

indispensably necessary for us to take this action.

This is the epidemic of our time. The death rates now in the age group that is affected by this epidemic are now declining at the same rates as they did during the war in Vietnam. We haven't seen anything like this since the war in Vietnam in the death rates—30,000 people—quadrupling in 14 years, escalating on a daily basis. It is time for the Senate to take real action on this issue so we can deal with it.

In Boston, MA, we had a police chief who saw that something had gone wrong, Chief Campanello. He said that incarceration doesn't work and instead treatment should be substituted. So beginning last June, what Chief Campanello said in Gloucester, MA, was that if you come in and you are an addict, you have a problem, you come into the police station, bring your drugs with you, we are not going to arrest you, we are going to put you into treatment immediately—no arrests. Four hundred people have walked into that police station in Gloucester, MA, in just 8 months—400 people. By shifting the paradigm from arrests to treatment, 800 more people—800 total across the country—as city after city, town after town adopts this model, have now accepted that as a better route for them in their lives, to just turn themselves in at the local police stations.

He has partnered with a man named John Rosenthal. John Rosenthal is an activist in our State, and he helps to fund this program. Last Wednesday night, tragically, John Rosenthal's own nephew, Nathan Huggins-Rosenthal, age 34, died of an overdose in Calgary, Canada. My heart goes out to the Rosenthal family because obviously they were committed to dealing with this issue, pioneering ways to have addicts be able to have a place they can go. Yet in John Rosenthal's own family, his nephew overdosed just last Wednesday night.

As Senator AYOTTE was saying, there is no neighborhood immunity. There is no family who is completely protected. This epidemic has been created by pharmaceutical companies, by physicians, by the agencies responsible to deal with it, and it is now time for us to put in place the protections which are needed to deal with it.

Let me give you opioids 101 so you can understand how we get to this—what are opioids, how do they work, and why do they lead to heroin abuse. Here is how it works. It starts with a seed pod of the opium poppy. We get the morphine, a naturally occurring opiate pain reliever from that pod seed. The morphine interacts with so-called opioid receptors that are found in high concentrations in areas of the brain that control pain and emotions. Taking opiates can increase the levels of dopamine in the brain's reward areas and produce euphoria or a rush of pain relief and relaxation. In fact, morphine, which was first identified in the early 1800s is named after Morpheus, the Greek god of dreams.

In 1895, the Bayer Corporation, Bayer Aspirin—the Bayer Corporation in Germany introduced a new cough suppressant marketed as a safer alternative to morphine. This new wonder drug was called heroin. In the 1920s, drug manufacturers began making fully synthetic analogs to morphine. They were called opioids. These drugs contain the same basic chemical framework as morphine, and they have exactly the same mechanism of action in the brain. They share common chemical features that allow them to buy into the brain's opioid receptors, and they all are considered highly addictive. These drugs vary widely in potency. That is the amount of the drug required to reach the same level of pain relief and sedation as morphine.

OxyContin, for example, is 150 percent as strong as morphine. Heroin is also an opioid. They share the same fundamental chemical structure. Heroin binds to the very same receptors in the brain and produces the same euphoria and sedation, and heroin is plagued by the same addiction potential. Heroin is classified as a schedule I drug, the most dangerous class, because it has no accepted medical use and a high potential for abuse and addiction.

So this is the pathway between opioids and heroin and why that pathway is very short. It is all about the chemistry because OxyContin has the nearly identical molecular constitution as heroin. Over time, the brain, the receptors are saying: I need to have to continue to have that hit. Thus, we have this epidemic where 80 percent of all people in the United States who are dying from heroin overdoses started on prescription opioid drugs that had been prescribed by their physicians. Physicians should have to be educated. The FDA should have expert advisory panels that give the strongest possible guidance to the pharmaceutical companies. That is what is missing in this equation. It starts there.

We need a debate on \$1.1 billion for more treatment and more education, and we are going to have that debate on the Senate floor. These local families, these local groups, they are heroes, but heroes need help, and it is time for us to fund those programs in the same way we funded the Ebola crisis and the same way we are being asked to help to fund the Zika crisis. We have a crisis in America ourselves, but if we don't deal with the issue right from the beginning at the FDA, at the DEA, and at the AMA, we are not going to solve this problem. We are just putting medical facilities in place to deal with the consequences of having no policy. This is our great opportunity to have a debate in our country.

I can't thank the Members enough for beginning to deal with this issue on a serious basis, but we can't be afraid of the pharmaceutical industry. We can't be afraid of the American Medical Association. We can't be afraid of the bureaucrats in these agencies who say: Oh, Mr. or Ms. Senator, we are the

experts. You don't know what you are talking about.

Well, just let me tell you this. The people of the United States don't trust the experts anymore in these agencies. They want more accountability. They want other experts to come in to check those experts, to ask the tough questions on behalf of the American people.

That is why I have a hold on Dr. Robert Califf's nomination for the FDA, because right now the FDA is saying it is going to continue business as usual and that is just wrong. That is just plain wrong. It has to stop there. The signal must come from this administration.

I thank all the Members for this discussion, for where we are today and where we are going to have to go in the months ahead, but I don't think we should end this year without a fundamental change that has taken place in our society in this relationship.

I will just add one final issue, and that is the issue of how many pills, how many pills a doctor can prescribe initially to a patient. We are now debating that issue in the State of Massachusetts. Governor Baker has been saying it should only be 3 days' worth of pills. One of the counterproposals is 7 days of pills that can be used by the patient.

I do know this. We have to start here because right now doctors are handing out bottles of 60 to patients who only need a week's worth or 3 days' worth. When you leave a dentist's office, you don't need 60 days' worth of pills for your wisdom teeth that have been removed. When you have some pain that you just got from playing a softball game and you have twisted your back, you don't need a bottle of 60 or 30. You might need a few pills for 3 days or 7 days, but you don't need the 60. Having that 60 in that medicine cabinet is the beginning of the problem.

I thank Governor Baker for what he is doing on this issue. They haven't resolved it in Massachusetts. I think we have to debate that in the Halls of Congress as well. They are all related, how these pills get into the blood system of our country.

Again, I thank all of the Members for their consideration of this issue.

Mr. President, I yield back the remainder of my time.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

#### RECESS

Mr. MORAN. Mr. President, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 12:26 p.m., recessed until 2:15 p.m.

and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, are we still in recess?

The PRESIDING OFFICER. The Senate is now postcloture on the nomination.

The Senator may proceed.

#### REMEMBERING JUSTICE ANTONIN SCALIA

Mr. HATCH. Mr. President, I rise to honor the memory of one of our Nation's greatest champions of limited government under the Constitution, Justice Antonin Scalia. Justice Scalia set the standard for the kind of judge upon which liberty depends. He was a dear friend, and I will miss him greatly.

The purpose of government, according to the Declaration of Independence and the Constitution, is to secure inalienable rights and the blessings of liberty. Liberty exists by design and, as Andrew Jackson put it, by eternal vigilance. America's Founders were clear that liberty requires separated and limited government powers, including a particular role for unelected judges. Judges who seek to determine what the law is promote liberty; judges who say what they think the law should be undermine it.

Put simply, judges must interpret and apply the law impartially; that is, by setting aside their own opinions, preferences, or prejudices. Interpreting and applying the law impartially particularly leaves the American people and their elected representatives in charge of the law. When they interpret written law impartially, they discern what the original public meaning of the law is. When judges apply the law impartially, they pay no regard to the identity of the parties or the political effects of their decision. Judges can neither make nor change the law they use to decide cases. That is the kind of judge liberty requires. That is the kind of judge Antonin Scalia was.

When President Ronald Reagan first appointed Antonin Scalia to the U.S. Court of Appeals for the DC Circuit in 1982, the future Justice said to those of us on the Judiciary Committee that if confirmed the time for him to opine on the wisdom of laws would be "bygone days." When he again came before the committee a few years later as a Supreme Court nominee, he repeated that setting aside personal views is "one of the primary qualifications for a judge." He described a "good judge" as one who starts from the law itself and not "where I would like to come out in [a] particular case."

Justice Scalia's brilliance and wit were certainly impressive, but they were powerfully connected to this deeply considered and deliberately framed judicial philosophy rooted in the principles of the Constitution. He stuck

doggedly to this ideal of the good judge whose role in our system of government is limited to properly interpreting the law and impartially applying it to decide cases. His approach requires self-restraint by judges. Judges, he often said, must take the law as they find it and apply it even when they do not like the results. In his own words, "If you're going to be a good and faithful judge, you have to resign yourself to the fact that you're not always going to like the conclusions you reach."

Liberty requires such judicial self-restraint, whether it is en vogue or not. As President Reagan put it when he witnessed the oath of office administered to Justice Scalia in September 1986, America's Founders intended that the judiciary be independent and strong but also confined within the boundaries of a written Constitution and laws.

No one believed that principle more deeply and insisted on implementing it more consistently than our Justice Scalia. His approach to the law was often called textualism or, in the constitutional context, originalism—an approach which is nothing more than determining the original public meaning of the legal text. It leaves the lawmaking to the lawmakers and the people they represent, rather than to the judge.

The Senate unanimously confirmed Justice Scalia's nomination on September 17, 1986, the 199th anniversary of the Constitution's ratification. That was very appropriate because his approach gives the Constitution its real due, treating it as more than empty words on a page but as words that already have meaning and substance. Justice Scalia knew that the Constitution cannot limit government's power if government actors—including judges—define the Constitution.

Justice Scalia rejected judicial activism—what he called power-judging—that treats the law as shape-shifting. For activists, the laws and the Constitution have no fixed meaning but can rather be contorted and manipulated to fit the judge's own policy preference. Such an approach puts the unelected judge, not the American people in their elected representatives, in the position of supreme lawmaker.

Thomas Jefferson warned that if judges controlled the Constitution's meaning, it would be "a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please." That is exactly what activist judges do, treating the law like clay that they can mold in their own image.

Rather than reinterpreting the law in his own image, the good judge conforms his decisions to the fixed meaning of the law. By insisting that even judges must be the servants rather than the masters of the law, Justice Scalia was simply following the lead of America's Founders and empowering the American people.

Justice Scalia's approach to judging not only requires self-restraint by judges, but it also demands rigor and accountability by legislators. The good judge takes seriously the language the legislators enact, so the people can hold accountable the legislators they elect.

The famed Senator and Supreme Court advocate Daniel Webster once said that "there are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters." Those who object to Justice Scalia's approach embrace the notion that judges, rather than the people, should be the masters of the law.

Justice Scalia's impact has been enormous. A liberal legal commentator may have put it best in his review of Justice Scalia's book, "A Matter of Interpretation," with these words:

We are all originalists now. That is to say, most judges and legal scholars who want to remain within the boundaries of respectable constitutional discourse agree that the original meaning of the Constitution and its amendment has some degree of pertinence to the question of what the Constitution means today.

Justice Scalia brought the boundaries of respectable constitutional discourse more in line with the principles of liberty than they had been in a generation. For that, our liberty is more secure, and we should be deeply grateful.

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

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

#### REMEMBERING JUSTICE ANTONIN SCALIA AND FILLING THE SUPREME COURT VACANCY

Mr. CORNYN. Mr. President, this past Saturday I was honored to attend the funeral mass for Justice Scalia. I couldn't help but recall back when President Reagan nominated him for the Supreme Court of the United States. At that time Judge Scalia said that "[his] only [agenda] was to be a good judge."

Today, 30 years later, it is clear that Justice Scalia, who until his death served longer than any of the current members of the Supreme Court of the United States, was more than a good judge. In fact, he was a great judge. He was a giant of American jurisprudence.

As I got to know him even better during the course of the more recent years, thanks to a mutual acquaintance, I can tell you he was also a good man. My first encounter with Justice Scalia was back in 1991 when I won an election to be on the Texas Supreme Court and the court invited Justice Scalia to come to Austin, TX, and administer the oath of office. At that time I already admired his intellect