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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. HATCH).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our shield, look with favor upon our Senators today. Guide them around the obstacles that hinder their progress, uniting them for the common good of this great land.

Lord, free them from anxiety and fear as they put their trust in You. Enable them to go from strength to strength, fulfilling Your purpose for their lives in this generation. Guide them to use their abilities and talents to accomplish Your holy will. As they strive to please You, help them to stand for right and leave the consequences to You.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. SASSE). The majority leader is recognized.

ENERGY REGULATORY POLICY

Mr. McCONNELL. Mr. President, throughout my career in the Senate, I have worked hard to defend coal communities and the jobs they and so many across the country depend on. These men and women have dedicated their lives to providing an affordable and reliable power source for our

homes, businesses, and communities. They deserve our respect and our support.

The same is true of America's middle class, more broadly. Middle-class families had a hard enough time over the past 8 years without Washington making things worse. I think they deserve respect and support, not fewer jobs and unaffordable energy bills.

Unfortunately, the previous administration didn't see things the same way. Instead, the Obama administration launched energy attack after energy attack on Kentucky and America's middle class, threatening critical jobs and making coal more costly to mine and use.

Indeed, a couple years ago, then-President Obama finalized a massive regressive energy regulatory scheme that claimed to be about helping the climate but actually would have done little to truly impact global emissions. What it would have done is punish coal families, ship middle-class jobs overseas, and hurt the economy. It was also likely illegal. So I sent a letter counseling Governors to wait for the courts to rule on the legality of the regulation before submitting a compliance plan. It was not a popular move at the time, but it turns out that it was the right one. I am glad that nearly half of our Nation's Governors agreed with my advice to take a wait-and-see approach before needlessly putting their States in economic jeopardy.

I am proud to report that we will notch an important victory in this struggle later today. I commend President Trump for the decision to sign the energy independence Executive order and send several anti-middle-class regulations back to the drawing board. From the outset, I warned that regulations like these would hurt coal workers and America's middle class. One report predicted that more than 40 States could have seen double-digit electricity rate hikes as a result of the Clean Power Plan energy regulatory plan. We

all know that low- and fixed-income families would have suffered the most. And for what? For a regulation that hardly would have moved the needle on climate anyway.

Talking about bad policy, it is important to remember how we got here. President Obama came into office with huge majorities in both Houses of Congress. He could have done virtually anything he wanted, and he certainly tried. He pushed through one left-wing policy after another. He even tried to push through a regressive, anti-middle-class energy regulatory plan—one so extreme that he couldn't even get his own Democrat-controlled Congress to go along with it. Undeterred, he went around Congress and imposed a similarly regressive energy scheme anyway.

It was evident that the Obama administration had overstepped its authority. That is why I sent the letter I mentioned earlier to the Nation's Governors, urging them not to comply with the CPP's demands but instead to take a wait-and-see approach before putting their States in economic jeopardy.

Because of the legal uncertainty of President Obama's plan, 27 States joined the fight in Federal court. In February 2016, the Supreme Court issued an unprecedented nationwide halt on this regulation—a nationwide halt. Despite the Court's order, the damage of President Obama's war on coal has already negatively impacted middle-class families across the country and coal communities in Kentucky. When plants shut down and miners lose their jobs, the entire community feels the pain. With less tax revenue, local governments are unable to pay teachers and first responders. These hardships often lead to a rise in crime and drug abuse that troubles these communities. Moreover, the Obama administration's massive regulatory burdens were imposed during a period when production and supply of natural gas had

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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been high and its costs relatively low—a devastating one-two punch to families already struggling to make it.

To make matters worse, President Obama didn't stop with the CPP. He also sought to impose similar limitations on any new plants in an attempt to prevent them from being built at all. It is an equally concerning regulation and one that would have further devastated coal communities. I am glad President Trump will include it in his Executive order today.

Coal communities face enough challenges without Washington piling on more with these unfortunate attacks. Fortunately, we have a President who will work with us to provide much needed relief.

Today's Executive order is good news for coal communities. It is a victory for middle-class families and another important step away from the over-regulation of the Obama years.

We all want clean air and clean water, but that is not what President Obama's energy regulatory policies were actually about. It was an ideological vanity project. It wouldn't have even solved the problem it purported to address.

Now, fortunately, the EPA will have the opportunity to go back to the drawing board and get this right with balanced and serious policies. The EPA should work with stakeholders across the country to develop sensible policies that balance the economic needs of our communities with the realities of our environment. This way we can protect America's middle class, America's miners, and America's natural resources all at once.

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

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

NOMINATION OF NEIL GORSUCH

Mr. SCHUMER. Mr. President, first I will speak on the Supreme Court. Last Thursday, I announced my opposition to Judge Neil Gorsuch and endeavored to explain why, on the merits, I don't believe he deserves to be elevated to a lifetime appointment on the Supreme Court.

I listen to my friend, the distinguished majority leader, each morning. Since the beginning of this Congress, he has chalked up every Democratic request or objection in this body to "sour grapes," to some leftover resentment from the election. It is just not true, but he keeps trying. Now he is trying

the same strategy with Judge Gorsuch. He repeatedly cites a quote by a friend of the judge's who, of course, said "there is no principled reason" to oppose this nomination, so it must be politics, the majority leader concludes. I respectfully but wholeheartedly disagree with the majority leader on this point.

There are several principled reasons to oppose Judge Gorsuch's nomination.

First, Judge Gorsuch was unable to sufficiently convince me that he would be an independent check on a President who has shown almost no restraint from Executive overreach. He asserted independence but could not point to a single thing in his record to guarantee it.

He refused to publicly condemn what the President did when he went after the three-judge panel on the Ninth Circuit. He had a case before them, and the President said: If they don't decide my way, they will be guilty of terrorism. I have never seen anything like that in all my years of politics. Judge Gorsuch refused to publicly condemn. He said privately to different people that he was disheartened. When President Trump said: He didn't mean me, Judge Gorsuch shrugged his shoulders, going along with what the President said.

Second, he was unable to convince me that he would be a mainstream Justice who could rule free from the biases of politics and ideology. His career, his early writings, and his judicial record suggest not a neutral legal mind but instead someone with a deep-seated conservative ideology. He was championed by the Federalist Society and the Heritage Foundation and has not shown 1 inch of difference between his views and theirs. I would ask my colleagues this question: Are all these groups who are spending dark, secret, undisclosed money to support his nomination doing so because they just want a Justice on the Court who will "call balls and strikes"? I doubt it. Some here may agree with the Heritage Foundation, but they are not a mainstream organization. They are on the far right. That is their right to be. But their advocacy of Judge Gorsuch suggests he is not a "balls and strikes" guy.

Finally, Judge Gorsuch is someone who almost instinctively favors the powerful over the weak and corporations over working Americans. That is what his record shows. Judge Gorsuch repeatedly sided with insurance companies that wanted to deny disability benefits to employees, and in employment discrimination cases, he sided with employers the great majority of the time.

He wrote—in dissent—that trucking company executives were right to fire truckdriver Alphonse Maddin for leaving his trailer in order to save his life. And just last week, we saw another example of how extreme Judge Gorsuch's views are when the Supreme Court unanimously rebuked his interpreta-

tion of the Individuals with Disabilities Act. In the opinion of even Justice Thomas, the educational rights Judge Gorsuch would allow to disabled students under the law amount to no education at all.

Judge Gorsuch's opportunity to disabuse us of all of those objections was in the hearing process, but he declined to substantively answer question after question. Absent a real description of his judicial philosophy, all we have to go on is his record—a record that landed Judge Gorsuch on the lists of the conservative Federalist Society and Heritage Foundation. President Trump, of course, selected Judge Gorsuch off those preapproved conservative lists, as he promised he would during his campaign.

To claim, as the majority leader does, that Judge Gorsuch is simply a neutral judge is belied by his history since his college days, his own judicial record, and the manner of his selection.

These are principled reasons to oppose Judge Gorsuch, even if people on the other side disagree with them. We need a Justice who will be an independent check on the President. We need someone who will consider fairly the plight of average citizens, not further tip the scales of justice in favor of already powerful corporations. Judge Gorsuch—his record and his performance in the hearing—did nothing to show me he could be that kind of Justice.

So when Republicans said that if Democrats won't support Judge Gorsuch, we won't support any Republican-nominated judge, that is simply not true. It may be hard for us to support anyone from a list culled by the Federalist Society and the Heritage Foundation, but we have several reasons to be concerned with Judge Gorsuch specifically.

For all the hand-wringing by my friends on the other side of the aisle that they cannot imagine Democrats voting against Judge Gorsuch, I would like to remind them that only three—three—of the current Senators on the Republican side voted for either of President Obama's confirmed nominees, and all of them went along with my friend the majority leader's unprecedented plan to refuse President Obama's third nominee, Judge Garland, even a hearing or a vote for nearly a year.

Which brings us back to the present day, where we Democrats have participated in a fair, transparent, and thorough process of advice and consent. Now that the time to decide whether to provide consent approaches, we take that responsibility seriously. A lifetime appointment on the highest Court of the land is not something to be taken lightly.

To participate in hearings and a thorough process—something we were denied—does not mean you have to be a rubberstamp. After a thorough review of Judge Gorsuch's record, many of my colleagues and I have concluded we cannot consent.