

Booker	Hirono	Portman
Boxer	Inhofe	Reed
Brown	Isakson	Reid
Burr	Kaine	Roberts
Cantwell	King	Rounds
Cardin	Klobuchar	Schatz
Carper	Lankford	Schumer
Casey	Leahy	Sessions
Cochran	Manchin	Shaheen
Collins	Markey	Stabenow
Coons	McCain	Tester
Corker	McCaskill	Thune
Donnelly	Menendez	Tillis
Durbin	Merkley	Udall
Enzi	Mikulski	Warner
Feinstein	Murkowski	Warren
Franken	Murphy	Whitehouse
Gillibrand	Murray	Wyden
Heinrich	Nelson	
Heitkamp	Peters	

## NOT VOTING—3

Cruz	Perdue	Sanders
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The PRESIDING OFFICER. On this vote, the yeas are 33, the nays are 64.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

## CHANGE OF VOTE

Ms. AYOTTE. Mr. President, on rollcall vote No. 53, I voted yea. It was my intention to vote nay. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. PORTMAN. Mr. President, on rollcall vote No. 53, I voted yea. It was my intention to vote nay. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

## AMENDMENT NO. 2954

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided, prior to a vote on amendment No. 2954, offered by the Senator from Louisiana, Mr. CASSIDY.

The Senator from Louisiana.

Mr. CASSIDY. Mr. President, this amendment pertains to the sale from the Strategic Petroleum Reserve. It merely gives the government the authority to time that sale. We can buy oil high or buy oil low, but we should sell it higher.

All this amendment does—a commonsense, bipartisan amendment—is to say that whenever the oil is sold from the Strategic Petroleum Reserve, it should be when the best price is fetched, if you will, for the taxpayers of the country. It is common sense. It protects taxpayers. It should be adopted.

Thank you.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MARKEY. Mr. President, Senator CASSIDY and I have offered this amendment in order to correct a problem in the bill. Without this amendment, there would not be the kind of discipline which is necessary in order

to make sure the Strategic Petroleum oil is sold strategically so that the Federal Government gets the best price for it, so that we sell high—or as high as we can—in order to limit the number of barrels of oil that ultimately will be sold so that we can keep as many as possible in the Strategic Petroleum Reserve.

In order to meet the budget objectives, this amendment satisfies it but also ensures that we keep the maximum number of barrels of oil remaining in the Strategic Petroleum Reserve. This is going to make millions—tens of millions of extra dollars for the Federal taxpayers because it will be done in a very smart way. We will be selling as high as possible because we bought this oil, for the most part, in a very high-priced marketplace.

Senator CASSIDY and I urge an “aye” vote on the amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I appreciate the work of both Senators, who came together with a very commonsense amendment.

Mr. President, I ask unanimous consent that the 60-vote affirmative threshold for the Cassidy-Markey amendment be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2954) was agreed to.

## AMENDMENT NO. 2953, AS AMENDED

The PRESIDING OFFICER. Under the previous order, amendment No. 2953, as amended, is agreed to.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order with respect to the vote on the motion to invoke cloture on S. 2012, upon reconsideration, be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that following leader remarks on Wednesday, April 20, the time until 10 a.m. be equally divided between the two leaders or their designees; further, that at 10 a.m., the Senate vote on passage of S. 2012, as amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, this brings us to the end of the agreed-to votes on the amendments that required a rollcall, as well as the 29 various amendments that were accepted by voice en bloc. We have made extraordinary progress on a good, strong, bipartisan energy modernization bill. I thank colleagues for the process we have all engaged in today as we have worked to wrap up the final measures to allow us to move to final passage tomorrow morning.

## MORNING BUSINESS

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate now be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

The Senator from Washington.

## ENERGY POLICY MODERNIZATION BILL

Ms. CANTWELL. Mr. President, I thank my colleagues for a productive afternoon. We certainly improved the Senate Energy bill with a variety of amendments—the lands package specifically but other amendments as well, such as the energy savings by our colleagues, Senator ISAKSON and Senator BENNET.

I am very glad we are where we are today, and hopefully we will have this wrapped up very early tomorrow. I thank all our colleagues for their cooperation. I again thank the staff for getting us to this point today.

Ms. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. DAINES). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## OKLAHOMA CITY BOMBING ANNIVERSARY AND FILLING THE SUPREME COURT VACANCY

Mr. LANKFORD. Mr. President, in February of this year, Justice Scalia passed away. It was an enormous loss to the Nation.

In the hours and the days following that, Republicans in the Senate had the opportunity to talk about their constitutional responsibility—the responsibility of advice and consent. Supreme Court justices don't show up to the Supreme Court because the President just nominates them. In the Constitution, article II, section 2, lays out a 50–50 proposition.

The President has the first 50 percent. He narrows down his list, and he nominates.

The Senate then has the second 50 percent. They have the power of what is called advice and consent. The first half of that is when. Is this the right time to do a nominee? And with many nominees, historically—Ambassadors, Justices, Cabinet officers—the Senate has had a long delay to be able to say: No, this is not the right time.

So the first question is, Is this the right time? The second question is, Is this the right person? That is the process of advice and consent, and it has been for 200 years.

So what has happened since February? Since February, Republicans

have been very consistent—myself included—to say: This is not the time to have a Supreme Court Justice go through the nomination process. In the hours after Justice Scalia passed away, we made it very clear so that any nominee who went through the process, regardless of who they were, would know in advance this: You will not move to a hearing because it is not the right time. Of our two-part test—Is this the right time? Is this the right person?—the first part is not complete. It is not the right time. So this nominee will not move at all throughout this entire year, and everyone knew that in advance.

So I understand Republicans have talked about the first test on that, the priority of “is this the right time?” Democrats have focused on “is this the right person?” They have focused on Judge Garland as the nominee. They want to be able to raise and talk about his profile, and I get the politics of that. But it is just the politics of it. We would expect that banter back and forth on the politics, but this is a settled issue among Republicans. He will not move through the nomination process.

But we hit a new low today on this floor, and I had to come and address it. Today, this moved from a conversation about whether this is the right time and whether this is the right person to drawing in the memory of the 168 lives that were lost in Oklahoma City 21 years ago today—April 19, 1995. It was the worst act of terrorism at that time on American soil, carried out by another American, killing 168 people at the Murrah Federal Building in Oklahoma City. A Ryder truck loaded with fertilizer and diesel pulled up to the front and blew it up, killing 168.

Timothy McVeigh carried that out. He got into his Ford and drove north to leave out of the State. But 90 minutes later—90 minutes later—Trooper Charlie Hanger, who was just doing his job, saw a vehicle on I-35 without a license plate on it, pulled him over, found out he also had a weapon on him, and put him in jail to be able to hold him. Trooper Charlie Hanger, doing his job, actually arrested the person who had killed 168 people just 90 minutes before, not knowing it.

Local law enforcement and individuals quickly went through the debris trying to find individuals to save and evidence to be able to identify who this was. Within a few hours, they found the axle of the Ryder truck. They called the rental company. They identified it. They did a composite sketch, and they figured out within hours who this might be—a guy named Timothy McVeigh. Running a search on him, they figured out he was already in jail. He had been picked up by Trooper Charlie Hanger. Before he was released—because he was in the process of being released—they were able to hold him and unwind a horrific crime. It was incredible local law enforcement. It was an incredible task that happened.

Within 40 hours of that event occurring, a gentleman named Merrick Garland had come from DC, where he worked for the Department of Justice, to Oklahoma City to help on the Federal side of the prosecution, along with thousands of other people from around the country. Our State and our city was overwhelmed with the compassion of people around the country as we saw what happened, and Merrick Garland was one of those. We are grateful as a community for what he did in the prosecution of Timothy McVeigh, what he did against Terry Nichols, and what he did against Michael Fortier. We are grateful for his work there.

But today, on the floor of this Senate, the implication was laid out twofold. One is that, since Judge Garland served the country and did that, he deserves something else. I have never met Judge Garland. I will meet him next week and, quite frankly, look him in the face and say: Thank you for your service to Oklahoma.

To make clear again the same position before, there will be no nomination this year. He does deserve our gratitude. He doesn't deserve a lifetime appointment onto the bench because of his faithful service to our country and to our community as is being alluded to.

The politics of it really, really deeply struck me as an Oklahoman—that for some reason, today, of all days, the tragedy that happened to 168 people and their death 21 years ago suddenly became paraded out here as a political prop. One of the Senators was even standing with a picture of a dead child behind him like she is a prop. This child is not a prop for politics. She has a name. She was identified as a toddler. She was 1 year and 1 day old. She was killed in the Murrah Building the day after her 1-year birthday. She is not some random toddler. Her name is Baylee, and she is not to be used as a prop for politics in the Supreme Court nomination process.

It is absolutely fair game to talk about the record of Judge Garland and what he has done. We are grateful as Oklahomans for his service to our State and to our Nation to put away those awful terrorists. But to use a child who was killed in the Murrah Building bombing as a prop so far exceeds the line that I had to come and speak about it and say that I am absolutely offended—and I should be.

So it was 21 years ago today. We remember. It is a statement that comes up to Oklahomans over and over: We remember. We remember the victims. We remember the survivors. We remember the first responders. We remember the thousands of people who came from across the country to help us. We remember, and we will continue to remember. But don't do politics with the life and death of the children and adults in Oklahoma City. Let's keep this where it should be. We could have the debate about process. Do not draw this in.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

#### NOMINATION OF MICHAEL MISSAL

Mr. JOHNSON. Mr. President, I rise today to urge my colleagues to confirm Michael Missal, the nominee for the Department of Veterans Affairs inspector general.

For far too long, our Nation's veterans have been without a permanent watchdog in place to ensure the VA affords them the care that they deserve.

I have seen the damage that acting leadership in the VA Office of Inspector General has done in my own State of Wisconsin. Numerous veterans of the Tomah VA facility suffered for years through dangerous prescription practices, whistleblower retaliation, and a culture of fear. The VA Office of Inspector General, under acting leadership, conducted a multiyear investigation of the Tomah VA facility but then swept the allegations under the rug—the secret report that was hidden from veterans, the public, and Congress.

Months after the report was finalized and closed, Jason Simcakoski, a 35-year-old Marine Corps veteran, died of a lethal cocktail of over a dozen different drugs at the Tomah VA facility.

Another Wisconsin veteran, Thomas Behr, died after being treated at the Tomah VA facility. Mr. Behr's daughter Candace told me that had she known about the inspector general's report, she never would have taken her father to the facility and he might be alive today.

In other words, had the VA Office of Inspector General been transparent and published the findings of its investigation, these tragic outcomes could very well have been avoided.

Under acting leadership, the VA Office of Inspector General has tried to stonewall my investigation into the tragedies at Tomah VA medical facility. Its actions have shown that, under acting leadership, the VA Office of Inspector General has become too close to the VA, the agency it is charged with overseeing. The acting leadership lacked the fundamental tenets of transparency and accountability that all inspectors general should have that could literally mean the difference between life and death.

I was forced to resort to a subpoena to obtain the information about the investigation of the Tomah VA Office of Inspector General, and there are still some documents the acting leadership has refused to produce. For over a year, I have urged President Obama to appoint a permanent VA inspector general. I was pleased that President Obama finally heeded my calls—and, quite honestly, the calls of many of my colleagues—when he nominated Michael Missal to the position late last year. My committee, the Senate Committee on Homeland Security and Governmental Affairs, moved his nomination after carefully considering his