

cases for a judge to do the work. A vacant judgeship is automatically declared an emergency, as it should be. When the Republicans assumed control of the Senate last year there were 12 emergencies nationwide. Today, a year later, that number has almost tripled to 31.

By nearly every metric, the Judiciary Committee under Chairman GRASSLEY is failing dramatically, setting all records of failure in this great body. The committee is failing the people of Iowa and the Nation.

To the senior Senator from Iowa, I stress, I plead, don't continue down this path. Reject this record-setting obstruction and simply do your job as a powerful chairman of the Judiciary Committee.

Mr. President, I see no one on the floor. Will the Chair announce the business of the day.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Robert McKinnon Califf, of South Carolina, to be Commissioner of Food and Drugs, Department of Health and Human Services.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. COTTON. Mr. President, I ask unanimous consent that the confirmation vote scheduled for 11 a.m. this morning be moved until 12 noon, with all other provisions of the previous order remaining in effect.

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

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COTTON). Without objection, it is so ordered.

#### FILLING THE SUPREME COURT VACANCY

Mr. DURBIN. Mr. President, every Member of the Senate stands in the

well of the Senate when they are elected, takes an oath of office. That oath of office, required by the Constitution, is our statement to not only the people we represent but to the Nation, that we will uphold and defend the Constitution of the United States.

Article II, section 2 of that Constitution empowers the President. Those powers include the President's power to fill vacancies on the Supreme Court. It is not permissive language. The word "shall" can be found in this paragraph. It basically says that the President of the United States shall nominate, and by and with the advice and consent of the Senate, shall appoint judges of the Supreme Court.

For the first time in the history of the United States of America, Senate Republicans are prepared to defy this clear statement of the U.S. Constitution. What an irony that filling the vacancy on the Court by the untimely death of Antonin Scalia—filling the vacancy on the Court of a man who prided himself throughout his judicial career as being what he termed an "originalist," sticking to the strict letter of the law, as spelled out in the Constitution—in filling that vacancy, the Senate Republicans have basically decided to reach a new low; in fact, to make history in a very sad way. A seat on the U.S. Supreme Court lies vacant because of the death of Justice Scalia. The President has the constitutional obligation, as I have read, to name a nominee to fill that vacancy. Senate Republicans are now saying they will not even hold a hearing on that nominee.

If the President sends a name—and he will—to the Senate to fill that vacancy, they have said they will not hold a hearing, they will not schedule a vote, and, listen to this, yesterday Senator MCCONNELL said: I will not even meet with that person.

This is a new low. Since the Senate Judiciary Committee started holding hearings on Supreme Court nominees a century ago, the Senate of the United States of America has never—never—denied a hearing to a pending Supreme Court nominee. It has never happened, but that is what Senate Republicans are saying they will do.

This level of obstruction, of ignoring the clear language of the Constitution, is unprecedented, and it is dangerous. This goes beyond any single vote for any Supreme Court nominee. This is an abdication of the Senate's responsibility under article II, section 2 of the Constitution to provide advice and consent on Supreme Court nominations, which the President shall appoint and shall nominate.

Senate Republicans want to keep the Supreme Court seat vacant for more than 1 year. They want this vacancy to continue for more than 1 year. That will encompass two terms of the Supreme Court. This is demeaning to the institution of the Supreme Court, and unfair to millions of Americans who rely on that Court to resolve important legal questions.

In the coming days, the President will name a nominee, as the Constitution requires him to do. Senate Republicans should meet their responsibility under the Constitution, do their jobs, and give the President's nominee a fair hearing and a vote.

Yesterday, the Republican members of the Senate Judiciary Committee sent a letter to the majority leader, and here is what they said: "This Committee will not hold hearings on any Supreme Court nominee until after our next President is sworn in on January 20, 2017."

Why did they take this unusual position in defiance of the Constitution? They said: "The presidential election is well underway. Americans have already begun to cast their votes. . . . The American people are presented with an exceedingly rare opportunity to decide, in a very real and concrete way, the direction the Court will take over the next generation."

This argument is specious. The American people have already voted; they voted to elect our President, Barack Obama, and they voted to elect 100 Senators who currently serve in this body. President Obama was elected to a 4-year term, and 11 months remain. The American people voted for each of us to do our jobs for as long as we serve in office. By a margin of 5 million votes, the American people have chosen the President. Did they elect the President for 3 years, or 3 years and 2 months? No. They elected a President for 4 years, and this President's term continues until January 20, 2017.

The Republicans conveniently ignore the obvious. The will of the American people was expressed in that election, and the election of Barack Obama as President of the United States empowers him under the Constitution to fill this vacancy with an appointment. They didn't vote in that election for us to sit on our hands for over a year while the Supreme Court twists in the wind and while the Republican Senators pray every night that President Donald Trump will somehow give America a different Supreme Court nominee. Not a single American, incidentally, has yet cast a vote for President of the United States—not one—in the next election, despite the statement of the Judiciary Committee Republicans that says otherwise.

It is February of this year. The nomination conventions are scheduled for late July. The modern Supreme Court confirmation process has taken an average of 67 days. There is more than adequate time to hold a hearing on this nominee and get this done properly. All we need is for the Senate Republicans to do their jobs.

Yesterday on the Senate floor, I urged my Republican colleagues not to duck a vote on the President's nominee. They could vote yes, they could vote no, but they shouldn't abdicate their constitutional responsibility for political advantage. I am amazed that my Republican colleagues now say that

not only do they want to duck that vote, but they also want to avoid even having a hearing on the nominee. And they are afraid to even meet with this nominee for fear that maybe they might think he or she is a good nominee.

Even more shockingly, the Republican leader and several Republican members of the Judiciary Committee said yesterday they would not even meet with the President's nominee. One of our colleagues in the Senate last night on television was asked pointedly or directly: If the President nominates someone from your State to the Supreme Court vacancy, are you saying you wouldn't meet with that person? My colleague on the other side of the aisle ducked the question. This is stunning.

Remember, the President is obligated by article II, section 2 of the Constitution to send a nominee to the Senate. That is the process the Founding Fathers established. That is the President's responsibility. How can Senate Republicans refuse to even meet with the person selected under this constitutional process? How is that being faithful to the terms of the Constitution? How are Senate Republicans upholding and defending this Constitution by this evasive, historically unprecedented action?

Sadly, it appears that Senate Republicans have calculated it is in their best political interests to keep the nominee out of the spotlight. They were hoping that, with this letter and by saying yesterday we will have nothing to do with it, they are going to turn out the lights on this issue. That is not what is going to happen. This issue is going to be there and remembered, and it is going to be recalled on the floor of the Senate repeatedly. They thought they could close down the government when Senator CRUZ of Texas sat here for, I don't know how many hours, reading Dr. Seuss while we shut down the government, and they thought people would forget Senator CRUZ shutting down the government; they didn't, and he is finding on this campaign trail that a lot of people have remembered that. The American people are not going to forget what Senate Republicans are trying to do with the Supreme Court.

I have served on the Judiciary Committee for the hearings and confirmation votes of four of the eight sitting Supreme Court Justices. Let me state clearly that this Senator is more than happy to meet with the President's Supreme Court nominee, as I have on all such nominees—Republican and Democrat alike—and I will consider that nominee on his or her merits, as I have always tried to do in the past.

Yesterday, Senate Republicans also tried to deflect attention from their unprecedented obstruction by pointing to quotes from some Democrats years ago. But the record is clear: Democrats have never, never blocked a Supreme Court nominee from having a hearing.

Republicans are breaking new ground with this obstructionism. The American people deserve better.

The bottom line is there is no excuse for the Senate to fail to do its job. Once the President has named his nominee, the Senate must give that nominee a fair hearing and a timely vote. If the Constitution means anything to my colleagues on the other side of the aisle, they understand that what they are doing is unprecedented. It has never happened once in American history. We are now finding the obstructionism of Senate Republicans reaching a new low. They are ignoring the clear wording of our Constitution, which they have sworn to uphold and defend, and they are obstructing in a way that we have never seen before in the history of the United States. That is the reality—a reality that will not be lost on the American people.

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.

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

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

#### PRESCRIPTION DRUG ABUSE

Mr. BARRASSO. Mr. President, I come to the floor today to talk about a drug abuse problem that is literally hurting millions of Americans. There has been a dramatic rise in the use and misuse of prescription painkillers. These prescription painkillers—and I tell you this as a doctor—are known as opioids.

Between 1999 and 2013, sales of prescription painkillers in the United States have quadrupled. It is no coincidence that over that same number of years overdose deaths from these drugs have also quadrupled. This is how we know there has been a huge shift from the appropriate use to abuse of these medications. People in rural areas like my own are almost twice as likely to overdose on prescription painkillers as people in large cities. Some people think these problems are only a problem in the big cities. That is not the case with these opioids.

I can tell you as a doctor who practiced medicine in Casper, WY, for 25 years, treating pain in our patients is one of the most difficult things we do. When we have a patient who is in pain, we want to help relieve that pain. Opioids are a very effective way to help patients with pain, and doctors use these medications through prescriptions to help manage the pain. It is important that we have the capacity to do that as long as it is done appropriately. This can be a very good option for someone suffering from chronic pain, such as pain from cancer. It can be appropriate for someone who is suffering from acute, temporary pain, such as someone who just had surgery.

The problem is that these are extremely powerful narcotics. Chemi-

cally, they are not that different from heroin, and they can become addictive. Some patients have no problem at all taking these painkillers for the proper amount of time, while other patients might develop a problem and actually have trouble getting off the pain pills. As they get accustomed to the drugs, sometimes they may seek out stronger and more addictive drugs to get the same pain relief. That is why doctors have to be very careful about prescribing the right medicine for each patient and each situation. They have to balance the risk of the drug with the reward of easing the patient's pain.

Not every doctor in this country has been as careful as they should be. We didn't get into this difficult situation because of a handful of doctors writing too many prescriptions. These prescriptions are being written by doctors in communities all across the country. It is happening in emergency rooms, with family doctors, with specialists, and even with dentists.

I believe Washington policies have inadvertently contributed to the problem. The Centers for Medicare and Medicaid have made payments to hospitals partly based on how well the specific hospital has scored on surveys filled out by the patients—the patients who have been in those hospitals. Here are some examples of questions that are asked on these surveys: During this hospital stay, how often was your pain well controlled? Some patients are asked that. They are also asked: How often did the hospital staff do everything they could to help you with your pain?

Well, you can see how doctors might feel pressure to prescribe more and stronger opioid pain relievers to make sure their hospital doesn't get low scores and get penalized by the bureaucrats here in Washington. The Department of Health and Human Services is looking into whether these surveys are contributing to this rise in prescriptions and what can be done about it.

Earlier this month I was 1 of 26 Senators, Republicans and Democrats alike, who wrote to the Secretary of Health and Human Services to make sure she keeps us apprised on the effects these regulations might be having. If these pain relievers are being prescribed inappropriately, they can do more harm than good. That's the problem. Some of these people who get these prescriptions for all the right reasons end up being addicted. When the prescription runs out, they may actually experience withdrawal symptoms, and I have seen it happen.

So what do the people who become addicted to these opioids do? Well, they seek pills on the black market or they turn to other drugs, including heroin. Heroin is often cheaper than the actual prescription opioid and, of course, more deadly.

From 2002 to 2013, heroin use in the United States has nearly doubled. The deaths from heroin overdoses have quadrupled. Why? One of the reasons