

terrific woodworker, and a lifelong member of the VFW, Post 9699, in Ashland.

For 240 years, patriotic Americans from small towns across this great country have fought for our freedoms and our way of life. Corporal Joe O'Clair of Ashland, Maine, was among 66,000 courageous veterans throughout Maine's Second Congressional District.

Thank you, Norm, for what you have given us. Your gift will last forever.

#### RECOGNIZING THE LIFE OF PRINCE WILLIAM COUNTY POLICE OFFICER ASHLEY GUINDON

(Mrs. COMSTOCK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COMSTOCK. Mr. Speaker, I rise to recognize the life of Prince William County Police Officer Ashley Guindon.

Ashley was 28 years old. She was shot and killed while responding to a domestic disturbance in Woodbridge, Virginia, on her first day on the job. She had just been sworn in the previous day, and the incident occurred only 90 minutes into her first training shift. She also had been serving her country and community as a member of the U.S. Marine Corps Reserve.

She was a gifted and skilled officer, and this great sense of service that she had to her country and her community will be so missed by her family, friends, and colleagues on the force.

Twenty-eight years old. She represented the best of our youth, and her tragic murder is a reminder of the sacrifices that law enforcement in my district, in all of Virginia, and throughout our country make every day. We honor her service and her sacrifice and that of all of our dedicated, selfless law enforcement officers. They deserve our honor and respect every day.

I also ask that we continue to pray for her fellow officers, Jesse Hempen and David McKeown, who were also shot during this incident, and we pray for their full recovery.

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#### SUPREME COURT VACANCY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2015, the gentleman from New York (Mr. JEFFRIES) is recognized for 60 minutes as the designee of the minority leader.

Mr. JEFFRIES. Mr. Speaker, it is an honor and a privilege for me to once again stand on the floor of the House of Representatives along with my distinguished colleague from Ohio, Representative JOYCE BEATTY, coanchor of this CBC Special Order hour, this hour of power where, for the next 60 minutes, we will have an opportunity to speak directly to the American people about an issue of grave importance to the integrity of our democracy, and that is making sure that the United

States Senate fulfills their constitutional obligation to advise and consent as it relates to considering any Supreme Court nomination that President Obama sends up to that body.

We know that Justice Antonin Scalia has moved on after a long and distinguished career. Though I disagree with almost every single judicial opinion that he has issued, he served this Nation well.

Now that he has moved on, the Supreme Court, which is contained in Article III of the United States Constitution, has a vacancy. It is the obligation of the United States Senate to fill that vacancy by considering whatever nominee President Barack Obama sends forward.

Members of the United States Senate take an oath of office to faithfully discharge their responsibilities. When you look at Article II, section 2, of the United States Constitution, which gives the President the power to nominate someone to fill a vacancy on the Supreme Court, it is the Senate that must consider that nominee.

Since the early part of the 20th century, there have been eight different Supreme Court nominees who have been voted on in an election year. Six of them actually were confirmed, but all eight of them received a hearing.

So, for the life of me, I can't figure out why Senator MITCH MCCONNELL thinks that he can get away with holding a nomination up without even the slightest bit of consideration. So we are going to explore that here today.

We will be joined by any number of distinguished Members of the House of Representatives and the Congressional Black Caucus, but let me proceed by yielding to my good friend and colleague from Ohio (Mrs. BEATTY), my dynamic coanchor who does such a tremendous job on behalf of the people of the great State of Ohio and the city of Columbus.

Mrs. BEATTY. Thank you so much, Congressman JEFFRIES. It is certainly an honor and a privilege for me to join you this evening as coanchor for this Congressional Black Caucus Special Order hour.

Congressman JEFFRIES' scholarship and distinguished talents as a member of the Judiciary Committee have not gone unnoticed. I thank him for leading by example in challenging us to initiate and follow through in sending a message on Senate Republicans' refusal to act on the Supreme Court vacancy.

In part, tonight's Congressional Black Caucus Special Order hour, Senate Republicans: Do Your Job, does just that.

As you reflected in your opening statement, Article II, section 2, of the Constitution expressly designates that the President has a duty to name and the Senate has a responsibility to advise and consent a nominee to fill the seat.

President Obama takes this very seriously. He has stated: "It's a decision to which I devote considerable time,

deep reflection, careful deliberation, and serious consultation with legal experts, members of both political parties, and people across the political spectrum."

But Republicans have made a decision to completely refuse consideration of anyone that President Obama nominates to the Supreme Court. In fact, they have stated that they won't hold a hearing or a vote before the full Senate.

Senate Democrats never acted so recklessly when faced with this situation in 1988, when there was a vote to confirm Justice Kennedy. There was no talk of doing nothing until after that year's election because it was unthinkable then to leave the Court short-handed for that long. And it remains so now.

The power of the Court, Mr. Speaker, is reflected in the work it does. Its decisions often shape the policy as profoundly as any law passed by Congress or any action taken by the President of these United States.

When we look back to our history, especially as African Americans, the importance of the decisions handed down by the Supreme Court cannot be overstated.

For example, most of us are familiar with *Brown v. Board of Education* in 1954, which reversed *Plessy v. Ferguson* and its "separate but equal" ruling.

Striking down segregation in our Nation's public schools provided a major catalyst for the civil rights movement and made advances in desegregating housing, public accommodations, and institutions of higher education possible.

After *Brown*, the Nation made some great strides towards opening the doors of education to all students. Unfortunately, the promise of the *Brown* decision remains unfulfilled in many ways.

More than 2 million Black students attend schools where 90 percent of the student body is made up of minority students. On average, schools serving more minority populations have less experienced, lower paid teachers who are less likely to be certified.

A report from the Center for American Progress found that a 10 percent point increase in students of color at a school is associated with a decrease in per-pupil spending of \$75.

In many ways, more than 60 years after *Brown v. Board of Education* school systems in the United States are still separate and unequal. And we are just not witnessing educational disparities at the elementary and secondary education level. College enrollment is racially polarized.

White students are overrepresented in selective colleges, which have more resources to educate and to support them, while African American students are overrepresented in less selective institutions.

Mr. Speaker and Congressman JEFFRIES, you see where I am going with that.

This is also why the late Justice Scalia's comments during oral arguments of the pending United States Supreme Court case, *Fisher v. University of Texas at Austin*, were so disturbing.

He stated, in part: Maybe the University of Texas ought to have fewer African Americans.

These comments are inaccurate and insulting to me and to African Americans. They undervalue the historic achievement that African Americans have made.

Thousands of Black Americans have excelled to the top tier of their universities. Many of them you will hear from tonight because they are members of the Congressional Black Caucus.

They are scholars. They are the conscience of the Congress. They represent the diversity of America's best universities and of America's Historically Black Colleges and Universities.

Mr. JEFFRIES. I thank the distinguished gentlewoman for her wonderful thoughts and observations, and I look forward to our continued dialogue.

It is now my honor and privilege to yield to the gentleman from Virginia (Mr. SCOTT), one of those individuals that Representative BEATTY mentioned who is really a legal giant amongst us.

He is someone who has served this institution well. He understands the Constitution, the notion of separation of powers, and the importance of a fair and equitable justice system.

Mr. SCOTT of Virginia. I thank the gentleman from New York and the gentlewoman from Ohio for organizing tonight's Special Order to call on our colleagues in the Senate to do their job and provide their advice and consent on the President's upcoming nomination to the United States Supreme Court.

The Constitution is pretty clear on this issue. Article II, Section 2, doesn't say the President might or the President should. It says the President shall nominate, and by and with advice and consent of the Senate, appoint judges to the Supreme Court.

There seems to be some suggestion that, if it is an election year, he ought to skip that process and let the next President make the appointment. They say there is very little precedence for a President nominating somebody in an election year.

That might be technically correct, but the fact of the matter is that there have been virtually no vacancies that have occurred during an election year. I think the last one was about almost 50 years. In that case, an appointment was made and considered.

That is the process that ought to take place in this case. The rarity of such an event should not preclude the Senate from fulfilling its constitutional responsibility. There is precedent for the President nominating and the Senate at least considering the nomination during an election year.

Now, Justice Kennedy was confirmed in an election year in 1988. That was a

7-month process that began with the appointment of Robert Bork to the Supreme Court. His nomination was considered and defeated.

And then there was the appointment of Douglas Ginsburg. We will just say his nomination went up in smoke. And then we had the nomination and confirmation of Justice Kennedy.

In 7 months, from start to finish, another nomination was made and collapsed and another nomination made, all within 7 months. We could complete that entire process by the first Monday in October, the beginning of the Supreme Court session.

There is no precedence for the President declining to nominate somebody and virtually no precedence for the Senate just to ignore a nomination that is made.

The people overwhelmingly reelected President Obama in 2012 to a term that does not end until January 20, 2017, and we fully expect the President to fulfill his duty to nominate a qualified individual to the Supreme Court to fill the current vacancy.

A failure of the Senate to act this year would be unprecedented. There is ample time for that to take place. The longest confirmation process for a single nominee has been 125 days.

On historic average, it takes 25 days to confirm or reject a nominee. As of today, the Senate has 216 days until the first Monday in October.

If the Senate were to refuse to consider any of President Obama's nominations—and they have said they want the next President to make the appointment—there has been no indication that they will give expedited consideration to the next President's nomination. It could be well into the next year by the time the new Justice is confirmed and sworn in.

Even on an expedited schedule, the new President would not be able to nominate anyone until they are sworn in on January 20. The Senate Judiciary Committee would need time to prepare for hearings, which could not occur until probably February. And then the full Senate would need time to consider the nomination, with the confirmation not likely until probably March.

□ 1930

Now, by March of a term, the term is effectively about over. Most of the oral arguments have already taken place and they are into decisions. You can't participate in a decision if you skip the oral argument.

So not only would the vacancy occur through the rest of this term, almost half of a Supreme Court term, it would be well into the next term and, effectively, through most of the next term.

There is no excuse to leave the Court vacancy open in what then would be a historic new precedence. There is no precedence for keeping a vacancy open that long.

We need the justice appointed. The Senate ought to do its job. The Presi-

dent has indicated that he will do his job, as mandated by the Constitution, and so the Senate ought to just fulfill its responsibility under the Constitution and consider an appointment. Otherwise, you will have a vacancy not only through the rest of this term—and oral arguments have been taking place—you will have the vacancy through the rest of this term. You don't need a vacancy through the entire rest of the next term.

There is plenty of time to consider and vote up or down on a nomination. And the unprecedented vacancy that would occur if the Senate fulfills its threat to stonewall any nomination is just unprecedented.

So I want to thank the gentleman from New York and the gentlewoman from Ohio for giving us the opportunity to just say a word about the importance of everyone in our democracy fulfilling their constitutional responsibilities.

The President shall appoint, and the Senate shall consider, advise and consent, so that we can have a Supreme Court Justice appointed before the first Monday in October.

We have plenty of time to do that. There is no excuse for not doing it, and we expect the Senate to do its job.

Mr. JEFFRIES. Mr. Speaker, I thank the distinguished gentleman from Virginia for highlighting several important points, including the fact that there is no election year exception in Article II, section 2 of the United States Constitution.

This is all in MITCH MCCONNELL's mind, cooked up in some partisan laboratory in order to stop this President from being able to move forward and do the business of the American people.

We shouldn't be surprised, because we know MITCH MCCONNELL stated very early on that his objective was to grind everything to a halt here in the Capitol to try to prevent President Obama from being re-elected. Not my words, his words.

But here's the thing. President Obama was re-elected in an electoral college landslide. And his opponent in that race, Mitt Romney, tried to make it, in part, an election that was a referendum on the possibility that President Obama would have the opportunity to fill a Supreme Court vacancy.

That issue was laid before the American people by President Obama's opponent, and the American people responded, processed all of the facts, and decided to re-elect President Obama, send him back to 1600 Pennsylvania Avenue.

The American people did their job. The President is prepared to do his job. The Senate Republicans need to do their job as well.

It is now my honor and my privilege to yield to someone who has been a stalwart for justice in this institution, a revered Member of the House of Representatives, the great whip of House Democrats, and someone who has the respect of everyone in the United

States Capitol and beyond for his service to the House and his service to the country, a great friend to the Congressional Black Caucus, and we are so thankful that he is present here today.

I yield to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. Mr. Speaker, I thank my friend from New York (Mr. JEFFRIES) for his excellent presentation.

I want to thank Mr. SCOTT, who, as the gentleman observed, is one of the leaders in this Congress on the Constitution and on the law and on equal justice.

I want to thank my friend from Ohio, the gentlewoman from Ohio, for her remarks.

I noticed that the chair of the Congressional Black Caucus, Mr. G.K. BUTTERFIELD, formerly a judge on the Court in North Carolina, is here.

Mr. Speaker, I want to first say that I thank the Congressional Black Caucus for sponsoring this Special Order.

I want to tell every Member, and all Americans ought to know, this is not an issue related to one group, to one gender, to one race, to one nationality. The failure to fill the vacancy on the Supreme Court will affect every American. So we rise tonight to ask the Senate to do its duty.

Mr. Speaker, I am pleased to be here on the floor this evening with my distinguished colleagues from the Congressional Black Caucus for this Special Order.

The Supreme Court now has a vacancy, as everyone knows, that must be filled. The American people deserve a Supreme Court operating at full strength.

Mr. Speaker, I am old enough to have been alive at the time that John Kennedy was assassinated. Within hours of his death, we swore in Lyndon Johnson as President of the United States because we wanted to make sure that there was a continuity of service. As sad and as tragic as those hours were, the responsibility of having a President of the United States was met within just a few hours.

Mr. Speaker, when a vacancy occurs in this House—and there are, after all, 434 of us left when that happens—the State laws put a time limit on the Governors' action to call an election so that that vacancy can be filled.

Why?

Because the Constitution of those States do not want to have a vacancy exist for very long and have their State or their district not represented.

Now, there is not a time limit with respect to the Supreme Court, *per se*. And the reason for that, of course, is the process, as Mr. SCOTT just pointed out, sometimes take a little longer, sometimes takes a little shorter.

But in 7 months, as the gentleman pointed out, they had three nominees considered. Two were defeated after debate and a vote, and the third was confirmed. The process worked, and it

worked in the last year of an administration.

President Obama has a constitutional responsibility to nominate a candidate for the Court that will exercise sound judgment, uphold the principle that all people are created equal and must be treated equally under the laws.

The Founders of our country very wisely made the number on the Supreme Court an odd number, not an even number, because the Founders did not want gridlock. Now we are used to gridlock in this Congress. But they did not want gridlock on the Court, and so they provided for a decision to be made by five members out of nine.

Now, however, with four and four, they will maybe not be able to make a decision. That was not contemplated by the Founders, nor would it have been welcomed by the Founders.

Shamefully, Senate Republicans have said they have no intention of even meeting with a nominee put forward by President Obama. That is not only disrespectful of the President of the United States, Barack Obama, but it is contrary to the best interest of the Supreme Court, but more importantly, to the people of this country.

It is appalling that Republicans would prefer to leave a vacancy on the Supreme Court, thereby rendering it in some cases unable to make a decision, unable to perform its duties of being the final arbiter when circuits may differ on an issue.

If Members of one party or another were simply to ignore the other side and refuse to carry out their duties within a divided government, our democracy would break down, and in some respects it has.

We ought not to carry that conduct to the Supreme Court. We must not let that happen and we must not allow this Supreme Court vacancy to remain unfilled.

The Court currently has a number, as the gentleman from New York has pointed out, of major cases pending that require a decision; not to be remanded to a lower court, because if that is done, that judgment may stand for that circuit, but there will be other circuits around the country who may make a different decision.

Mr. Speaker, the Supreme Court has been a powerful safeguard of American's liberty and equality over the past century and beyond.

From recognizing the right of every child to attend desegregated schools, to protecting every loving couple who wishes to marry, the Court has breathed life into the words of our Declaration of Independence that all are "created equal, and they are endowed by their Creator," not by us, not by the Constitution, "by their Creator with certain unalienable rights."

That may be self-evident, Mr. Speaker, but it is not self-executed. And we have established the Supreme Court of the United States to make a decision so that that can be realized.

Melissa Hart, Director of the Byron White Center, a former member of the Supreme Court for Constitutional Law at the University of Denver said, if we don't act, "It would be a monumental crisis for the development of the law and the need to resolve legal questions."

Caroline Frederickson, president of the American Constitution Society for Law and Policy, wrote on February 19, "It would be unfathomable to go through this term," and as Mr. SCOTT pointed out, the next term, "with a Supreme Court hobbled by a vacancy."

Mr. Speaker, let me remind you again, if a President dies, immediately we fill the vacancy. If a Member of Congress dies, every State has a time limit in which that must be filled so that democracy can be represented and operate in the way our Founders wanted it to operate.

When the President nominates a candidate to the Court, the Senate, in my view, Mr. Speaker, has a responsibility under the Constitution to give that nominee every due consideration. They do not have a constitutional responsibility to approve it, as Mr. SCOTT has pointed out, but they have a responsibility to consider it.

We must not allow politics, we must not allow politics, we must not allow politics to allow the obstruction of this most essential institution of our democracy and the rule of law.

I want to thank my friends in the Congressional Black Caucus for leading this Special Order and for their efforts to hold Senate Republicans accountable for their blatantly irresponsible action on this matter.

Mr. Speaker, there is always another election. It may be 2 years away, it may be 4 years away, but if we adopt the principle that if we don't think we can win now, we will obstruct now and hope to win later, America and Americans will not be well-served.

I thank my friend for yielding.

Mr. JEFFRIES. Mr. Speaker, I thank the distinguished Democratic whip for a very insightful and powerful observation, for pointing that the very fabric of the United States Constitution is threatened by the willingness of Senate Republicans to abdicate their legislative responsibilities to hold hearings and act on a nomination put forth by the President of the United States of America.

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It is now my great honor and privilege to yield to the distinguished chairman of the Congressional Black Caucus, as was pointed out by Mr. HOYER, a former prominent member of the North Carolina judiciary, a legal scholar, a historian, and, of course, the leader of the conscience of the Congress here in the United States House of Representatives.

Mr. Speaker, I yield to the chairman, G.K. BUTTERFIELD.

Mr. BUTTERFIELD. Mr. Speaker, let me begin tonight by thanking the gentleman, Mr. JEFFRIES, for yielding to

me this evening and to thank him for his extraordinary friendship and leadership in the Congressional Black Caucus.

I want to publicly thank you for coming to my district this past weekend. You spoke—some would say you preached—at Mount Vernon Baptist Church in Durham, North Carolina, and I thank you so very much for the message that you brought to my constituents in North Carolina.

Mr. Speaker, moments after the death of Justice Scalia, the majority leader of the United States Senate announced to the country in a tone of defiance that the Senate will not consider any nomination—any nomination—of President Barack Obama to replace Justice Scalia. Mr. Speaker, the American people can see right through this.

Though I represent a Democratic-leaning district in North Carolina, I represent many Republicans in North Carolina. Many of them have told me how disappointed they are with the Senate Republican leadership in making this announcement. Senator MCCONNELL is reinforcing the Republican political agenda to disrupt—to disrupt—governmental functions when the circumstances do not line up with their conservative philosophy.

It is imperative that we have nine members of the U.S. Supreme Court deciding constitutional issues that are important to the American people. The irony in all of this is that my Republican friends constantly on this floor talk about strict construction of the Constitution. A strict construction of the Constitution, as Mr. HOYER said a moment ago, requires the President to nominate an individual once there is a vacancy on the Court. The Senate, the United States Senate, has the awesome responsibility of having a hearing, deciding, and confirming the nomination by an up-or-down vote. So it is absurd to suggest that President Obama should be denied the opportunity to nominate a qualified Justice to replace Justice Scalia.

The American people should clearly understand that Senate Republicans have a political agenda to pack the Court with conservative Justices who would reverse years of commonsense progressive jurisprudence. So the Congressional Black Caucus tonight demands Senate Republicans to stop the complete blockade and the blatant disrespect of our President.

Senate Republicans' outright refusal to hold a hearing on any individual nominated by the President to serve on the Court is an affront to our Constitution and the American people. Such divisive actions undermine our democracy and reduce our standing in the world. This blockade is an obstruction and runs afoul of the duties held by those who hold a seat in the august Chamber of the United States Senate.

I have read that Senator GRASSLEY, Senator MCCONNELL, and others will meet with President Obama this week.

I hope they meet. I hope they sit together and reconcile their differences because this issue needs to be put to rest. We call on Senate Republicans to hold hearings once President Obama submits his nomination and follow the procedures set forth in the Constitution.

In short and in closing, the Congressional Black Caucus, the 45, 46 members of the Congressional Black Caucus—and, indeed, the American people—have one message—one message—for Senate Republicans: Do your job. Don't play partisanship. Don't play a partisan game with the Supreme Court of the United States of America. It is too serious. It is too important.

Thank you very much, Mr. JEFFRIES.

Mr. JEFFRIES. I thank the distinguished chair for pointing out that this is a simple question for Senate Republicans: Do your job consistent with your obligations and responsibilities under Article II, section 2 of the United States Constitution.

The Senate Republicans' failure to act or consider any nominee put forth by the President of the United States of America is an abdication of responsibility, a dereliction of duty, and it would be a stunning act of legislative malpractice that undermines the rule of law, the Presidency, the Supreme Court, the United States Constitution, as well as the American people.

I am thankful now to be joined by someone who is a powerful voice for the voiceless here in the House of Representatives, who has ably served her constituents in northern California and consistently fought for a fair, equitable society. Let me now yield to my good friend, the distinguished gentlewoman from California, Representative BARBARA LEE.

Ms. LEE. Mr. Speaker, let me thank the gentleman from New York for yielding, but also for his tremendous leadership.

You and Congresswoman JOYCE BEATTY from Ohio really have sounded the alarm, beat the drum, and really brought to the American people the important issues that we are dealing with each and every day, so I just have to thank you for your diligence and for staying the course. Every week you are here, you are representing not only this Congress, but the country very, very well. So thank you.

Mr. Speaker, I rise today with all my colleagues from the Congressional Black Caucus, with our whip, Mr. HOYER, and others to urge our Republican colleagues in the Senate to, of course, do your job.

Also, let me just remind us, once again, the President is trying to meet his constitutional obligation once again. He is trying to do what he is supposed to do, and that is to nominate Justice Scalia's replacement to our Nation's highest Court. And Senate Republicans have a constitutional responsibility to give the President's nominee a speedy and fair hearing, followed up with a simple up-or-down vote.

Sadly, these Senate Republicans said "no" to their constitutional responsibility. The Supreme Court has a huge responsibility of deciding cases that impact every aspect of American life, from our elections, college admissions, to scientific patents and a woman's right to make her own healthcare decisions. It is imperative that the Supreme Court be allowed to function in its full capacity with nine Justices.

Former Supreme Court Justice Sandra Day O'Connor, who was appointed by a conservative President, President Ronald Reagan, did not mince words in her condemnation of Republicans playing politics with the Court. She said: "We need somebody in there to do the job and just get on with it."

Former Justice O'Connor, I could not agree more.

Despite the calls for action and a constitutional mandate, Senate Majority Leader MITCH MCCONNELL of Kentucky has said that there will be no hearings, no votes, not even a meeting with President Obama to discuss the late Justice Scalia's replacement.

That is just wrong. His actions prompted The New York Times to editorialize that he "seems to have lost touch with reality and the Constitution," speaking of Majority Leader MITCH MCCONNELL.

Mr. Speaker, I include in the RECORD a couple of New York Times articles.

[From the New York Times, Feb. 17, 2016]

BLACKS SEE BIAS IN DELAY ON A SCALIA SUCCESSOR

(By Maggie Haberman and Jonathan Martin)

CHARLESTON, SC.—As he left Martha Lou's Kitchen, a soul food institution here on Wednesday, Edward Gadsden expressed irritation about the Republican determination to block President Obama from selecting Justice Antonin Scalia's replacement on the Supreme Court.

"They've been fighting that man since he's been there," Mr. Gadsden, who is African-American, said of Mr. Obama, before pointing at his forearm to explain what he said was driving the Republican opposition: "The color of his skin, that's all, the color of his skin."

When Senator Mitch McConnell of Kentucky, the majority leader, said after Mr. Scalia's death on Saturday that the next president, rather than Mr. Obama, should select a successor, the senator's words struck a familiar and painful chord with many black voters.

After years of watching political opponents question the president's birthplace and his faith, and hearing a member of Congress shout "You lie!" at him from the House floor, some African-Americans saw the move by Senate Republicans as another attempt to deny the legitimacy of the country's first black president. And they call it increasingly infuriating after Mr. Obama has spent seven years in the White House and won two resounding election victories.

"Our president, the president of the United States, has been disrespected from Day 1," Carol Richardson, 61, said on Wednesday as she colored a customer's hair at Ultra Beauty Salon in Hollywood, S.C., a mostly black town near Charleston. "The words that have been said, the things the Republicans have done they'd have never have done to another president. Let's talk like it is, it's because of his skin color."

Reflecting on the Supreme Court vacancy, Bakari Sellers, a former state representative from Denmark, S.C., likened the Senate treatment of the president to the 18th century constitutional compromise that counted black men as equivalent to three-fifths of a person.

"I guess many of them are using this in the strictest construction that Barack Obama's serving three-fifths of a term or he's three-fifths of a human being, so he doesn't get to make this choice," Mr. Sellers said. "It's infuriating."

The anger and outrage that Mr. McConnell's position has touched off among African-Americans could have implications for the presidential election. Leading African-American Democrats are trying to use it to motivate rank-and-file blacks to vote in November, the first presidential election in a decade in which Mr. Obama will not be on the ballot and in which Democrats fear black participation could drop.

"Anger becomes action when it's directly tied to a moment, and the moment now is the election on Nov. 8," said Stacey Abrams, a Democratic state representative from Georgia and the House minority leader there, adding that Mr. Scalia's death meant that this presidential campaign could no longer be construed as a mere "thought exercise."

For Hillary Clinton, who is increasingly relying on nonwhite voters to ensure her success against Senator Bernie Sanders of Vermont, the court issue could be especially crucial. Should she defeat Mr. Sanders, who has electrified many liberals, she will need a motivating issue to bring Mr. Obama's loyalists to the polls. She moved swiftly Tuesday to tap into the anger of blacks over the opposition of Senate Republicans to Mr. Obama's naming a replacement for Justice Scalia.

"Now the Republicans say they'll reject anyone President Obama nominates no matter how qualified," Mrs. Clinton said in remarks before a predominantly black audience in Harlem. "Some are even saying he doesn't have the right to nominate anyone! As if somehow he's not the real president."

Doing so, Mrs. Clinton added, is in keeping with a longstanding pattern of mistreatment.

"They demonize President Obama and encourage the ugliest impulses of the paranoid fringe," she said. "This kind of hatred and bigotry has no place in our politics or our country."

Republicans are especially sensitive about the notion that they are diminishing Mr. Obama because of his race, and spokesmen for several Republican senators, including Mr. McConnell and Senator Tim Scott of South Carolina, declined to comment or would not make the senators available for comment.

The suggestion that racism is playing a role angers Mr. McConnell's friends, who point out that his formative political experience was working for a Republican senator who supported civil rights, that he helped override President Ronald Reagan's veto of sanctions against the apartheid government in South Africa and that he is married to an Asian-American woman.

But in the aftermath of Mr. McConnell's statement on Saturday, a growing chorus of black voices is complaining that such a refusal to even consider a Supreme Court nominee would never occur with a white president.

"It's more than a political motive—it has a smell of racism," said Representative G. K. Butterfield, Democrat of North Carolina, the chairman of the Congressional Black Caucus.

"I can tick instance after instance over the last seven years where Republicans have purposely tried to diminish the president's au-

thority," Mr. Butterfield said. "This is just really extreme, and leads me to the conclusion that if this was any other president who was not African-American, it would not have been handled this way."

Even as Mr. Obama's popularity has risen and fallen, his base of support among black voters has been unshakable. A Gallup tracking poll this month showed that some 85 percent of African-Americans approved of the president's performance compared with only 36 percent of whites. And many African-Americans strongly identify personally with Mr. Obama, and have watched his tenure with pride.

Mr. Butterfield said that he believed that the effort to undermine, and even delegitimize, Mr. Obama began soon after he was sworn in, and that Congressional Republicans had blocked Mr. Obama's agenda wherever they could. Even more stinging were the suggestions from some on the right that Mr. Obama, a Christian, is actually a Muslim and that he was not born in the United States.

In interviews, members of the Congressional Black Caucus also bitterly recounted indignities, such as demands—most pointedly from the current Republican front-runner in the polls, Donald J. Trump, in 2011—that Mr. Obama prove he was born in Hawaii, and not in Kenya, as some critics claimed. Others recalled the calls to impeach Mr. Obama over his use of executive authority.

"You hear the thing about: 'He's not a citizen. He oversteps his bounds. He's divisive.' One thing after another," said Representative Marcia L. Fudge, Democrat of Ohio. "This has been going on since the day he was elected in 2008."

Republicans have had more success than Democrats in recent decades galvanizing their voters over who should control the courts. But Jennifer McClellan, a member of the Virginia House of Delegates and the Democratic National Committee, said the dispute over how to replace Justice Scalia could now become "an issue for the average citizen."

Ms. Abrams agreed, saying the Supreme Court and its powerful influence on people's lives is especially resonant with blacks. "Congress is denying our president his rights as a president, but, more than that, they're denying the legacy of his presidency," she said. "That will animate Democratic voters across the board but especially African-Americans, who realize more than many voters how great an impact the Supreme Court can have on freedom."

[From the New York Times, Feb. 24, 2016]

#### SENATE REPUBLICANS LOSE THEIR MINDS ON A SUPREME COURT SEAT

(By the Editorial Board)

Following the death of Justice Antonin Scalia, Senate Republicans apparently believe they can profit by creating a political crisis that the nation has never seen before. On Tuesday, the leadership doubled down on its refusal to take any action on any nominee from President Obama to replace Justice Scalia.

Senator Mitch McConnell of Kentucky, the majority leader who seems to have lost touch with reality and the Constitution, accused Mr. Obama of plunging the nation into a "bitter and avoidable struggle" should he name anyone to the court.

Forget an up-or-down vote on the Senate floor. Top Republicans are pledging not to hold hearings or even to meet with a nominee.

In a statement dripping with sarcasm, Mr. McConnell said that Mr. Obama "has every right to nominate someone," and "even if doing so will inevitably plunge our nation

into another bitter and avoidable struggle, that is his right. Even if he never expects that nominee to actually be confirmed but rather to wield as an electoral cudgel, that is his right."

Senator John Cornyn of Texas, the majority whip, said, "We believe the American people need to decide who is going to make this appointment rather than a lame-duck president."

These statements are so twisted that it's hard to know where to begin. Let's take them one by one.

First, Mr. Obama is not a "lame-duck president." The lame-duck period is broadly understood to run from after the November election until a new president is inaugurated in January. November is more than eight months off. Based on the average number of days it has taken the Senate to act on previous Supreme Court nominees, the seat could be filled by this spring.

Second, no matter how often Republicans repeat the phrase "let the people decide," that's not how the system works. The Constitution vests the power to make nominations to the court in the president, not "the people." In any case, the people have already decided who should make this appointment: They elected Mr. Obama twice, by large margins.

Third, it is preposterous to accuse Mr. Obama of causing a "bitter struggle" by nominating someone who will not be confirmed. The only reason a nominee would not be confirmed is that the Senate has preemptively decided to block any nominee sight unseen. Mr. Obama is once again the only adult in the room, carrying out his constitutional obligation while Senate Republicans scramble to dig up examples of Democrats trying to block nominees. But those examples show only that Democratic senators have pushed hard for Republican presidents to pick ideologically moderate nominees. Until now, neither party has ever vowed to shut down the nomination process entirely, even before it has begun.

Only two Republican senators, Mark Kirk of Illinois and Susan Collins of Maine, were brave enough to say that they would vote on President Obama's nominee. This is what passes for moderation in today's G.O.P.: simply stating a willingness to do the job you were elected to do.

Unfortunately, for too many Republicans moderation now equals apostasy. These Republicans have stubbornly parked themselves so far to the right for so many years that it is hard to tell whether they can hear how deranged they sound.

The truth is they are afraid—and they should be. They know Mr. Obama has a large pool of extremely smart and thoroughly mainstream candidates from which to choose a nominee. They know that if the American people were allowed to hear such a person answer questions in a Senate hearing, they would wonder what all the fuss was about.

So Mr. McConnell and his colleagues plan to shut their doors, plug their ears and hope the public doesn't notice. The Republican spin machine is working overtime to rationalize this behavior. Don't be fooled. It is panic masquerading as strength.

Ms. LEE. One of the titles of these articles is "Blacks See Bias in Delay on a Scalia Successor." The other is The New York Times article, "Senate Republicans Lose Their Minds on a Supreme Court Seat."

Likewise, Judiciary Committee Chair CHARLES GRASSLEY of Iowa led a letter to the majority leader signed by all the Republican Committee members confirming their resolve to not have hearings or a vote on the nominee.

This is downright ludicrous. Republicans cannot and should not use the Supreme Court to push their radical political agenda.

The Constitution is clear, Mr. Speaker. Article II, section 2, "He shall have power, by and with the advice and consent of the Senate . . . shall appoint ambassadors, other public ministers and consuls, Judges of the Supreme Court."

Nowhere in the Constitution does it say, "except in an election year" or "except when the President is a Democrat" or "when Republicans have spent the last 7 years actively working to subvert every policy proposed by a President elected by nearly 70 million Americans." The Constitution doesn't say that. This is simply unacceptable, and the American people deserve better.

For more than a century, every single Supreme Court nominee has received a vote on the floor of the United States Senate. Just like all the Presidents before him, President Obama should nominate a Supreme Court Justice, and the Senate should determine if he or she is fit to serve on this Nation's High Court.

Instead, Republicans are holding the Supreme Court and the American people hostage.

Their action, in the words of The New York Times, is simply, "panic masquerading as strength." The Senate has a responsibility to at least consider the President's Supreme Court nominee, and by refusing to do so, they are failing their constituents and their Nation.

So, Mr. Speaker, it is really past time for Majority Leader MCCONNELL and the rest of the Republican leadership to do their jobs and work together to get a new Supreme Court Justice. The Supreme Court is way too important to be used as a political bargaining chip. Enough is enough.

So, once again, I join my colleagues, Congressman JEFFRIES, Congresswoman BEATTY, members of the Congressional Black Caucus, and the American people in saying, "Do your job."

Once again, thank you for giving me the opportunity to join with you tonight.

Mr. JEFFRIES. I thank the distinguished gentlewoman from California for making several important points as it relates to the absence of any partisanship exception in the United States Constitution, the absence of any exception whereby the Senate will do its job unless, of course, President Barack Obama happens to occupy 1600 Pennsylvania Avenue. I see that nowhere within the four corners of the United States Constitution. I don't see an election year exception in the United States Constitution. So I am perplexed as to what is the situation we find ourselves in right now.

I thought that I may ask the distinguished gentlewoman, my colleague, my coanchor from Ohio, to reflect

upon, if you might, a few comments that could shed light on the situation we find ourselves in right now as it relates to the Supreme Court vacancy made by Senate Majority Leader MITCH MCCONNELL over the years during his time here in Congress.

In 1986, MITCH MCCONNELL said: "I believe that a heavy burden must be met by those who would have this nominee rejected. Under the Constitution, our duty is to provide advice and consent to judicial nominations, not to substitute our judgment for what are reasonable views for a judicial nominee to hold." That was in 1986.

Then in 1990, he said: "It is clear under our form of government that the advice and consent role of the Senate in judicial nominations should not be politicized." That was MITCH MCCONNELL in 1990.

In 2005, he said: "Our job is to react to that nomination in a respectful and dignified way, and at the end of the process, to give that person an up-or-down vote as all nominees who have majority support have gotten throughout the history of the country."

I am trying to figure out what has changed, Representative BEATTY.

Mrs. BEATTY. Thank you so much, Congressman JEFFRIES.

Hearing you quote those things, three things come to mind. First, let me say that Congressman STENY HOYER was absolutely right when he says that this issue of not filling the vacancy is not related to only one group. So I want to say, after hearing what you said and many others of our members of the Congressional Black Caucus, it is important for us to know why we are calling on the Senate Republicans to do their job, and that is because we are the voice for those who are not often represented. We are the voice for those when you talk about issues related to women and women's rights, when you talk about issues that are related to things that affect you and me, and when you talk about the article that Congresswoman BARBARA LEE entered into the RECORD, "Blacks See Bias in Delay on a Scalia Successor."

Now, that article says it all. That article specifically states that many folks believe, in this wonderful America that we live in, that it is also because of the color of his skin. I think that is another reason that we come as a strong 46 members of the Congressional Black Caucus, because the facts work against them.

Think about it. When we look at the number of people who have been appointed, when we look at the number of days, if you look at since 1975, it has only taken an average of 67 days to confirm a President's nominee to the Supreme Court. The Senate has never taken more than 125 days to vote on a Supreme Court nominee, and there are 325 days left in President Obama's term.

□ 2000

Since the early 1900s, six Supreme Court Justices have been confirmed in

an election year. When I think about your question and I think about your sharing with us some of the comments that Senate Majority Leader MITCH MCCONNELL has said, let me add this one to the RECORD. And it is something he got right.

He said that the American people should have the right to choose the President who will pick the next Supreme Court Justice deciding the future balance of the Nation's highest court. Well, he got that right. Because you know what. The people did pick the President when they picked President Barack Obama in 2012, who won the election by 5 million votes.

I am calling on him and the Senate Republicans to do their job, to allow the President to do what the Constitution tells us, to allow the President, who has already said that he is going to bring somebody who is full of scholarship, he is going to bring someone who is committed and capable to doing the people's work—I wanted to add that to your statement and share with everyone tonight that is why we are here.

Mr. JEFFRIES. I really appreciate that.

As we are simply trying to point out, all we are asking for is for the Senate to adhere to its constitutional responsibilities and, when the President sends forth a nominee, to conduct a rigorous hearing process before the American people and then, at the end of that process, provide that nominee with an up-or-down vote before the Judiciary Committee and then, ultimately, the floor of the United States Senate.

Now, I have been in this institution for a little over 3 years. If I had a dollar for every time some of my colleagues mentioned strict adherence to the United States Constitution, I would be a billionaire right now. For the life of me, I can't understand what is so complicated about this particular issue.

As Representative BEATTY so ably pointed out, from this moment, there are 325 days remaining in the Presidency of Barack Obama.

As this chart illustrates, if you just take a look at the current occupants of the Supreme Court, Justice Roberts, the Chief Justice, the most important position on the Supreme Court, a 23-day confirmation process; Justice Scalia, confirmed in 85 days; Justice Kagan, 87 days; Justice Sotomayor, 66 days; Justice Ruth Bader Ginsburg, a/k/a the notorious RBG—one of my personal favorites—50 days; Justice Clarence Thomas, 99 days.

You can add some of these confirmation periods together and you still wouldn't get to 325. So what is the problem?

Mr. Speaker, how much time do I have remaining on my Special Order today?

The SPEAKER pro tempore. The gentleman from New York has 12 minutes remaining.

## GENERAL LEAVE

Mr. JEFFRIES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include any extraneous material on the subject of this Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. JEFFRIES. Mr. Speaker, one of the concerns that I think we in the Congressional Black Caucus have as it relates to the Presidency of President Obama—and Representative BEATTY pointed this out—is that there is a feeling in many corners of America that this President is treated differently.

I am not sure if it is because there are some people here in the Capitol who have something against folks from Hawaii. I am not sure if it is his Kansas roots. I don't know if they dislike the fact that he was a community organizer in terms of one of the jobs that he held after school.

I don't know if they dislike the fact that he is so well educated from Columbia and Harvard Law Schools. I don't know if it is the fact that he was the President of the Harvard Law Review or a constitutional law professor at the University of Chicago Law School, one of the top five law schools in this country.

I don't really know what it is about Barack Obama that they want to treat him differently than almost any other President who has served at 1600 Pennsylvania Avenue. I am trying to figure it out. What is it about Barack Obama that he has to be treated with such disrespect?

The amazing thing to me is that they have actually failed to stop this President. They gave him no assistance as it relates to trying to turn the economy around.

He inherited a train wreck from George W. Bush and has gotten the economy back on track. Not a single Member from the other side of the aisle voted for the stimulus package, which was necessary to stabilize the economy and then build it up.

There was 71 consecutive months of private sector job creation, and 14 million-plus private sector jobs were created under this Presidency. The unemployment rate has gone from over 10 percent to under 5 percent. The stock market has gone from 6,000 to over 16,000.

The deficit has been reduced by more than \$1 trillion. Gas prices are below \$2 per gallon. More than 18 million previously uninsured Americans now have health coverage.

Not a single one of those accomplishments occurred with a vote from the other side of the aisle. What is it about this President that they don't like?

Now, in his final term—and, by the way, speaking to strict constructionists—when you look at the United States Constitution, I can't find a 3-year term. I can't find it. It is a 4-year term with 325 days left.

All we are asking is that they just do their job. It is pretty simple. Give whoever the President puts forth a fair hearing. They have the votes to defeat any of his nominees.

Let me ask my colleague from Ohio. What I haven't been able to understand is this Justice who I have disagreed with on many issues. Although he was strong—Justice Scalia—on the privacy rights of the American people, the Fourth Amendment—was concerned about the criminalization of politics, these are areas where there is some common ground.

And certainly he was a giant in terms of legal thought. The news of his demise was barely out for public consumption when MITCH MCCONNELL issued a statement saying: We are not considering anyone that President Obama puts forth.

How do you explain that? How do you interpret that reaction? We couldn't even respect the death of Justice Scalia before the vacancy was politicized, before he was even buried and funeralized.

Mrs. BEATTY. Congressman JEFFRIES, I think you answered that question for me when you gave the long list of successes that this President has done without their help.

That gave me pause to think: What is it that is keeping them from doing their job? Why is it that they are so threatened?

Maybe it is the success that this President has brought forth not for you and I, not for the 435 Members of us, but he has done this for this Nation. He has made it a better place.

When we look at what the Justices do and represent, when we think about liberties and freedoms and the economy and our rights, I think they are afraid that he will appoint someone who will have that same scholarship, who will have that same success, someone who will bring balance. I think they are afraid of the balance.

In the words of another one of our colleagues, I might add, from the great State of Ohio, Congresswoman MARCIA FUDGE, former chair of the Congressional Black Caucus—she has words that she is entering, but I would like to quote from her words to remind us why we are saying: Senate Republicans, do your job.

She reminds us, as Members of Congress, we made a promise to our constituents that we would faithfully discharge the duties and the oath of office which we took, which we were elected to. She reminded me in her words that it is so important for us to say tonight to the Senate: Do your job. Do your job.

I think they are afraid. So I am going to issue a challenge. Congresswoman BARBARA LEE said that you are here tonight initiating this topic because we are sounding the alarm, we are ringing the bell.

I challenge them to answer that question. I challenge them to share with not only the Congressional Black

Caucus, not only the Members of Congress, not only the Members of the Senate, but they have an obligation to America, to the citizens of these United States, Mr. Speaker, for them to tell us why they are not doing their job.

Mr. JEFFRIES. I thank the distinguished gentlewoman for those very powerful words. I can only hope, as we close this Special Order hour, that our colleagues from across this Capitol will see fit simply to adhere to their constitutional responsibilities to consider any nominee put forth by President Obama comprehensively and fairly and to faithfully execute those obligations consistent with their oath of office, not for the good of this President, not for the good of this Article I Congress, but for the good of the United States of America.

I yield back the balance of my time.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CULBERSON (at the request of Mr. MCCARTHY) for today and March 1 on account of district business.

Ms. JACKSON LEE (at the request of Ms. PELOSI) for today and March 1 on account of representational duties in her congressional district.

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Ms. PELOSI) for today and March 1.

Mrs. NAPOLITANO (at the request of Ms. PELOSI) for today through March 4.

## ADJOURNMENT

Mr. JEFFRIES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 1, 2016, at 10 a.m. for morning-hour debate.

EXECUTIVE COMMUNICATIONS,  
ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

4494. A letter from the Acting Principal Deputy for the Under Secretary, Personnel and Readiness, Department of Defense, transmitting a letter authorizing ten officers to wear the insignia of the grade of major general or brigadier general, as indicated, pursuant to 10 U.S.C. 777(b)(3)(B); Public Law 104-106, Sec. 503(a)(1) (as added by Public Law 108-136, Sec. 509(a)(3)); (117 Stat. 1458); to the Committee on Armed Services.

4495. A letter from the Acting Principal Deputy for the Under Secretary, Personnel and Readiness, Department of Defense, transmitting a letter authorizing Colonel Paul H. Pardew, United States Army, to wear the insignia of the grade of brigadier general, pursuant to 10 U.S.C. 777(b)(3)(B); Public Law 104-106, Sec. 503(a)(1) (as added by Public Law 108-136, Sec. 509(a)(3)); (117 Stat. 1458); to the Committee on Armed Services.

4496. A letter from the Acting Principal Deputy for the Under Secretary, Personnel