actually increasing. All of the experts say it is increasing because of the presence of these organizations online that are using the ruthless efficiency of the internet to sell women and children.

It is fitting that this group is bipartisan, because this process has been bipartisan in coming up with this legislation all along. It is really the culmination of 2 years' worth of work—a lot of great work and investigations being done by the Permanent Subcommittee on Investigations, as well as good work being done by the Commerce Committee through regular order. We would not be on the verge of sending this bill to the President's desk without the hard work of every Senator who will be on the floor this morning.

I would also like to briefly recognize a sixth member of our group who cannot be here but whose passion about this issue means that although his presence is not here, it is felt; and that

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S1849

is Senator JOHN MCCAIN. Both Senator MCCAIN and his wife Cindy McCain have taken on this issue of human trafficking through the McCain Institute, and Senator MCCAIN, through our work on the Permanent Subcommittee on Investigations, also helped us with this legislation. We wish they could be here for the final vote on this bill. I know JOHN MCCAIN is watching right now and wishing he could be here with us, and we look forward to his return to this Chamber. I thank them on behalf of all of us for their hard work on this issue over the years.

We will hear from my colleagues today on a number of things we have done in Congress in this process of putting together the right legislative fix to be able to take away an immunity, unbelievably, that some of these evil websites currently have under Federal law to be able to sell people online. We will hear about the 18-month investigation into online trafficking by backpage.com by the Permanent Subcommittee on Investigations. We will hear stories about online sex trafficking and some of the injustices experienced by some of the victims and survivors who have come to us back home in our States and who have come to testify bravely in the U.S. Congress.

We will hear about some of the calls from courts around the country asking us to pass legislation to fix this problem; the prosecutors, the U.S. attorneys, the people back home who are eager to prosecute these cases but can't because of Federal law.

We will hear about the work of the Commerce Committee, as I said earlier, helping us come up with a commonsense target bill through the regular order to be sure we would have not just the best legislative product but that we would have buy-in from Members of both sides of the aisle.

I commend Senator JOHN THUNE for doing that. He chairs the Commerce Committee, which held a hearing on this legislation—SESTA—last September. It actually was reported unanimously out of committee after making a few changes to the legislation which clarified the intent in a positive way.

I yield to my colleague JOHN THUNE.

Mr. THUNE. Mr. President, I, too, want to recognize and say to Senator PORTMAN, who has been a leading voice in the Senate in the fight against human trafficking, what a great job he has done getting us to this point. This was a long, multimonth, as he said, 2-year effort. Senator PORTMAN has been absolutely relentless in pushing and driving this process forward. I commend him for his important work, which will culminate today, I certainly hope, with a big bipartisan vote in support of the legislation in front of us.

I also commend the bipartisan group of Senators who worked hard to draft the Stop Enabling Sex Traffickers Act, which includes Senator BLUMENTHAL, whom we will hear from in just a moment; Senators MCCASKILL, CORNYN, and HEITKAMP; and as Senator

PORTMAN so very appropriately pointed out, Senator MCCAIN, who has been a passionate advocate for addressing this issue for so many years too. We wish he could be here to participate and vote for passage of this legislation, but we know his work over the years has played an incredibly important role in getting us to where we are today.

This group also helped lead the effort to conduct important investigatory oversight that has helped us to get to the point where we are today.

Last year, as Senator PORTMAN pointed out, I chaired a Commerce Committee hearing on his bill, where we heard testimony from experts on both sides of the issue. We listened carefully to what our witnesses had to say. After the hearing, we worked together to make some targeted changes to the legislation. The bill that ultimately advanced from our committee enjoyed, as Senator PORTMAN pointed out, solid support from the internet industry. It passed the Senate Commerce Committee unanimously.

The bill is strongly supported by Members of both parties. It has racked up lots of bipartisan support: 68 out of 100 Senators are now cosponsors of this bill. The bill is supported by the White House, so we know that as soon as it leaves the Senate, it will land on the President's desk, where it will be signed into law.

It is supported by law enforcement organizations, organizations that fight sex trafficking, and by faith-based organizations.

At our Commerce Committee hearing, we also heard powerful testimony from Yvonne Ambrose, whose daughter Desiree Robinson was sexually trafficked repeatedly before being murdered. Desiree was just 16 years old, a bright and loving girl who dreamed of becoming a doctor in the Air Force. Instead, she was raped and murdered by a man twice her age who had sought her for sex after seeing her advertised on an internet site.

Ms. Ambrose's powerful testimony helped the members of our committee understand the terrible pain that victims of sex trafficking and their families are exposed to. I am very thankful to her for sharing Desiree's story.

This bill has already cleared the House of Representatives by an overwhelming margin.

I encourage my colleagues in the Senate to reject any attempts to slow this bill down with amendments. This has been very carefully and thoroughly vetted through the many processes that Senator PORTMAN described. We need to get this bill over the finish line and on the President's desk and signed into law because there are thousands of children out there who are waiting for our help.

So, again, I commend Senator PORTMAN and our colleagues in the Senate who have worked tirelessly on this legislation. I hope we have a big outcome today, and I hope we can do something really meaningful to address

a scourge that this country needs to get rid of.

I know there are others here who have joined us who intend to participate in this discussion.

I yield to the Senator from Ohio.

Mr. PORTMAN. Mr. President, again, I thank my colleague from South Dakota, who has been at the forefront. Getting this bill through the Commerce Committee with a unanimous vote, frankly, exceeded expectations. Many on the outside thought this might be an opportunity for many who are against the legislation to stop the bill but instead we were able, through testimony, to show that this is a commonsense, targeted approach that will make a huge difference in the lives of the people we represent, without affecting the freedom of the internet. That is the right balance Senator THUNE helped us to get.

I see that my colleague Senator BLUMENTHAL is here, whom I talked about earlier. He is a coauthor of this legislation and also a former State prosecutor who took on trafficking cases, and so he has a professional background in prosecuting these cases and, therefore, joined me in ensuring that this legislation allows for our State and local prosecutors, who are going to take many of these cases, to be able to sue these websites that are selling people online using the current shield in Federal legislation. But after this legislation, prosecutors will be able to successfully prosecute to stop this criminal activity.

Mr. President, I yield the floor to Senator BLUMENTHAL.

Mr. BLUMENTHAL. Mr. President, I am proud to be here as a former U.S. attorney and the chief Federal prosecutor in Connecticut.

I have been involved in law enforcement for most of my career, and I am proud to stand here now in this Chamber, following the chairman of the Commerce Committee, whose dedication to this cause has brought us to the finish line, and my colleague Senator PORTMAN, whose leadership on this bill is invaluable.

I wish to second a number of points that have been made by Senator PORTMAN and Senator THUNE, most especially about the very collaborative effort involved in this bill—a bipartisan championing of a cause whose time has come—and, particularly, about our colleague JOHN MCCAIN and his wife Cindy McCain, whose energy, spirit, courage, and strength have really been an inspiration to all of us. I also want to thank Senators MCCASKILL, HEITKAMP, and CORNYN, because their contributions have been enormously valuable as well.

There is a face to human trafficking in this country. Here is one of the faces. Desiree Robinson, whose story you just heard from Senator THUNE, is one such face. Her voice is still. Her voice could not be heard directly, but her mother, Yvonne Ambrose, came to our committee and talked about her

beautiful daughter, whose life was lost as a result of sex trafficking. She was killed after she was raped and after she was sold. Her story alone helped us to achieve unanimous approval in the Commerce Committee for this bill, and I hope it will lead us to an overwhelming vote today on the bill before us.

I hope, as well, that it will lead us to defeat amendments that would, in effect, kill this bill—amendments that may be well intentioned, but, in fact, have an effect contrary to their stated purpose.

This bill is completely bipartisan from beginning to end. It is the result of tireless work of advocates, sex trafficking survivors, and a bipartisan coalition of our colleagues. It now has 68 cosponsors. Its companion legislation passed in the House 388 to 25.

It is the product of stakeholder consensus. It has the support of every major human trafficking organization, every major law enforcement group, and every part of the tech community—if not unanimous, at least of many of its leaders.

This bill would clarify section 230 of the Communications Decency Act, which was never intended to give websites a free pass to aid and abet sex trafficking. It was never intended to immunize completely those websites so they could knowingly facilitate sex trafficking. Those words are in the bill—“knowingly facilitate.”

The purpose of our measure, very simply, is to give survivors their day in court. Right now, the courtroom doors are barred to them, as a recent court of appeals opinion remarked, outrageously so. It would also open avenues of prosecution to law enforcement where they are currently roadblocked.

My experience combating sex trafficking at the State level led me to co-launch and cochair the Senate Caucus to End Human Trafficking with Senator PORTMAN, seeking to find solutions to this problem. As a State prosecutor, I was told that I could not pursue actions again craigslist or other sites nearly a decade ago because of that section and the interpretation.

Clearly, the websites that facilitate this, knowingly encouraging and profiting from sex trafficking, must face repercussions in the courtroom. For law enforcement to succeed in combating sex trafficking, there have to be consequences. The National Center for Missing & Exploited Children reported an 840-percent increase in reports of suspected child and sex trafficking from 2010 to 2015 alone. It found that spike “directly correlated to the increased use of the internet to sell children for sex.”

Those numbers fail to tell the full story. In fact, this picture is worth a thousand words. This picture of Desiree shows her as a young girl, smiling. In fact, her mom told us that her smile could light up a room. She was a successful student who dreamed of becoming a physician in the Air Force.

When she was in high school, a series of men reached out to her on social media. They pressured and manipulated her into letting them sell her for sex and then advertise her on backpage.com. Her mom, Yvonne, told us what happened next:

On December 23, 2016, a 32-year-old man by the name of Antonio Rosales was looking through Backpage.com for a child to have sex with, just like countless others before him. . . . He knew Backpage.com was a site to go to in order to find young underaged girls to have sex with. During his search, he came upon a picture of my 16-year-old daughter under the posting, “New girl in town looking to have fun,” which was posted by her pimp. Desiree was driven to Antonio’s residence by the pimp with the intent of having sex with this 32-year-old man, a man twice her age.

This was the last night of my daughter’s life. . . . On Christmas Eve, December 24, 2016, Desiree, my baby, was brutally murdered, and now my life has changed forever. She had been beaten, raped, strangled, and if that wasn’t bad enough, he slit her throat, all because she said, no, she didn’t want to do this again. She screamed for help, and there was no one around to help her.

Yvonne Ambrose had the courage to come testify before us, and I have repeated this part of her testimony not because it is ennobling or pleasant, but because it is the hard, ugly truth about sex trafficking. It is the reason that we must pass this measure. It is also the reason why we need to defeat the amendments that would send this measure back to the House and its possible demise.

Every one of the groups I mentioned earlier, including Desiree’s lawyer, have urged us to defeat these amendments. I will read just one or two sentences from a letter that I received today from Desiree’s lawyer about the so-called moderation amendment:

At first glance, it appears that the Moderation Amendment is disguising itself as a good Samaritan amendment. However, in a nutshell, its effect is a really bad faith Samaritan immunity.

This measure is narrowly tailored. It would ensure that State and local law enforcement can join the fight against these criminal websites. It provides survivors a right of action that would not only be a source of relief for them but also a means of remedy. The Good Samaritan amendment, unfortunately—perhaps, unintentionally—would simply protect the websites.

The people who complain and take action certainly deserve protection. It is in the current law. One of the reasons why we want to defeat this amendment is that it would probably have unintended consequences in protecting websites that identify sex trafficking ads and then leave them up in order to continue profiting from them.

I think the letter from the attorney for Desiree Robinson’s estate, Gina DeBoni, objecting to this amendment is a powerful reminder that we need to stick to what we have and what we know will work.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

SENATOR BLUMENTHAL: At first glance, it appears that the Moderation Amendment is disguising itself as a good Samaritan amendment. However, in a nutshell, its effect is really a bad faith Samaritan immunity.

Not only does the amendment strip the “good faith” requirement (that is already accounted for in the current CDA), it creates a new and very expansive immunity for companies charged with all crimes—not just sex trafficking. This is in sharp contrast to CDA’s original intent and does nothing but immunize bad actors.

I significantly limits evidence that could be used in any federal criminal action against a website. Because almost every company uses some form of moderation system, the immunity would apply in every case brought under Section 230 going forward.

The CDA has already been crafted to provide immunity to those that are truly using good faith in their screening. This amendment undoes that and instead, creates a new bar to liability.

Moreover, it does not make sense in the real world and has the potential to create devastating consequences. As you know, we represent Yvonne Ambrose, the mother of Desiree Robinson, who was just 16 years old when she was murdered on Christmas Eve 2016. Desiree was not much different than any other 16 year old girl. She was loved by all, and had dreams like all. Like all children, Desiree was vulnerable. It did not take long for her to fall victim to a man who preyed upon her and sold her for a finder’s fee to her pimp, Joseph Hazely. Hazely sold Desiree for sex on Backpage.com to Antonio Rosales—her killer. Desiree’s case has both a criminal and civil component—Desiree’s traffickers and killer have been charged criminally and are awaiting trial. We are pursuing a civil wrongful death action against all that played a part in her death, including Backpage.com.

You heard from Yvonne who testified before the Senate Commerce Committee. There is no better advocate for the passage of SESTA than a mother who lost her child. Desiree represents hundreds of 1000s of children who are knowingly trafficked on Backpage.com. The proposed Wyden amendment cuts Desiree’s claim off at its knees, giving bad actors, who are not acting in good faith, a way out—giving them a clearly defined immunity to hang their hat on. It is such a drastic departure from that of the Good Samaritan, taking good faith out of the equation entirely. It will create an insurmountable challenge for lawyers who are fighting on behalf of victims of sex trafficking, not to mention, any victims of any other crime, whether criminal or civil, brought under Section 230.

In practical application, in a case such as Desiree Robinson, this is how it plays out:

We know that Backpage makes an effort to identify and flag ads that are objectionable through its strip word feature. It then affirmatively edits ad that it knows are selling children for sex on its website. Under this amendment, even though Backpage knowingly facilitated trafficking of children when it edited the ads, it would be immunized because it took steps to identify this content, even though it didn’t remove it. Surely, immunizing bad actors such as Backpage cannot be the intent of this Congress and all the co-sponsors of this bill.

We know from the Senate report and information obtained via our subpoena to Co-Star Group that Backpage’s moderation is relevant and intrinsically connected to their knowing facilitation of sex trafficking. This

amendment removes the consideration of the direct evidence of criminal activity because the amendment broadly excludes all evidence of this nature. In fact, it broadly excludes this type of evidence for ALL civil and criminal matters regardless of the type of crime.

Companies such as Facebook, etc., that have the largest risk or burden are supportive of the SESTA language as is. This amendment is not geared towards good actors but rather companies that are not acting in good faith. The Commerce Committee report clearly provides for good faith moderation—"an ICS would not have their good faith efforts to restrict access to objectionable content used against them." Good faith moderation is already protected by the CDA and the passage of SESTA does not negate that.

For the above reasons, we respectfully encourage Senator Blumenthal to vote NO on the Wyden Amendment. I am available any time this weekend or on Monday to discuss further.

Thank you for your consideration.

Regards,

GINA ARQUILLA DEBONI,  
*Attorney for the Estate  
of Desiree Robinson  
Managing Attorney,  
Romanucci &  
Blandin LLC.*

Mr. BLUMENTHAL. Finally, there is a funding amendment that has been offered. While well-intentioned, it would, in effect, derail this legislation. It would provide money through Attorney General Sessions to investigate and prosecute websites that criminally facilitate human trafficking.

This amendment, too, is opposed by law enforcement agencies. Yesterday, I put their letters into the RECORD. Every major law enforcement representative agency opposes it because "the funding amendment is a poison pill that is dead on arrival if sent back to the House."

I will conclude simply by saying that I believe this measure accomplishes some powerfully important purposes. It would not criminalize the so-called harm reduction communication—information designed to ensure that women and men wrapped up in commercial sex trade can avoid violence, prevent HIV, and access community and support services.

H.R. 1865 was not designed to target websites that spread harm reduction information, and the language of the bill makes that clear. The purpose of this bill is much more narrowly focused: A website user or operator must intend to facilitate prostitution. If their goal is to save lives by providing lifesaving information, they have not violated the law.

Finally, I want to make absolutely clear, this legislation is not intended to prejudice the rights of anyone who has been victimized by a crime online other than sex trafficking. For example, I disagree with the courts that have held that the Communications Decency Act immunizes online firearm sales—like Armslist—for facilitating illegal gun sales. While this legislation does not address those cases, nobody should infer that Congress believes they were rightly decided.

Again, my thanks to all of my colleagues and most especially to Senator PORTMAN for his hard work, his leadership, and his courage in tackling this tough problem, which should bring all of us together. Making SESTA the law of the land will help save lives. It will spare others the fate of Desiree Robinson. It will make sure that more parents see justice, that survivors have their day in court, and that law enforcement has the right to pursue these wrongdoers.

Mr. President, I yield back to Senator PORTMAN.

Mr. PORTMAN. I thank my colleague for his comments and, more importantly, for his leadership all the way through the process of drafting the legislation.

I am now going to yield to one of my other colleagues. It looks like Senator HEITKAMP will be next to speak. She is from North Dakota, not South Dakota, as we talked about earlier with Senator THUNE, and she has a similar passion for this issue and has been involved in this issue for many years and is also on the committee in which we did the PSI work we talked about earlier. I appreciate her being one of our six original cosponsors, helping us to draft this targeted, focused legislation that deals directly with the problem we have seen around the country, which was discussed by Senator BLUMENTHAL.

With that, I would like to yield to my colleague Senator HEITKAMP.

The PRESIDING OFFICER (Mrs. ERNST). The Senator from North Dakota.

Ms. HEITKAMP. Madam President, I am so proud to stand here with my five colleagues, but I also have to acknowledge the one who is not here; that is, Senator JOHN MCCAIN, who has been an absolute champion, along with his wife, on attacking this problem. Five years ago when I met Cindy McCain, one of the first things she said was, what can we do about this?

Working within the Homeland Security Committee, where so much of this work got done—both in the Homeland Security Committee and the Permanent Subcommittee on Investigations—I can't say enough about the commitment of that committee but more importantly the commitment of the leadership of the Permanent Subcommittee on Investigations, both Senator PORTMAN and Senator MCCASKILL, who worked in tandem, who engaged their very capable staff, who did the investigations that led to the exposure of the issues and led to a bipartisan commitment to develop and pass this bill.

I do want to say that I know that JOHN and Cindy are with us today in spirit. I know that Cindy is probably watching because she is very, very excited that finally we are going to get this done. This is such an important tool. This is such an important piece of stopping human trafficking, which has been her lifelong objective and passion. Today, we stand not just with our colleagues who are here on the floor but

also with our great friend, Senator JOHN MCCAIN, and his beautiful, active, and wonderful wife, Cindy McCain.

The other reason I am very proud is that this is why I came to the Senate—to work across the aisle to address major issues and challenges, to make a difference in the lives of some of the most vulnerable human beings in our country.

We are here today on the cusp of passing a bill that will provide victims a real opportunity to seek justice and recover damages from websites that profited from their pain of being sold for sex, while also providing new tools to prosecutors, including my former colleagues, the State attorneys general, to go after these sites and their owners.

Again, I thank Senator PORTMAN and Senator BLUMENTHAL for their tireless work in trying to fashion the right mix of understanding the importance of the Communications Decency Act to the development of this tool we call the internet but also making sure this is not used as a tool for incredibly bad actors who would prey on the most vulnerable among us.

Driving this bill and forging a compromise was not easy. This was not easy. No one should think that this came together easily or that we didn't have many moments where we did our own soul-searching, those of us who are committed to the First Amendment and those of us who are committed to free access of means to express our opinions and do our business.

What I will tell you is that this is a big thing. This isn't a little thing. This is a big thing—not only because we are doing it in a bipartisan way but also because we are speaking on behalf of the most vulnerable human beings in this country.

I can't imagine a more heinous act than the sale of human beings on the internet for sex. It is happening in all of our communities. It is happening in our States each and every day.

When I began my journey to the U.S. Senate, I engaged and started visiting with my old friends in North Dakota law enforcement. As I have said many times, I am a former attorney general from the great State of North Dakota and have great friends in law enforcement. Their message was simple. They were seeing a lot more drugs. Obviously, North Dakota was experiencing an oil boom, and that was creating some social upheaval, additional crime, additional concern about crime. They then told me something I didn't expect: We are seeing this incredible rate and increase in prostitution. I thought about that. I thought, well, what does that mean, and how do we investigate it?

So many people would argue that this is a victimless crime and not a priority, and we started looking behind this. My colleagues in law enforcement in North Dakota started doing stings. They did something that peace officers all across the country do: They sat

down with the women they were arresting, and they started listening to their stories. The stories were heart-breaking—stories of being preyed on as young girls, either in their home or as they were running away, the stories of how they got in the life. Many of my colleagues in law enforcement began to say: These women are not criminals; they are victims.

We began to look at what led to this huge explosion, and we started examining all the websites, all the places where, with the tweak of a word or with the opportunity to be anonymous—in the old days, you would have to stand out perhaps on the street corner, but now you can be anonymous, and that gave those perpetrators, those evil human beings, yet another avenue.

That is when we started looking at backpage.com and other sites like it that sell human beings for sex. That occurs in every corner of our country—in the small and big States and in the small and big counties and in oil counties and out east in farming communities. So no one should believe that they are immune or somehow limited because it is going to happen there but not here. One thing we have learned is that it is happening everywhere.

Today, we are saying: No more. The Stop Enabling Sex Traffickers Act would crack down on these horrific crimes online and provide justice for victims. Today, it is going to pass the Senate with broad bipartisan support and head to the President's desk to be signed into law.

In many instances, websites help traffickers skirt law enforcement through online advertising and continue to do so without penalty by claiming their First Amendment rights.

I remember when we in the Permanent Subcommittee on Investigations subpoenaed and had a chance to question the witnesses from backpage.com, and they started talking about their First Amendment rights. I pointed out to them that nothing this body can do can affect someone's First Amendment rights. They were not alleging or saying they were protected by the First Amendment. They knew that wouldn't fly. They said they were protected by the terms of the Communications Decency Act.

Like Senator BLUMENTHAL, I never believed that the Communications Decency Act protected them from prosecution or protected them from civil penalty if they were complicit and, in fact, abetted these crimes. I never believed that, but there were judges in America who did. We met and saw a lot of those judges and read a lot of those opinions and said: We cannot let a law of the U.S. Congress—a law on the books in our country—allow perpetrators who sell children for sex to absolutely avoid any civil or criminal penalty. We cannot allow that to happen—not a law of this country.

We don't have the ability to restrict or modify the First Amendment in this

body, but we do have the ability to amend a law that is being used inappropriately to protect the most hideous criminals in America. No law should put anyone above liability if they are actively involved and complicit in selling children for sex.

As we stand here today, we know we are doing something that we hope will happen more often in the Senate. We are standing for those victims, those parents, those children, those women who are still in the struggle of human trafficking, those children who are still in the struggle of human trafficking. We are standing with them today to say: No more. People who will illegally profit from selling children for sex are going to be held accountable. So the message needs to go from this body, it needs to go from the signature on this bill, that that protection you have been alleging—inappropriately hiding behind the Communications Decency Act—ends, and it ends with the passage of this bill.

I couldn't be prouder of the work my colleagues Senator MCCASKILL and Senator PORTMAN did on the Permanent Subcommittee on Investigations. You exposed the facts that led to the argument that led to the passage of this bill. I am proud to stand with you. I am proud to work to make sure that this bill is appropriately implemented. I look forward to the first prosecution of someone who sells children for sex on the internet, profiting from the web page they created.

With that, Senator PORTMAN, thank you so much for your excellent work. Senator MCCASKILL, thank you for your excellent work. I stand proud with you today and know that we are making a difference today.

Today, the U.S. Senate will make a difference for the most vulnerable human beings in our country.

I yield the floor.

Mr. PORTMAN. I thank my colleague for the expertise and experience she has brought to this effort. As she said, in the Permanent Subcommittee on Investigations, we spent 18 months digging deep, trying to figure out why this was happening, why we had an increase in trafficking in this country in this century, and increasingly we were told that this was because of the internet, moving from the street corner to the smartphone. Trafficking survivors and victims told us this, but so did the experts.

Senator HEITKAMP jumped in, and the leadership of that subcommittee included Senator MCCASKILL. She is no longer the ranking member. She has gone on to bigger things—to be ranking member of the full committee—but during this investigation of 18 months, she was the ranking Democrat on our subcommittee, and I appreciate working with her there. She is a former prosecutor. She knows how to dig deep for this information, and she had a good staff. She also was very helpful to us in helping to enforce the subpoenas.

I will let her tell the story, but this is really incredible. We knew this one

website, backpage.com, was engaged in this effort because we heard about it all over the country. In my home State of Ohio, women and girls would say they were trafficked on backpage. If I talked to a dozen victims or survivors, 10 would say backpage. The National Center for Missing & Exploited Children said that 75 percent were backpage. Another group said: No, it is 80 percent.

In other words, we knew this was happening, but we couldn't get the information because although we subpoenaed documents and subpoenaed their testimony, they refused to show up and refused to give us documents. We had to go through an extraordinary process. I will let Senator MCCASKILL talk about it, but for the first time in 21 years, this Senate did something that was critical to our investigation. I want to thank her for her hard work, and I would like to yield time to her to talk about it.

Mrs. MCCASKILL. Madam President, I thank my colleagues. I think we have spent a lot of time on the floor thanking each other, which is a good thing. Unfortunately, too often, we go back to tribal warfare after we thank each other, but this is an example of when we have worked together in a bipartisan way. So I think those "thanks" are justified, particularly in this case when there has been an honest and true bipartisan effort to get at a very serious problem in this country. It was a pleasure to work with my colleague Senator PORTMAN as we did this investigation.

So how do I come to this place? I come to this place as somebody who had spent a significant part of her career in the courtroom prosecuting sex crimes. I think I can say with confidence that I prosecuted more sex crimes than any other Member of the U.S. Senate. I can't speak for the House because I am not familiar with the backgrounds of all of the House Members.

I spent years as an assistant prosecutor. For part of that time, I was the only woman in the office, and for some reason, they thought that was a good reason to have me gain expertise in the area of sex crimes. I was happy to take on the responsibility of handling a lot of those cases as a young assistant prosecutor, going into the courtroom and arguing cases to juries, holding the hands of victims, crying with their families, trying to find that special spot that is called justice in a system that is sometimes stacked against the victims of these kinds of crimes. I went on to be the elected prosecutor in Kansas City and tried to continue our strong stand against all forms of sex crimes, including against the people who were profiting off of selling sex.

It is important to remember that when we began this investigation in the Senate, we were dealing with someone who didn't want to cooperate. What we learned through the investigation was that this law, as it exists now,

was their protector. They were being protected for their bad acts by an outdated law that had been twisted and distorted to allow them to make billions of dollars of profit and, frankly, millions, upon millions, upon millions of dollars of profit off of trafficking young women for sex. The prosecution of cases is not driven by headlines. It is not driven by press conferences. It is not driven by photo ops. The prosecution of cases is driven by evidence. You only get evidence after having a thorough and complete investigation, and it has to be in-depth.

I know that Senator PORTMAN will relate to this. Can you imagine, when backpage said, "We don't want to talk to you," if we had said, "OK. That is fine"? Can you imagine, when backpage said, "We refuse to be interviewed," if we had just said, "OK. No problem. We don't have any evidence of wrongdoing. Let's just go on our way"?

Instead, when we were confronted with their stubborn unwillingness to participate in a U.S. Senate investigation, we did what was necessary to hold them accountable, and it involved the cooperation of the entire Senate. Once they rebuffed our subpoenas and refused to show up, and once they said, "No, we don't have to give you anything because of the current law as it relates to section 230" and we said, "No, that is not true," we got the entire U.S. Senate to back us up—every single Member.

I don't know how unusual it is in this day and age to have zero on one side of the ledger in the U.S. Senate. I don't know about Senator PORTMAN, but I have seen it very few times. Now, there is usually one or two who hang out there for some reason or another, no matter how uncontroversial a piece of legislation is. Yet, in this instance, we got everybody. Everybody who voted said: Yes, let's take backpage to court and assert our ability under the Constitution and the law to investigate. We took them all the way to the Supreme Court, and we won that case.

What happened after that is really important for people to understand because there were lots of folks around the country who were trying to get at backpage's conduct, but it was able to use this law to protect itself. There were two things we did that were very important for prosecutors after our investigation.

The first thing we did was to send the whole file over to the Department of Justice for referral. It sits there now—all of the information we have about backpage—at the Department of Justice, and I am hopeful that it is using that information and all of the documentation we were able to obtain to pursue bad acts and criminal violations by backpage.

The other thing we did with the vote of the Senate and the cooperation of the Senate is to open up our files to any prosecutor or attorney general in the country. I would certainly call on the attorneys general of this country

and call on the local prosecutors in this country to access these documents that are available to them now and to use them in the investigations they have of people who might have actually used backpage to traffic young women and sometimes children.

Why is this law so important? If I am looking at this through a prosecutor's lens, now all of the prosecutors in the country can go after anyone who knowingly facilitates sex trafficking online. I am not saying when it is by accident, and I am not saying when it has slipped through and they don't know it; I am talking about knowingly facilitate, which is what backpage was doing. Once we got all of its documents, we learned it was knowingly facilitating sex trafficking on its web page.

Not only can individuals walk in the courthouse and get a moment of justice through civil action, but now attorneys general can take civil action, even in Federal court, against these websites. Most importantly, where most crime is prosecuted in this country, they can go after these folks.

I don't think most Americans realize—I know a lot of Missourians don't realize—that upwards of 90 percent of the crime that is prosecuted in this country is done by local prosecutors. FBI agents don't answer 9-1-1 calls. FBI agents get to pick where they investigate. U.S. attorneys get to choose which cases they take. Local prosecutors do not. They take everything. They have to go after every crime that is committed in their jurisdictions. There may be concurrent Federal jurisdiction, and they may work with the Federal Government on a bank robbery or maybe on a murder when the body is moved across a State line. Yet I don't think most Americans realize that for most crimes in this country, the Federal Government doesn't even have jurisdiction. The Federal Government cannot prosecute a rape case anywhere except in the District of Columbia or a territory. That is all done by State and local prosecutors.

The most important part of this bill to someone who is deeply steeped in local prosecutions is the tool it gives our frontline of law enforcement in this country—the people who answer the 9-1-1 calls, the people who respond to the emergency room when a young, 15-year-old girl wanders in, like she did in St. Louis, saying she had been trafficked up and down the interstate and was coming to the emergency room for help. It was not the FBI that responded. It would have been the local police who had responded to that emergency room to find out what the facts had been and who had determined how to go forward. This is a new tool in the toolbox of the frontline of criminal prosecutions in this country, and I am so proud to have been a part of it.

I know there are going to be some amendments offered. I am confident they will be voted down. By the way, everyone wants to support more resources for this. So in an effort to try

to amend the bill so that it has to go back to the House, the notion that one of the amendments is of needing more resources is one of those jujitsu moves that we do around here, frankly, that is not always productive.

Of course, we all support more resources for sex trafficking prosecutions and investigations, but we don't want to amend this bill right now because it has to get to the President's desk so that we can get busy and get after this crime and do what we need to do in this country in order to hold the people accountable who are profiting off the backs of people who sell children for sex.

I thank the Presiding Officer, and I thank my colleague Senator PORTMAN for all of his work and cooperation on this issue.

I yield the floor.

Mr. PORTMAN. Madam President, I thank Senator MCCASKILL. She is absolutely right. We are grateful to the entire Senate for jumping in on this because we would not have gotten to the bottom of this without our having gotten the Senate to decide for the first time in 21 years this question: Are we going to enforce the subpoena or not? People stepped up. As a result, through the court system and with the sanction of criminal liability as a possibility, we were able to get these folks to come forward and provide this information.

They never really testified. They came forward, and they claimed their Fifth Amendment rights, but at least we were able to get 1 million pages of documents—1 million pages. Then we sifted through 1 million pages of documents to discover, lo and behold, that these people actually knew what they were doing. In fact, they were altering ads. They would get an ad from somebody who was selling an underage girl. The ad would read something like "schoolgirl" or "cheerleader" or "young girl." They would then edit that ad to take out those words that would indicate what was going on, and they knew it was going on. Then they would place the ad anyway. In other words, they would make the money, make the profit, knowing that they were selling an underage girl online. They were also destroying the evidence that, later, law enforcement could use in going after these people.

This is evil, and this has been happening. We have heard the stories. We have talked about Yvonne Ambrose. We have talked about Kubiiki Pride. We have talked about Nacole S. We have talked about some of these mothers and their daughters who have gone through this horrific situation. You also heard earlier about Desiree. This was the 16-year-old who was being sold on backpage, and on Christmas Eve, she was murdered. Imagine getting that call as a parent.

We have talked before about the testimony we received in the committee with regard to the 14-year-old girl who had gone missing. Kubiiki Pride is her mom. Kubiiki Pride said she had been



missing for several weeks when someone finally told her: Why don't you check on backpage.com. So she did. She went on backpage.com and found her daughter, who had been missing for weeks. Imagine the mixed emotions there—the relief of finding her daughter but her horror in seeing the explicit sexual photographs of a 14-year-old who was being sold for sex.

She did what you would do as a mom. She called backpage immediately and said: I found my daughter on your website. She is 14 years old. Thank you for taking down that ad and helping me to connect with my daughter.

The answer from backpage.com was this: You didn't pay for the ad. We will not take it down.

Again, talk about evil. Think of the heartbreak.

Then, later, when she was reunited with her daughter, she was one of those brave moms and her daughter was one of those brave victims who said: Do you know what, we are going to file a lawsuit and go public with this and talk about our experience—the trauma that this young, 14-year-old girl had gone through in having been repeatedly raped by older men—and we are going to hold these websites accountable.

Do you know what happened?

The court system said: I am sorry. Under a Federal law that was passed by the Congress—a 21-year-old law—this website is not culpable. It has a shield. It has an immunity.

That is why we are here today.

Justice cannot always be seen, but its absence is felt, and the absence of justice is exactly what we are trying to address here today.

You have heard from my colleagues, and I appreciate all four of them for speaking up and talking about their experiences and how we got to this point. We may hear from a couple of other colleagues later today who were part of helping us put together a sensible approach that targeted this activity. Sure, we have freedom of the internet on the one hand, but on the other hand, this is criminal activity that cannot continue to go on here in America, in this century, at this time.

Again, as we have learned, this is where you see the increase in trafficking. You not only hear this from the experts who give us their data that show huge increases in trafficking reports, but you also hear it and feel it from the victims and the survivors whom I have met with in Cleveland, in Cincinnati, in Columbus, in Dayton, in Akron. They have told me the same story, which is: Yes, I was sold online. It is very efficient.

One 9-year-old girl was sold online by her father. I first met her when she was almost 20 years old and had finally escaped from the clutches of her own father.

Think about that—backpage's going from sporting event to sporting event around the country and, online, one being sold many times on a single night with the efficiency of the internet.

This is legislation that is overdue, in my view, and it is required. The courts have told us that. The district attorneys have told us that. The attorneys general have told us that, and 50 of them sent us a letter, writing to make this change. They have all said: Congress, step forward. They have not just invited us to do it; they have welcomed us to pass this legislation to give these families the justice they deserve and to give our prosecutors the ability to go after them.

One thing that I hope has been made clear from the other comments we have heard today is that one of the important parts of this legislation is to simply allow these local prosecutors we talked about earlier to take these cases while using the Federal standard rather than just relying on the Department of Justice.

Having said that, sifting through those 1 million pages, our report, with all the documents we received, you can go online to see this at the Permanent Subcommittee on Investigations, PSI.

We did provide this to the Justice Department. We did provide this to the prosecutors around the country who were interested. We did provide it to others who are pursuing lawsuits so they have information now that they never had before, but we also need to change the law, and that is what we are about to do today.

You heard from my colleagues about the amendments that are likely to be offered. There are two amendments. The first amendment is one that is going to be called a moderating amendment, meaning that if somebody is on their website moderating the website, cleaning up the website, they should be given a good-faith acceptance. Let me just be clear. This amendment is a poison pill and will make it easier for those sites that are involved in sex trafficking to continue to do so.

Right now, under current law, there is a good-faith exception. There is a Good Samaritan exception under current law. We actually restate that in our legislation, to be absolutely clear, that if you are one of the good guys—a website online—who wants to be sure your site is not going to have these girls being sold that we talked about earlier, that you should be protected. However, this legislation, having restated the Good Samaritan provision, also says that if you are one of the bad actors, you don't have that protection. The first amendment that is going to be offered includes protections for some of the bad actors. It purposely strips the good-faith element, and I believe it would assist online sex traffickers rather than hold them to account.

For instance, if backpage or another website filters for illegal content and, as a result, learns that their site is being used for trafficking but ignores that activity, I think this amendment would say that evidence could not be considered in a case against backpage. To me, that is wrong, and I hope the

first amendment is going to be handled appropriately, which is to say, we don't want to weaken this bill or have a poison pill in here.

By the way, the law enforcement community represented nationally by their associations agrees with us, as do the victims groups, as do the groups who are concerned about the effect of trafficking on girls, women, and boys online. So we are together on this with all the outside groups.

The second amendment is going to be asking for additional Department of Justice resources specifically to combat online trafficking. I support funding to investigate and prosecute traffickers, of course, but we have to appropriate that funding in the proper manner. This amendment would be subject to a budget point of order because it is not going through the right process. The right process is the bill we are taking up the day after tomorrow, which will be the spending bill.

In fact, there are three budget points of order that the Committee on Budget in the U.S. Senate has found against this amendment. This amendment is subject to points of order. Every law enforcement group in the country opposes the amendment because as law enforcement said, it is a poison pill that is dead on arrival if sent back to the House. We have to defeat these amendments in order to have this legislation move forward. I hope my colleagues will all stick with us on that as they stuck with us through this process of getting the information, coming up with the right legislation, being sure we have the opportunity to take it to the floor and get it to a clean vote, get it to the President's desk and get it signed, and starting in a couple of weeks to be able to make a difference in the lives of the people we represent, stopping the online trafficking that is occurring and providing justice to those who are victims and survivors and ensuring that, indeed, justice can be served.

One of my colleagues has joined us on the floor. Senator NELSON is the ranking Democrat on the Commerce Committee that took up this legislation and clarified some points in the legislation. By the time he was done with it—and, by the way, he was a cosponsor of the legislation long before that—but by the time the Commerce Committee was done clarifying the legislation, listening to the testimony from both sides, he received a unanimous vote in committee. That doesn't happen very often, and I appreciate Senator NELSON being on the floor today. More importantly, I appreciate his leadership on the issue.

Madam President, I ask unanimous consent additional material be printed in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,  
March 7, 2018.

## MEMORANDUM

To: Hon. ANN WAGNER.

From: American Law Division.

Subject: Ex Post Facto Implications of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (H.R. 1865), as Passed by the House of Representatives.

This is in response to your request for an analysis of the ex post facto implications of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (FOSTA) (H.R. 1865), as passed by the House of Representatives in February, 2018. You expressed particular interest in the ex post facto implication of Section 4 as it relates to Section 230 of the Communications Act of 1934 (Section 230) (47 U.S.C. §230), originally enacted as part of the Communications Decency Act of 1996.

As discussed below, the Constitution's Ex Post Facto Clauses limit congressional and state authority to pass legislation that applies retroactively. Because Section 230(e)(5)(B) and (C) would amend the Communications Act to allow states to prosecute online facilitators of sex trafficking but would not create any new federal crimes or enhance the punishment for any existing federal crimes, the Ex Post Facto Clause does not appear likely to bar Congress from making these amendments. In addition, Section 230(e)(5)(A), which amends Section 230 to allow civil causes of action under 18 U.S.C. §1595 for 18 U.S.C. §1591 violations, does not appear to violate the Ex Post Facto, Due Process, and Takings Clauses.

## DISCUSSION

Among other things, Section 230 of the Communications Act protects online providers of internet services from being treated as publishers of information provided by other entities. Section 230 states: "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." Section 230 does not bar criminal prosecutions under federal law.

Courts have found Section 230 to prevent states from enforcing state laws intended to reduce sexual abuse of minors. For example, in 2012, a court found Section 230 to bar state prosecution of an online classified advertising service pursuant to a state law that criminalized advertising commercial sexual abuse of a minor. Other courts have construed Section 230 to immunize online classified advertising services from civil liability.

Among other things, FOSTA is intended to clarify that Section 230 of the Communications Act does not protect providers and users of interactive computer services from federal and state criminal and civil laws relating to sexual exploitation of children or sex trafficking. The relevant substantive provisions FOSTA include:

Section 3 (proposed 18 U.S.C. §2421A), which would proscribe "promotion or facilitation of prostitution and reckless disregard of sex trafficking," authorize restitution, and provide a civil cause of action for the victims of such an offense;

Section 4, which would amend Section 230, to "ensur[e] [the] ability to enforce federal and state criminal and civil law relating to sex trafficking";

Section 5, which would amend 18 U.S.C. §1591, which proscribes certain aspects of commercial sex trafficking of children or by force, fraud, or coercion, by defining the term "participation in a venture";

Section 6, which would amend 18 U.S.C. §1595, which establishes a cause of action for

damages and attorneys' fees to benefit victims of violations of 18 U.S.C. ch. 77 (18 U.S.C. §§1581-1597) (relating to peonage, slavery, and trafficking in persons, including commercial sex trafficking), to allow state attorneys general to bring civil actions on behalf of victims of commercial sex trafficking.

Section 7, which would establish a savings clause relating to pending federal and state criminal and civil litigation.

Section 4 of FOSTA addresses the scope of Section 230's grants of civil and criminal immunity. It reads:

(a) In General.—Section 230(e) of the Communications Act of 1934 (47 U.S.C. 230(e)) is amended by adding at the end the following:

"(5) No effect on sex trafficking law.—Nothing in this section (other than subsection (c)(2)(A)) shall be construed to impair or limit—

"(A) any claim in a civil action brought under section 1595 of title 18, United States Code, if the conduct underlying the claim constitutes a violation of section 1591 of that title;

"(B) any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section 1591 of title 18, United States Code; or

"(C) any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section 2421A of title 18, United States Code, and promotion or facilitation of prostitution is illegal in the jurisdiction where the defendant's promotion or facilitation of prostitution was targeted.

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act, and the amendment made by subsection (a) shall apply regardless of whether the conduct alleged occurred, or is alleged to have occurred, before, on, or after such date of enactment.

Section 4(b) clarifies that the Section 4(a) amendments apply retroactively, which raises the possibility of ex post facto issues. With respect to Congress, the Constitution provides that "No . . . ex post facto Law shall be passed," and, with respect to the states, the Constitution provides that "No State shall . . . pass any . . . ex post facto Law . . ."

Proposed Section 230(e)(5)(B) and (C)

Proposed Section 230(e)(5)(B) and (C) concern state criminal prosecutions. Section 4 of FOSTA would amend existing federal law to remove impediments to criminal prosecution under state law as described in proposed Section 230(e)(5)(B) and (C). Strictly speaking, it would neither create new federal crimes nor enhance the punishment for existing federal crimes. Thus, on its face, it would not appear to violate the Ex Post Facto Clause that binds Congress. Because Section 4 does not contemplate state enactment of retroactive legislation, it would not appear likely to violate the Ex Post Facto Clause that applies to states. It is possible, however, that an argument could be made that allowing prosecution for parallel state offenses effectively enhances punishments for 18 U.S.C. §1591 and proposed 18 U.S.C. §2421A violations retroactively.

The Supreme Court has considered two ex post facto cases that involved removing impediments to state prosecution and punishment—*Stogner v. California* and *Dobbert v. Florida*. In *Stogner*, the Supreme Court found a California statute that attempted to revive expired statutes of limitations to violate the Ex Post Clause. The Court stated:

The second category [of *Calder v. Bull*'s inventory of statutes that violate ex post

facto]—including any law that aggravates a crime, or makes it greater than it was, when committed—describes California's statute as long as those words are understood as Justice Chase understood them—i.e., as referring to a statute that inflicts punishments, where the party was not, by law, liable to any punishment. After (but not before) the original statute of limitations had expired, a party such as *Stogner* was not liable to any punishment. California's new statute therefore aggravated *Stogner*'s alleged crime, or made it greater than it was, when committed, in the sense that, and to the extent that, it inflicted punishment for past criminal conduct that (when the new law was enacted) did not trigger such liability.

In *Dobbert v. Florida*, the Court considered a Florida statute that sought to revive the death penalty. *Dobbert* had committed murder, then a capital offense, several months before the Court decided *Furman v. Georgia*, which invalidated Georgia's, and by implication Florida's, procedures for determining death sentences. After reinstating the death penalty with constitutionally valid procedures, Florida prosecuted *Dobbert*, and sentenced him to death. The Court found no ex post facto violation. "The new statute simply altered the methods employed in determining whether the death penalty was to be imposed; there was no change in the quantum of punishment to the crime." The Court explained further:

Petitioner's second ex post facto claim is based on the contention that at the time he murdered his children there was no death penalty in effect in Florida. This is so, he contends, because, the earlier statute enacted by the legislature was, after the time he acted, found by the Supreme Court of Florida to be invalid under our decision in *Furman v. Georgia*, 408 U.S. 238 (1972). Therefore, argues petitioner, there was no valid death penalty in effect in Florida as of the date of his actions. But this sophistic argument mocks the substance of the Ex Post Facto Clause. Whether or not the old statute would, in the future, withstand constitutional attack, it clearly indicated Florida's view of the severity of murder and of the degree of punishment which the legislature wished to impose upon murderers. The statute was intended to provide maximum deterrence, and its existence on the statute books provided fair warning as to the degree of culpability which the State ascribed to the act of murder . . . Here the existence of the statute served as an operative fact to warn the petitioner of the penalty which Florida would seek to impose on him if he were convicted of first-degree murder. This was sufficient compliance with the ex post facto provision of the United States Constitution.

Because Section 230(e)(5)(B) revives the prospect of state prosecution for conduct outlawed by 18 U.S.C. §1591, it seems analogous to *Dobbert* and critically distinct from *Stogner*. In *Stogner*, the defendant could not be prosecuted until the impediment was removed. Under proposed Section 230(e)(5)(B), defendants could be prosecuted before the impediment's removal if 18 U.S.C. §1591 proscribed the underlying conduct. In *Dobbert* and under proposed Section 230(e)(5)(B), the defendant knew beforehand that government authorities considered the underlying conduct criminal and warranting punishment under the law.

Proposed Section 230(e)(5)(C) is different because dual state and federal prosecutions would only occur after proposed 18 U.S.C. §2421A's enactment and, consequently, any conduct subject to revived state prosecution would not have been a federal crime when the conduct occurred.

However, Section 230(e)(5)(C) would create no new federal crime or enhance punishment



for any pre-existing federal crime and only impacts state law. We have been unable to locate any case that indicates that the Ex Post Facto Clause limits Congress's legislative authority in such a situation.

Proposed Section 230(e)(5)(A)

Proposed Section 230(e)(5)(A) concerns civil causes of action. Section 230(e)(5)(A) would remove Section 230 bars to causes of action under 18 U.S.C. §1595 and predicated on 18 U.S.C. §1591 (relating to commercial sex trafficking) violations. Ex Post Facto Clauses ordinarily do not apply to statutes providing retroactive civil remedies. The Supreme Court has stated: "Because [the Court will] ordinarily defer to the legislature's stated intent, only the clearest proof will suffice to override legislative intent and transform what has been denominated a civil remedy into a criminal penalty." Section 1595 appears to be remedial in contrast to the criminal provisions in the same chapter of Title 18 of the United States Code, including Section 1591.

Retroactive civil remedial statutes raise Due Process Clause and, occasionally, Takings Clause concerns. The Court has not presumed retroactivity in civil cases unless such legislative intent is clearly indicated. When legislation is explicitly retroactive, the Court's due process analysis generally is more forgiving than its ex post facto analysis. The Court has stated: "Provided that the retroactive application of a statute is supported by a legitimate legislative purpose furthered by rational means, judgments about the wisdom of such legislation remain within the exclusive province of the legislative and executive branches." Section 230(e)(5)(A) appears to have a legitimate legislative purpose—to make facilitators of commercial sex trafficking compensate its victims and, having a narrowly drawn cause of action, its means appear rational.

In rare cases, retroactively imposing liability on private parties raises Takings Clause claims. The Court in a 5-4, plurality decision, *Eastern Enterprises v. Apfel*, found it unconstitutional to require coal companies to cover health care expenses of retired miners whom they had employed before exiting the coal industry. Four members of the Court found the legislation violated the Takings Clause because it "imposes severe retroactive liability on a limited class of parties that could not have anticipated the liability, and the extent of that liability is substantially disproportionate to the parties' experience." Justice Thomas concurred, but wrote separately to suggest revisiting whether to apply the Ex Post Facto Clauses in civil cases. Justice Kennedy concurred in the judgment, but maintained that a Due Process standard provided a more appropriate analysis. The four dissenters agreed that the Due Process Clause should control and that, accordingly, the legislation was constitutional. It is not clear, however, that Section 230(e)(5)(A) would impose retroactively the kind of massive, unanticipated civil liability at issue in *Eastern Enterprises*.

Mr. PORTMAN. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON. Madam President, I thank the Senator from Ohio for his gracious comments.

I just simply want to say my part as to why it is so important that we pass this legislation, because it is very obvious that an untold number of women and children in the United States are being sold into sexual slavery via the internet, and we now have an oppor-

tunity to do something about it by passing this legislation.

It is so bad. With just a few clicks or a few punches on an iPhone, victims from all walks of life and across all parts of the country are being forced into brutal slavery and unspeakable crimes.

I want to repeat that. I want Americans to understand what is going on behind the scenes. Women and children are being forced into sex slavery in modern-day America. It could very well happen to someone you know.

We have continuing stories in our history of what happened when slavery was brought to the New World—first, to Arabia, off the East Coast of Africa, and then, of course, the European nations later were going down with their ship captains. The Portuguese actually ended up having the most slaves transported to the New World by way of South America. The English and most European nations got into the act of these unspeakable crimes, slave ships going down the west coast of Africa, enslaving Africans themselves or by agreement with a particular tribe that would go out and capture members of an opposing tribe.

We have heard, over and over, the untold stories of the inhumanity of stacking people body-to-body in the holds of these slave ships. It finally took a civil war to settle the issue. That was slavery. That was slavery we opposed and now all of our laws try to protect against, but here in modern-day America, the same thing is happening, and it is happening because of the advances of technology using the internet. If this is not a wake-up call, I simply don't know what is.

According to the human trafficking hotline, my State of Florida has consistently ranked in the top five States in human trafficking cases. Florida was third in the country for the number of cases reported in 2016 and 2017, and that is just what we know about. It is just unacceptable, and it is wrong.

Tens of thousands of Americans, predominantly women and children, are subjected to this horrific reality. You can imagine the pain and the suffering they are subjected to. No one in the country should have to endure this kind of forced slavery. No child or woman in Florida, in America, should ever be trafficked for sex. To even contemplate that should offend any person's sense of decency and humanity.

The question before the Senate today, thanks to the leadership of a number of our colleagues is, Why aren't we going to do everything we can to stop these heinous crimes?

The bill we are considering on the Senate floor would help us shut down despicable websites that enable this sex trafficking. Don't kid yourself. These shady and these highly profitable website operators know full well how their sites are being used. What is more, they are hiding behind a decades-old legal shield to immunize themselves from prosecution. We have to

change that legal shield that was set up a decade ago for a different purpose.

The bill sponsored by Senators PORTMAN, BLUMENTHAL, MCCAIN, HEITKAMP, and myself—and now many others—would eliminate the safe harbor in law for sex traffickers, and it would allow State attorneys general, other State and local prosecutors, and the victims themselves to go after the websites that knowingly provide a platform for sex trafficking. It would also make key changes to Federal criminal law to enable law enforcement to better target websites.

The purpose of the legislation is simple. Let's get it passed, get it signed into law, and let all of these various law enforcement entities be able to do their job. This legislation is an extensive bipartisan product by our congressional colleagues. It proves, once again, what we ought to be doing around here on almost everything, and yet we rarely do. It proves, once again, that if you cross party lines and put things together in a bipartisan way, you can tackle the important, lifesaving issues, such as this one, and we can get something done. Let's show today that we can get something done that really makes a difference to Americans.

It is a privilege for me to be involved in a bipartisan way with this legislation and to have worked with our Commerce Committee to get a unanimous vote out of the committee. I hope this legislation is going to serve as a wake-up call to the morally bankrupt website operators: We are coming after you. It seems like every day there are new ways that many bad actors are exploiting internet content and data to undermine society.

Obviously, the internet has been magnificent for so many of us, but now when technology advances, you have to be on your guard about how new technology is used for the bad operators. This bill is going to address that. We can't sit by idly any longer. We have to act today.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MCCONNELL. Madam President, I ask unanimous consent that at 1:45 p.m., today, Senator WYDEN be recognized for up to 60 minutes to offer and debate concurrently his amendments Nos. 2213 and 2212; that those be the only amendments in order; and that following the use or yielding back of that time, the Senate vote in relation to the amendments in the order listed with a 60-vote affirmative threshold required for adoption of each amendment; finally, that following disposition of those amendments, the bill be read a third time and the Senate vote on passage of the bill, as amended, if amended, without debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## OMNIBUS APPROPRIATIONS

Mr. MCCONNELL. Madam President, I am pleased to report that the appropriations package is currently being finalized. I will have more to say once the bill has been filed, but I am proud to announce it will meet a number of vitally important objectives. This includes the largest year-on-year increase in funding for our servicemembers in 15 years, along with major steps forward for law enforcement and border security, for the fight against opioid addiction, for our veterans, and for a number of other priorities.

Madam President, before we take up that measure, the Senate has a very important piece of business to tackle. This afternoon we will vote on the anti-sex trafficking legislation we have been considering this week. I want to thank Senator PORTMAN, who has worked hard to advance this reform, and Chairman THUNE, for shepherding it through the Commerce Committee.

Many of us have paid careful attention to the scourge of child trafficking over the years. It has been a high-priority issue for me, for example, since before I arrived in the Senate. But as traffickers move their crimes from the street corner to the smartphone, the data tell us unambiguously that more action is required.

The legislation before us reforms a misused provision in a 1996 telecommunications act, which currently shields companies that facilitate and profit from the disgusting exploitation of women and children.

Later today, my colleagues will have the opportunity to implement commonsense reform with the potential to change vulnerable children's lives for the better.

I urge every one of us to vote to pass it.

## TAX REFORM

Now, Madam President, on a final matter, we have been talking for months about the ways tax reform is helping to jump-start the economy, bolster family budgets, and make life better for millions of Americans. Just a few months in, many such stories have already made front-page news—the tax reform bonuses, raises, and benefits for 4 million workers and counting; the new investments and new hiring from businesses large and small; the bigger paychecks for middle-class Americans as the IRS withholds less of their money.

Other exciting parts of this once-in-a-generation reform aren't receiving the attention they deserve. Today, for example, is an initial deadline for States to nominate areas they would like to be designated as "opportunity zones." This is thanks to a provision incorporated into tax reform through the unflagging dedication of our colleague, Senator SCOTT.

The premise here is simple. The best way to breathe new life into struggling communities is not to invent some new Federal program; it isn't to throw government money into one more top-

down, tax-and-spend scheme. No. The best way to help rural areas, small cities, and suburbs left behind by the Obama-era policies is to get the government's foot off the brake and let the free enterprise system flourish. It is to make those communities attractive places to do business, open new facilities, and create good-paying jobs. This is exactly what tax reform does by deferring capital gains taxes on income that is invested in distressed areas that receive this "opportunity zone" designation.

As one estimate has it, three-quarters of all the jobs created from 2010 to 2016 went to major metropolitan areas. Only 3 percent went to rural America. This provision could help change that.

I know there is a lot of excitement in my State of Kentucky. From coal country to farming communities and everywhere in between, Obama-era overregulation was holding our economy short of its full potential. These opportunity zones offer a shot at real relief. According to the Cabinet for Economic Development, Kentucky may designate as many as 144 new zones, prioritizing growth in areas that need it most.

Or take West Virginia. As my friend Senator CAPITO recently noted, her State understands the problem all too well. One recent study suggested that West Virginia has the third highest proportion of its population living in economically distressed communities. Opportunity zones will make a difference to her State. Of course, so will the rest of tax reform.

A few weeks back, Senator CAPITO reported that Worldwide Equipment in West Sulphur Springs plans to reinvest \$8 million in its operations, including more than 1,000 employee bonuses—all thanks to tax reform.

I imagine West Virginians are quite glad that Senator CAPITO used her vote to make tax reform a reality. It is a shame their senior Senator didn't follow suit. It is a shame that he and every other Democrat tried to block it from taking effect. Fortunately, this President and this Congress didn't let that stop us. We accomplished tax reform anyway because we are committed to fighting for all Americans.

The PRESIDING OFFICER (Mr. TILLIS). The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I am pleased to be on the floor this morning to thank and to support my colleagues, Senator PORTMAN and Senator NELSON, who have led the effort here before us, an effort that would end sex trafficking over the internet or certainly work to reduce it.

As we think about the scourge that is brought upon our children through a means and a way—we like to think of the internet as a powerful tool, but to know that it can be a powerful tool that truly is devastating to our children and devastating to our families calls for action. So I am pleased to be able to join my colleagues today in urging passage of the sex trafficking bill that we have before the Senate.

I think we all know there are many, many reasons why we need to deter the use of internet resources by predators. The wisdom of this is pretty apparent on its face. This legislation is for the protection of our children—the most vulnerable among us.

I have an additional reason for urging the adoption of this legislation, and that is the protection of Native women and girls from predators. I have been talking about the trafficking of Native women and girls for as long as I have been here in the Senate—now some 15 years. At first, the evidence was perhaps anecdotal. FBI agents who were familiar with trafficking patterns would come to us, and they would say that Alaska Native women were a highly desirable commodity. Even using that terminology is just so offensive, but that is how they were viewed—as a desirable commodity for sex trafficking because they could be trafficked either as White women or as Asian women.

There is a body of evidence that when many Alaska Native women or girls left their villages to go into town or to go to the city, they would literally be stalked by predators waiting to recruit them. We certainly see a prevalence of sex trafficking in Covenant House, which is our youth homeless shelter. We have reports that one in four homeless youth in Anchorage are victims of sex trafficking, and 42 percent of them are Alaska Natives.

As I have been here in the Senate over these years, the way these women and girls have been recruited, have been trafficked, has changed. No longer do you have the predators who are lurking, hanging out on the street corners, but it is the internet. Again, it is this powerful tool that is available to do so much good that is now being used for a predatory purpose. While we don't have the internet coverage in Alaska that you have in the big cities of the lower 48, the internet is used to recruit girls for sex trafficking all over, and I certainly had that confirmed in my last visit when I met with the FBI agents in charge in Anchorage.

It wasn't too many weeks ago that the Senator from North Dakota, Ms. HEITKAMP, and I came to the floor to talk about the urgency of addressing the growing number of missing and murdered Native women in America. Senator HEITKAMP characterizes the problem as epidemic, and I agree with her. I do think it is an epidemic. Native women are victims of violence in unprecedented proportions. Not all of these victims are trafficked, but some are trafficked, and then they go missing. When their services are no longer needed or they find themselves controlled by a particularly violent predator, they never become "unmissing" until their bodies may be coincidentally found, at which point they are finally regarded as murdered, gone.

I say today that there is an urgency to keep Native women and girls away from predators. While turning off the

internet on-ramp to recruitment may not completely solve the problem, it is a worthy effort in its own right. It is one tool that we need to ratchet back.

We hear from the sponsor of this bill and from so many that enough is enough. It is no longer tolerable. It is time we attack the problem of sex trafficking at the source, and that means doing all we can to make the internet a very inhospitable place for sex traffickers and those who enable the immoral and disgusting trade of our fellow human beings.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mrs. FISCHER. Mr. President, I rise today to discuss H.R. 1865, the anti-human-trafficking legislation currently being considered here on the Senate floor. Human trafficking is one of the fastest growing criminal enterprises in the world. More than 20 million people in our Nation and around the globe are affected by this modern-day form of slavery.

The criminals who carry out these heinous acts often go after the vulnerable, such as young people who have run away from home or are victims of domestic violence. Women and girls are disproportionately affected. According to the International Labour Organization, 55 percent of total victims worldwide are women and girls. Tragically, children are frequently targeted.

The perpetrators trap their victims in unconscionable and violent situations, forcing them to commit sexual acts against their will. This practice occurs in nearly every area code. It is happening closer to home than we even realize. A report published by Creighton University and the Women's Fund of Omaha found that there are 900 individuals for sale online every month in Nebraska—almost all of them female.

Our government has a responsibility to stand up and do something to protect women and children from exploitation. Fighting the horrific scourge of human trafficking is a priority for me, and it is a priority for the U.S. Senate.

In 2015, we passed the Justice for Victims Trafficking Act, and it was signed into law. I was proud to be a cosponsor of that legislation. The bill set up a deficit-neutral fund to support trafficking victims. Through enhanced reporting and mechanisms to reduce demand, this law provides care for victims of trafficking and child pornography.

Importantly, the law also protects victims in court by treating traffickers as violent criminals. Labeling traffickers in this way means that convicts can now be detained while awaiting judicial proceedings. The Justice for Victims of Trafficking Act represents a strong effort by Congress to stand against human trafficking.

I am proud that, at home, Nebraskans are also rallying together and taking action to stop human trafficking. This past January, the Ne-

braska attorney general, Doug Peterson, launched Demand An End, a public awareness campaign to stop child sex trafficking. This campaign aims to build on the momentum from legislative bill 298, passed by the Nebraska unicameral, with significantly heightened penalties for those perpetuating and profiting from human labor and sex trafficking.

While I was a member of Nebraska's unicameral from 2005 to 2013, our State made several important legislative strides to address key policies related to human trafficking.

In 2005, the unicameral passed L.B. 111, which established the Missing Persons Clearinghouse in Nebraska. The law created a centralized database with information on individuals who went missing within our State.

Known as Jason's Law for an Omaha young man who went missing in 2001, L.B. 111 was an important advancement to ensure vital information sharing and to prevent the missing from becoming anonymous.

Additionally, in 2012, the unicameral passed the L.B. 1145 to increase penalties for human trafficking and establish a task force to examine issues in Nebraska pertaining to human trafficking, including its scope, possible solutions, and how to assist trafficking survivors. Most recently, I am proud to have joined the "Demand an End" campaign and offer my support of AG Peterson's work on this front.

Now is the time to build on these collective efforts and be responsive at the Federal level to stop this evil.

That brings me to the legislation before us today, the Stop Enabling Sex Traffickers Act, or SESTA. I am grateful for the hard work of the Senator from Ohio and the Senate Commerce Committee in making it possible for us to be having this conversation today. Not only did this legislation pass committee, but it received a unanimous vote.

Last fall, during the hearing of the Senate Commerce Committee, Ms. Yvonne Ambrose shared a heart-breaking story with our Members. She told us about her daughter Desiree. Desiree was a wonderful young woman with much potential. She was a high schooler and a member of the Junior ROTC. She dreamed one day of becoming a doctor in the U.S. Air Force.

Like so many teenagers, Desiree was on social media because she wanted to connect with friends and make new friends. By accident, Desiree suddenly found herself in the shadows of the internet on a web page called backpage.com—a platform where men were able to find her, intimidate her, pressure her, and use her to make a profit. On Christmas Eve 2016, Desiree was murdered gruesomely by a 32-year-old man who bought her services online.

Sadly, Desiree's story is not unique. The murky edges of the internet are still enabling predators all over the world to engage in sex trafficking,

meanwhile websites like backpage.com continue to sell and exploit people for profit.

Between January 2013 and March 2015, backpage.com earned nearly 100 percent of its profits from adult advertisements. The internet is giving criminals an avenue to commit these crimes, and certain websites are knowingly facilitating their activities as part of an organized network. Compounding the issue, smartphones make it easier for traffickers to complete transactions.

According to the National Center for Missing & Exploited Children, reports of online child sex trafficking skyrocketed by more than 800 percent between 2010 and 2015. Analysis of this major increase showed that it is directly correlated to the increased use of the internet to sell children for sex.

In the months following Desiree's murder, a Chicago newspaper headline read: "Teen's tragic death shows it's business as usual at Backpage.com."

The internet can no longer be a place where the perpetrators of these atrocious crimes can hide. It can no longer be business as usual, and that is where SESTA's provisions come in.

SESTA would ensure that section 230 of the Communications Decency Act cannot be used as an excuse anymore for websites that knowingly facilitate sex trafficking. It also would give State law enforcement clear authority to enforce criminal statutes against websites.

I have been dismayed to hear about the obstacles State law enforcement has faced when attempting to prosecute entities knowingly participating in trafficking activities online.

In its current form, section 230 protects websites and internet service providers from liability for content their users create. This has allowed websites that depend on user content, like Twitter and YouTube, to flourish, but it has been misused to effectively provide impunity for bad actors maintaining websites that facilitate sex trafficking.

SESTA is critical to empowering survivors, providing the legal tools needed to seek and receive justice from all those involved in these monstrous crimes. As a cosponsor of SESTA, I hope my colleagues will pass this monumental, bipartisan, and bicameral bill to combat human trafficking today, and I urge my colleagues to vote against amendments that would derail this important and vital legislation.

Thank you.

I yield the floor.

Mr. SCHUMER. Mr. President, today the Senate is voting to pass legislation to crack down on bad actors who abuse the power and potential of the internet to prey upon the most vulnerable among us in human trafficking rings. Websites like Backpage are repugnant, and I applaud my colleagues on both sides of the aisle for their work in holding these bad actors accountable. I also applaud them for working to address the legitimate concerns of good-faith

technology platforms that want to be able to engage in responsible content moderation and take steps to affirmatively stop abuses of their sites.

I am pleased to support this legislation because I believe it achieves the important balance between providing a mechanism to hold accountable sex traffickers while allowing free speech and innovation to continue to thrive. Key to my support is my understanding that this legislation would not allow nuisance lawsuits against technology companies—especially startups—based on bogus claims that they “facilitate” sex trafficking. It is also important to me that I believe the legislation as written does preserve Good Samaritan protections for platforms and website operators who engage in good-faith content moderation. Legitimate efforts to monitor for illegal content, shut down trafficking, or report suspected trafficking to law enforcement should not and cannot be the basis for liability under this legislation.

Finally, I want to note that I have heard concerns that this legislation could be misused or abused to penalize websites that promote important health and safety information to survivors of sex trafficking, including about HIV prevention and treatment, and provide access to community and peer support services. This information is particularly critical to the victims of sex trafficking and others who face high rates of violence and exploitation, like people who use drugs, people of color, and LGBTQ people. I believe the use of this legislation to create any liability for this important work would be an impermissible misreading of the statutory language and legislative intent.

Mr. DURBIN. Mr. President, millions of men, women, and children across the world are victims of human trafficking. But it is not a problem that stops at our shores.

Eight years ago, I held a hearing in the Subcommittee on Human Rights and the Law entitled, “In Our Own Backyard: Child Prostitution and Sex Trafficking in the United States” to raise awareness about this problem.

Sadly, not much has changed since then. The National Center for Missing and Exploited Children receives about 9,000 to 10,000 reports of suspected child sex trafficking each year. It estimates that more than 80 percent of the trafficking incidents have occurred online. The worst offender is the website Backpage.com, which the National Association of Attorneys General has called a “hub” of human trafficking.

The U.S. Senate’s Permanent Subcommittee on Investigations spent 2 years looking into sex trafficking and its facilitation online. After a thorough inquiry, the subcommittee found that more than 93 percent of Backpage’s ad revenue in 2011 came from its so-called “adult” section, with projected revenue reaching nearly \$250 million by 2019. However, “adult section” is really a misnomer—many of Backpage’s ads were designed to sell children for sex.

One of those children was Desiree Robinson of Chicago. When she was 16, Desiree ran away from home. A pimp soon found her and sold her repeatedly on Backpage. On Christmas Eve, Desiree was taken to a garage to meet a john. Hours later, she was found dead in that garage. She had been raped and beaten, and her throat had been slashed.

Last year, Desiree’s mother, Yvonne Ambrose, testified before the Senate Commerce Committee about her daughter’s tragic murder. She described how her daughter was, quote, “preyed on and sold online by pimps who took advantage of her.” She went on to say:

On . . . December 24th, 2016, Desiree, my baby, was brutally murdered and now my life is changed forever. . . . If there were stricter rules in place for posting on these websites, then my child would still be alive with me today.

The truth is [that] Backpage.com and other sites are making millions of dollars by exploiting our children and allowing them to be taken advantage of by predators. If we don’t speak up now, these websites will continue to profit off trafficking our babies. It could be your child, your niece, your nephew, your cousins, your friend’s children next if you don’t stop this.

Yvonne went on to urge the Senate to pass the Stop Enabling Sex Traffickers Act, or SESTA.

SESTA is a narrowly crafted bill that would ensure that Section 230 of the Communications Decency Act does not provide legal immunity to websites like Backpage that knowingly facilitate sex trafficking. For years, Backpage and others have successfully exploited this loophole and avoided legal liability, despite hosting advertisements for the sale of sex acts with young victims of trafficking. Their ability to hide behind this reprehensible defense will come to an end with the passage of this bill.

SESTA was incorporated into House companion legislation called the Allow States and Victims to Fight Online Sex Trafficking Act, or FOSTA. The House overwhelmingly passed this bipartisan, compromise legislation last month, in a 388 to 25 vote.

The combined legislation will ensure that victims and survivors of sex trafficking can seek justice against websites that knowingly facilitated the crimes against them. It would also enable state law enforcement officials—not just the Federal Department of Justice—to take action against individuals or businesses that violate federal sex trafficking laws.

The bill has been endorsed by major anti-trafficking groups, law enforcement organizations, and numerous technology companies.

We need to protect victims of trafficking, and we need to hold websites like Backpage accountable for their exploitative, criminal actions. As we prepare to vote on this bill, consider Yvonne Ambrose’s plea:

I would not wish this pain and hurt on my worst enemy. And I pray that Desiree’s life

can make a difference, so no one else has to ever endure this pain again. I’m asking you, the U.S. Senate, to amend Section 230 and be the change you want to see in this world—not only for justice for Desiree, but for all of the countless Jane Does out here and the other little girls to come who don’t have a voice.

I urge my colleagues to support this critical legislation.

Mr. LEAHY. Mr. President, I am voting for this legislation because, on balance, I believe it will provide important legal recourse to victims of sex trafficking and will help hold accountable those websites that seek to exploit them. Protecting these victims should be our top priority.

There have been concerns raised that this legislation may have an unintended—and harmful—impact on one of the key laws underpinning the free and open Internet. That key law is section 230 of the Communications Decency Act, CDA 230, which promotes free expression and innovation by protecting online platforms from a range of laws that might otherwise hold them unfairly accountable for everything their individual users may say and do online. This law defends free speech online and has encouraged innovations ranging from the earliest online bulletin board systems to today’s platforms for social media and user-generated video. Without the protections of CDA 230, the internet would be a very different place today.

Today’s legislation amends CDA 230 by, among other things, prohibiting construing that law to limit Federal or State civil liability for conduct that involves “knowingly assisting, supporting, or facilitating a violation of” Federal child sex trafficking laws. Clearly, CDA 230 was never intended to be a shield to protect child sex traffickers, and it should not, but there is concern this legislation could potentially open up providers and websites who operate in good faith to new liability risks for what their users say or do, which could harm free expression. Also, the threat of this liability will fall especially hard on smaller platforms that have fewer resources to fight lawsuits, even ones without merit, which could harm innovation.

As a result, I do not take amendments to this core protection for free expression and innovation online lightly. I am voting in favor of today’s legislation because we must balance those possible risks against the very real scourge this legislation will forcefully combat: sex trafficking, including trafficking of underage youth. Just earlier this week, Senators COLLINS, HEITKAMP, and I reintroduced our bipartisan bill to curb youth homelessness and support young victims of trafficking, the Runaway and Homeless Youth and Trafficking Prevention Act. This is an issue I have long been committed to addressing. Today’s legislation represents a step in the right direction, and I will support it.

Mr. GRASSLEY. Mr. President, I rise today to express my strong support for

the online sex trafficking legislation that is before us today. Immediately passing and sending this measure to the President's desk will help ensure that children and youth are less vulnerable to human traffickers and others who would profit from this terrible crime.

This bill originally was introduced in this Chamber by Senator PORTMAN, and I salute him for his leadership on the issue of online sex trafficking.

Last year, I joined dozens of my Senate colleagues as a cosponsor of this measure after working with the Commerce Committee on the title 18 language in this legislation.

Senator PORTMAN, who chairs the Senate Permanent Subcommittee on Investigations, introduced the earliest version of this legislation after his subcommittee produced a bipartisan report exploring the link between Backpage and online sex trafficking. Entitled "Backpage.com's Knowing Facilitation of Online Sex Trafficking," that report was the result of nearly 2 years of investigation by the subcommittee's investigative staff. I encourage my colleagues to review the Senate report, which is posted on the subcommittee's website.

It makes a very strong case for updating the Communications Decency Act and title 18 of the U.S. Code to protect children as the bill before us proposes.

I, too, have made ending human trafficking a top priority as chairman of the Senate Judiciary Committee. One of the first major bills our committee produced in the 114th Congress, under my leadership, was the Justice for Victims of Trafficking Act. It established a new fund, comprised of assessments imposed on convicted offenders, to provide resources to serve victims of human trafficking. It also equipped prosecutors with new tools to fight the heinous crime of human trafficking. Senator CORNYN introduced that bill, and I was a cosponsor.

Last year, I sponsored legislation to extend the key programs authorized under the Trafficking Victims Protection Act. Our committee cleared this bill and a related measure that Senator CORNYN introduced known as "Abolish Human Trafficking Act" in 2017. The Senate passed both bills without a single dissenting vote last September.

These two bills would extend the authorization for a number of the victim-centered programs that Congress established years ago as part of the original Trafficking Victims Protection Act. They also include provisions to promote greater education and awareness of human trafficking in the United States.

For example, the Senate-passed Trafficking Victims Protection Act of 2017, which I introduced, calls for training of judges, school personnel, and Federal investigators so that they can better identify and respond to human trafficking victims. It would authorize the U.S. Secret Service to offer investiga-

tive and forensic assistance to other law enforcement agencies. It would establish an Office of Victim Assistance within the U.S. Department of Homeland Security and ensure that the office is staffed by trained victim assistance personnel. Lastly, the measure promotes coordination among and data collection by the Federal agencies that are tasked with helping human trafficking victims and bringing the perpetrators to justice.

The Abolish Human Trafficking Act, which I joined Senator CORNYN in introducing, ensures that victims will receive restitution, authorizes funding of investigations, and enhances penalties imposed for trafficking offenses, including sexual exploitation or abuse, sex trafficking of children, and repeat convictions for transportation for illicit sexual activity.

We currently are working with the other Chamber on a package that would include these two bills, a related measure introduced by Senator CORKER, and the House-passed version of legislation to renew and extend the Trafficking Victims Protection Act. Sending this package of four bills and Senator PORTMAN's online sex trafficking bill to President Trump for his signature sends a very strong message to human traffickers that we will not tolerate the scourge of human trafficking in the United States.

I close by calling on my colleague to support the immediate passage of H.R. 1865 without any weakening amendments.

The PRESIDING OFFICER. The Senator from Alabama.

#### GUN VIOLENCE

Mr. JONES. Mr. President, first, let me begin by expressing how honored and humbled I am to be a Member of this body and to represent the great State of Alabama.

Fresh out of law school in 1979, I began my career right here, working as staff counsel to Senator Howell Heflin on the Judiciary Committee. From when I served as a staffer, there are only three Members of the Senate who continue to serve today—Senator LEAHY, Senator HATCH, and Senator COCHRAN. Two of those three, Senators HATCH and COCHRAN, will be retiring this year—Senator COCHRAN, in just over a week—and a grateful nation thanks them for their service.

For me, personally, I am honored to have come full circle with them, from a young staffer to a junior colleague, and I wish them well in their life after the Senate.

I thank my colleagues on both sides of the aisle for welcoming me to this body, many of whom are here with me today, braving the wintery weather outside. Thank you for your friendship, your advice, and your willingness to include me and my staff in the great work you are doing.

I particularly want to thank my senior colleague from Alabama, Senator SHELBY, and his staff. I appreciate their graciousness and patience in

helping me as I navigate my new role as a freshman Senator.

I thank my family: my amazing wife Louise; incredible kids, Courtney, Carson, and Christopher, who so fully supported me in my quest to reach the Senate but more importantly in my life. I have grown with them and certainly because of them; of course, my sister Terrie; wonderful parents, who I am blessed to have around today; and my grandparents who are not. They instilled in me the values of family, faith, patriotism, respect for others, and a work ethic that has guided me throughout my life.

Finally, I would be remiss if I did not take this opportunity to pay special tribute to my mentor and former Senator whose seat I now hold—the late Howell Heflin of Alabama. He was a remarkable man whose large, lumbering frame and southern drawl would often mask his amazing intellect. His compassion and sense of justice for his fellow man forged a path for myself and so many others who worked for him over the years.

He came to the Senate in 1979, at a time when bipartisanship was more than just a campaign slogan or a sound bite. In those days, when Senators spoke of bipartisanship, they truly meant it. They would never compromise principles but would compromise with their colleagues on the serious issues of the day in order to move this country forward.

By the time he left the Senate in 1997, Senator Heflin sensed a change in the political climate, and he was concerned about it. In a parting essay he wrote:

Our Constitution itself came about through a great series of compromises; it was not written by ideologues who clung to "their way or no." Compromise and negotiation—the hallmarks of moderation—aimed at achieving moderate, centrist policies for our country, should not be viewed as negatives.

This leads me to the reason I rise today. I want to speak about an issue that has evaded the broad bipartisan discussions and moderation that Senator Heflin spoke of. Instead, it seems to have been an issue where folks quickly take sides and often criticize those with whom they disagree.

It is time that we have a serious, pragmatic, and practical discussion—not a debate or negotiation but a dialogue on the steps that we can take to reduce the harm caused by gun violence in this country.

I know with just those words, people across this country may have already started reaching for their phones to start tweeting or posting without another word and without knowing where I might stand on this issue. That just seems to be the way it is in America these days, which is so unfortunate, because once you take a side, it is hard to come off.

In the wake of yet another mass shooting and the rising voices of young people across the country, it is our responsibility and our duty to have a serious discussion about guns and gun

safety, but that conversation has to be twofold. We must acknowledge the deadly consequences that can follow when a gun is in the wrong hands but also recognize and respect the freedom to own and enjoy guns by law-abiding citizens, as guaranteed by the Second Amendment of the Constitution. Those two concepts are not mutually exclusive.

Before I jump into the actions I believe we can take today, I want to go back and explain a little bit about where I come from.

Growing up in Alabama, I learned to shoot from my father and grandfather. I was not much of a hunter in my youth, but whether it was cans or bottles on a tree log or the occasional skeet, we simply enjoyed shooting and always had a few guns in the house. The distinction between a hunter and someone who just enjoys guns and shooting is significant.

To this day, I still have my father's old .22 rifle, my grandfather's pistol that he gave me, and a couple of rifles and shotguns I got as presents as a kid, but my interest in hunting began to grow when my youngest son Christopher was born, 20 years ago this past Monday. At an early age, he was fascinated with guns and hunting, so with my wife's blessing, I took up the sport so he could learn gun safety and conservation from me. Today I think I am more passionate about it than he is.

I consider myself an avid hunter—deer, turkey, quail, whatever the season might be in Alabama. With the campaign last year and transition into this office, this past deer season was somewhat of a bust for me, but with the start of turkey season, I am anxious to get back into the woods.

Frankly, I also enjoy guns. I enjoy shooting them. I like how they are made, the power, and their history. I own many of them, all stored in a locked gun safe that, quite frankly, is larger than what my wife initially approved of a number of years ago. Collecting them and shooting them at the range or hunting is a bond I share with my son Christopher and with many of my friends.

So while I know that guns and gun control are difficult issues in this country, I can tell you they are complicated for me, too, but as a U.S. Senator today, a Member of the legislative branch of government, I have many obligations, and I believe the first obligation of government is to protect its citizens.

We spend unimaginable amounts of money fighting our enemies abroad and terrorists who would attack us at home. Yet, on many levels, we fail our children and grandchildren every morning when we pack their backpacks and send them into harm's way or when they pick up what they think is a toy or a really cool weapon that they have seen on television or in the movies and it turns out to be a killing machine that they should have never had access to and don't know how to handle.

We fail the abused women, men, and children of our society when we let our family and relationship problems lead to a murder.

We fail parishioners in church, employees at work, and concert and theatergoers when they are caught off guard by a hail of bullets from a disturbed individual.

We fail those who are simply in the wrong place at the wrong time when street violence breaks out and a stray bullet takes an innocent life.

We fail veterans and others in society suffering from depression and post-traumatic stress and other mental disorders who decide that life is simply not worth living.

We fail people of every walk of life, of every age, and in every corner of this country, every day.

Gun deaths continue to rise. In 2016, over 38,000 people died in this country because of gunfire. Almost 15,000 of those deaths were homicides. Almost 23,000 were suicides—epidemic-type numbers—and nearly 500 were accidental.

We have failed in Alabama, too. In the last few weeks, we lost a police officer in Mobile who was shot and killed when responding to a domestic dispute. We lost a 1-year-old boy who was accidentally shot in the back by his 2-year-old brother with their parents' gun. We lost a beautiful, young 17-year-old girl who was about to head off to college because one of her classmates brought a gun to school and he was showing it off when it was accidentally fired.

We lost a dedicated nurse at UAB Highlands Hospital when a disgruntled former employee showed up at the hospital and opened fire.

Just yesterday, as I was finalizing these remarks, I learned that a former client of mine was shot and killed by his girlfriend's brother as he was picking up his 3-month-old baby from a visit.

The list could go on. Similar tragedies take place every week in every one of our States.

These stories don't grab national headlines, but they are examples of the gun violence that has become commonplace in our communities.

In 2016, Alabama had the second highest rate of gun deaths in the Nation. That means that 1,046 Alabamans were killed by gun violence that year. Worse yet, our gun deaths increased by a staggering 34 percent between 2005 and 2016.

As a former prosecutor, I worked closely with law enforcement. I have seen firsthand what weapons in the wrong hands can do to families, communities, and society. When I was a U.S. attorney, we had a program called Isolating the Criminal Element, and we tried to crack down on illegal weapons in our communities.

As most of you know, my career has been defined by prosecuting the killers of children. It was September 15, 1963, when a bomb placed outside the ladies' lounge window of the 16th Street Baptist Church in Birmingham exploded,

exploded, killing four beautiful young girls. I wish I could turn back time and do something that would have prevented it altogether. Had I or anyone else, at that moment, it might very well be one of those young girls giving this speech today and not me.

I stand in that moment now, and so do you, and so does our country.

I believe we have finally reached a tipping point regarding gun violence now—not because of the shooting in Parkland, FL, but thanks to the millions of young voices across this country, led by students at Marjory Stoneman Douglas High School.

Much like the students who took to the streets of Birmingham in 1963, who were attacked by firehoses and police dogs, who awoke the conscience of America to civil rights, these young men and women are awakening the conscience of America regarding gun violence. I am pleased that one of those young men, Alfonso Calderon, of Marjory Stoneman Douglas High School, is with me here as my guest in the Gallery today.

We could spend days in this Chamber debating the meaning of the Second Amendment. We could let our Nation further divide itself while more lives are lost. We can fret about what people are saying about us on social media or whether we might lose campaign contributions. We can again choose the path of inaction in the face of yet another mass shooting and expect different results, or we can take another path.

Let's find what we can agree on, act on it, and begin to make our country a safer place. We can be reasonable here because we all want the same thing—a safer country, a safer world.

At its core, the Second Amendment was an effort to protect Americans. Let us do the same.

But in order to do that, we need to build more trust in this body and encourage camaraderie. More importantly, we need to fundamentally change the way we talk about difficult issues in our country and set an example for our fellow Americans to follow and to dial down the rhetoric.

Remember that "for every action there is an equal and opposite reaction" is not just one of Newton's laws of motion, but it is also one of political rhetoric. Extreme views promote equal but opposite extreme views.

For those who want more gun restrictions instead of focusing your energy on banning a certain weapon—which, frankly, as a practical matter, just simply cannot pass this Congress—focus instead on efforts to keep those weapons and others out of the hands of those who would do us harm. You can't simply demonize the NRA and pro-gun groups.

While I know that these groups sometimes take what many, including me, consider extreme positions, they also represent millions of law-abiding gun owners who are concerned that their



right to bear arms is at risk. For millions of Americans, gun ownership and enjoyment is a cultural issue with deeply held beliefs. Addressing that issue is simply not like regulating stock transactions or cutting taxes.

To those who would seek to maintain the status quo, like the NRA or anyone else, please stop using scare tactics to try and convince law-abiding gun owners that the Federal Government is hell-bent on taking their guns away. That is simply not going to happen and everyone knows it.

We also need to get past the idea that more guns in society will make us all safer. The statistics and the data simply do not support that. We don't need guns in the hands of schoolteachers.

Simply having more "good guys with guns" is not a solution. Americans just simply do not want to return to the days of the Wild West.

This topic, like so many others, has become a space that is less about having a thoughtful conversation and instead has evolved into a clash of cultures. As leaders, we must reject the "us against them" mentality because, ultimately, we are all Americans who are united by a common bond of shared values and love of country.

There will always be forces that seek to sow division and discord. Our challenge and our mission are to prevent them from succeeding.

We can seize this moment by changing the conversation in our country. Let's start a productive dialogue and work toward a comprehensive bill that includes ideas that we should be able to agree on. There are already a half dozen proposals in this body that have bipartisan support. My friend from Connecticut, Senator MURPHY, outlined them just the other day, but they bear repeating here.

Ban bump stocks and make it a crime to possess and manufacture them, as Senator FEINSTEIN has proposed. The President and the Department of Justice should be commended for taking the first steps through regulation, but the Senate of the United States of America should go on record about this deadly accessory.

We should pass the Fix NICS legislation proposed by Senators CORNYN and MURPHY. The NICS system is only as good as the data that goes into it. Their bill would block bonus pay for political appointees who fail to upload records to the NCIS system and reward States that follow the uploading plan. It would create a "domestic abuse and violence prevention program" to give States the ability to share information to prevent someone convicted of a domestic violence crime from purchasing a gun. Fix NICS is a good start toward overhauling our background check system and, as Senator MURPHY said the other day, it is a good base bill on which to build.

But, frankly, we have to do more on background checks. We have to require background checks on all gun sales, whether it is at a gun show or over the

internet or between individuals. It can be as simple as going to a licensed dealer or a local police station to have a background check run on a prospective purchaser or a transferee. It may be inconvenient, but it will save lives.

With universal background checks, however, I would also suggest a couple of companion measures. For instance, in my view, it is entirely appropriate for a family member to sell or give a gun to another close family member, as they should be presumed to know whether their relative is prohibited from having a gun.

We can consider other exceptions for those who can produce a valid concealed carry permit or between law enforcement officers. But in carving out those exceptions, we should also increase both civil and criminal penalties for anyone who knowingly transfers a gun to a prohibited person and provide the necessary funds to the Department of Justice to prosecute those individuals when appropriate.

We can also take steps to deter prohibited individuals from even trying to purchase a gun. Senator TOOMEY's NICS Denial Notification Act would allow reporting to State and local authorities when someone has tried to purchase a gun and has been denied, and it would require DOJ to report to Congress on such prosecutions. To his credit, Attorney General Sessions has announced that the DOJ will vigorously prosecute those who make false statements in connection with their background checks. We should ensure that he has the resources to do so.

We should close the so-called Charleston loophole, as proposed by Senator BLUMENTHAL. This loophole allows a purchaser to receive a firearm after 3 days, regardless of whether their background check has been completed or not. We can create certain exceptions for concealed carry permit holders and others, but no one should be allowed to take possession of a firearm until they have cleared a background check.

Current law prohibits a firearms dealer from selling a pistol to anyone under the age of 21. That has been the law for many years, without any real challenge. The same logic behind this prohibition should apply to the sales of pistols and semiautomatic weapons to those under the age of 21.

Senator KLOBUCHAR has filed a badly needed piece of legislation to expand the definition of domestic violence to include dating partners and eliminate the "boyfriend" loophole that allows certain dangerous individuals to access guns and evade laws meant to protect domestic violence victims.

We can implement at least a 3-day waiting period for the purchase of any pistol or semiautomatic weapon, and we can increase penalties for those who steal firearms. States that have implemented waiting periods have seen significant decreases in suicides.

We can also repeal the Dickey amendment and open the door for new

research on gun violence prevention. No one—no one—is happy when innocent people die because of a gunshot, and law-abiding gun owners should not be afraid of studies on how to reduce the number of gun deaths in this country.

We can do more to stop mental health issues from turning dangerous by allowing law enforcement or family members to seek a court order when an individual poses an extreme danger to themselves or others and prevent them from getting access to firearms. Senators FEINSTEIN, BLUMENTHAL, and GRAHAM have all proposed versions of the extreme risk laws.

For too long, gridlock and partisanship have stood in the way of compromise. But I didn't come here to do nothing, and I don't think any of you did, either.

Today we face a difficult problem but not an insurmountable one. To find solutions, we must demand courage of ourselves and one another.

As history has shown, we face greater consequences with inaction—certainly greater consequences with inaction on gun violence.

So I have asked all of us to consider this question: What is our collective legacy as representatives of the American people and the Members of this hallowed institution? I believe it is to leave this body and our country better than we found it. We can only do that if we rise together to confront the unknown.

I have given talks all over the country about the prosecutions of the 16th Street Baptist Church bombing, and I am always reminded of a passage from the poem "The Cure at Troy," which was written by the Irish poet Seamus Haney as a tribute to Nelson Mandela. My friend Vice President Biden often quotes this passage, where Haney wrote:

History says, don't hope on this side of the grave. But then, once in a lifetime the longed-for tidal wave of justice can rise up, and hope and history rhyme.

With the convictions of two former Klansmen for the murder of those four young girls, the longed-for tidal wave of justice rose up, and hope and history rhymed in Birmingham, AL.

For me, and I hope for you, when I walk the halls of the Senate Office Buildings and I come through those double doors onto the Senate floor, I realize that every day we, as a collective body, have that same opportunity. Whether it is for Dreamers or voting rights or victims of sex trafficking or, in this case, our children who are demanding action on gun violence, we have the opportunity to build that tidal wave of justice and have hope and history align. But we have to have the courage to seize the moment.

I don't have all the answers on how to do it, but I am willing to work with each and every one of you to find them because that is why we were sent here—to find those answers, so that the tidal wave of justice will rise up.

Please, let us work together to make it happen sooner rather than later.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. SULLIVAN. Mr. President, I wish to join my bipartisan group of colleagues who have been coming to the floor to talk about the very important bill that we are debating and are going to be voting on here in about an hour; that is, to help protect our children all across this country from the horrible scourge of human trafficking and sex trafficking. The Stop Enabling Sex Traffickers Act that we are debating right now is important for the whole country, and it is certainly important for my State of Alaska.

We have a big problem in Alaska with the challenges of domestic violence and sexual assault at some of the highest rates in the country. We also have a big problem with the challenges of human trafficking and sex trafficking. A lot of people think that doesn't happen in America. It happens in America. It is a horrible issue to talk about, but it happens in our country.

There was a study done last year on young men and women in Alaska receiving services from a homeless shelter for teenagers. My wife Julie actually works at this homeless shelter, and one in four girls and one in five boys who used the services of this teen homeless shelter reported being victims of sex trafficking. This is a horrible number for a very vulnerable society. We need to do more to address this issue.

In this legislation, we are taking the fight to one of the places in this country where human trafficking and sex trafficking are really exploding, and that is the internet. The bipartisan legislation we are debating right now will ensure that websites and other institutions on the internet and the companies related that knowingly—and that is an important word, “knowingly”—facilitate sex trafficking can be held accountable for their actions. It will also create new Federal crimes related to promoting or facilitating human trafficking over the internet and give more resources to State prosecutors to go after these heinous crimes.

In the remarks from a whole host of Senators this morning, I think we are seeing that we are going to make real progress in the fight against online sex trafficking without threatening the years of progress we have made in creating a free and open internet. Senator PORTMAN, one of the leaders of this effort, along with many others—Senator MCCAIN and his wife Cindy have been real champions and advocates for human trafficking issues throughout America; Senator BLUMENTHAL and so many other Senators have been saying that this is a commonsense, targeted approach to addressing this very big and growing problem.

We are going to vote in about an hour, and I hope all of my colleagues

will do the right thing and vote on these amendments that are put out there as helpful amendments, but, to be honest, they are meant to bring down the bill.

We cannot allow our children, whether in Alaska or across the country, to be lured into this kind of Hell—and the more we hear in terms of testimony, the more we recognize that what is going on over the internet in this area is Hell mostly for the youth of America.

Our children should not be sold online or anywhere else. Unfortunately, it is happening, and it is happening a lot, largely because of the internet. The National Center for Missing & Exploited Children reported, from 2010 to 2015, an 846-percent increase in the number of children being trafficked—an over 800-percent increase in America.

A lot of Americans think: Wait, really? That is a problem in Asia, Southeast Asia, or other countries. But it is a growing problem in the United States of America, and we need to address it.

As others have said on this floor, sex trafficking has moved from the street corner to the smartphone, where it is much more difficult to detect and much more difficult to stop, and it is one of the reasons we see this dramatic increase in rates of human trafficking in our country.

In the Commerce Committee, we had a hearing that covered this bill. Some members of the tech industry were opposed, but I think the overwhelming support that came out of that hearing was driven by the real-world tragedies we started to hear from hundreds—thousands—across the country that have occurred because of really lax laws and immunity on the internet that was not intended for companies or individuals who deal in sex trafficking and human trafficking. What we saw from the report and the investigations that Senator PORTMAN and others did was that actually was what was happening.

For example, Senator BLUMENTHAL earlier today talked about the very tragic, sad, and moving testimony we heard last September in the Commerce Committee from Yvonne Ambrose, whose 16-year-old daughter Desiree Robinson was trafficked online by a pimp on the website, Backpage. She was later raped and murdered by a 32-year-old man who found her on that website. She was an American citizen, a 16-year-old girl. If you had watched her mom's testimony of in front of the Commerce Committee, you would be voting for this bill today.

Her mom ended her riveting and very sad testimony by saying: If there were stricter rules in place for posting on these websites, then my child would still be here with us today. It was a wrenching story and, unfortunately, one that too many American mothers and fathers are telling us.

We are going to vote on this today, and I hope all my colleagues vote for

more progress. As the Presiding Officer knows, on this issue, there is actually positive progress that has been going on in the Congress. A lot of times, when they read the news—my constituents back home in Alaska and Americans throughout the country—they are always hearing about conflict and how there is no progress in the Senate. We have some difficult issues; there is no doubt about it. But on a lot of issues there has been bipartisan progress, and in this area of human trafficking, there has been significant bipartisan progress to finally start addressing this growing problem in America—which, again, is remarkable when you think about it—of young men and women trafficked for sex in this country.

In 2017, we passed on a bipartisan basis the Abolish Human Trafficking Act; in 2015, we passed the Justice for Victims of Trafficking Act. Both were introduced by my friend and colleague, Senator CORNYN of Texas. Senator THUNE has been a leader on these issues in the last couple of years in passing the No Human Trafficking on Our Roads Act and Combating Human Trafficking in Commercial Vehicles Act, which focused on the big problem we have seen in terms of the transportation system in America being used for human trafficking. In the Judiciary Committee, we passed Chairman GRASSLEY's bill, the Trafficking Victims Protection Reauthorization Act, which brought more services to victims of these heinous crimes.

We are making progress, no doubt about it. But—and this is a very important point—despite this strong record of addressing human trafficking, when it comes to these crimes, some of the biggest things we need more of in America to address them, because they are growing, are resources—resources. To put it bluntly, there are too many cases, there is too much of this happening, and there are not enough resources, money, or prosecutors to put the bad individuals who are doing this behind bars.

Many of these cases involving human trafficking are Federal crimes that usually require Federal prosecutors to go after these Federal offenses. As we all know, there are limited numbers of assistant U.S. attorneys and Federal investigators to do this. So what have we done? What have we done in the past few years? What are we doing today in this vote to help address this? We have begun to change this issue of resources to go after the perpetrators of these heinous crimes in a much better way by allowing State attorneys general and State district attorneys to actually prosecute these crimes, even though they are Federal crimes. We are doing something in the law that says: We need more prosecutors, we need more investigators, and we need more resources. Let's unleash those in the States to help us address this growing problem throughout our country.

So we are doing that, and we did it for the first time in the Justice for Victims of Trafficking Act in 2015. This

bill, for which Senator CORNYN was the lead, actually incorporated a bill that I had authored and had a lot of cosponsors on called the Mann Act Cooperation amendment. We put that in as part of the broader bill in 2015.

The Mann Act is the Federal law that makes it a criminal offense to transport someone across State lines for the purposes of prostitution and human trafficking. In my experience back home in Alaska, as attorney general, we had challenges in this regard. As a matter of fact, there was a very notorious case of a bad man—a very corrupt man—who a lot of people knew in Alaska, and he was engaged in this kind of activity with young girls from the Native villages in my State. We investigated it and realized that he violated not a State law but a Federal law. It was very clear that it was a human trafficking violation of the Mann Act.

When I was attorney general, my office went to the Feds, and we said: Here you go. Here is the evidence. This guy violated the Mann Act. He is a bad man. He should go to jail. We need to send a signal.

It is a rather long story. It is a sad story. But for whatever reason—I have wondered for years, and I have looked into this for years—the Federal Government wouldn't take the case.

I said to the Feds: Then, let my prosecutors take the case. We will take the case. You just need to cross-designate us. Let the State attorney general's office take these Federal laws and prosecute them against this guy. We will do it.

They still didn't allow us to do it. There were rumors in Alaska: Hey, what was going on here? Was there some kind of deal cut between the Feds and this guy who was a really bad guy and who was in jail for something else?

When I got to the Senate, I said: We are not going to let that kind of injustice happen again.

That was an injustice. A man who violated the Mann Act and clearly committed the crime of human trafficking is a free man right now. That shouldn't be the case.

As part of the Justice for Victims of Human Trafficking Act in 2015, we had a provision. My bill essentially said this: If a State attorney general brings a Mann Act case—a human trafficking violation case, Federal case—to the Attorney General of the United States, saying that we need to be cross-designated to prosecute—maybe the Feds don't have the resources; maybe they don't have the time—then, the Attorney General of the United States shall allow the cross-designation for more State attorneys general to prosecute these cases, unless it would undermine the administration of justice. That is in the law. State attorneys generals right now can go prosecute Mann Act cases. That is more resources, more investigators, and more prosecutors.

That is going to be in the law that we are voting on today. One of the elements—an important element—of the

Stop Enabling Sex Traffickers Act, which we are voting on and debating now, is to allow State attorneys general the power and the authority to bring actions against those who violate Federal law for internet-based sex trafficking.

We are bringing the resources in these kind of cases. That is an important innovation in the development of the bill that we are voting on today. Just like in the previous legislation, State attorneys general can now bring these cases. If we pass this law today, that will mean more resources, more investigators, and more prosecutors for the perpetrators of these heinous crimes. To all the bad guys out there who are undertaking these crimes, when we vote to pass this legislation today, that is going to be a bad day for you because we are going to have more resources and the ability to put you in jail with this vote today.

As I mentioned, we have a big problem in this country. We have a long way to go in terms of human trafficking, sex trafficking, which is hitting all parts of America. Congress is focused on it, and I am hopeful that we will pass this legislation this afternoon for one more step in the right direction on addressing this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

COMMENDING SENATOR JONES

Mr. WYDEN. Mr. President, before I begin my remarks on the legislation before us, I wish to compliment our new colleague, Senator JONES, on a superb maiden speech. I thought he was so gracious when he remembered Senator Heflin. I served with Senator Heflin, and I think Senator JONES is going to be very much in that tradition. I want to take a quick minute and commend our new colleague for launching his time in the Senate in an extraordinary way.

AMENDMENTS NOS. 2212 AND 2213

Mr. President, I call up amendments Nos. 2212 and 2213, as provided for under the previous order, and I ask unanimous consent that they be reported by number.

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

The clerk will report the amendments by number.

The bill clerk read as follows:

The Senator from Oregon [Mr. WYDEN] proposes amendments numbered 2212 and 2213.

The amendments are as follows:

AMENDMENT NO. 2212

(Purpose: To clarify that efforts of a provider or user of an interactive computer service to identify, restrict access to, or remove objectionable material shall not be considered in determining the criminal or civil liability of the provider or user for other material)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . EFFECT ON LIABILITY OF EFFORTS TO IDENTIFY, RESTRICT ACCESS TO, OR REMOVE OBJECTIONABLE MATERIAL.**

(a) IN GENERAL.—Section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)) is amended by adding at the end the following:

“(3) EFFECT OF EFFORTS TO IDENTIFY, RESTRICT ACCESS TO, OR REMOVE OBJECTIONABLE MATERIAL.—

“(A) EFFECT ON CRIMINAL AND CIVIL LIABILITY GENERALLY.—The fact that a provider or user of an interactive computer service has undertaken any efforts (including monitoring and filtering) to identify, restrict access to, or remove material the provider or user considers objectionable shall not be considered in determining the criminal or civil liability of the provider or user for any material that the provider or user has not removed or restricted access to.

“(B) EFFECT ON PROTECTIONS.—The protections under paragraphs (1) and (2) are not limited by or contingent upon an interactive computer service provider's—

“(i) moderation of content; or

“(ii) use of particular content moderation practices.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of enactment of this Act; and

(2) apply regardless of whether the conduct alleged occurred, or is alleged to have occurred, before, on, or after such date of enactment.

AMENDMENT NO. 2213

(Purpose: To provide additional funding to the Department of Justice to combat the online facilitation of sex trafficking)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PROTECTING SEX TRAFFICKING VICTIMS FROM CRIMINAL WEBSITES.**

(a) SHORT TITLE.—This section may be cited as the “Protecting Sex Trafficking Victims from Criminal Websites Act”.

(b) APPROPRIATION OF FUNDS.—Out of funds of the Treasury not otherwise appropriated, there are appropriated to the Attorney General, for use in consultation with the Secretary of Homeland Security and the Director of the Federal Bureau of Investigation, \$20,000,000 for each of fiscal years 2018 through 2022 to investigate and prosecute website operators that criminally facilitate sex trafficking or the sexual exploitation of children.

(c) AVAILABLE UNTIL EXPENDED.—Amounts appropriated under subsection (b) shall remain available until expended.

(d) BUDGETARY EFFECTS.—

(1) PAYGO SCORECARD.—The budgetary effects of this section shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(d)).

(2) SENATE PAYGO SCORECARD.—The budgetary effects of this section shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent that my hour begin now for speaking on this subject. We are a bit behind, but not much. I ask unanimous consent that the hour that has been assigned to me begin at this time.

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

Mr. WYDEN. Mr. President, I stand on the Senate floor today in firm agreement with my colleagues that the Congress must do more to combat the scourge of sex trafficking. It is a profound and tragic failure of American institutions that trafficking continues to plague our country and, in fact, has actually increased.

Federal law enforcement has failed to root out and prosecute the traffickers, even when they have been operating in plain sight. So, too, have the big internet companies failed when it comes to sex traffickers who operate on their platforms.

I fear that the legislation before the Senate now is going to be another failure. I fear that it is going to do more to take down ads than to take down traffickers. I that fear it will send these monsters, these evil people who traffic beyond the grasp of law enforcement to the shadowy corners of the dark web, a place where every day search engines don't go, and it is going to be even easier for criminals—these vicious traffickers—to find a safe haven for their extraordinarily evil acts.

In many respects, this debate mirrors one the Congress went through a little bit more than 20 years ago. Back then, I think it would be fair to say that not many Senators knew much about the internet. In 1995, this body had a laudable goal. The Senate said it wanted to protect kids from accessing pornography online, but the result of those good intentions was, unfortunately, a bad policy—a policy called the Communications Decency Act of 1996.

Behind that policy was a fundamental misunderstanding of both the architecture of the internet and the modern application of the First Amendment. The law didn't just go after those targeting pornography to minors. It took speech that was legal in the real world and made it illegal online. And it produced a paradise for the legal trickster, creating new ways to sue over speech and adversely affecting scores of Americans, medical providers, artists, writers of literature, and more.

As should happen with poorly written policy, all but one part of the Communications Decency Act was struck down by the Supreme Court. The one piece of the law left standing was section 230, which I coauthored with former Congressman Chris Cox. What section 230 was all about was laying out the legal rules of the road for the web. There were innovative new businesses sprouting up all over and novel forms of communication and media connecting and informing people in new ways. But it seemed clear that a quick way to strangle this promising set of developments in their infancy was for these new companies to be held legally liable for every piece of content that users posted on their platforms.

When section 230 was written, nobody could have foreseen all of the effects. Here is what we did know back then. First, we wanted small businesses to start out focusing on hiring engineers, developers, and designers rather than worrying about how they had to hire a team of lawyers.

Second, we wanted to make sure that internet companies could moderate their websites without getting clobbered by lawsuits. I think Democrats

and Republicans would agree that this is a better scenario than the alternative, which means websites hiding their heads in the sand out of fear that they would be weighed down with liability.

Third, we wanted to guarantee that bad actors would still be subject to all of the Federal laws. Whether the criminals were operating on a street corner or online wasn't going to make a difference, and we were determined to state that explicitly.

Fourth, we wanted to protect the internet from the whims of State and local legislators. This body has the authority to regulate interstate commerce.

I would ask any of my colleagues to offer an example of how something could be more interstate than the internet.

It may not satisfy some publicity-seeking local official when we talk about the Federal Government's role here, but there is no question that the role of the Congress, in its leading on something that is clearly interstate in nature, is in the best interest of the American people.

For the most part, the framework worked better than I ever imagined it would. As a result of section 230, the small, gutsy entrepreneur—say an entrepreneur in North Carolina—who has a big dream of working out of his garage has a real shot at succeeding. Marginalized groups of vulnerable Americans have a better opportunity than ever to make their voices heard because of section 230, and small nonprofits have the ability to take their causes nationwide.

One scholar, David Post, even wrote that the 230 law created \$1 trillion worth of economic value in the private economy. He said: "It is impossible to imagine what the Internet ecosystem would look like today without it."

My wife saw that article, looked at me and said: Well, dear, even a blind squirrel occasionally finds an acorn.

Setting aside spousal kidding, to illustrate why the protection that comes from section 230 is so important, I turn next to what things would be like without it.

Imagine if you are starting a forum site that is dedicated to discussing knitting. If ever there were a topic that sounded drama free, that would be it. Yet suppose somebody goes on the site and shares a pattern he didn't have the right to share. Suddenly, your website is facing a copyright infringement lawsuit. Maybe the controversy—knitting versus crocheting—gets overheated, and the users start trading barbs. Suddenly, you have people slinging defamation suits at your itty-bitty forum host. Then somebody is injured by an automatic needle threader he reads about in a comment thread. Suddenly, you are a codefendant in a liability suit—all because you didn't have the protection of section 230.

Imagine how hard it would be to launch a platform that would be open

to the discussion of any topic when even the simplest, most narrowly focused website on the internet can become a magnet for lawsuits. There are not enough lawyers in the world to handle all of that litigation, and my sense is we will have a lot of constituents who will say: Thank God.

In the absence of section 230, the internet as we know it would shrivel. Only the platforms that are run by those with deep pockets and an even deeper bench of lawyers would be able to make it.

Moreover, section 230 is not just about hobbies and commerce. It protects the coordination of free speech, particularly among vulnerable groups of Americans. That is the reason organizations like the libertarian Cato Institute, the progressive Human Rights Campaign, and the ACLU have voiced serious concerns about the legislation before the Senate. You sure don't see those three groups lined up side by side very often, but they are here now. It is because, without the protections of section 230, civic organizations that exercise their right to free speech could be cowed by their more powerful political opponents.

For this example, imagine that a nonprofit organizes a campaign in support of a local ballot measure. It uses social media to build awareness and promote upcoming rallies and events with online discussion boards. Yet, without section 230, powerful interests that are opposed to its work can just swoop in and effectively silence that nonprofit with an onslaught of litigation. Hostile individuals could pose as supporters and make comments on the nonprofit's website that would expose the group to liability suits. I think it is pretty obvious that there would be an enormous, chilling effect on speech in America.

I ask unanimous consent that the statements from the Cato Institute and the ACLU that are in opposition to the legislation now before the Senate be printed in the RECORD.

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

[From CATO at Liberty, Feb. 27, 2018]

#### THE DEATH OF AN OPEN INTERNET

(By John Samples)

Today the House votes on the Fight Online Sex Trafficking Act (FOSTA), a piece of anti-sex trafficking legislation. It follows and incorporates an earlier effort by the Senate, the Stop Enabling Sex Traffickers Act (SESTA). The bill at issue today is actually a last minute amendment by Representative Mimi Walters (CA) that brings the worst elements of SESTA into FOSTA, creating a hybrid bill far worse than the sum of its parts. This bill has grave consequences for an open, competitive internet and for some people who use it.

Section 230 of the Communications Decency Act has long shielded internet service providers from liability for user generated content, facilitating the internet we know today. FOSTA would likely reduce these protections. FOSTA creates a new federal crime tied to the intent to promote sex trafficking

using the internet. Alone, this might be considered an acceptable, narrowly tailored measure. However, the Walters amendment incorporates SESTA's "knowingly" standard of liability, which withholds CDA Section 230 protections from sites "knowingly assisting, supporting, or facilitating" sex-trafficking. SESTA's standard requires no intent to facilitate sex trafficking, relying upon the mere knowledge that one's app or blog has been used by bad actors.

Preemptive action, driven by effective platform moderation and cooperation with law enforcement, remains the most efficient way to combat online sex trafficking. Unfortunately, FOSTA's incorporation of SESTA's "knowingly" standard would stymie this collaboration. If a platform attempts to prevent sex trafficking by removing and reporting offending user generated content, it risks establishing that it had knowledge of the content, rendering it liable for anything that might slip through the moderation process. Instead of encouraging platforms to combat sex trafficking, SESTA's "knowingly" standard punishes private attempts to prevent the problem, and cripples broader attempts at effective content moderation.

A combined FOSTA/SESTA would benefit established social media platforms and trial lawyers at the expense of an open internet while doing little to prevent sex trafficking. Facebook may be well resourced enough to cope with the increased legal risk imposed on hosts of user generated content, but their nascent competitors are not. Attempts to avoid running afoul of the "knowingly" standard will likely lead to greater reliance on automated filtering.

Other issues have not received the attention they merit. Libertarians (and others) often distinguish law from morality. What is immoral need not be illegal. American law in many jurisdictions does not honor that distinction and criminalizes exchanging sex for payment. Some members of Congress seem pleased this bill will better enforce those laws against people who voluntarily engage in such exchanges.

The consequence of doing so, however, should please no one. Members believe this bill will likely drive women who sell sex for a living off the internet. For them, that is a feature not a bug of the bill. But those engaged in the sex trade are unlikely to give up their work. Instead they will end up on the streets. Why does this change of venue matter? Between 2002 and 2010, Craigslist introduced an "erotic services" section on its front page which was used almost exclusively to advertise illegal sex services. Three economists found that this section led to a 17.4 percent reduction in the homicide rate of the women in the relevant jurisdiction. They also noted "modest evidence" that the Craigslist section reduced female rape offenses. The economists concluded this reduction in violence came from the women moving indoors and matching more efficiently with safer clients. This potential increase in violence and murder should give pause to even those who deem selling sex immoral.

Congress has worked on these bills for some time through their committees. Now both bills have been thrown together, brought to the House floor, and are expected to become law, all in a week or so. Instead of this rush, the House Judiciary Committee could have finished its work, and the whole House debated and voted on the measure. The Senate and House then could have conferred and perhaps produced a bill acceptable to all. That would be "regular order" for Congress in lawmaking. It has once again been ignored.

AMERICAN CIVIL LIBERTIES UNION,

Washington, DC, March 12, 2018.

Re Oppose H.R. 1865—The "Allow States and Victims to Fight Online Sex Trafficking Act".

Hon. MITCH MCCONNELL,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. CHUCK SCHUMER,  
Minority Leader, U.S. Senate,  
Washington, DC.

DEAR SENATORS: The American Civil Liberties Union (ACLU) writes to express its opposition to H.R. 1865, the "Allow States and Victims to Fight Online Sex Trafficking Act," also referred to as FOSTA, which passed the House on February 27 and may be considered by the full Senate in the coming days or weeks. The bill is a serious, yet unsuccessful, attempt to stop the use of the Internet for sex trafficking without hindering online freedom of expression and artistic innovation. Tech experts say that a thriving Internet requires retaining certain liability protections for online platforms providers. Victims' rights advocates, on the other hand, say the sex trafficking problem requires narrowing those protections. The bill misses the achievable legislative opportunity to do both, and in particular leaves the Internet exposed to the uncertain impact of changed protocols on the part of platform providers.

For nearly 100 years, the ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States. With more than 2 million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, DC for the principle that every individual's rights must be protected equally under the law, regardless of race, religion, gender, sexual orientation, disability, or national origin.

The risks to the Internet as the world's most significant marketplace of ideas outweigh the uncertain benefit of the bill to the fight against sex trafficking. Accordingly, ACLU opposes the bill. While the language of H.R. 1865 has been improved to address some of the ambiguities creating the most significant risks, ACLU remains concerned that the bill, if enacted, will foster an atmosphere of uncertainty among online platform providers. This uncertainty will inhibit the continued growth of the Internet as a place of creativity and innovation.

The ACLU has long supported maintaining the statutory immunity provisions of section 230 of the Communications Act of 1934 in order to promote freedom of speech and expression. Section 230 became one of the key factors enabling the robust expansion of Internet-based speech, communications, and commerce. It is a critical factor in maintaining the Internet's diverse ecosystem of speech and art and advancing economic and political dialogue. The rationale for liability protections for online providers is that they should not suffer criminal or civil liability merely for creating online fora to which others may post content, even when some of those communications turn out to be offensive or even unlawful. Any liability should be on those who create and post that content.

We opposed FOSTA's predecessor bill, an onerous bill that would have drastically curtailed protections for online publishers. FOSTA was revised in the House through the efforts of a broad cross-section of victim advocates, law enforcement, and tech experts. The current version creates a new federal facilitation of prostitution crime, but would

still impact liability protections for online providers. As finally approved, it also incorporated key aspects of the Senate version of the bill.

ACLU opposed the Senate version of the bill, the "Stop Enabling Sex Traffickers Act" (S. 1693, SESTA), but also acknowledged improvements incorporated prior to final committee approval. In particular, the modified version of SESTA heightened the intent standard needed to establish a criminal violation—a key distinction separating a typical online platform provider from one that might inject itself into the online content being posted to its platform. Also, in authorizing state prosecutions notwithstanding the federal liability protections for online platforms, the bill would limit state prosecutions to those where the behavior violated the federal law.

The changes to both the House FOSTA bill and the Senate SESTA bill were the result of concerted advocacy efforts by Internet and other tech experts who testified about the critical importance played by section 230 protections. In the days before the section 230 protections were adopted over two decades ago, online providers were subject to lawsuits for allowing the posting of content. The threats were so financially significant that providers would simply bar the posting of third party content, knowing they could never fully insulate themselves from liability except by blocking all content that might be offensive to some. Since the adoption of section 230, online providers have been free to curate their sites' content without fearing liability for what others post.

Even with the improvements in both bills, ACLU continued to oppose both measures because the risks to the vibrancy of the Internet as a driver of political, artistic, and commercial communication is real and significant. Moreover, there is little to suggest that current law could not be used to find and punish the bad actors who are truly facilitating online sex traffickers. In fact there is at least one pending federal court case that makes this very argument. There are a host of state laws outlawing such behaviors and current liability protections are intended to protect only those who are simply providing a channel for others to use, not those who are determining what is posted and who have a malicious intent to do harm to others. Finally, ACLU is concerned that the scope of the bill's language will encompass the actions of sex workers who have no connection to trafficking whatsoever within its enforcement, including effective harm reduction and anti-violence tactics. Such an outcome is directly contrary to the aims of bipartisan criminal justice reformers who seek to limit the over-federalization of crime where such crimes already exist at the state level.

For the foregoing reasons, the ACLU opposes H.R. 1865 as approved by the House of Representatives. It poses a risk to freedom of speech on the Internet as we have come to know it while purporting to solve a problem that could be addressed in other ways.

If you have questions or comments about ACLU's position on this legislation, please contact First Amendment advisor Michael Macleod-Ball.

Sincerely,

FAIZ SHAKIR,  
National Political Director.

Mr. WYDEN. Mr. President, the fact is that section 230 was never about protecting the incumbents. I have spent my time in public service taking on a wide array of powerful, established interests. When I wrote this policy, I never envisioned a Facebook, but I did hope it would give the little guy and

his startup a chance to grow into something big. The bottom line—the central point here—is that it worked.

Despite the fact that section 230 undergirds the framework of the internet as we know it today, there is a significant effort underway to try to take it down, to collapse it. That is, largely, because the big internet companies—the biggest ones—have utterly failed to live up to the responsibility they were handed two decades ago. I am going to explain exactly what I mean.

For these big companies, section 230 is both a sword and a shield. It offers protection from liability, but it also gives companies the authority and, more importantly, the responsibility to foster the sort of internet Americans want to be proud of. In years of hiding behind their shields, these big technology companies have left their swords to rust. Too many companies have become bloated and uninterested in the larger good, and when they have taken positive steps, as Wikimedia has, for example, their practices haven't been adopted by their peers.

I will describe one case study that was reported last week by the tech news website Motherboard.

In 2012, the website Reddit, on which individuals form communities where they share and discuss content, cracked down on users who posted non-consensual photos of women. These have come to be known as “creepshots.” The website Tumblr did not sufficiently police the same inappropriate content, so these reprehensible communities simply relocated from Reddit to Tumblr, and this creepshot problem lived on. That is how easy it is for the creators of vile content to move from one platform to another.

Supreme Court Justice Potter Stewart famously observed that he couldn't define hardcore pornography, but he knew it when he saw it. Congressman Cox and I may not have known exactly what content we intended for sites to be able to take down when we wrote section 230, but I sure know it when I see it. Far too often, the big internet companies refuse to know it even when they see it.

A huge amount of that which populates social media networks each day is every bit as destructive and socially corrosive, if not more so, than the pornography at issue in that famed Supreme Court case. It is the creepshots, the sex trafficking ads, the conspiracy videos about school shootings, and anti-vax nonsense—nonsense that endangers the public health and more.

The tech giants state that no one could track the millions of posts or videos or tweets that cross their services every hour. Nobody is asking them to do that—nobody. Section 230 means they are not required to fact-check or scrub every single post or tweet or video, but there have been far too many alarming examples of algorithms that drive vile, hateful, or conspiratorial content to the top of the sites

that millions of people click on every day. Companies seem to aid in the spread of this content as a direct function of their business models.

It is perfectly reasonable to expect some greater responsibility from these giant, multibillion-dollar corporations that were able to thrive as a result of protection that they were guaranteed by law. That was the idea behind section 230. That doesn't carry any obligation to suppress free speech, but it is definitely about being a responsible citizen, a responsible member of the community.

Sites like Facebook, YouTube, and Tumblr constitute the entire internet for millions of users who click through the same group of sites every single day. They have an undeniable role to play in fostering a civil environment. Their failure to do so could very well mean that the internet looks very different 10 years from now, not just for those who spread hateful and conspiracy-driven filth, but for the millions of decent people who use the internet to learn, to find entertainment, and to keep in touch with loved ones.

There was a time when the biggest internet companies had mottos like “Don't be evil.” Perhaps it is time for them to aspire to a more modest motto: “Don't spread evil.”

With all of that said and done, it is not just the internet companies that fail to properly respond to the challenges of our times. When it comes to sex trafficking, which is the underlying issue the Senate is working on today, our country has failed the victims at almost every level.

(Mr. COTTON assumed the Chair.)

For example, the Justice Department could have and absolutely should have investigated the website backpage years ago for its role in promoting sex trafficking; but the fact is, the Federal Government fell down on the job.

Backpage's activities were no secret. In the absence of action by the Department of Justice, a Senate subcommittee, led by our colleagues Senators PORTMAN and MCCASKILL, conducted their own investigation and subpoenaed key documents. Among those documents were emails that appeared to show that backpage was actively working with sex traffickers to create advertisements. That meant backpage was not due protection under section 230. In fact, a lawsuit in Boston was given the go-ahead based on that precise finding. It has been widely reported that the Justice Department now has its own investigation underway, although it is coming years and years too late. This should have happened eons ago. This is only one example of where the government's efforts have fallen short.

Now, following what I have described, the twin failures of the big technology companies and Federal law enforcement, this body is responding to a very serious moral challenge with flawed policy changes. In my view, the legisla-

tion before the Senate will prove to be ineffective, it will have harmful, unintended consequences, and it could be ruled unconstitutional.

I take a backseat to no one when it comes to policies that fight sex traffickers, bring them to justice, and help the victims of their hideous crimes. I have used my position on the Senate Finance Committee to be one of the authors of laws that support victims and provide ongoing funding paid for by those convicted of crimes against children. I have worked with our colleagues, Senator CORNYN, Senator PORTMAN, Senator KLOBUCHAR, to write laws to improve the child welfare system to help prevent kids from becoming victims in the first place. I put my record up against any Member of this Congress when it comes to passing laws that while definitely not going far enough, begin the effort to provide the tools to fight this scourge, but the bill before us today is not going to stop sex trafficking. It is not going to prevent young people from becoming victims, and I am going to describe why that is the case.

First, as I mentioned earlier, the Department of Justice takes the view that an important provision in the bill is unconstitutional. In my judgment, that is another issue that Congress ought to address before sending a bill to the President's desk, but instead it looks like everybody will drive it through as is.

Second—and this is an astounding development—the legislation before the Senate is going to make it harder, not easier, to root out and prosecute sex traffickers. Let me read what the Department of Justice has said recently that proves that this bill is going to make it harder to root out and prosecute sex traffickers. The Department of Justice recently said this legislation would “effectively create additional elements that prosecutors must prove at trial.” Colleagues, I will just state we are heading in the wrong direction if we have legislation that would raise the burden of proof in cases against sex traffickers. Imagine that, with nationwide concerns about the evils of sex trafficking, the Department of Justice has said this bill would actually raise the burden of proof in cases against sex traffickers.

The Department of Justice wrote a letter to Chairman GOODLATTE of the House Judiciary Committee that lays out the concerns I have just described.

Mr. President, I ask unanimous consent to have printed in the RECORD the Justice Department letter.

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



U.S. DEPARTMENT OF JUSTICE, OFFICE OF LEGISLATIVE AFFAIRS, OFFICE OF THE ASSISTANT ATTORNEY GENERAL,

Washington, DC, February 27, 2018.

Hon. ROBERT W. GOODLATTE,  
Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice (Department) on H.R. 1865, the "Allow States and Victims to Fight Online Sex Trafficking Act of 2017." The Department supports H.R. 1865. We applaud House and Senate legislative efforts to address the use of websites to facilitate sex trafficking and to protect and restore victims who were sold for sex online. The Department appreciates this opportunity to provide technical assistance to ensure that these goals are fully met through narrowly tailored legislation. The Department also notes that a provision in the bill raises a serious constitutional concern.

Every day, trafficking victims in America appear in online advertisements that are used to sell them for sex. The Department works diligently to hold the traffickers accountable for their crimes but faces serious challenges. This is due in part to the high evidentiary standard needed to bring federal criminal charges for advertising sex trafficking, but also because the Communications Decency Act (CDA), codified at 47 U.S.C. 230, bars our state and local partners from bringing any criminal action that is inconsistent with that section. H.R. 1865 addresses both issues and would take meaningful steps to end the industry of advertising trafficking victims for commercial sex.

#### TECHNICAL ASSISTANCE

Section 3(a) of the bill creates 18 U.S.C. 2421A, a new federal offense that prohibits the use or operation of websites (and other means or facilities of interstate commerce) with the intent to promote or facilitate prostitution. The bill also provides for an aggravated felony if the defendant recklessly disregards that the crime contributed to sex trafficking as prohibited by 18 U.S.C. 1591(a). Section 2421A would stand as a strong complement to existing federal laws.

However, the Department notes that Section 2421A as originally drafted is broader than necessary because it would extend to situations where there is a minimal federal interest, such as to instances in which an individual person uses a cell phone to manage local commercial sex transactions involving consenting adults. Therefore, the Department would support amending the language of Section 2421A so that Congress can clarify its intent to target traffickers using or operating interactive computer services, as follows (with a corresponding change to 2421A(b)): "Whoever, using a facility or means of interstate or foreign commerce or in or affecting interstate or foreign commerce, owns, manages, or operates an interactive computer service, as defined in Section 230(f) of Title 47, United States Code, or conspires or attempts to do so, with the intent to promote or facilitate prostitution shall be fined under this title, imprisoned for not more than 15 years, or both."

The Department believes that any revision to 18 U.S.C. 1591 to define "participation in a venture" is unnecessary. Section 1591 already sets an appropriately high burden of proof, particularly in cases involving advertising. Under current law, prosecutors must prove that the defendant knowingly benefited from participation in a sex trafficking venture, knew that the advertisement related to commercial sex, and knew that the advertisement involved a minor or the use of force, fraud, or coercion. See *Backpage.com, LLC v. Lynch*, D.D.C., Civil Action No. 15-

2155, Docket 16 (Oct. 24, 2016). While well intentioned, this new language would impact prosecutions by effectively creating additional elements that prosecutors must prove at trial. In the context of the bill, which also permits states to bring actions for conduct equivalent to Section 1591, we are also mindful that this language could have unintended consequences as applied by the states.

Section 4 of H.R. 1865 also sets forth critical revisions to the CDA to permit state prosecutors to bring criminal actions related to sex trafficking and the use of the internet with the intent to promote or facilitate prostitution. The Department believes that the existence of this exception to the CDA will alter the landscape of the industry involved in advertising prostitution.

#### CONSTITUTIONAL CONCERN

We note that Section 4 of H.R. 1865 states that the changes to the CDA "shall apply regardless of whether the conduct alleged occurred [sic], or is alleged to have occurred, before, on, or after such date of enactment." This raises a serious constitutional concern. Insofar as this bill would "impose[] a punishment for an act which was not punishable at the time it was committed" or "impose[] additional punishment to that then prescribed" it would violate the Constitution's Ex Post Facto Clause. *Cummings v. Missouri*, 4 Wall. 277, 325-326 (1867); see *Beazell v. Ohio*, 269 U.S. 167, 169-170 (1925); U.S. Const. art. I, 9, cl. 3. The Department objects to this provision because it is unconstitutional. We would welcome the opportunity to work with Congress to address this serious constitutional concern.

Thank you for the opportunity to present our views in support of this legislation. We hope this information is helpful, and we look forward to continuing to work with Congress on this important legislation. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

STEPHEN E. BOYD,  
Assistant Attorney General.

Mr. WYDEN. Mr. President, that is not the only problem when it comes to enforcing this law. The bill before the Senate is focused on taking down online advertisements, not on catching criminals or protecting victims. Taking down the ads doesn't mean the pimps and predators will stop and say: Oh, good; we see what the Senate is doing. We are now going to start following the rules. When the ads come down, colleagues, the criminals will go as fast as they can to the darkest corners of our society. Instead of stopping trafficking, the bill is going to push it to the dark web, the dark alleys, and overseas. You can't get to the dark web with traditional search engines.

Career Federal law enforcement officers, the expert investigators, are the people who know how to root out the traffickers under these circumstances. They have expertise that State and local law enforcers don't have. So my view is, by handing new authorities to local officials, the bill moves in the wrong direction.

In my view, the right approach is to make sure career, expert Federal law enforcement officers and investigators

have the resources they need to get the job done. One of the amendments I will be offering today provides \$20 million a year for 5 years to the Attorney General to spend in coordination with the FBI and Homeland Security to investigate and prosecute those who criminally facilitate sex trafficking. The bottom line, if Senators want law enforcement to do a better job of stopping those like backpage, my amendment gives the right people the resources they need to bring these monsters to justice.

I heard my colleague from Alaska, Senator SULLIVAN, a good friend, talk at some length about how important it was to have resources to fight the scourge of these traffickers who get more and more sophisticated. They are people who are very clever about staying out in front of the law. When they are on the dark web, it is going to take resources to fight them and put them behind bars. So our colleague from Alaska, Senator SULLIVAN, sure ought to be for this amendment because this amendment offers real money right now to prosecute these monsters and get them behind bars.

Finally, the bill before the Senate punches a hole in the legal framework of the open internet. I don't every single day quote the editors of the "Wall Street Journal," but I have always had a motto that I will shout out anybody when they are right. The Journal recently summed up the impact of the bill. They said this is definitely going to be an online "lawsuit bonanza." They predict any website that "should have known" criminal activity took place on its platform will be a target for lawsuits. Any message board or chat room where users interact with each other can become a new target for litigation.

Without specific protections for companies that make good-faith efforts to find and stop criminal behavior on their platforms, this legislation could actually punish companies that try to moderate their users' posts but let something slip through. Just by looking for illegal material, a website could be setting the table to be sued over anything they didn't find.

The second amendment I will be offering would clarify this issue. It is what is known as the Good Samaritan clause, and we felt strongly about it several decades ago. The companies decide, as a result of a poorly written bill, that their only option is to put their blinders on and ignore vile, illicit content. That is bad for everybody except for the criminals. So I want to eliminate that uncertainty, and I want particularly these small startup companies that are so important for our future to know, without a doubt, that they have the right to moderate the content users post.

So, in technical language, what this amendment says is, neither the presence nor the absence of an attempt to moderate content online can, by itself, trigger liability.

The Journal raised more than the Good Samaritan issue. Just as bad, by passing this exception to section 230, courts might make it harder to prosecute websites for other crimes. Here is what the Wall Street Journal editor said: "If Congress provides a carve-out for sex trafficking, courts might conclude that Section 230 was intended to be applied narrowly for other crimes and make it harder to prosecute websites [that are] complicit."

I do fear this bill is going to set off a chain reaction that leads the Congress to cut away more categories of behavior from section 230, dismantle the legal framework that has given the United States the position as a tech economy superpower. This position did not happen by osmosis. It happened because 20 years ago there was an effort to try to lay out a sensible legal foundation, a sensible legal basis for the internet, and that is what is under attack today.

If this legislation that chips away at section 230 is a bad idea for the internet, if you are following this debate, you probably want to know why the biggest internet companies are big cheerleaders for it—the big companies like Facebook. It is because it will pull up the ladder in the tech world, leaving the established giants alone at the top.

As I said, section 230, from the beginning, was all about giving the little guy the best possible chance to succeed. That is what this has always been about. The big guys can take care of themselves. We want to have a policy that encourages innovation for the startups. That has been a bedrock of my time in public service. Chipping away at the law that is going to curtail the culture of innovation and bare-knuckled competition that has been the defining characteristic of the internet for more than two decades doesn't make any sense to me.

The companies that have reached the top of the internet's economy are kind of worried about whether they are going to be able to keep their place at that altitude. Regulators once feared that Microsoft would dominate the way Americans interacted with the internet, but then a little company called Google appeared on the scene. Facebook, a half-trillion-dollar company got out of its infancy by displacing a competitor called MySpace.

I think colleagues ought to know that these established companies would do just about anything to avoid being displaced themselves. Facebook is trying to make clear that they will do just about anything not to become another MySpace.

Today, Facebook is under attack for allowing the Russians to interfere with our elections. They are under attack for giving hate groups a platform to spread their bile. They are under attack for giving conspiracy theorists, through their algorithms, a platform to lure in the unsuspecting. They are under attack for collecting, monetizing, and storing far more personal

information than their users ever suspected. It is a great tool for connecting with family and friends, but it is also something a small team of well-caffeinated coders could duplicate and improve upon in terms of its functionality without a lot of difficulty and without some of the baggage Facebook has picked up over the last 6 months.

So how do they stay on top? One way is to acquire the competition. Young people always tell me that nobody under 30 uses Facebook. The new generation certainly uses Instagram, so they might not even know that it is part of the same megacompany bought out by Facebook. But you can't buy everybody, so then you go to the oldest trick in the book—make it harder for new companies to get in the game. You don't have to compete if there is no competition, and that is where this legislation comes in.

If internet startups are no longer protected by section 230 and they are exposed to the threat of near constant litigation, it is going to be a lot tougher for them to secure injections of funding and grow. Fewer venture capital firms will be willing to risk their deep pockets if their early-round investments are swallowed up by legal fees instead of paying for coders. But in the eyes of the giant, established corporations, a world without section 230 isn't seen as much of a threat. The \$50 million a year in liability statements for these big companies is a drop in the bucket for them. It is the cost of doing business. And it is an added benefit if the cost is too high for new companies to be able to get in the game.

The biggest of these internet companies are trying to hold on to their position at the top with all their might, and they are certainly very interested in using the government to do it. That has been true of a lot of industries before them, and it should come as no surprise that it happens again in the technology area.

The Facebooks of the world will tell you how important section 230 was to the innovation of the last 20 years. Yet there are technology companies like IBM that haven't done a lot of innovating for the last 20 years that want to see section 230 done away with entirely for trumped-up reasons. So, for business, let's not mistake what this debate is all about for a lot of these big, multinational companies. It is not about right or wrong; it is about dollars and cents.

So what does the future hold? As the Wall Street Journal observed, a lawsuit bonanza is in the works. It is pretty ironic that a Republican Congress and a Republican President are going to create the biggest new source of opportunities for trial lawyers in decades.

For the technology business, this bill means bigger is better—not better for innovation, not better for consumers, but better for the profits of those lucky enough to have reached the top of the mountain first.

It is safe to expect a slew of proposed new exceptions to section 230. When somebody is injured, they and their families want recourse, but our legal system is woefully bad at delivering justice. It is unfortunately far better at facilitating deals—often unjust deals—because numbers are far easier than doing right. This failure means that a line of injured parties will be petitioning to seek the sort of recompense only their Member of Congress can provide.

For America, section 230 is very likely the reason we have a multitude of billion-dollar internet employers and the Europeans have exactly zero. Where countries aren't hiding behind the trade barrier of the great firewall or other artificial market forces, American innovation has won out over the rest of the world.

I think it is pretty hard to see our country thrive and prosper without the kind of legal foundation I have described today, without these 230 protections. And a whole host of scholars have pointed out that this is a unique law in the world. It is the case where the United States got the temperature right from the beginning, and it has led to our dominance in tech. But if the United States goes out and puts all those cracks—those potential cracks, the real cracks—into the foundation of section 230, I would wager that there are plenty of other countries that are going to change their laws to siphon away our companies and take the jobs they create.

The fact is—and I am not sure we in the Senate think about it every day—we are in a fight for the internet literally every day. Our internet companies aren't engaged in the fight. Their interest is currying favor with nations with which they wish to do business. The Chinese, the Iranians, the Russians, even our European allies are maneuvering to impose a more repressive view of speech and expression on individuals around the world, and unfortunately it has a lot of allies here at home.

Free speech has never been free, and it is often not popular. It was wrested from the grip of a dominating state, and it ought to be—it must be defended by every generation, lest the state reclaim control.

Today, in my view, the Senate is looking at taking a real step backward and down a path that this body will regret.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. The majority leader.

Mr. McCONNELL. Mr. President, I ask unanimous consent that following the budget point of order and the motion to waive, there be 2 minutes, equally divided, prior to the vote.

THE PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2213

Mr. McCONNELL. Mr. President, the pending amendment No. 2213 offered by

Senator WYDEN would violate the Senate pay-go rule by increasing the on-budget deficit. Therefore, I raise a point of order against this measure pursuant to section 4106(a) of H. Con. Res. 71, the concurrent resolution on the budget for fiscal year 2018.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974 and the waiver provisions of applicable budget resolutions, I move to waive all applicable sections of that act and applicable budget resolutions for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided.

The Senator from Ohio.

Mr. PORTMAN. Mr. President, this is in relation to an amendment that has been offered by my colleague Mr. WYDEN. It has to do with funding for the Department of Justice dealing with trafficking. I appreciate the intent behind it, but I will tell you, as one of the letters from the law enforcement community, who are opposing this amendment, said, this is a poison pill. This will derail this in the House of Representatives.

We have law enforcement from the Fraternal Order of Police, the National District Attorneys Association, and from all of the national groups opposing this amendment because they believe it is so important to pass the underlying legislation and to do it now to provide the justice that the victims of human trafficking deserve.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I believe strongly that Congress must do more to combat the scourge of sex trafficking and bring these monsters to justice and actually put them behind bars.

I have heard my colleagues from the other side talk again and again about how more resources are needed to fight this evil. This is the only proposal offered to actually put more dollars into the hands of prosecutors to get the criminals behind bars, and it is going to be harder to prosecute them now that they have moved to the dark web.

My colleague has said that prosecutors are against it. It is because my colleague has worked as hard as he could to tell prosecutors that if anything like this is added, it is going to die in the House. Let me just tell my colleague that when we put in more money to prosecute these monsters and it passes, the other body will pass it in about 15 minutes.

I urge my colleagues to vote for the only amendment that actually is going to put these criminals behind bars be-

cause we are putting real money into that effort.

I yield the floor.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to waive.

The yeas and nays have been ordered.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The yeas and nays resulted—yeas 21, nays 78, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—21

Booker	Hirono	Peters
Cantwell	Jones	Sanders
Casey	Leahy	Stabenow
Coons	Markey	Tester
Donnelly	McCaskill	Udall
Gillibrand	Merkley	Van Hollen
Heinrich	Murray	Wyden

NAYS—78

Alexander	Feinstein	Murphy
Baldwin	Fischer	Nelson
Barrasso	Flake	Paul
Bennet	Gardner	Perdue
Blumenthal	Graham	Portman
Blunt	Grassley	Reed
Boozman	Harris	Risch
Brown	Hassan	Roberts
Burr	Hatch	Rounds
Capito	Heitkamp	Rubio
Cardin	Heller	Sasse
Carper	Hoeven	Schatz
Cassidy	Inhofe	Schumer
Cochran	Isakson	Scott
Collins	Johnson	Shaheen
Corker	Kaine	Shelby
Cornyn	Kennedy	Smith
Cortez Masto	King	Sullivan
Cotton	Klobuchar	Thune
Crapo	Lankford	Tillis
Cruz	Lee	Toomey
Daines	Manchin	Warner
Duckworth	McConnell	Warren
Durbin	Menendez	Whitehouse
Enzi	Moran	Wicker
Ernst	Murkowski	Young

NOT VOTING—1

McCain

The PRESIDING OFFICER. On this vote, the yeas are 21, the nays are 78.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak to the body for 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2212 WITHDRAWN

Mr. WYDEN. Mr. President, in my view, it is clear that when colleagues face so much political headwind, they don't feel comfortable supporting something I know they all believe in very deeply. I believe every Senator believes there ought to be real money to go after sex traffickers. I have spoken to colleagues on both sides of the aisle, and they have taken a real pounding on these amendments. My sense is that there would also be opposition to what

I think is another practical, good idea, which is the Good Samaritan amendment.

As I have stated, because I anticipate having to turn back to this topic in short order after the effects of this bill become clear, I am going to save this topic for a vote at that time.

Mr. President, I ask unanimous consent to withdraw amendment No. 2212.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The remaining amendment is withdrawn.

Mr. WYDEN. Mr. President, with that amendment having been withdrawn, I ask unanimous consent that there now be 2 minutes for debate, equally divided, prior to the vote on passage.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

The Senator from Ohio.

Mr. PORTMAN. Mr. President, I strongly urge my colleagues to join us in supporting this legislation. Most of you are cosponsors already. It strikes the right balance. It helps to allow victims to get the justice they deserve and, lastly, to hold these websites accountable through prosecution, while at the same time protecting the free and open internet.

I would like to yield my remaining time to my coauthor and colleague Senator BLUMENTHAL.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I say thank you to my colleague Senator PORTMAN for his hard work. When we began this legislation, no one gave us a chance because of the entrenched and powerful interests against us. This measure will unlock the courthouse doors to survivors and to law enforcement who can stop sex trafficking—a scourge, modern-day slavery in this country. I thank so many of my colleagues for cosponsoring it and for helping to lead this effort that will make a difference in the lives of countless young girls and women and men who are victims and survivors.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, as I stated several hours ago, I stand firmly with colleagues who believe more must be done to fight the scourge of sex trafficking and, particularly, to put these monsters behind bars. The bill before us, in my view, takes a flawed approach. What is going to happen is that the criminal sex trafficker is going to head toward the dark web. This is a place you cannot access with a traditional search engine. It is going to be harder when they are in the shadowy corners of our country, of the internet, in order to prosecute them. It is also going to chip away at the foundation of the net, which is so important for vulnerable people. It is why the Human Rights Campaign Fund has made it

clear that they are opposed to the bill. We shouldn't be putting at risk vulnerable groups and small startups.

Given that, I believe that this bill, which will clearly pass, will be something the Senate will come to deeply regret. I will be opposing the bill.

The PRESIDING OFFICER. The Senator's time has expired.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. PORTMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—97

Alexander	Flake	Murray
Baldwin	Gardner	Nelson
Barraso	Gillibrand	Perdue
Bennet	Graham	Peters
Blumenthal	Grassley	Portman
Blunt	Harris	Reed
Booker	Hassan	Risch
Boozman	Hatch	Roberts
Brown	Heinrich	Rounds
Burr	Heitkamp	Rubio
Cantwell	Heller	Sanders
Capito	Hirono	Sasse
Cardin	Hoeven	Schatz
Carper	Inhofe	Schumer
Casey	Isakson	Scott
Cassidy	Johnson	Shaheen
Cochran	Jones	Shelby
Collins	Kaine	Smith
Coons	Kennedy	Stabenow
Corker	King	Sullivan
Cornyn	Klobuchar	Tester
Cortez Masto	Lankford	Thune
Cotton	Leahy	Tillis
Crapo	Lee	Toomey
Cruz	Manchin	Udall
Daines	Markley	Van Hollen
Donnelly	McCaskill	Warner
Duckworth	McConnell	Warren
Durbin	Menendez	Whitehouse
Enzi	Merkley	Wicker
Ernst	Moran	Young
Feinstein	Murkowski	
Fischer	Murphy	

NAYS—2

Paul Wyden

NOT VOTING—1

McCain

The bill (H.R. 1865) was passed.  
The PRESIDING OFFICER (Mr. GARDNER). The majority leader.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the en bloc consideration of the following nominations: Executive Calendar Nos. 596 and 671.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nominations en bloc.

The bill clerk read the nominations of David J. Ryder, of New Jersey, to be Director of the Mint for a term of five years; and Thomas E. Workman, of New York, to be a Member of the Financial Stability Oversight Council for a term of six years.

Thereupon, the Senate proceeded to consider the nominations en bloc.

Mr. MCCONNELL. I ask unanimous consent that the Senate vote on the nominations en bloc with no intervening action or debate; that if confirmed, the motions to reconsider be considered made and laid upon the table en bloc; that the President be immediately notified of the Senate's action; that no further motions be in order; and that any statements relating to the nominations be printed in the RECORD.

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

The question is, Will the Senate advise and consent to the Ryder and Workman nominations en bloc?

The nominations were confirmed en bloc.

## LEGISLATIVE SESSION

### MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate resume legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

### WOMEN'S HISTORY MONTH

Mr. DURBIN. Mr. President, during Women's History Month, as we celebrate the mothers, daughters, sisters, and, for some of us, the granddaughters in our lives, I would like to take a minute and honor a few women from my home State of Illinois.

During the nearly 170-year history of the New York Times, only about 15 to 20 percent of its obituaries have been written for women. Earlier this month, the New York Times announced a new feature called "Overlooked," celebrating the lives of people from underrepresented communities. March, being Women's History Month, the New York Times started by publishing obituaries for 15 women who never received them. The first on the list: Ida B. Wells. Now, Ida is not from Illinois, but her incredible life's journey brought her to Chicago near the end of the 19th century, where she lived until her death in 1931.

Born into slavery, less than a year before the Emancipation Proclamation, Ida B. Wells was an intrepid journalist and a trailblazing activist in the Civil Rights and woman's suffrage movements. Ida was recognized worldwide for her writings exposing the

truth behind why Black men were being lynched in the South. Ida B. Wells' work forced her from her home in the South, and after traveling to New York and England, Ida settled in Chicago.

Among her many accomplishments, including helping launch the National Association of Colored Women and the National Association for the Advancement of Colored People, Ida B. Wells became an early pioneer in social work, fighting for justice and equality. Following her death, the Chicago Housing Authority, recognizing the need for affordable housing for African Americans in the late 1930s, began a project to provide 1,662 apartments, two and three story row houses, sitting on 47 acres of land in the Bronzeville and Oakland neighborhoods of Chicago. They were named the Ida B. Wells Homes. She certainly left her mark in Chicago.

Not far from my Chicago office, Ida B. Wells is among the 65 women honored in the Chicago Women's Park & Gardens. The park also includes a beautifully moving monument called "Helping Hands," recognizing the contributions and legacy of Jane Addams, one of the world's most influential social reformers.

In 1888, Jane Addams and her friend Ellen Starr visited a settlement house called Toynbee Hall in the slums of London, which provided a variety of services to poor industrial workers. It sparked what would become their lifelong mission helping the poor and championing the rights of all, including immigrants, women, and children. Jane Addams and Ellen Starr were determined to bring that model to the United States, which was emerging as an industrial giant and in the early years of an immigration boom.

In 1889, Jane Addams and Ellen Starr returned to Chicago and started Hull House, the first settlement house in the United States. Its humble beginnings started by simply inviting people from the community to hear readings from books or look at slides of paintings. They listened to those who came, and it became clear that many of the neighborhood's women were in desperate need for a place to bring their children. So they started a kindergarten and daycare for working mothers. As it expanded, Hull House helped prevent the exploitation of immigrants living on the West Side of Chicago by providing services such as housing, child, medical aid, educational, and vocational classes.

In addition to her contributions in the field of social work, Jane Addams was known as one of the leading antiwar activists in the country. During World War I, she became the chair of the Women's Peace Party and president of the Women's International League for Peace and Freedom. Jane Addams' efforts to end the war earned her the 1931 Nobel Peace, becoming the first American woman to receive the honor.