

do, we should keep in mind the counsel of his former Tenth Circuit colleagues—both as to their experience with Judge Gorsuch on the bench and their view of our role in questioning him now that he is before the Senate. Judges Deanell Reece Tacha and Robert Henry both served with Judge Gorsuch on the Tenth Circuit. Both were chief judges of that court, in fact, and both have gone on to careers in academia: Judge Tacha as dean of the Pepperdine University School of Law and Judge Henry as president and chief executive of Oklahoma City University. Judge Tacha was appointed to the circuit court by President Reagan while Judge Henry was appointed to the circuit court by President Clinton. They describe themselves as a lifelong Republican and Democrat, respectively.

They write that “predictions abound as to how Judge Neil Gorsuch—if confirmed—would lean or even vote on this or that case. . . . But these essentially political discussions tend to distort the role of judges in our government.” They remind us that the “‘independence of the judges’ is a most sacred tradition in U.S. constitutional law, requiring all judges to have no obligations to those who nominated or confirmed them.” Let me repeat that. They note that the principle of judicial independence requires judges not to have obligations to those who nominate them or those who confirm them.

In that regard, Judges Tacha and Henry remind us that “[d]etailed discussions during the confirmation process on issues that might come before a judge are not proper; in fact, they would in all likelihood require recusals from the cases discussed.” They point out how the judicial process is different from the confirmation process. They observe that “controversies that go before the court often bring unique and complicated facts that could completely change a judge’s sincerely espoused view.” Legal research is “[a]nother critically important input into judicial decisions.” Legal research might reveal precedent that overrides a judge’s “previously held views or even logical interpretations of legal text.” They emphasize that the judicial process is the collection of “[t]hese factors—tradition, independence, precedent and unique facts,” and that these factors “often combine to lead judicial nominees to change their views when confronted with specific cases.”

By contrast, these factors are not present in the confirmation process. So it is not realistic or fair to expect a judicial nominee to state or imply under oath how he or she might rule as a judge. That is why Justice Ginsburg could not give any hints, forecasts, or previews of her possible rulings during her Supreme Court nomination hearing.

But we don’t have to guess how Judge Gorsuch would conduct himself as a Justice. We have a 10-year record of his judicial decisions, and we have

the professional experience of those who practiced before him and those who have served with him. As for the latter, Judges Tacha and Henry give him the highest marks.

Judge Gorsuch was, they say, “like most good judges, assiduously attentive to the facts and the law in each case.” If he were confirmed to the Supreme Court, they say that “other important traits of Gorsuch that are not likely to change” are things like “his fair consideration of opposing views, his remarkable intelligence, his wonderful judicial temperament expressed to litigants and his collegiality toward colleagues.”

They conclude by saying that “[i]f we seek to confirm to the Supreme Court a noted intellect, a collegial colleague, and a gifted and eloquent writer—as well as a person of exhibited judicial temperament—Gorsuch fits that bill. He represents the best of the judicial tradition in our country.”

Their endorsement tracks with so many others we have heard, and I am confident Judge Gorsuch will show the country today and tomorrow why so many people are so proud to support him to be our next Supreme Court Justice.

#### NOMINATION OF DANNY REEVES

Mr. McCONNELL. As to another well-qualified judge whose nomination is currently being considered by the Senate, today, we will consider the nomination of U.S. District Court Judge Danny Reeves to serve on the U.S. Sentencing Commission. He is a great choice to serve on the Commission, and I look forward to the Senate confirming him.

Among its responsibilities, the Commission is tasked with setting sentencing policy in our Federal judicial system. While I don’t always agree with the policy outcomes, I appreciate the important role it plays in trying to ensure fairness in our Federal courts. Judge Reeves is well prepared for the task ahead. I am confident he will do great work on the Commission.

His legal career began in Northern Kentucky University’s Salmon P. Chase College of Law, where he graduated with honors in 1981. After graduation, he clerked with Judge Eugene Siler, then a district court judge in the Eastern and Western Districts of Kentucky. Upon finishing his clerkship, Judge Reeves entered private practice at what was then known as Greenebaum Doll & McDonald. He became a partner there in 1988.

In 2001, I had the first of many in-depth discussions with Judge Reeves. I was so impressed by him that I recommended him to then-President George W. Bush and that he appoint Judge Reeves as a Federal district court judge in Kentucky. The Senate confirmed him without a dissenting vote, and he served with distinction on the Federal bench.

Judge Reeves has been lauded for his steady devotion to the rule of law, for

his commitment to fair rulings predicated on the facts and law—rather than his own political beliefs—and for his evenhanded approach to all who enter his courtroom. Because of his demonstrated appreciation for these precepts, Judge Reeves will be a significant asset to the Commission and an advocate for sound and sober decision-making.

As many of you know, the Commission has been operating, to the extent it can, without a quorum. Not only does Judge Reeves’ appointment stand as validation of his distinguished career as a respected jurist, but, along with the reappointment of U.S. District Court Judge Charles Breyer, it represents a return to an operational agency. Now the Commission can get back to the business for which it was designed, establishing uniform sentencing practices and policies that will be utilized in Federal courts all across the country.

So I look forward to supporting and congratulating Judge Danny Reeves, as well as his wife Cindy and their sons Adam and Joe and their families, on his confirmation to the U.S. Sentencing Commission.

#### CONGRESSIONAL REVIEW ACT RESOLUTION

Mr. McCONNELL. Mr. President, on one final matter, over the past several weeks, the Senate has been working to bring much needed relief from the regulatory onslaught of the last 8 years. Using the Congressional Review Act, or CRA, we have already taken action to end regulations that threaten jobs, weaken our economy, and undermine States’ authority. Today we will continue to move forward with our efforts to block more unnecessary regulations that hold our country back in a number of ways. The CRA resolution that we will consider today will end regulation that undercuts Alaska’s ability to manage its fish and wildlife resources. As a coalition of hunters, fishing enthusiasts, and conservationists recently wrote me, “Congress promised that the citizens of Alaska, working through their Department of Fish and Game would be able to manage their own fish and wildlife, as do the other 49 states.”

Passing this CRA resolution will roll back the administration’s overreach and restore the State-Federal balance that Congress originally intended. Our colleagues from Alaska, Senator MURKOWSKI and Senator SULLIVAN, are the sponsors of this resolution we will consider today. They know the damage this regulation would do to their home State. They have been working to do something about it.

They have also been quick to point out the concerning precedent this rule would mean for the rest of the States. I appreciate their leadership on this issue and look forward to joining them in overturning this harmful Obama administration regulation as soon as possible.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

#### NOMINATION OF NEIL GORSUCH

Mr. SCHUMER. Mr. President, yesterday, President Trump's nominee to the Supreme Court, Judge Neil Gorsuch, was introduced in the Judiciary Committee for opening statements. We all look forward to today's round of questioning, during which I hope the nominee will be more forthcoming than he was with me. I am very sympathetic to the fact that judges should not offer opinions on cases that could come before the Court lest they bias themselves. Every Senator is aware of that. We know to ask general questions or questions about cases previously decided to get a sense of a judge's philosophy.

In our meeting, Judge Gorsuch refused to even answer those questions. For instance, I asked him a very simple question. I said forget about the case that was then pending in the Ninth Circuit on the Executive order. I said: Let's say Congress passed a law: No Muslim could enter the United States. Would that be unconstitutional?

He even refused to answer that question. So I hope he will be more willing to answer questions in the Judiciary Committee today, particularly about his views of important Supreme Court cases of the past and his own ideology. This idea that judges judge regardless of ideology is totally belied by the fact that there is a coalition right now—four judges on one side, four judges on the other. Four appointed by Democratic Presidents who generally rule one way, four appointed by Republican Presidents who generally rule the other.

If it was just interpreting the law without any input from a person's life and thoughts and ideology, we would not have that stark breakdown, but we do. In my view, the hard right, in trying to populate the bench with people way over, has adopted this philosophy, starting with Miguel Estrada: Don't answer the questions because if the American people knew how you really felt, they would not want you on the bench.

Let's take the case of President Trump. Of course President Trump considered ideology when he selected

Judge Gorsuch off a list culled by the far-right Heritage Foundation and Federalist Society. He did not pick the judges himself. He went to these extreme groups and said: You make a list. I promise I will pick people from that list.

Do you think organizations—these organizations—dedicated to a certain ideological viewpoint, did not consider ideology when building their list of possible Supreme Court picks? Of course they did.

President Trump said himself, he wanted to appoint a Justice who would overturn *Roe v. Wade*. The idea that he selected a judicious, neutral judge is belied by the selection process, totally and amazingly. That is how the President considered these judges. So it is not unreasonable for Senators to consider and question the ideology of a nominee in committee. President Trump sure did when he came up with a list. The only way for the Judiciary Committee to do that is if the nominee is willing to answer specific questions. If he is not willing to answer specific questions, what is the purpose of even holding a 4-day hearing?

Before I move on to another topic, I would like to point out that it is the height of irony that Republicans held this Supreme Court seat open for nearly a calendar year while President Obama was in office but are now rushing to fill the seat for a President whose campaign is under investigation by the FBI.

Even Representative NUNES, the Republican chairman of the House Intelligence Committee, said the investigation, confirmed yesterday by FBI Director Comey, puts a "big gray cloud" over this administration. You can bet if the shoe were on the other foot and a Democratic President was under investigation by the FBI, the Republicans would be howling at the Moon about filling a Supreme Court seat in such circumstances.

After all, they stopped the President who was not under investigation from filling a seat with nearly a year left in his Presidency. It is unseemly to be moving forward so fast on confirming a Supreme Court Justice with a lifetime appointment while this "big gray cloud" of an FBI investigation hangs over the Presidency.

#### TRUMPCARE

Mr. SCHUMER. Mr. President, the Republicans plan to repeal and replace the Affordable Care Act. Their bill is such a mess and is proving so deeply unpopular that Republicans are playing a game of hot potato with it. Speaker RYAN does not want to call it RyanCare. The administration does not want to call it TrumpCare. They are pointing at each other and hoping the other one takes responsibility and blame.

President Trump, who has tried to put his name on nearly everything in his career—ties, steaks, water—does

not want his name on this bill. Well, the President himself is here on the Hill today to sell the bill to House Republicans. Make no mistake, this is TrumpCare, the President's bill. Every American should know that if Republicans ultimately pass this bill, President Trump is behind it, and Republicans will have helped him every step of the way.

So voters, particularly Trump supporters, who would be hurt most by this TrumpCare should remember that when your premiums start going up, President Trump did that. When your insurance does not cover all the things it used to, President Trump did that. If you are older and insurance companies are now charging you exorbitant premiums, several times what you used to pay, President Trump did that. When 24 million fewer Americans have health insurance while the wealthiest Americans get a huge tax break, you can be sure President Trump did that too.

Even now, the changes House Republicans are making to buy off different factions of their caucus are making the bill more harsh. Some of these changes will further weaken Medicaid and result in even fewer Americans with healthcare coverage. Though Republicans claim they are fixing the bill's unfair tax on older Americans, they are not. The truth is, the Republican age tax is still in the bill. People in their fifties and sixties still stand to lose big time.

The larger truth is, Republicans are not trying to make this bill better. They are just trying to make it pass with all their various factions pulling them in different directions. There is no better evidence of that than the new "Senate slush fund," a \$75 billion earmark the House is giving the Senate to buy off Republican Senators who don't want to vote for this bill.

What happened to our fiscal conservative friends in the House—no unnecessary expenditures. A \$75 billion slush fund. It doesn't even say what it does. Wow. Unbelievable. Many Republican Senators don't want to vote on the House bill because it is going to crush older Americans with a new age tax, but make no mistake about it, the Senate slush fund is not going to fix that problem at all.

Here is the biggest problem. The consequences of TrumpCare are so bad for working Americans and older Americans that my friend the majority leader may rush it through the Chamber after we get it from the House. He has already said TrumpCare is going to bypass committees and go right to the floor. There is even talk that Republican Senators, under his leadership, are negotiating a substitute bill behind closed doors that would take its place and also go straight to the floor.

That is not how we should do business here on something as important as healthcare. That is not just my view, that is the majority leader's view. Listen to what the distinguished majority leader—then-minority leader—said