

fact that their constituents, their very own neighbors, are benefiting from health care reform.

This is a phony trial that will come up. It is a show trial. It is what Republicans want.

I guess that is what they want, but if that is truly what they want, they should go talk to Judge Judy. I think she would throw this case out in half a second. The Congress is no place for inane, politically motivated litigation. I think Judge Judy would agree.

It is expensive and wasteful. It is wasting taxpayers' hard-earned money on something that is without any merit. Enough is enough. The fight over ObamaCare should be long since ended. The law is here to stay and, more importantly, newly insured Americans, all who have signed up, not only those who are newly insured but those who have signed up who had insurance before, want the law to stay just where it is.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 6 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BARRASSO. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### BAY NOMINATION

Mr. BARRASSO. Mr. President, I rise today to discuss the nomination of Norman Bay. President Obama has nominated Mr. Bay to be a commissioner of the Federal Energy Regulatory Commission, or FERC. The President has announced that if Mr. Bay is confirmed, his plan is to elevate Mr. Bay to the position of chairman of FERC. Over the past few months there has been much discussion about whether the President should have nominated Mr. Bay to be chairman, and I think there is very good reason to ask whether the President really should have nominated Mr. Bay at all.

In my view Mr. Bay is not qualified to be a commissioner, let alone to be chairman of FERC. Mr. Bay has only 5 years of working experience in the energy sector—a total of 5 years. This is less time than the Keystone XL Pipeline has been pending with the Obama administration.

During the nomination hearing, I specifically asked Mr. Bay about his lack of experience. In response, he cited his summer internship at a Department of Energy research facility during college—a summer internship during college. With all due respect, this man does not have the background, the qualifications, and certainly not the experience to take on this important role.

The President has nominated Mr. Bay to replace FERC's current chairman Cheryl LaFleur. In contrast to Mr. Bay, whom the President has nominated to replace Ms. LaFleur, Ms. LaFleur has over 25 years of experience in the energy sector. That includes 4 years as a commissioner of FERC and 7 months as the chairman of FERC. I don't often agree with Ms. LaFleur's policies, but you cannot deny that she is qualified to serve.

Mr. Bay's lack of experience is not the only reason I oppose his nomination. There are a number of outstanding factual disputes about Mr. Bay's tenure as the FERC's enforcement director. For example, there are serious allegations that the enforcement staff, during the time Mr. Bay has been in charge, has violated basic principles of due process. These allegations include the withholding of exculpatory evidence from subjects of FERC investigations.

In May the Energy Law Journal published an article by William Scherman, who was a former general counsel of FERC and by two other attorneys familiar with this situation, and they write: "There is a wide-spread view that the FERC enforcement process has become lop-sided and unfair."

They said that:

One need only to observe the fact that Enforcement Staff denies, in case after case, the existence of exculpatory or exonerating materials . . . only to . . . produce a subset of those materials too late in the process to be of use . . . in raising defenses.

The authors explain that "one of the fundamental principles of due process is that the government is not permitted to hide information from the accused that may aid in his or her defense." They say that "[FERC] Enforcement Staff routinely fails to produce exculpatory documents"—routinely fails to produce exculpatory documents.

During Mr. Bay's nominating hearing, I asked him about these allegations. At first he denied the allegations were true, but then he stated he was "not aware of any instance in which Enforcement Staff has failed to produce exculpatory materials."

So I asked him to clarify his remarks. I asked him whether the allegations were true or not. He pled ignorance.

With all due respect, this answer is inexcusable. This is his staff doing his work under his direction. He should know whether they withheld the evidence from defendants.

There are not only questions about his commitment to due process, but

there are also questions about the President's nominee on whether he or anyone else at FERC suggested that an enforcement action be settled in return for approval of a merger. So there are questions about whether an enforcement action should be settled in return for approving a merger.

The ranking member of the energy committee asked all about this during the nomination hearing. The ranking member of the committee asked Mr. Bay about the connection between FERC's enforcement settlement with Constellation Energy and FERC's approval of Constellation's merger with Exelon.

The ranking member noted that FERC settled with Constellation the day before—1 day before it approved a merger between Constellation and Exelon. In fact, the enforcement settlement, which Mr. Bay himself signed, specifically mentions the merger between these two. The ranking member of the Energy Committee asked Mr. Bay whether he is concerned about the appearance of a quid pro quo between the settlement agreement one day and the merger approval the next. Mr. Bay admitted he would be concerned.

The ranking member then asked if he or others suggested to FERC that Constellation should settle the enforcement action in order to get its merger approved. In response he said that "[t]o the best of [his] recollection" he didn't make such a suggestion and that he did not know what others at FERC—including his own staff—may have suggested.

With all due respect to Mr. Bay, his answer is, at best, hard to believe.

At the time FERC's enforcement settlement with Constellation was the largest enforcement settlement completed in the history of the agency. So they make this settlement, it is the largest enforcement settlement in the agency's history, and the next day they allow a merger which has created one of the Nation's largest utilities. Are we really to believe that Mr. Bay doesn't remember what he or others at FERC said to Constellation? Can we really believe that?

I believe the energy committee or some other independent entity should get answers to these and other questions surrounding Mr. Bay's record before we decide—this Senate—to confirm and promote him.

I know that some Senate Democrats are nervous about voting for Mr. Bay—and I believe rightfully so. These Senate Democrats have said they will vote for Mr. Bay only because they believe a so-called deal was cut with President Obama. Specifically, they say the President will allow Ms. LaFleur to continue serving as chairman for 9 months after her confirmation.

The President hasn't put it in writing, hasn't really told all of the Members that. And even if the President had, this is no way for the Senate to be able to enforce it. The truth is this is

a gimmick, and it is a gimmick invented specifically by Senate Democrats so they can once again avoid standing up to President Obama and the Senate majority leader.

Let's be clear about what President Obama is asking the Senate to do. The President is asking the Senate to demote Cheryl LaFleur from being chairman—she is a highly qualified woman, a Democrat with over 25 years of experience in energy and 4 years of experience as a commissioner of FERC—in order to promote an unqualified man.

Why should the Senate do this?

The Senate majority leader put it this way in the Wall Street Journal. He said: I don't want her. "I don't want her as chair." He said: "She has done some stuff to do away with some of [Chairman] Wellinghoff's stuff." This is the majority leader of the Senate: "I don't want her as chair."

In short the President and the Senate majority leader want a rubber stamp. By all indications, they will get that with Mr. Bay.

On May 20, during his confirmation hearing, Mr. Bay admitted that he wasn't even following EPA regulations and their impact on electric reliability in this country. Two weeks later on June 4, in response to written questions, he stated the EPA's regulations are "manageable." Well, either he is an exceptionally quick study or he doesn't take electric reliability seriously.

FERC is an independent agency. It needs a highly qualified leader, a leader whose record is beyond reproach, a leader who will resist political interference from the White House and the majority leader, and Mr. Bay is not that individual.

For these reasons, I am voting against Mr. Bay and urge all Members to do the same.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### REMEMBERING CHIEF STEPHEN SAVAGE

Ms. AYOTTE. Mr. President, I rise today to pay tribute to a wonderful man, Stephen Savage, the chief of the Plaistow Police Department, who passed away on Friday after a 3-year battle with cancer. We are deeply saddened by the loss of Chief Savage, a beloved member of the Plaistow community, who dedicated his life to serving his fellow citizens.

For Steve, family came first. He was a devoted father, husband, and brother. We hold his wife Kristin and their sons Billy and Michael in our hearts, and we will keep them in our prayers. We share in their grief and we will be there

to support and comfort them during the difficult weeks ahead.

From a young age Steve was called to serve, and he answered that call. After graduating from Stevens High School in Claremont, NH, in 1965, he enlisted in the Air Force and served our country in Vietnam. He obtained the rank of sergeant and earned several commendations for his military service. Steve was a very patriotic person.

After returning from Vietnam, Steve went on to earn a degree in criminal justice from Northeastern University. He joined the Newport, NH, police department in 1969. That was the beginning of an exceptional career in law enforcement which would span more than 40 years—including positions with the Drug Enforcement Administration and the Baltimore, MD, Police Department.

After coming home to his beloved State of New Hampshire in 1977, Steve was named chief of police in Haverhill, NH. He served as police chief in Haverhill until 1986, when he was appointed police chief in Plaistow, NH. Steve served as police chief in Plaistow for 28 years. He was the longest serving police chief in Plaistow's history.

In Plaistow Steve was a friend to all and was a constant presence at the local ballfield where he coached baseball and volunteered his time with Friends of Plaistow Recreation.

In addition to all of his responsibilities as police chief, Steve was a highly respected leader in our State's law enforcement community. He served as past president of the New Hampshire Chiefs of Police Association, where I had the privilege of working with him when I was attorney general. He served as president of the Rockingham County Chiefs of Police Association and as a member of many law enforcement organizations.

Steve was a great leader, and he was so well respected by all members of law enforcement throughout New Hampshire. His talent, dedication, and expertise helped set a gold standard of excellence for New Hampshire law enforcement. In a fitting tribute just a few weeks ago, the Plaistow Police Department named its tactical training center in Steve's honor, ensuring that his legacy will not be forgotten by the people of Plaistow or the people of New Hampshire.

He touched so many lives during his distinguished career, and one of them was mine. I had the privilege of getting to know Steve, Kristin, and his family when I served as attorney general for the State of New Hampshire.

Steve was such a kind, compassionate person and devoted to serving others. He was a man with a big heart. He had a vibrant personality that would light up a room and a great sense of humor that never faded despite his diagnosis. I was so proud to call Steve Savage my friend. I feel fortunate to have known him, and I will treasure our friendship always.

There is so much I admired about Steve Savage. He worked tirelessly to

keep his community safe. When he was diagnosed with cancer 3 years ago, he didn't let up. He just kept going, spending every moment he could with his family while also continuing to lead the police department and taking part in the community activities he enjoyed. In fact, in May he served as grand marshal for the Plaistow's Memorial Day parade.

Steve and his family—and particularly his wife Kristin—faced his illness with such inspiring courage. As we know, cancer hits so many people. They found a way to turn what was a tragedy in their family into a good cause to help others. The Savage family and the Pollard School worked together to organize the Run of the Savages, a 5K run to benefit the Dana Farber Cancer Center and the Jimmy Fund.

Even in sickness Steve wanted to help others fighting the disease, a profound reflection of his generous and caring spirit. I know the Run of the Savages will continue, and I will certainly run in it again. It is a reflection of how much the Savage family has given back to the community and what an inspiration Steve's life can be for others facing the horrible disease of cancer.

Steve was determined to live life to the fullest, and he did so right up to the very end. Our State lost a truly great public servant with the passing of Steve Savage, New Hampshire's law enforcement community lost a brother, and so many of us lost a great friend.

The Savage family has lost a loving dad and our hearts ache for Kristin, Billy, and Michael. We will continue to keep them in our prayers and stand with them during this difficult time. They are an amazing family.

Steve went beyond the call of duty in everything he did as a father, as a police chief, and as a friend. And because of Steve, New Hampshire is a better place. I feel honored to have known him. His legacy will live on through all of those lives he touched. We will forever honor his memory, and we will continue to be there to support Kristin, Billy, and Michael. We are just thankful that someone such as Steve Savage came to serve our State and has been a friend to so many of us.

Thank you, Mr. President.

#### ORDER OF PROCEDURE

I ask unanimous consent that the time in the quorum call be charged equally to both sides of the aisle.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. AYOTTE. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. HIRONO). Without objection, it is so ordered.