

that this bill funds important projects—like the Lewis & Clark Regional Water System—that will help provide communities with access to steady, reliable water sources.

I am also pleased that this bill invests in next-generation, high-energy physics research, including the Deep Underground Neutrino Experiment, which could revolutionize our understanding of some of the most fundamental elements of our universe. This funding demonstrates continued U.S. commitment to a project that will help train the next generation of scientists and engineers, retain and attract the best scientific minds to the United States, and garner additional investment from global partners. I am proud that South Dakota's Sanford Underground Research Facility will continue to play a leading role in this major international scientific effort.

The Energy and Water appropriations bill passed the Senate Appropriations Committee with the unanimous—unanimous—support of Democrats and Republicans with a 30-to-0 vote. I am hoping it will receive the same strong bipartisan support on the Senate floor. This bill will boost our Nation's energy security, making our economy more competitive, and promote energy innovation. It will help us produce more and pay less for energy.

This legislation is an important first step in our commitment to restore order to the appropriations process, and I look forward to consideration of additional appropriations bills on the Senate floor in the coming weeks.

RECOGNIZING THE RAPID CITY POLICE DEPARTMENT AND THE PENNINGTON COUNTY SHERIFF'S OFFICE

Mr. THUNE. Mr. President, I wish to take a few minutes to talk about the two ride-alongs I was privileged to take with Rapid City, SD, law enforcement officers at the end of March.

We live in a climate where police officers are often made to sound like criminals and criminals are often portrayed as victims. The result is, we forget about the real victims—the people who have suffered crimes or are forced to live in crime-ridden neighborhoods—and we forget about the work police officers do in making our communities places we can live.

Three weeks ago, I got to meet with law enforcement officers from the Rapid City Police Department and the Pennington County Sheriff's Office. After our meeting, I got to take a ride through Rapid Valley with Sheriff's Deputy Brandon Akley and a ride through Rapid City with Rapid City Police Officer Jim Hansen.

Not very long ago, some neighborhoods in Rapid City had their share of challenges. Law enforcement officers frequently responded to drug and alcohol calls, abuse calls, domestic violence, break-ins, and other violent crimes. Imagine what it is like to live

in a neighborhood like that. Coming home after dark is dangerous. It may not be safe for your children to play in the yard. It is certainly not safe to send them to the playground. Your children constantly see things no child should see and hear things no child should have to hear. Your property isn't secure. Your car and your home are at risk all the time. There are no economic opportunities in your area because businesses don't want to locate in areas where it is not safe to do business. That is what life is like in some of these neighborhoods. In one instance in Rapid City, law enforcement officers responded to over 600 calls to one building over a period of a single year.

By partnering with residents in impacted neighborhoods, Rapid City law enforcement stepped in and conducted an aggressive, years-long campaign to rid this area of crime. Today, residents can let their children play outside without fear, and new economic opportunities are opening for residents as businesses move in. It is no exaggeration to say that what these police officers did changed the lives of countless Rapid City residents.

Every day, in every community in the United States, the men and women who make up our Nation's police forces and sheriff's departments put their lives on the line for the rest of us. They are first on the scene when someone is in danger, the first to come running when you call for help, and when evil threatens they step in.

I am grateful to the men and women of the Rapid City Police Department, the Pennington County Sheriff's Office, and to all the law enforcement officers keeping the peace in South Dakota and around the Nation. Because of their service, we can live in safety.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. FISCHER). Without objection, it is so ordered.

OKLAHOMA CITY BOMBING ANNIVERSARY AND NOMINATION OF MERRICK GARLAND

Mrs. MURRAY. Madam President, I come to the Senate floor to once again urge my Republican colleagues to do what they are elected to do: listen to their constituents and give Judge Garland the fair consideration he deserves.

As some of my colleagues have already noted, today marks 21 years since the Oklahoma City bombing, an attack that shocked the world and took 168 innocent lives. I had the honor of meeting with an individual last week who was not only involved in the immediate aftermath of this terrible attack but who went above and beyond

to make sure justice was served on behalf of those who lost their lives.

Judge Merrick Garland, the President's nominee for the Supreme Court, was at the scene of the bombing within 2 days. With debris from the Alfred P. Murrah Federal Building still smoldering in the streets, Judge Garland was helping first responders and working with local law enforcement.

As a top official in the Justice Department, he led a massive investigation of the bombing and supervised the prosecution of Timothy McVeigh. He did all of that, even if it meant more work and more time away from his family, with incredible delicacy and thoroughness. He called his work for the Justice Department following the Oklahoma City bombing the most important thing he has ever done in his life.

As we remember those who were lost on that day in 1995, and in light of last week being National Crime Victims' Rights Week, we remember how Judge Garland honored those victims with his dedicated service. Judge Garland not only did his job with a great deal of heart, working with families who had lost loved ones, but with the vigor to demand that justice be served. His fairness and diligence earned him praise from Members of both parties, from victims' families and law enforcement officers, and even from the lead lawyer defending McVeigh.

A person like that, driven by the desire to help people and serve the public, is someone who deserves fair consideration by all of us in the U.S. Senate. Unfortunately, that is not what is happening right now. We are 66 days into the Supreme Court vacancy, and so far Republican leaders are still refusing to do their jobs. They will not say they are opposed to Judge Garland. They are refusing to even live up to their constitutional responsibility and consider him. That kind of pure obstruction and partisanship is absolutely wrong. People across the country are not going to stand for that.

Last week I met with Judge Garland and talked through his background, his experiences, his philosophy, his judicial philosophy. What I found out—and it would be difficult for any right-minded person not to come to this conclusion after meeting with him—is that Judge Garland is highly passionate, he is highly respected, and highly qualified to serve on the U.S. Supreme Court.

I am very glad some Republicans have started meeting with him. That is a great first step, but it cannot be the last step. Families across this country deserve to hear from Judge Garland in a Judiciary Committee hearing, under oath, and in public, and then he should get a vote where every Senator will have the opportunity to do their job and weigh in.

If any Member doesn't think Judge Garland should serve on the highest Court in the land, they should feel free to vote against him, but give him a

hearing, give him a vote, and stop this partisanship and obstruction. Evaluating and confirming Supreme Court Justices is one of the most important roles we have in the United States, and it is this issue that actually pushed me to run for the Senate in the first place.

In 1991 I was a State Senator, a former school board member, and a mom. Similar to so many people across the country back then, I watched the Clarence Thomas confirmation hearings in frustration over how the nominee wasn't pushed on the issues that I and so many others thought were so important to the future of our country. I saw how a woman who came to talk about her experiences, Anita Hill, was treated by this Senate. I decided then and there to run for the U.S. Senate, to give Washington State families like mine a voice in this process.

I have had the opportunity to use that voice in the Senate and to make sure Washington State families had a seat at the table in Supreme Court nominations and confirmations over the years. I voted to support some of the candidates, including the Chief Justice nominated by a Republican President. I voted to oppose others, but I always thought it was important that a nominee got the consideration he or she deserved, and I always worked to make sure the people I represented got their questions answered as best as I could and that they could have a view into the process that should be above partisanship and politics.

If Republicans continue to play election-year politics and continue to refuse to do their jobs, my families in Washington State will not have a voice. Families across America will not have a voice. The tea party gridlock and dysfunction that has dominated too much of our work in Congress will have claimed another victory. That is unacceptable.

Once again, I am on the floor to call on my Republican colleagues to do your job; meet with Judge Garland, hold a hearing, and give him a vote. We owe that to our constituents. It is our constitutional responsibility, and we should get it done.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Madam President, today, the 19th, marks the anniversary of one of the worst terrorist attacks ever to hit the United States. On April 19, 1995, at 9:02 a.m., a rented truck filled with fertilizer and diesel fuel exploded in front of the Alfred P. Murrah Federal Building in Oklahoma City. The impact of the blast was devastating. One-third of the Federal Building was destroyed, and 168 men,

women, and children lost their lives, with several hundred seriously wounded. At that time, it was the deadliest terror attack ever to take place on American soil.

The Oklahoma City bombing shocked America. In the days after April 19, Americans mourned the lives which were lost and called for those who committed this evil act to be brought swiftly to justice.

It was in this context that the U.S. Department of Justice sent one man to head this investigation and prosecution. His name is Merrick Garland. Merrick Garland was the Principal Associate Deputy Attorney General. He had volunteered to lead this investigation, telling his boss, Deputy Attorney General Jamie Gorelick, he had to do it.

Garland would stay in Oklahoma City for a long period of time. By all accounts, he worked around the clock, coordinating the efforts by law enforcement to gather evidence, building the case against Timothy McVeigh and Terry Nichols. Every step along the way, Merrick Garland was meticulous. He made sure no corners were cut in the investigation or the prosecution. There was so much at stake.

One of the roles Merrick Garland took most seriously was to be in touch with the survivors and the victims' families, keeping them informed, keeping them in the loop. He carried with him at all times a list of the names of the victims so he would never forget the historic importance of his assignment.

Merrick Garland would later call his work in Oklahoma City "the most important thing I have ever done in my life." His work helped bring the perpetrators of this terrorist attack to justice and earned him the respect and gratitude of those he worked with and served. That is the definition of public service.

The record is clear that Merrick Garland has always done his job diligently and conscientiously. Throughout his decades in public service at the Justice Department and later on the Federal bench, Judge Garland has earned a reputation as a workhorse who leaves no task unfinished.

It is instructive to hear what his former law clerks say about him. Several dozen of them recently sent a letter to the Senate. Here is what they said about Judge Garland: "Unrelenting work ethic." They said Judge Garland "treated every matter before him with the same care and attention to detail, whether it affected the national interest or a single ordinary life."

Judge Garland's devotion to his work is admired by many. This is a man who has received extraordinary praise because he did his job and did it well. It should come as no surprise, when President Barack Obama announced that Merrick Garland was his choice to be the nominee to fill the vacancy on the Supreme Court, he dwelled on this experience in Oklahoma City.

Unfortunately, Merrick Garland faces a historic blockade in the Senate. The Senate has never in its history denied a hearing to a Presidential nominee to fill a vacancy on the Supreme Court. It has never ever happened before.

The death of Antonin Scalia, about 2 months ago, led to an almost immediate announcement by the Republican Senate leader, Senator MCCONNELL, that there would be no consideration, no hearing, and no vote for any nominee sent by President Barack Obama to this U.S. Senate. Senator MCCONNELL went further to say that he would not even meet with the nominee.

It has been more than a month since Judge Garland was nominated to the Supreme Court. It has been over 2 months now since Supreme Court Justice Antonin Scalia has passed. Why has the Republican majority leader decided to ignore the precedent of history? Why is he turning his back on our Constitution? That Constitution says explicitly, article II, section 2: The President of the United States shall appoint a nominee to fill a vacancy on the Supreme Court.

Our Founding Fathers understood that you can play politics with vacancies, and they didn't want that to happen. So the President met his constitutional obligation but, sadly, this U.S. Senate has refused to meet its constitutional responsibility to advise and consent on that nominee. It is not automatic. There is no guarantee that any nominee sent by the President would be approved by the Senate, but it is our responsibility to ask the questions of that nominee.

People across the United States have a right to hear this nominee, Merrick Garland, under oath answer important questions about whether he is prepared to serve on the Supreme Court and, if he serves, whether he would bring integrity to that appointment.

We have extended that courtesy to every Presidential nominee to fill a vacancy on the Supreme Court until this moment. The argument that is made on the other side of the aisle is that we have to go through an election—we have an election coming up—and let the American people decide, not the Senate. Let the American people decide, whether it will be a Democratic President or a Republican President.

What my friends on the other side of the aisle ignore is that when President Barack Obama was reelected, he was not elected to a 3-year term, he was elected to a 4-year term. He is the President of the United States this year. He has the power of that office this year not because I willed it—although I certainly did—but because by a plurality of 5 million votes the American people made that decision. Five million votes were cast for Barack Obama over Mitt Romney. The decision of the American people was that this President shall govern not for 3 years, not for 3 years and 2 months, but for 4 years.

A lot of people say: As a Democrat in the Senate, it is easy for you to say that Republicans should treat this Democratic President a little better. What if the shoe were on the other foot?

Well, we have a chance to take a look back and see exactly what happened when the roles were reversed. In 1988, during the last year of Republican President Ronald Reagan's term, we had a vacancy on the Supreme Court. He sent his nominee to the Senate, which was then controlled by the Democrats. Did we have an announcement from the Senate Democratic leadership that we will not consider any nominee sent by a Republican President in the last year of his term? Did we have an announcement by the Democratic leaders in the Senate that we won't even meet with the nominee? Exactly the opposite occurred. Anthony Kenney was given the opportunity to have a hearing, where he answered questions under oath, and had a vote which confirmed him on the Supreme Court. A Republican President, during the last year of his Presidency, filled a vacancy on the Supreme Court with the cooperation of a Democratic majority in the Senate.

The tables are turned now. We have a Democratic President with a Republican-controlled Senate, and they are ignoring the history and precedent of the Senate and they plan on ignoring this nominee. There is no basis in the Constitution for the position taken by the Senate Republicans. This is an unprecedented obstruction of a nomination to fill a key Supreme Court vacancy.

Yesterday I was across the street. It was the second time I have been honored to be included in a very small audience of about 250 people to listen to the oral arguments in a case before the Supreme Court on a critical decision that will affect the lives of millions of people in the United States. I looked up to the chairs on the Supreme Court, and obviously one was vacant. There are only eight Justices. If this Court on this case—or others—cannot resolve it with a majority and has a vote of 4 to 4 on a case, it invites confusion and chaos in one of the most critical branches of our government. It is confusion and chaos that can be avoided if the Senate Republicans simply do their constitutional duty: advise and consent.

Give Merrick Garland a hearing under oath so the American people can draw their own conclusions about whether this man is the right person for the Supreme Court, and then let's have a vote on the floor. In the past, even when the Senate Judiciary Committee rejected a Presidential nominee for the Supreme Court, the committee sent that nomination to the floor anyway for a vote so that the whole Senate could speak to the worthiness of that nominee. Merrick Garland deserves nothing less.

The Senate Republicans refusal to do their job under the Constitution has

real-world consequences. Recently the solicitor general of Illinois, Carolyn Shapiro, came to the Capitol to talk to the Senators about how the vacancy on the Supreme Court is actually hurting States by leaving important legal questions unresolved.

Madam President, I ask unanimous consent that her speech be printed in the RECORD.

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

STATEMENT ON THE IMPORTANCE OF A NINE-MEMBER SUPREME COURT FOR STATE AND LOCAL GOVERNMENT

[Before the Senate Democratic Steering and Outreach Committee, April 6, 2016, Carolyn E. Shapiro, Solicitor General of Illinois, Office of the Illinois Attorney General]

Good morning. Thank you very much for the opportunity to talk with you about the importance of a fully functional Supreme Court to state and local governments.

My name is Carolyn Shapiro, and I am the Illinois Solicitor General. I am also a tenured faculty member at IIT Chicago-Kent College of Law where I founded the Institute on the Supreme Court of the United States and where my research and scholarship focuses largely on the Supreme Court as an institution.

State and local governments regularly rely on the Supreme Court to provide clarity and certainty in numerous areas of law, many of which do not involve the headline-grabbing, hot-button issues we hear about on the news.

But in some of these areas, the risk of an equally divided court is real, and a Supreme Court unable to provide clarity and certainty would have very real and harmful effects.

I could talk about a variety of different areas of law, but my focus here will be on the Fourth Amendment. The Fourth Amendment of course regulates what law enforcement can and cannot do in investigating crime and it protects the privacy interests of the citizenry. It is crucial for law enforcement to know what the rules are and it is crucial for the citizenry to have confidence that law enforcement is following the rules and doing so uniformly.

These things cannot happen without the Supreme Court being able to resolve some of the difficult and contested issues in this area of law.

In the past three years, the Supreme Court has decided at least eight Fourth Amendment cases by close votes, and in several of those cases, Justice Scalia was in a five-member majority. In other words, without nine justices, the court might well have been unable to resolve the issues presented in those cases, leading to ongoing uncertainty. And some of those cases, as often happens in the Fourth Amendment area, have created new areas of uncertainty that must be resolved—but that may require a nine-member court to do so.

I will briefly mention two such areas. In 2013, the Supreme Court decided *Florida v. Jardines*, in which Justice Scalia wrote the opinion on behalf of five justice majority. *Jardines* held that when police bring a drug dog onto the front porch of a single family home, that constitutes a search for purposes of the Fourth Amendment.

This holding has led to new questions. Earlier this year, the Illinois Supreme Court held that *Jardines* extends to a drug sniff outside an apartment door in the common area of a building. But in similar cases around the country, other courts have reached different conclusions. Not only can

this lead to inconsistent law from state to state, but even within a jurisdiction. A search held constitutional in state court might be held unconstitutional in federal court in the same state. This kind of uncertainty is untenable.

A second issue involves the implications of the 2013 case of *Missouri v. McNeely* in which Justice Scalia joined a five-member majority to hold that the natural dissipation of alcohol in the blood does not in and of itself create exigent circumstances allowing the police to obtain a blood test without a warrant. This term the court is poised to hear a case, *Birchfield v. North Dakota*, about the implications of some of *McNeely's* reasoning for state statutes that criminalize the refusal to submit to a blood or breath test when pulled over for a DWI. Illinois does not have such a statute, but we do have a statute making refusal to submit to such a test grounds for the suspension of a license. And a case challenging that statute is apparently being held by the Supreme Court pending the result in *Birchfield*. So if the court is unable to resolve *Birchfield* because it is equally divided, or is unable to resolve our case, should the Court later decide to hear it, those statutes will remain under a constitutional cloud and neither law enforcement nor state legislatures will know the scope of their authority in this area.

There are of course other areas of law I could discuss, but the point I want to leave you with is that state and local governments, and the citizenry, depend on a functional court to provide clarity and certainty in areas of law that affect government officials and citizens on a daily basis.

Thank you.

Mr. DURBIN. As an example, Solicitor General Shapiro pointed out how right at this moment numerous States and Federal circuits are governed by different standards on important Fourth Amendment search and seizure issues. These cases are working their way through the courts, but only the Supreme Court can finally resolve the issues. But the Court may be unable to do that. A 4-to-4 Court with a tie will not resolve an issue. Unless the Senate Republicans do their job, the Supreme Court will be stuck with eight members for more than a year.

I have a trivia question. When was the last time the Senate left a vacancy on the Supreme Court for a year or more? During the Civil War. It took a war between the States for us to leave a vacancy that long in the Court—a vacancy which the Senate Republicans are continuing by this obstruction.

As we reflect on the anniversary of the Oklahoma City bombing, I hope my friends on the other side of the aisle will take a step back from politics. I hope they will acknowledge that Merrick Garland stepped up for this Nation, did the right thing, and proved he could do his job. Senate Republicans have no less responsibility. It is time for the Senate Republican majority to do its job.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

HOUSTON FLOODING

Mr. CORNYN. Madam President, over this last weekend and through yesterday, large parts of central and southeast Texas experienced torrential