crisis. Venezuelans are dying because of severe shortages of food and medicine and other products. The economy is in freefall, and crime and corruption are rampant.

Last year, 18,000 Venezuelans sought asylum in the United States—more than any other nationality. The United States stands clearly on the side of the Venezuelan people in calling on President Maduro to cease undermining democracy, release all political prisoners, respect the rule of law, and respect human rights.

There obviously is no sign that he is going to be doing this. What should we do? First of all, we ought to get our Secretary of State to work with the international community, including the Organization of American States, to help resolve this crisis and alleviate the suffering of the Venezuelan people.

That is the first order of business, to try to eliminate the suffering of people. It is all so true; whenever a dictator takes control, as has happened in Venezuela, it is the people who suffer first.

Additionally, I am suggesting and I am calling on the administration to fully enforce and, where appropriate, expand the sanctions on those responsible for continued violence and human rights violations that are perpetrated against the people.

It is very interesting. A lot of these so-called big guys in Venezuela love to travel. They love to have bank accounts. They love to come to Miami. They love to have U.S. bank accounts. Let's slap some severe economic sanctions on these guys. The situation is increasingly dire, and we must stand with the Venezuelan people in their struggle for democracy and human rights.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AFFORDABLE CARE ACT

Mr. NELSON. Mr. President, while we have a lull in the debate, I want to take an opportunity to talk about healthcare. Since we had an utter inability of the House of Representatives to come together on any kind of healthcare bill, this Senator would suggest that instead of the mantra ''repeal and replace,'' since now that seems to be dead, why don't we take the existing law that has provided a lot of things for the average citizen? For the average person in my State of Florida, it means a great deal to have the availability of health insurance, which they never had and can now afford.

There need to be fixes to the law known as the Affordable Care Act that was passed several years ago. Indeed, one of those fixes could be a kind of ''smoothing fund,'' that as the insurance companies vie for this business on the State exchanges, they would be able to have this fund as a resource for them to get over some of the humps—also, certainly for some of the insureds.

Just because you are at 400 percent of poverty and therefore no longer eligible for some of the subsidies to enable you to buy health insurance—and, by the way, for a single individual, that is only about $47,000 a year of income—the person who makes $47,000, $50,000 a year can't afford to go out and spend $8,000, $10,000, $11,000 on a health insurance policy.

We need to adjust that—in other words, fix that as well. There needs to be an additional fix of a subsidy for the people who are just over 400 percent of poverty. To translate that another way, for a family of four, that is only about $95,000 a year. On a tight budget like that, they simply can't afford health insurance. They need some help.

With a few little fixes like that to the existing law—the Affordable Care Act—we could get this thing tuned up and, indeed, continue to provide what we need in order for people to have healthcare.

One other fix: There are about 4 million people in the country who, if their State legislatures and their Governor would expand Medicaid—and some of those Governors are now expressing interest in doing this—under the Federal law up to 138 percent of poverty, 4 million more people would be covered with healthcare. In my State of Florida alone, there are 900,000 people who otherwise would be getting healthcare who do not because the government in the State of Florida has refused to expand Medicaid coverage up to 138 percent of poverty.

How much is that? For a single individual, that is someone making about $16,000 a year. A person like that can't afford health insurance. A person like that can't afford any kind of paying for any healthcare.

What happens to them? When they get sick, they wait and wait to try to cure themselves because they can't pay a doctor. When the sickness turns into an emergency, they end up in the emergency room and then, of course, it is uncompensated care and the hospital eats it. The hospital, of course, passes that uncompensated care on to all the rest of us who are paying our premiums on health insurance.

It makes sense to do this. With a few fixes, we would be able to tune up the existing law to provide the healthcare that most of us want to provide. It seems to me that it is common sense, and it is common sense that can be done in a bipartisan way. It is my hope and my prayer that the Senate and the House will come together and ultimately do this.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, the Senate has decided on a purely partisan basis to resolve the impasse of Judge Gorsuch's nomination by invoking the so-called ''nuclear option.'' For the first time in our history, nominees to the Supreme Court of the United States may advance from nomination to confirmation with a simple majority vote in this body.

I have heard many of my colleagues ascribe blame equally to both sides, and I have heard analysts and experts say the same. One can question that diagnosis, as some very respected scholars like Norm Ornstein of the American Enterprise Institute and Thomas Mann of the Brookings Institute have demonstrated that our political polarization over the last several years, and hence our current impasse, has been driven predominantly by the ever more conservative ideology of the Republican Party. Regardless, here we are.

The Gorsuch nomination lacks the traditional level of support required for a Supreme Court seat, and the majority leader has chosen a step that Democrats clearly and emphatically rejected when we needed to confirm nominees with broad support but were blocked because they were submitted by President Obama.

I had hoped it was not too late for cooler heads to prevail. Unfortunately, adherence to the principle of 60 votes for consideration of a Justice of the Supreme Court and indeed the existing rule in the Senate was ignored, and we are at this impasse.

Since many have drawn a false equivalence between the last so-called ''nuclear option'' vote of several years ago and what occurred today, let me take a moment to explain, for my part, why I very reluctantly supported a change to the Senate precedent for nominees other than the Supreme Court in 2013.

During President Obama's tenure, Republicans necessitated more cloture votes than were taken under every previous President combined. Let me repeat that. During President Obama's tenure, Republicans necessitated more cloture votes than were taken under every previous President combined, from George Washington to George W. Bush. In numerical terms, Republicans demanded a cloture vote 79 times over just 5 years. In contrast—from the Founding Fathers all the way through George W. Bush—the Senate only faced that situation 68 times. Republicans obstructed Obama nominees more in 5 years than the United States Senate obstructed all nominees combined over the course of more than two centuries.

The bitter irony, of course, was that after a nominee would break through, Republicans often would vote overwhelmingly to confirm the very nominee they so adamantly delayed. It was clear their sole guiding principle was obstruction and delay.

Judges nominated by President Obama faced some of the longest median and average wait times under the five most recent Presidents, and President Obama tied with President Clinton for the fewest number of circuit

court nominees confirmed during that same period. All that time, judicial vacancies stacked up. Justice was delayed and denied. Critical public service roles went unfilled, and the American public came to regard Congress as a place where nothing of substance can occur.

It was under those dire and unprecedented circumstances that I reluctantly joined my colleagues to change the filibuster rules for executive nominations and judicial nominations, other than the Supreme Court—very consciously excluding the Supreme Court, which at that time was recognized as appropriate by all my Republican colleagues. But there really is no equivalence between that decision and what the majority did today.

Even in 2013, at the height of Republicans' partisan attacks on President Obama, Senate Democrats believed the Supreme Court was too important to subject to a simple majority vote. The Supreme Court is a coordinate branch of our government, and its lifetime appointees have final authority to interpret the Constitution. We understood then—as we do now—that the traditional 60-vote threshold to conclude debate on the highest Court in our nation was too important to the consensus-driven character of this body to sacrifice.

I think we also have to acknowledge that a President already has nominated a consensus choice capable of earning 60 votes to a seat on the Court, and that nominee was Chief Judge Merrick Garland. The unprecedented treatment he received by the majority has already made this one of the most infamous and politicalized Supreme Court nominations in American history. It is all the more disconcerting that Judge Gorsuch witnessed Judge Garland be treated so poorly but now seems to feel entitled to his seat on the Court, even if the Senate must change its precedence to give it to him.

I already addressed this body about my deep concerns regarding Judge Gorsuch's judicial record of ideological activism and championing the powerful over the powerless, but it is worth going into greater detail on one of his opinions that is emblematic of this, and that has recently come to the fore.

In 2008, Judge Gorsuch heard what is referred to as the Luke P. Case. In that case, the parents of an autistic child sought reimbursement from a school district for the cost of specialized education because the school had not provided adequate accommodations for the child under the Individuals with Disabilities Education Act or IDEA. The case presented heart-wrenching facts that are too familiar for families affected by disabilities such as autism. The child, Luke, experienced severe behavioral issues in public and at home. His parents sought advice from the best sources available to create the most effective atmosphere for him to make progress in school. Ultimately, they recognized the public school Luke had attended could not provide the learning atmosphere required by the law for Luke. So they placed him in a different school setting.

Luke's parents exercised their rights under IDEA. The Colorado Department of Education, the Colorado Office of Administrative Courts, and a Federal district court all agreed that the law entitled them to reimbursement from the school district that was not able to provide an adequate learning environment for Luke. This should have been the end of the matter, but when the school district appealed the case to the Tenth Circuit, Judge Gorsuch's decision reversed all these factfinders to hold in favor of the school district.

In order to reach his conclusion, Judge Gorsuch went to great lengths—picking and choosing passages from previous decisions—to weave a new standard that essentially eviscerated the protections under IDEA. His strict interpretation of this landmark law utterly ignored congressional intent and created a new precedent that schools need only provide ''merely more than de minimis'' or, in plainer terms, just a little bit more than zero educational opportunity for children with disabilities. The immediate result of this decision was to force Luke back into an inadequate learning environment and leave his parents with yet another unexpected financial hardship. At the same time, Judge Gorsuch's new legal standard threatened to degrade the quality of education for children with disabilities all across the country.

The good news for Luke's family—and for so many others—is that the Supreme Court of the United States intervened in a rare unanimous opinion, reversing Judge Gorsuch's position—ironically during his confirmation hearings. The Nation has been spared the potential harm that could have resulted from lowering expectations for schools nationwide and leaving families like Luke's without sufficient recourse.

Yet as my colleagues and I have pointed out at every turn of this confirmation process, this is far from the only decision by Judge Gorsuch that is widely outside the mainstream of modern jurisprudence. He is not—and was never intended to be—a consensus nominee to fill the vacancy on the Supreme Court. It should not come as a surprise, therefore, that this body is divided over his nomination to the highest Court in the land, and Judge Gorsuch could not earn enough support under the 60-vote threshold.

The filibuster was intended to be an institutional safeguard that protects the minority by requiring broad consensus for major decisions by this body. It should be equally apparent in this circumstance that the filibuster did its job. A large minority of this body viewed Judge Gorsuch as too extreme for the Supreme Court, and that minority blocked cloture on his nomination. There was no national emergency, no danger, no serious consequence whatsoever that prevented the majority from reversing course and working with Democrats and the President to find a consensus nominee. In one day, the majority has lessened the distinction between our Chamber and our colleagues across the Capitol, all the while lowering ourselves further in the eyes of the Nation and opening the door to an even more polarized judiciary.

I regret that this is the case, and I hope this body can turn back from the course we find ourselves on today.

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. GRASSLEY. 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. GRASSLEY. Mr. President, we are now well on our way to confirming Judge Gorsuch as the next Justice of the Supreme Court. I have a few things to say about the way we have gotten here.

Earlier today, the other side—meaning the Democrats—made a very unprecedented break with Senate history and with Senate tradition. They launched the first partisan filibuster of a Supreme Court nominee in our Nation's history. For our part, we Republicans insisted that we follow the practice of the Senate. We don't engage in partisan filibusters of Supreme Court nominees.

Yesterday, I came to the floor to speak about the path that brought us to this point. As I discussed, way back in 2001, the current minority leader and some of his allies on the far left hatched a plan to, in their words, ''change the ground rules'' with regard to lower court nominees. I noted a New York Times article describing the Democratic senatorial caucus retreat, where the new approach to nominees was discussed; in other words, where they discussed the strategy for changing the ground rules of how judges are considered by the United States Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD the May 1, 2001, New York Times article entitled ''Washington talk; Democrats Readying for Judicial Fight,'' and the April 5, 2017, story from the Washington Examiner entitled ''The Gorsuch Plagiarism Story is Bogus.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 1, 2001]

WASHINGTON TALK; DEMOCRATS READYING FOR JUDICIAL FIGHT

(By Neil A. Lewis)

President Bush has yet to make his first nominee to a federal court and no one knows whether anyone will retire from the Supreme Court this summer, an event that would lead to a high-stakes confirmation battle.

Nonetheless, the Senate's Democrats and Republicans are already engaged in close-quarters combat over how to deal with the eventual nominees from the Bush White House. Democrats in particular are trying to show some muscle as they insist that they will not simply stand aside and confirm any nominees they deem right-wing ideologues.

''What we're trying to do is set the stage and make sure that both the White House and the Senate Republicans know that we expect to have significant input in the process,'' Senator Charles E. Schumer, New York's senior Democrat, said in an interview. ''We're simply not going to roll over.''

Forty-two of the Senate's 50 Democrats attended a private retreat this weekend in Farmington, Pa., where a principal topic was forging a unified party strategy to combat the White House on judicial nominees.

The senators listened to a panel composed of Prof. Laurence H. Tribe of Harvard Law School, Prof. Cass M. Sunstein of the University of Chicago Law School and Marcia R. Greenberger, the co-director of the National Women's Law Center, on the need to scrutinize judicial nominees more closely than ever. The panelists argued, said some people who were present, that the nation's courts were at a historic juncture because, they said, a band of conservative lawyers around Mr. Bush was planning to pack the courts with staunch conservatives.

''They said it was important for the Senate to change the ground rules and there was no obligation to confirm someone just because they are scholarly or erudite,'' a person who attended said.

Senator Tom Daschle of South Dakota, the Democratic leader, then exhorted his colleagues behind closed doors on Saturday morning to refrain from providing snap endorsements of any Bush nominee. One senior Democratic Senate staff aide who spoke on the condition of anonymity said that was because some people still remembered with annoyance the fact that two Democratic senators offered early words of praise for the nomination of Senator John Ashcroft to be attorney general.

Senators Robert G. Torricelli of New Jersey and Joseph R. Biden Jr. of Delaware initially praised the Ashcroft selection, impeding the early campaign against the nomination. Both eventually acceded to pressure and voted against the nomination.

The current partisan battle is over a parliamentary custom that Republicans are considering changing, which governs whether a senator may block or delay a nominee from his home state. Democrats and Republicans on the Judiciary Committee have not resolved their dispute over the ''blue-slip policy'' that allows senators to block a nominee by filing a blue slip with the committee.

On Friday, Senator Patrick J. Leahy of Vermont, the ranking Democrat on the Judiciary Committee, and Mr. Schumer sent a letter to the White House signed by all committee Democrats insisting on a greater role in selecting judges, especially given that the Senate is divided 50–50 and that the Republicans are the majority only because Vice President Dick Cheney is able to break any tie.

Senator Trent Lott of Mississippi, the Republican leader, told reporters today that he believed ''some consideration will be given to Democratic input, but I don't think they should expect to name judges from their state.''

Mr. Lott said he expected that Democrats might slow the process but, in the end, would not block any significant number of nominees.

Behind all the small-bore politics is the sweeping issue of the direction of the federal courts, especially the 13 circuit courts that increasingly have the final word on some of the most contentious social issues. How the federal bench is shaped in the next four or eight years, scholars say, could have a profound effect on issues like affirmative action, abortion rights and the lengths to which the government may go in aiding parochial schools.

Mr. Bush is expected to announce his first batch of judicial nominees in the next several days, and it is likely to include several staunch conservatives as well as some women and members of minorities, administration officials have said. Among those Mr. Bush may put forward to important federal appeals court positions are such conservatives as Jeffrey S. Sutton, Peter D. Keisler, Representative Christopher Cox of California and Miguel Estrada.

The first group of nominees, which may number more than two dozen, is part of an effort to fill the 94 vacancies on the federal bench while the Republicans still control the Senate.

But it remains unclear if there will be a Supreme Court vacancy at the end of the court's term in July. Speculation on possible retirements has focused on Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor and John Paul Stevens. But in recent days, associates of Justice O'Connor have signaled that she wants it known that she will not retire after this term.

[From the Washington Examiner, Apr. 5, 2017]

THAT GORSUCH PLAGIARISM STORY IS BOGUS

(By T. Becket Adams)

Supreme Court nominee Neil Gorsuch is not a plagiarist, according to the woman from whom he has been accused of lifting materials.

''I have reviewed both passages and do not see an issue here; even though the language is similar. These passages are factual, not analytical in nature, ''Abigail Lawlis Kuzma, who serves as chief counsel to the Consumer Protection Division of the Indiana Attorney General's office, said in a statement made available to the Washington Examiner.

Her remarks came soon after two reports alleged Tuesday evening that President Trump's Supreme Court nominee had ''copied' passages in his 2006 book, ''The Future of Assisted Suicide and Euthanasia.'' The reports alleged he also lifted material for an academic article published in 2000.

The charge, which involves Gorsuch repeating medical terms and not original concepts or ideas, is weak, at best.

''[The similar] passage are factual, not analytical in nature, framing both the technical legal and medical circumstances of the 'Baby/Infant Doe' case that occurred in 1982,'' Kuzma explained. ''Given that these passages both describe the basic facts of the case, it would have been awkward and difficult for Judge Gorsuch to have used different language.''

BuzzFeed was first to report on the similarities between Gorsuch and Kuzma. It published a story Tuesday headlined, ''A Short Section in Neil Gorsuch's 2006 Book Appears To Be Copied From A Law Review Article.

Politico followed suit publishing a story titled, ''Gorsuch's writings borrow from other authors.''

Other newsrooms, including the Huffington Post, Business Insider and New York magazine, moved quickly to repeat the charges against Gorsuch.

Politico bolstered its charge with quotes from multiple academic experts, including Syracuse University's Rebecca Moore Howard, who, interestingly enough, is quite open about supporting former President Barack Obama.

However, several professors who worked closely with Gorsuch during the period in which he produced much of the work in question said the hints and allegations against the judge are nonsense.

''[I]n my opinion, none of the allegations has any substance or justification,'' Oxford University's John Finnis said in a statement made available to the Examiner. ''In all four cases, Neil Gorsuch's writing and citing was easily and well within the proper and accepted standards of scholarly research and writing in the field of study in which he was working.''

Georgetown University's John Keown, who reviewed Gorsuch's dissertation, said elsewhere in a statement: ''The allegation is entirely without foundation. The book is meticulous in its citation of primary sources. The allegation that the book is guilty of plagiarism because it does not cite secondary sources which draw on those same primary sources is, frankly, absurd.

Indeed, the book's reliance on primary rather than secondary sources is one of its many strengths.''

Further, actual attorneys disagree that Gorsuch plagiarized anything.

''People unfamiliar with legal writing, or even writing, may be unfamiliar with how citations work,'' Attorney Thomas Crown explained Wednesday.'' When I cite to a case or statute, if I am quoting verbatim, I give a direct quotation, with apostrophes and everything, and then the source. If I am summarizing, sometimes even using the same words, I follow with the direct citation. The Bluebook, which is the legal style Bible, is for law reviews and some appellate and trial courts, and has more specific rules.

''I mention this because this is standard across numerous fields, not just law, and only illiterates . . . are shocked,'' he added. ''Different field with different standards and forms; but even most academics believe that a good synopsis with citation isn't plagiarism.''

In conclusion, he wrote, ''I don't want to ruin a perfectly good five-minute hate, but this isn't even close to plagiarism.''

Mr. GRASSLEY. After a brief time in the majority, Senate Democrats were back in the minority in 2003—so approximately 2 years after they had this strategy. It was at that time the Senate Democrats began an unprecedented and systemic filibuster of President George W. Bush's circuit court nominees.

Then the tables turned. President Obama was elected, and Republicans held the Senate minority. At that time, even though many of us did not like the idea of using the filibuster on judicial nominees, we also recognized that we could not have two sets of rules—one for Republican Presidents and one for Democratic Presidents.

Our party defeated two nominees for the lower courts by filibuster and denied cloture to three of President Obama's nominees to the DC Circuit Court of Appeals. But the other side did not appreciate being subject to the rules that they first established and started using in 2003 to filibuster judges. So at that point, in 2013, they decided to change the rules of the Senate.

By the way, they changed the rules by breaking the rules. I say that because the rules of the Senate say it takes a two-thirds vote to change the

rules of the Senate, but they changed it by a majority vote. Now at that time, as we all know, Majority Leader Reid changed the rules for all Cabinet nominations and lower court nominees. To say that my colleagues and I were disappointed is a gross understatement.

The majority claimed that they left intact the filibuster for Supreme Court nominees. But my view back in 2013, when they did that, was that the distinction Majority Leader Reid drew between lower court nominees and Supreme Court nominees was not a meaningful one. My view, in 2013, was that Majority Leader Reid had effectively eliminated the filibuster for both lower court nominees and the Supreme Court.

Here is the reason. There are two circumstances where this issue might conceivably arise: either you have a Democrat in the White House and a Democrat-controlled Senate or you have a Republican in the White House and a Republican-led Senate.

In the first, there was a Democrat in the White House and the party led by Leader Reid and Leader-in-Waiting SCHUMER was in the majority. If for some extraordinary reason Senate Republicans chose to filibuster the nominee, there is no question that a Majority Leader Reid or a Majority Leader SCHUMER would change the rules.

Now, I do not believe that this particular circumstance would ever arise, because our side does not believe in filibustering Supreme Court nominees. I have never voted to filibuster a Supreme Court nominee, not once. I think I have a pretty good sense of the rest of our caucus. Our side just does not believe in it. It is not much more complicated than that simple commonsense statement I just made.

Of course, even if for some extraordinary reason our side did choose to filibuster a Supreme Court nominee, we do not have to speculate as to whether the other side would have changed the precedent with respect to the Supreme Court. Last year, when everyone thought that Secretary Clinton was going to win the election, their own Vice-Presidential candidate said that they would change the rules if they needed to if we had a Republican filibuster.

Then, of course, the other circumstance where this issue would arise is what we have seen this very day—a Republican in the White House and a Republican-controlled Senate. We saw this very day that the minority was willing to take that last step and engage in the first partisan filibuster in U.S. history.

As I have repeatedly discussed, because they were willing to do it with a nominee as well-qualified as Judge Gorsuch, it proved, without a shadow of a doubt, that they would filibuster any one submitted by this Republican President. That is why, on the day that Majority Leader Reid took that unprecedented action in 2013 to break the Senate rules to change the Senate rules, I spoke on the floor.

I concluded my remarks this way. So I want to quote myself:

> So the majority has chosen to take us down this path. The silver lining is that there will come a day when the rolls are reversed. When that happens, our side will likely nominate and confirm lower court and Supreme Court nominees with 51 votes, regardless of whether the Democrats actually buy into this fanciful notion that they can demolish the filibuster on the lower court nominees and still preserve it for the Supreme Court nominees.

That is what I said when Reid took that extraordinary step. So though I am extremely pleased that we will confirm such an exceptional nominee to the Supreme Court in the next day or so, I am, of course, disappointed with what we were forced to do to get it done. Sadly, I cannot say I am surprised. I think my surprise, or the fact that I can't be surprised—you can tell it from what I said back there, what I just quoted from the 2013 speech that I gave.

I knew when Majority Leader Reid did it in 2013 that this is where we were headed. That is where we ended earlier this afternoon. But the bottom line is that you cannot have two sets of rules. You cannot clothe yourself in the tradition of a filibuster while simultaneously conducting the very first partisan filibuster of a Supreme Court nominee in history. You cannot demand a rules change only when it suits the Democratic Members of this body.

You just can't have it both ways. You can't use the Senate rules as both a shield and a sword. But I must say, the one thing that does not disappoint me is this: The nominee to take Justice Scalia's seat is eminently qualified. He will apply the law faithfully without respect to persons. He is a judge's judge. Come some time tomorrow, we will all start calling him Justice Gorsuch.

I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. WICKER. 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. WICKER. Mr. President, I rise to express my strong support for Judge Neil Gorsuch, to say that I will proudly vote in favor of his confirmation tomorrow, and to express my confidence that history will judge this nominee to be an outstanding Associate Justice of the Supreme Court. I hope he serves a long and distinguished career and believe he will. I think Justice Neil Gorsuch will turn out to be a credit to the Supreme Court, to the President who nominated him, and to the Senate that will confirm him tomorrow.

It is unfortunate that we have had quite a bit of discussion about procedure and the process that has gotten us to this vote, which will take place tomorrow afternoon.

I had a conversation with one of my Democratic colleagues yesterday afternoon as we were leaving the Capitol Building. This is a person with whom I have worked on issues and for whom I have great regard. I asked him how he was doing, and he said: Well, OK. I am just getting ready for the United States Senate to be forever changed.

I paused for a moment, and I said: How can it be that two reasonably intelligent Senators of good will can look at the same factual situation and see it so differently? I think my colleague did agree that, indeed, the situation we have is what has led us to our proceedings today.

I do believe my colleagues on the other side of the procedural issues today are people of good will who are trying to do the right thing by their country on this issue, just as I have been.

Let's look first of all at the candidate himself, and then I might take a moment or two to talk about what we have already done. That decision has been made. Let's talk about Neil Gorsuch, about this outstanding future Supreme Court Justice who I believe will be sworn in tomorrow or the next day.

Is Neil Gorsuch qualified? Really, can anyone contest that he is highly qualified? He is perhaps one of the most qualified people ever to have been nominated by a President for the High Court. He has degrees from Columbia, Harvard Law, and Oxford University. He has received the American Bar Association's highest rating, the gold standard that we look at when it comes to judging nominees for the Federal bench up to and including the High Court. He served for 10 years with distinction on the Tenth Circuit Court of Appeals. Clearly, he has got the qualifications, and clearly, he is among that group of qualified individuals that the President promised to look at back during the campaign and promised to send that type of individual over to the Supreme Court. I really don't think there is much that can be said to contradict the fact that Neil Gorsuch is qualified and highly qualified.

So now let's ask if Neil Gorsuch is somehow out of the broad judicial mainstream. Again, I think it is clear that, based on his history, based on his testimony, and based on his rulings up until now, he is part of the broad judicial mainstream that will put him in good company on the Supreme Court and makes him a worthy successor to Justice Scalia.

First of all, he has earned the praise of both conservatives and liberals. He has even won the endorsement of President Obama's former Acting Solicitor General, who wrote in the New York Times, ''If the Senate is to confirm anyone, Judge Gorsuch who sits on the U.S. Court of Appeals for the Tenth Circuit in Denver should be at the top of the list.'' So thank you to the

former Acting Solicitor General for going beyond ideology and political philosophy and saying a true statement that Judge Gorsuch is outstanding and should be at the top of the list.

Editorial boards across the country have touted Judge Gorsuch's credentials and temperament. The Denver Post, his hometown newspaper, wrote an editorial praising his ability to apply the law fairly and consistently. Of course, there has been newspaper after newspaper from the right and left across this country who come down on this side of the issue saying that Judge Gorsuch should be confirmed.

Let's look also—and this has been pointed out so often that you wonder if you should say it again, but Judge Gorsuch on the Tenth Circuit has participated in 2,700 cases, he has written over 800 opinions, and has been overruled by the Supreme Court one time. Is this a judicial radical? I think not.

I think this is someone who is demonstrated to be in the judicial mainstream—one reversal by the Supreme Court out of 800 written decisions and 2,700 votes cast on panels with the Tenth Circuit. He has almost always been in the majority some 99 percent of the panels he served on, he was in the majority of those opinions, and 97 percent of those decisions were unanimous. This is hardly some radical pick as some might have suggested.

Has the process been unfair? We have heard a lot about this. A lot of my dear friends on the other side of the aisle feel aggrieved for sure. They feel that Judge Garland, the nominee of President Obama in 2016, was treated unfairly. I would simply make this observation, and the American public can decide if this was unfair.

This is a vacancy that came up during a heated, hotly contested Presidential year. There is really no doubt that, under similar circumstances, had the roles been reversed and had a Republican tried to nominate a nominee in the last year of his 8-year term, that a Democrat majority in the Senate would have done exactly as we did.

I am not guessing when I say this because the Democratic leaders of previous years have said as much. No less than Joe Biden—who was a former chairman of the Judiciary Committee and later on became Vice President for 8 years—no less than Joe Biden said exactly the same. It almost became the Biden rule. Republican Presidential nominees taken up during the final year of a term will not be considered by a Democratic Senate. So the shoe was on the other foot, and we acted the same.

So we will leave it up to the American people to decide whether Judge Garland was treated unfairly. I do not believe he was. As a matter of fact, I felt very comfortable during 2016 saying that who fills a Supreme Court seat is so important, such a significant and long-lasting decision, that the American people deserve to be heard on this issue. I felt comfortable making the Presidential election largely about what the Supreme Court would look like over the coming years.

There is no question about it, the American people got to decide in November of 2016 whether they would like a judge in the mold of Justice Scalia whose seat we were trying to fill or would they like a judge in the mold of Judge Garland who President Obama was seeking to put in place. So I make no apology for saying to the American people, You get to decide in this Presidential year what sort of Supreme Court you want. The American people made that decision, and I am comfortable with that.

I was asked today by several members of the press about the change in the rules that I voted for today. It is not a situation that makes me overly joyed. It is not my idea of a good time to overrule a precedent and to substitute another one in its place. You would rather not do that if you are a U.S. Senator; but the fact is that it puts us back into a place that we were for 200 years in this Republic.

From the beginning of this Senate, 1789 through 1889, through 1989, up to and including 2003, there was no filibuster at all on Supreme Court Justices. There was no partisan filibuster at all in Supreme Court Justices, and no judge had ever been denied his position because of a partisan filibuster at any level—Federal judge, circuit level, or Supreme Court.

That changed in 2003, and with the Miguel Estrada nomination, our Democrat friends stopped a qualified judge from going on the Federal appeals court. That was the beginning of an unfortunate 14-year experiment in judicial filibusters. It is not a filibuster that I think—it is not a precedent or experiment that I think this Senate can be very proud of, but it took place over a relatively short period of time over 14 years, and it ends it today.

As of today, the U.S. Senate is back where it was for over 200 years in the history of this Senate and the history of our Republic without the ability to stop a judge on a partisan filibuster. In fact, this fact cannot be contradicted. There has never been in the history of our country, even in this past decade and a half of having the possibilities of a Supreme Court filibuster, there has never been a Supreme Court nominee in the history of our republic stopped by a partisan filibuster.

Today that 225-year or so precedent would have ended had we not acted to change the rules back to where we are back to fundamental principles. I was not willing to see Judge Neil Gorsuch be that first nominee stopped by a partisan filibuster in the history of our country. I was simply not willing to do that.

We now must proceed to the rest of our business. We will confirm Judge Gorsuch tomorrow. I think he will serve well. Then we have work to do. We have other nominees to consider, and then we've got an agenda that we need to tend to for our people.

I am encouraged by the exchange of the first early steps of goodwill after this divisive process. Indeed, there was an article in one of our publications today that talked about a healthy feeling now in both caucuses, that we have got to put this procedural episode behind us, this crisis behind us and legislate.

I am glad to hear that sort of bipartisan talk coming from the other side of the aisle. Another of my friends across the aisle said, ''We're not looking for dilatory procedures,'' he said. ''When there are things where we can work together, we're looking for that.''

I am encouraged—even encouraged that my friend who I was talking to yesterday afternoon will conclude that we have not forever changed the Senate in a negative way, that we are, in fact, back to where we were before 2003 and getting things done.

In the end, this is about an individual who is qualified. It is about a vacancy that needs to be filled. I for one am highly comfortable that the President, in Neil Gorsuch, has put forth an outstanding, eminently qualified judge and that he will serve us well. My vote tomorrow in favor of confirmation will be cast enthusiastically and proudly, and I think that it will stand the test of time.

I thank the Presiding Officer very much, and at this time, I yield the floor.

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. RUBIO. 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. RUBIO. Mr. President, tomorrow morning or tomorrow afternoon at some point, we will, I believe, vote to confirm Judge Gorsuch to be a Justice to the U.S. Supreme Court. There is so much that has been said about him and his qualifications. I have been listening to the speeches all week. Even headed to the committee hearing, I think so much had been said about him. This is a mainstream candidate. This is a mainstream judge. He is someone who voted with the majority 99 percent of the time during his time on the bench. He is someone who 97 percent of the time, in 2,700 cases, was a part of rulings that were unanimous. He most certainly, I believe, is someone who believes the Constitution should be interpreted according to its original intent of the writers, but he is certainly not someone outside the mainstream of American legal thinking, and he is certainly eminently qualified. It is interesting in that you see a broad array of individuals come forward and talk about his qualifications.

I also thought it was interesting that there really was no coherent reason for

opposing him. There are a lot of different opinions on the floor that claim he would not commit to certain decisions that people would like to see him make on the Court. That would be true of virtually everyone who has been nominated to the Court over the last quarter century.

There is no doubt that he is someone who has certain beliefs and views about the Constitution that are reflective of the President's party, but that is what elections are about. Obviously, the great people whom President Obama appointed reflected his thinking. That is our system.

A lot of the attention, though, in this debate has been about the process that brought us here. There has been tremendous consternation about the change that no longer would there be a requirement of 60 votes in order to end debate. I think a lot of people have a fundamental misunderstanding of what has happened and how we have gotten here, and I thought it was important for the people of Florida and others who may be interested to know how I approached it, because it was something that I am not excited about or gleeful about or happy about. I would say that is probably the sentiment of most of the people here in the Senate. Yet it happened anyway.

I saw a cartoon by one of these editorial cartoonists; I am not quite sure who it was. It had this picture of both sides basically saying: This is terrible, but we are going to do it anyway.

I think it is important to understand, first and foremost, about the Senate. It is unique. There is no other legislative body like it in the world. Unlike most legislative institutions, it does not function by majority rule. It actually requires a supermajority to move forward. That was by design; it was not an accident.

The people—the Founders, the Framers—created a system of government in which they wanted one branch of the legislature to be very vibrant, active, representative of the people. They represent districts, and they have 2-year terms. Then they created another Chamber which was different in nature. At the time, the U.S. Senate was designed, first of all, to represent the States. Where the House was the people's House, the Senate was the place the States were represented.

The other thing they wanted to design was a place that was at some level possibly immune from the passions of the moment. They wanted a place where things would slow down for a moment, where we would take a deep breath and make sure we were doing the right thing. It was a wise course.

Our Republic is not perfect, but it has survived for over two centuries. In the process, it has given us the most dynamic, most vibrant, and, I believe, the most exceptional Nation in all of human history. While not perfect, the Senate has been a big part of that endeavor.

By the way, at the time, Senators were elected by the legislature; they were not even elected by people. Of course, that changed. I am not saying we should go back, but that is the way it was.

That Senate was also unique because it had this tradition of unlimited debate. When a Senator got up to speak, they got to debate as long as they wanted, and no one could stop them. Then, at some point, that began to get a little bit abused, so they created a rule that required a supermajority, and that supermajority was further watered down. Then we arrive here, over the last 4 years, to see what has happened.

Basically, what happens now is that there are two ways to stop debate, which is as a result of a procedure that was undertaken on the floor first by Senator Reid when he was the majority leader and now by the majority leader today on what is called the Executive Calendar, where there are nominations for the Cabinet, Ambassadors, the sub-Cabinet, courts, and now the Supreme Court. No. 1 is by unanimous consent, when everybody agrees to it, or, No. 2, through 51 votes, a majority vote.

I think that is problematic in the long term, not because of Judge Neil Gorsuch, for I believe that in any other era and at any other time, he would not have just gotten 60 votes or even unanimous consent to stop debate; I think he would have gotten 60-plus votes, maybe 70 votes, to be on the Court. I think it is problematic because we do not know who is going to be the President in 15 years or what will be the state of our country. Yet, by a simple majority, without talking to a single person or getting a single vote from the other party or the other point of view, they are going to be able to nominate and confirm and place someone on the bench of the Supreme Court—to a lifetime appointment to a coequal branch of government—without even consulting with the other side. I think, long term, that is problematic—in the case of Neil Gorsuch, not so much, but for the future of our country, I think it could be problematic.

The argument has been made that this has never been used before, so all of the stuff brings us back to where we once were. I think technically that is accurate, but this is not exactly where we once were. Where we once were was that there were people who worked here who understood they had the power to do this. They got it. They understood that if they had wanted to, they could have forced the 60 votes. They understood they had the power to do it, but they chose not to exercise it. They chose to be judicious because they understood that with the power, there comes not just the power to act but sometimes the power not to act, to be responsible, to reserve certain powers for extraordinary moments when it truly is required. And over the years, it has been abused.

This is not going to be a speech where I stand up here and say that this is all on the Democrats, although I most certainly have had quarrels over some of the decisions that have been made by the other side of the aisle. I think it is a moment to be honest and say that we all have brought us here to this point, both sides, and it has required us to do this.

The reason I was ultimately able to vote for the change today is that I am convinced that no matter who would have won the Presidential election and no matter which party would have controlled this Chamber, that vote was going to happen. Both sides were going to do this because we have reached a point in our politics in America where what used to be done is no longer possible, and that has ultimately found its way onto the floor of the U.S. Senate.

Rules are rules, and ultimately the Republic will survive the change we have seen here today. I think the more troubling aspects are the things that have brought us to this point.

A couple of days ago, while at a lunch with my colleagues, I said that one of the things, I think, we are going to have to accept is that, quite frankly, the men and women who served in this Chamber before us—20, 30 years ago—were just better than we are. They were human beings who, quite frankly, had deeply held beliefs. I do not know of any Member of this Chamber who was more conservative than Barry Goldwater or Jesse Helms. I do not know any Member of this Chamber who was more progressive or liberal than Hubert Humphrey or Ted Kennedy or others. Yet somehow, despite their deeply held principles, these individuals were able to work together to prevent what happened here today.

The fact is, for both sides, that is not possible anymore. Today, our politics require us to use every measure possible, even if it is for symbolic purposes. That is just the way it is. That is more of a reflection of our political process than it is of the Senate.

I have seen these articles that have been written of ''the end of the Senate'' or ''the death of the Senate.'' It is a little bit of an exaggeration, but I think it is actually just reflective of the fact that this is the way politics has become, that as a nation today, we are less than ever capable of conducting a serious debate about major issues in the way we once were able to do. I think everyone is to blame.

I think the way politics is covered is to blame. Today, most articles on the issues before us are not about the issues before us; they are about the politics of the issues before us. Today, most of the work that is done in this Chamber and in the other Chamber has more to do with the messaging behind it than it does with the end result of where it will lead us. That is just the honest fact.

Before people start writing or blogging: Well, look at all of these other times when the Senator from Florida—when I did some of these things—I admit it. I do not think there

is a single person here with clean hands on any of this. I admit that I have been involved in efforts that, looking back on some of these things, perhaps, if we knew then what we know now, we would have done differently. I think it is important in life to recognize and learn from those experiences and to adapt them to the moment before us.

I think, moving forward, the biggest challenge we will face in the country is that our issues are not going to solve themselves. They will require people from very different States, very different backgrounds, and very different points of view to be able to come together and solve some pretty big deals. It is ultimately not about silencing people or having them compromise their principles but about acknowledging that in our system of government, we have no choice but to do so. We have no choice.

I think it also requires us to take a step back and understand that the people who have a different point of view than ours actually believe what they are saying. They hold it deep, and they represent people who believe what they are saying. I say this as someone who will admit that, in my time of public service, perhaps I have not always applied that as much as I wish I had. I try to. You certainly live and learn when you get to travel the country and meet as many people as I did over the last couple of years. I certainly think that impacts us profoundly.

I have a deeply held belief in limited government and free enterprise and a strong national defense and the core principles that define someone as a conservative. But I have also grown to appreciate and understand the people who share a different point of view—perhaps not as much as I hope to one day be able to understand and respect it, but certainly more than I once did, simply because the more people you meet, the more you learn about them, and the more you learn and understand where they are coming from.

Are we capable as a society to once again return to a moment where people who have different ideas can somehow try to figure out how to make things better, even if the solutions are not perfect? I hope so, because the fate of the most important country in human history is at stake. Are we capable of once again having debates, not that aren't vibrant and not that from time to time people may say things or even do things that they may regret, but certainly ones that at the end of the day are constructed for the purpose of solving a problem, not winning an election. I hope so, because if we don't, we will have to explain to our children why we inherited the greatest country in human history and they inherited one that is in decline.

I don't mean to exaggerate, because ultimately this is a rule change. We don't vote on the Supreme Court every day, every week, every month. Sometimes we don't vote on it for long periods of time. But I think it exposes a more fundamental challenge that we face today in American politics, and that we better confront sooner rather than later, and that we should all confront with the understanding and the knowledge that none of us come to it with clean hands.

We were reminded again this week by the images that emerged from Syria of what a dangerous world we live in, and we are reminded that the threats remain.

I ask people tonight—no matter who you write for, who you blog for, what political party you are a member of, or whom you vote for in November—to ask yourself a question and to be honest about the answer. If, God forbid—and I mean this, God forbid—there were another 9/11-style attack on the United States, how would we honestly react? Because September 11 was a scary day, and on that day I remember there weren't Democrats or Republicans. Everyone was equally frightened and everyone was equally angered. There was a sense of unity and purpose that we had not seen in a long time and have not seen since.

I honestly believe, sadly, that if today there were another 9/11-style attack on America, one of the first things we would see people doing is blaming each other, saying whose fault it was. You will have some people saying: Well, this terrorist attack happened because President Obama didn't do enough to defeat the terrorists. And others would say: It happened because the Republicans and the new President, President Trump, has not done enough, or has done things to provoke them. I honestly believe that. I think that is what the debate would look like. I hope I am wrong.

Just think about how far we have come in almost 20 years, 15 years. That is the kind of debate I believe we would have. Think about how destructive that is.

I also think we would see a plethora of crazy, fake stories about what was behind it. And here is the craziest part: Some very smart and educated people would believe those stories because we have reached the point now where conspiracies are more interesting than facts.

I know that people may see this and say: Oh, I think you are exaggerating. Maybe, I hope so. But I honestly think that we are headed in a direction that is actually making us—not us the Senate, but us, Americans—incapable of confronting problems.

I will just say this. What I really hope will happen soon is that we are going to get tired of fighting with other Americans all the time, that we will finally get fatigued with all of this constant fighting against other Americans. Americans are not your enemies. Quite frankly, I hope we have no enemies anywhere in the world, other than vicious leaders, and we hope to be a part of seeing taken them out of power at some point for the horrible things they do. I hope we will reach a point where people are saying, I am just tired of constantly fighting with other Americans. We will have differences and we will debate them. Thank God that we have been given a republic where we have elections every 2 years and where we can have these debates. But, in the interim, whether we like it or not, none of us is going anywhere.

The vast and overwhelming of majority of Americans will live in this country for the rest of their lives. This is their home and this is their country. We are going to have to figure out how to share and work together in this unique piece of land that we have been blessed with the opportunity to call home. If we don't figure out a way to do that soon enough, then many of these issues that confront America will go unsolved, and not only will our people pay a price and our children pay a price, but the world will pay a price.

So I know that is a lot to say about a topic as simple as a rule change and ultimately a vote for the Supreme Court, but I really think it exposed something deeper about American politics that we had better confront sooner rather than later, or we will all live to regret what it leads to, and that is the decline of the single greatest Nation in all of human history.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

CONGRATULATING THE UNIVERSITY OF SOUTH CAROLINA WOMEN'S BASKETBALL TEAM ON WINNING THE NATIONAL BASKETBALL CHAMPIONSHIP

Mr. GRAHAM. Mr. President, on a more upbeat note, the lady Gamecocks are national champions.

On April 2, this past Sunday, the University of South Carolina women's basketball team beat Mississippi State 67 to 55 to end a magical season and become the national champions.

This is a magical year for the State of South Carolina. We have the Clemson Tigers, who are the national football champs. Coastal Carolina University is the College World Series title holder for baseball. Now we have the lady Gamecocks as the national champs and in women's basketball. Dustin Johnson is the No. 1 golfer in America, who hurt his back today and had to withdraw from the Masters. So that was bad.

This was a great year. I went to the University of South Carolina. I still have 4 years of eligibility in all sports for a reason: I was no good. My colleague who is here actually played college football, and we are both Gamecocks fans.

Coach Dawn Staley came to South Carolina in 2008. She has been on three gold medal national championship teams as a player. She is now in the Hall of Fame for basketball and is one of two African-American female head coaches to win the national title in women's basketball. She is the real deal. She is a wonderful lady.

A'ja Wilson, our dominating junior forward, was the MVP for the Final

Four and SEC player of the year, and first team All American. All the girls played really, really hard.

The men's basketball team made it to the Final Four and lost in a very tough contest. I could not be more proud of the University of South Carolina men's basketball team.

Frank Martin, the men's basketball coach, is the National Coach of the Year.

This is a special time in South Carolina. If you are a Gamecocks fan, you have been long suffering for a while, and our ship finally came in.

So congratulations to the lady Gamecocks. I can't wait until next year. We always say that with a sense of dread, but I can't wait until next year for South Carolina, Clemson, and every other sports team in South Carolina. We are doing something right. I don't know what it is, but we are all grateful in South Carolina.

I yield to my colleague, who actually played college football, and I don't think he has any eligibility left because he was good.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. SCOTT. Mr. President, just in the very few spaces that are left after we finish chatting about our great State and the great season our school had, there are two things I want to note. No. 1, Coach Frank Martin: coach of the year, a fantastic person, a great communicator, a strong, disciplined coach. It is very hard to misunderstand what he is saying.

Coach Staley: Absolutely, positively, unequivocally the best women's basketball coach, in my opinion, ever, against UCONN—ever. Dawn Staley, 20 years ago, came within a single point of winning a national championship as a player. Can you just imagine being a single point short? And this must feel like redemption for our coach.

We are so proud of the fact that both of our coaches are producing student athletes, learning academically, striving on courts but prepared for life, for living. So we are excited about that.

I want to note as well that there have only been 10 times in NCAA history—10 times—that both the women's and the men's basketball teams from the same school were in the Final Four at the same time.

It is a good time to be a South Carolinian.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Mr. President, I have a question for the Senator from South Carolina. It is very important.

Is the Senator aware that Frank Martin, an incredible coach for the men's basketball team is from Miami, FL?

Mr. SCOTT. I am aware of that. And that is relevant to you how?

Mr. RUBIO. I just wanted you to know.

Mr. SCOTT. Will the Senator yield for a question?

Mr. RUBIO. I will.

Mr. SCOTT. What State are you from, sir?

Mr. RUBIO. Florida.

Mr. SCOTT. In what part of Florida were you born and raised?

Mr. RUBIO. South Florida.

Mr. SCOTT. Have you had any relationship with the coach before, Senator?

Mr. RUBIO. I have. Coach Martin is a good friend, and I think a testament to how much Florida has to contribute to South Carolina.

Mr. SCOTT. Having been there when you were in South Florida, I would say we made a big contribution to you too.

Mr. RUBIO. I would say to the Senator from South Carolina, South Carolina has gotten better results for Frank Martin than it did for me. But we are very proud of Coach Martin. I would just add that, given the litany of athletic success this year by the State of South Carolina, I find that to be highly suspicious. I know I just spoke about conspiracy theories, but statistically, it is very unlikely that a State would have that many championships. I am not calling for a congressional inquiry, but I think it is an interesting topic of conversation.

Mr. SCOTT. Mr. President, if my colleague will yield, I would note that Senator GRAHAM did have clarity in his purpose of identifying the fact that the State has only 4.7 million people in a country of 330 million people, and we have been able to secure the No. 1 golfer, that is true; the No. 1 baseball team, that is true; and the No. 1 football team in all of the Nation, Clemson University, that is true; and now the women's basketball champions, and that is true as well. However, I would point out that we were able to show you a wonderful experience as well in the State of South Carolina, and I hope that one day when you retire from politics, you and your lovely wife will join us and become a South Carolinian yourself. Perhaps then, and only then, will you be a successful football coach. You have a promising career in politics, but I know that you love and have passion for football, and perhaps when you retire, you too will be a national champion football coach.

Mr. RUBIO. That is highly unlikely. But in all seriousness——

Mr. SCOTT. I am serious——

Mr. RUBIO. I do want to restate that Frank Martin is really an extraordinary person. Much more, Senator SCOTT and I both had a chance to interact with him on a number of occasions. I don't mean to single them out among all of the other suspicious athletic accomplishments in South Carolina that are certainly worth noting, but I would say, with Frank, one of the things that really impresses me is not what he does with these young men on the court but the kind of influence he is in their lives off the court and the impact he has.

He was a high school coach in Miami and won State championships there. He comes from a hard-working family of Cuban exiles who made their home in South Florida. So we are very, very proud of what he has achieved. But what I am most proud of is the way Coach Martin has been able to influence those young men.

He did defeat the Florida Gators to make it to the final four, and I was not happy about that. But I would say this—and I have said it to others—if the Florida Gators had to lose, I would want it to be to Frank Martin because of the extraordinary work he does. So I can't wait to see which Florida university hires him away.

Thank you.

Mr. SCOTT. Before Senator RUBIO walks off the floor, having had the opportunity to listen to him over a number of years, he is eloquent. He is inspiring. Sometimes he is just dead wrong. Coach Martin will be staying at the University of South Carolina, without any question at all.

Let me put the suspicions to rest. The reality of it is that good teams are made up of good recruiting. The fact that we have great recruiters in the State of South Carolina is indicative of the fact that we have a lot of titles in our State.

So I will be praying for the Senator's State to succeed during the hurricane season, without any question, and to be consistently behind the State of South Carolina in every athletic event in which we have a competition, wherever there is a competition.

Mr. RUBIO. I was going to say, I am not going to invoke that rule.

Mr. SCOTT. Rule XIX.

Mr. RUBIO. I think it is a good opportunity to say nothing—but congratulations, and we will be back.

Mr. SCOTT. In a decade. Thank you.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. LANKFORD. Mr. President, I have listened over the last several weeks to accusations and a type of smear campaign, quite frankly, of a good judge and a good man: Neil Gorsuch.

It is remarkable to me to see that the debate has become more about character destruction than it has been about policy differences. I understand there are policy differences, but why does it have to come to this?

In the past few weeks, I have heard on this floor that Neil Gorsuch shouldn't be a Justice on the Supreme Court because he has no independence from President Trump.

No. 2, I have heard he was handpicked by far right groups like the Federalist Society, a group of legal minds committed to the original interpretation of the Constitution—clearly, a scandalous group of radicals.

I have heard that Judge Gorsuch supports torture, he is against privacy, he hates truckers, he will step on the little guy, he will help only big corporations, he is just not mainstream, and I have heard that he shouldn't be selected because he was not approved first by the Democratic Senate leadership.

All of these reasons have been given for a historic change in Senate tradition not to give a Supreme Court Justice an up-or-down vote. Block him on a procedural motion; for the first time ever, block a Supreme Court Justice on a procedural motion with a partisan vote.

Let me take these one at a time as I walk through this.

No. 1, I heard constantly that he is not independent enough from President Trump. As far as I know, he had never even met President Trump before. This didn't seem to be a standard, to be independent from the current sitting President.

Let me give an example: Justice Elena Kagan, who is clearly qualified as a legal mind, but I would say Republicans have serious policy differences with her. Justice Kagan was allowed to have an up-or-down vote. This body did not have a standard that they had to be independent from the President. If they had a standard like that, Justice Kagan would have never been on the bench. Why do I say that?

On May 10, 2010, President Obama nominated Elena Kagan to be an Associate Justice of the Supreme Court. From 1997 to 1999, she served as Deputy Assistant to the President for Domestic Policy and was Deputy Director of the Domestic Policy Council for President Clinton. In 2009, she was confirmed Solicitor General of the United States for President Obama. She worked for President Obama in the Obama White House as his Solicitor General and then was taken directly out of the White House and put on the Supreme Court.

I would say that is not independent from the President. So this mythological new standard that any Court Justice nominee needs to be independent from the President clearly wasn't in place when Elena Kagan was being heard.

It is also interesting to me that one of the most talked about decisions from Judge Gorsuch was a Chevron decision that he put out. The whole crux of that decision was the independence of the executive branch, the legislative branch, and the judicial branch. Let me just read a few paragraphs from the decision he wrote. He wrote this:

> For whatever the agency may be doing under Chevron, the problem remains that courts are not fulfilling their duty to interpret the law and declare invalid agency actions inconsistent with those interpretations in the cases and controversies that come before them. A duty expressly assigned to them by the APA [Administrative Procedures Act] and one often likely compelled by the Constitution itself. That's a problem for the judiciary. And it is a problem for the people whose liberties may now be impaired not by an independent decisionmaker seeking to declare the law's meaning as fairly as possible—the decisionmaker promised to them by law—but by an avowedly politicized administrative agent seeking to pursue whatever policy whim may rule the day. Those problems remain uncured by this line of reply.

In other words, the judiciary needs to have oversight of the executive agency in what they put out as far as agency rulings, not allowing the White House or any agency to just make any decision they like. He continued writing:

> Maybe as troubling, this line of reply invites a nest of questions even taken on its own terms. Chevron says that we should infer from any statutory ambiguity Congress's ''intent'' to ''delegate'' its ''legislative authority'' to the executive to make ''reasonable'' policy choices. But where exactly has Congress expressed this intent? Trying to infer the intentions of an institution composed of 535 members is a notoriously doubtful business.

In all the accusations that he is not independent of the President, in one of his most famous opinions, he declares that we absolutely need to have independence from the White House—of any White House—and have a clear separation of powers between judiciary, legislative, and executive. That actually does not stand up to simple muster. So the first thing falls: no independence from the President.

The second issue which came up often was that he was handpicked by far-right groups. There were all these groups that handpicked him, so somehow that made it horrible that these different groups would actually try to support him.

I go back to Justice Kagan. Again, that wasn't the standard at that time, and I could use numerous judges through that process. Elena Kagan was supported by the AFL–CIO, by the Human Rights Campaign, by numerous environmental groups like WildEarth Guardians, Sierra Club, and the National Organization for Women. She had a lot of different liberal or progressive groups that were very outspoken in support of and helping to push her nomination.

There is nothing wrong with that. She was a nominee who was actively engaged in White House politics; she was actively engaged in Democratic campaigns. Before that, as far as working for the Dukakis campaign, she was a Democratic activist, and it was well known. That did not preclude her from getting an up-or-down vote for the Supreme Court because she is sitting on the Supreme Court today. There was no cloture vote mandate or requirement for a 60-vote threshold as there was pushed by this minority.

This issue that somehow you can't be handpicked or that having some groups that would support you from the outside somehow precludes you from being a serious consideration is not legitimate, and everyone knows it.

I have also heard individuals out there saying that he is for torture, he is against privacy, he hates truckers, he will step on the little guy, he is only for big corporations, and he is not mainstream.

Here is the problem: When you actually look at the history, it is very different from that. Of the 2,700 cases that Judge Gorsuch has been involved in, in the 10½ years he has been on the Tenth Circuit, he has been overturned in his opinions once—once in 2,700 cases; 97 percent of the time his cases were settled unanimously, and 99 percent of the time he voted with the majority.

Lest you don't know the Tenth Circuit as we know the Tenth Circuit in Oklahoma, because it is the circuit court for our State, the majority of the judges on the Tenth Circuit are judges selected by President Carter, President Clinton, and President Obama. They hold the majority in the Tenth Circuit. So to say that he voted with them in the majority 99 percent of the time would be to say that the Carter, Clinton, and Obama appointees also apparently had these radical ideas. It is just not consistent with the facts.

Then I have heard of late that the President should have engaged with Senate leadership on both sides of the aisle to be asked for their approval of the nominee before that nominee was ever brought. Well, I don't know if that has ever been a requirement. There have been times that Presidents in the past have had conversations with people on both side of the aisle. Fine, but it is certainly not a requirement of the Constitution, and it certainly doesn't preclude a nomination.

It is interesting to me that Judge Gorsuch offered to meet with 100 Senators one-on-one, face-to-face. Only 80 of them accepted his offer; 20 of them refused to even meet with him face-to-face. He did 4 days of hearings in the Judiciary Committee, 4 solid, long days, where he answered every possible question he could answer.

He has had extensive background checks. Everyone has gone through every piece of everything they could find that has ever been written. In fact, the latest new accusation is they found a couple of places where what he wrote seemed to look strangely like something else someone else wrote—which, when I saw it and read the side-by-side on it, I thought: He forgot to do an annotation and a footnote in the 800 opinions he has written. In the tens of thousands of annotations that he did, he didn't do a couple of them. Somehow that doesn't seem to rise to the level that he shouldn't be on the Supreme Court—that in the tens of thousands of annotations he put there, he might have missed a couple.

I would challenge anyone serving in this body, to say: You can serve only if you have never missed a single footnote on any paper you ever wrote. I would say: Those who live in glass houses probably shouldn't throw stones because we have all had times like that.

He is a solid jurist. I believe he will do a good job. In the time I sat down in his office, we looked at each other face-to-face, and I went through multitudes of hard questions with him, trying to determine his judicial philosophy, seeking one simple thing: Will you interpret the law as the law—not with personal opinion but as the law.

This body is about opinions. This body is about listening to the voices all across our States and trying to make

good policy. Across the street at the Supreme Court, it is about one thing: What does the law say and what did it mean when it was written?

The Constitution and law were not living documents. They do live in the sense that if you want to make changes in the Constitution, you amend the Constitution and you make changes to it. You can't suddenly say it meant one thing one day but culture has changed and now it means something new.

If you need new law, this body passes new law. Across the street, they read the law and ask: What does it mean? It is that straightforward.

I look forward to having a jurist on the Supreme Court as an Associate Justice who says: I may not even like all my opinions and you may not like all my opinions, but I am going to follow the law, and what the law says is what we are going to do.

I think that is the best we can ask from a Supreme Court Justice, and I think it is a fair way to be able to get him an up-or-down vote. I have to tell you, I am profoundly disappointed that the Senate, to get a simple up-or-down vote, had to go through all of this just to be able to do what we have always done. Regardless of background or preferences or policy or politics, this body has always said the President, for his nomination, should get an up-or-down vote when they go through the process.

We are going to do that tomorrow. We will put Judge Gorsuch on the bench, and we are ready for him to go to work.

Mr. President, I yield back.

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. PERDUE. 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. PERDUE. Mr. President, it is humbling to be on the floor of the U.S. Senate with colleagues like Senator LANKFORD from Oklahoma. It is an honor to listen to his words, to his heart, on an issue like today because this is, I believe, a historic day.

On January 31 of this year, I had the great honor of being invited to the White House when President Donald Trump announced his nominee for Associate Justice of the U.S. Supreme Court, Judge Neil Gorsuch. It was a professional rollout of this nomination, but it spoke more to the man, the individual, Judge Gorsuch, than it did to the circumstance surrounding it.

Today, I want to again discuss Judge Gorsuch's nomination and the 200-plus years of historical precedent put on the line today. As an outsider of this political process, it is clear to me what is going on here. It really has nothing to do with Judge Gorsuch.

The minority party today abandoned 230 years of tradition because of politics, in my opinion. Never before in the U.S. history has a purely partisan filibuster killed a Supreme Court nomination. Never before, in the history of our country, has a partisan filibuster killed a district judge nomination. Never before, and until 2003, has a partisan filibuster killed a circuit judge nomination. Mr. President, 2003 was the first time in our history that the rules of the Senate were used in a purely partisan way to stop a judicial nomination.

In 2003, the Democratic Party threw out over 200 years of precedent when it comes to circuit judge nominees and killed a circuit judge nomination. Today they attempted to do the same thing when it comes to a nominee to the highest Court in the United States.

It should be noted Republicans did not attempt to do this to either Justice Sotomayor or Justice Kagan when they were nominated by President Obama a few years ago. Throughout our history, even the most controversial Supreme Court nominees have gotten an up-or-down vote, a simple majority vote. On that note, I also wish to point out there is no longstanding rule or tradition that a Supreme Court nominee must obtain 60 votes to be confirmed.

Judge Clarence Thomas was confirmed by a narrow 52-to-48 margin. Even though a single Senator could have required 60 votes to invoke cloture, and none did. Likewise, Justice Samuel Alito was confirmed by a 58-to-42 margin. Again, no Senator required 60 votes to invoke cloture. Neither of those nominees were filibustered to death. They got an up-or-down vote.

Mainstream media outlets have repeatedly fact-checked the minority party on this. For example, last week the Washington Post said: ''Once again: There is no 'traditional' 60-vote 'standard' or 'rule' for Supreme Court nominations, no matter how much or how often Democrats claim otherwise.''

Even PolitiFact has repeatedly pointed out that ''Gorsuch, like all other Supreme Court Justice nominees, needs only a simple majority to be confirmed by the Senate.''

Clearly, outside of this body, it is recognized in the media, and on both sides of the aisle for that matter, that there is no such thing as a 60-vote standard when it comes to the nomination and confirmation of Supreme Court Justices.

Additionally, the notion that the minority party filibustering Judge Gorsuch's confirmation is the same as our not allowing a vote last year, that logic doesn't hold up.

Last year, I joined many of my colleagues on the Senate floor in explaining why we felt it best not to give advice or consent on the nomination of a Justice to the Supreme Court during a Presidential election year. The integrity of the process, clearly outlined in article II, section 2, of the Constitution was at stake. It was about the principle, not the individual. Unlike the argument that it is tradition for a Supreme Court nominee to receive 60 votes, there is actual precedent for the position we took last year on President Obama's Supreme Court nominee.

Former Vice President Biden, former Minority Leader Reid, and many other Members of both parties have agreed that the political theater of a Presidential election year should not influence the process.

The last time a Justice was nominated and confirmed by a divided government in a Presidential election year was 1888. Clearly, there is more than 100 years of precedent for the position we took last year in not giving advice and consent.

We took a position that was consistent with more than 100 years of actions and comments from Members of both parties. Let's just get over that. This year stands on its own, independently. The time for debate on this issue has come and gone.

Furthermore, it is obvious that what is at issue here is not Judge Gorsuch's qualifications. In 2006, Judge Gorsuch was confirmed to the Tenth Circuit Court of Appeals by a voice vote in this body with no opposition. Again, no opposition on the floor of the U.S. Senate, just 10 years ago.

Then-Senator Biden did not object, then-Senator Reid did not object, then-Senator Clinton did not object, and, yes, then-Senator Obama did not object. Twelve current Members of this body, including the current senior Senator from New York, the senior Senator from Illinois, the senior Senator from California, did not object to Judge Gorsuch's confirmation in 2006.

It is a simple fact, they had the opportunity to raise an objection, and they did not do it. It is obvious that what is going on here has nothing to do with Judge Gorsuch's qualifications. What is at issue is nothing but pure, unadulterated politics.

This is exactly why I ran for the U.S. Senate, having never been involved in politics. This is what makes people home very nervous about the gridlock in this body. This is why President Trump still cannot meet with his full Cabinet today, months after he was sworn in as our President. This is the very cause of gridlock that I believe is causing the dysfunction in Washington.

As I said, Judge Gorsuch was confirmed unanimously by voice vote with no opposition in 2006. Judge Gorsuch is a principled jurist who is steadfast in his commitment to defending and upholding the Constitution.

In my private meetings with him, I have been very impressed that this is his starting and finishing point: He is there to interpret the law, not to be an activist for his own personal opinion. He boasts a unanimous seal of approval from the gold standard, the American Bar Association.

Throughout his extensive career in both the public and private sectors and through hour after hour of testimony, Judge Gorsuch has demonstrated an impartial commitment to the rule of law. This is another area in which legal

minds from both sides of the aisle agree.

Harvard Law School Professor Noah Feldman, himself no conservative, called it a ''truly terrible idea'' to try to force Judge Gorsuch, or any judge for that matter, to base their decisions on the parties involved. Beyond a shadow of a doubt, I know that Judge Gorsuch fully understands that the job of a judge is to interpret, not make, the law.

As he himself said, ''A judge who likes every result he reaches is very likely a bad judge, reaching for results he prefers rather than those the law compels.''

This commitment to impartiality, regardless of those involved in individual cases, is further evidence his nomination should be confirmed rather than filibustered to death like we have seen today.

Judge Gorsuch's record is evidence enough that he is an impartial judge committed to the Constitution. The opposition has said he is outside the mainstream. That also doesn't hold up.

In 97 percent of his 2,700 cases, judges who also heard the cases unanimously ruled with Judge Gorsuch. In 99 percent of his cases, he was not a dissenting vote. The other side is consistent in saying he is not mainstream. Seriously? How much more mainstream does he have to be?

To that point, Judge Gorsuch has drawn praise from both liberals and conservatives alike. Former President Obama's Acting Solicitor General called Judge Gorsuch ''an extraordinary judge and man.''

He is not alone in that assessment of Judge Gorsuch. Mainstream media outlets across the country have praised this nominee to the Supreme Court. Recently, the USA Today Editorial Board wrote: ''Gorsuch's credentials are impeccable . . . he might well show the independence the nation needs at this moment in its history.''

The Washington Post's Editorial Board wrote:

> We are likely to disagree with Mr. Gorsuch on a variety of major legal questions. That is different from saying that he is unfit to serve.

The Wall Street Journal Editorial Board wrote: ''No one can replace Antonin Scalia on the Supreme Court, but President Trump has made an excellent attempt by nominating appellate Judge Neil Gorsuch as the ninth justice.''

As I have noted, the minority party's move to filibuster Judge Gorsuch is not rooted in any actual precedent in the U.S. Senate. It also clearly has nothing to do with Judge Gorsuch himself. By any and all objective measure, he is a mainstream, well-qualified nominee to the U.S. Supreme Court.

That is a point agreed upon by liberals and conservatives alike. Yet here we are still today throwing out almost 230 years of tradition, purely because of politics. This body must rise above the self-manufactured gridlock.

Our last President, according to constitutional law professor Jonathan Turley, created a constitutional crisis. It was caused by shutting down the Senate and creating the fourth arm of government, the regulators, and threatening the very balance of our three-branch system. It allowed the former President, through regulatory mandates and Executive orders, to basically fundamentally change the direction of the country without Congress.

Given this threat to the Constitution, at this point in our history, we absolutely need a jurist on the Supreme Court who will bring a balanced view and impartial commitment to the rule of law. It is imperative we confirm Judge Neil Gorsuch tomorrow—a principled, thoughtful jurist—to the U.S. Supreme Court.

If we can't confirm this individual, who is absolutely in the middle of the profile agreed to by past Democrats and Republicans alike, who in the world will we ever be able to confirm?

Seriously, if we can't get together on this individual, who is in the mainstream in the middle of the profile? How in the world are we ever going to save Social Security, Medicare, all the other critical issues that are before this body? Bipartisan compromise is what this body was built on. I call on my colleagues to put self-interest and even party interest aside for the Nation's interest.

I count it an honor to be in this body. It is a sobering responsibility, but I am very optimistic when men or women of the character of a Neil Gorsuch are willing to go through this grueling exercise that we put them through in order to serve. Because of that, I am proud tonight to be a part of a majority that stood up and precluded this from happening.

I am so excited that tomorrow we will confirm Judge Neil Gorsuch as the next Associate Justice to the United States Supreme Court.

I yield back my time.

The PRESIDING OFFICER (Mr. YOUNG). The Senator from Ohio.

Mr. PORTMAN. Mr. President, I rise today to express my strong support again for Judge Neil Gorsuch. I spoke on the floor the other day about Judge Gorsuch. I just heard my colleague from Georgia talk about him, and he did a terrific job.

This guy, Neil Gorsuch, is the right person for the job. He is qualified. He is smart and he is fair, and a bipartisan majority of the Senate will vote for this worthy candidate tomorrow. Let me underscore that. A bipartisan majority of the Senate will vote for this worthy candidate tomorrow. He will end up getting on the Court.

I must tell you that I regret that some of my colleagues on the other side of the aisle refused to provide him that up-or-down vote without going through the process we had to go through today. As someone who has gone through two Senate confirmations myself, I know they are not always easy. But I will tell you, it is a whole lot better for this institution and our country when we figure out ways to work together—in this case, to continue a Senate tradition of allowing up-or-down votes.

I like to work across the aisle. I have done that through my career. I can point to 50 bills I authored or co-authored that have become law in the last 6 years. They were bipartisan, by definition, because they got through this body and were signed into law by President Obama. I have voted for President Obama's nominees before President Trump. When President Obama had a well-qualified judge here on the floor, I voted for that judge. I voted for Loretta Lynch. That was not an easy vote. I took heat for it back home because I thought she was well-qualified. I think that is what we ought to do in this body.

I am disappointed in the situation we are in. I think we could have followed more than 200 years of Senate tradition and not allowed for a partisan filibuster to try to block this nomination. We chose not to do that in this body. Never in the history of this body has there been a successful partisan filibuster of a Supreme Court judge—never. Some of my colleagues said: How about Abe Fortas? That was several decades ago, and that was bipartisan. Abe Fortas was a Supreme Court Justice who had some ethics issues, and he actually dropped out of trying to get the nomination because of it. But never have we stood up as Republicans—or stood up as Democrats—and blocked a nominee by using the filibuster. It has just not been the tradition.

Instead, it has been to allow an up-or-down vote—a majority vote. There are two Justices on the Supreme Court right now who got confirmed with less than 60 votes. One is Clarence Thomas—probably the most controversial nominee in the last couple of decades, I would say. I wasn't in the Senate then, but I was watching it, as many of you were. It was certainly controversial, yet he got to the Court with 52 votes. Justice Alito was confirmed by 58 votes only 10 years ago. So these nominees were not filibustered.

By the way, President Obama's nominees, Elena Kagan and Justice Sotomayor, were not filibustered by Republicans. They were given an up-or-down vote. In the history of the Senate, 12 nominations have been defeated on the floor, but, again, never a successful partisan filibuster. Even Judge Robert Bork—some of you remember that nomination. It was very controversial. His nomination was defeated in 1987. He was a Reagan appointee. But he wasn't filibustered. They had an up-or-down vote, and he was voted down.

So what are these objections to Judge Gorsuch that would rise to that level where we want to say that over 200 years of Senate tradition ought to

be shunted aside and we ought to stop this man? What are those objections? I must say that I have listened to the floor debate and talked to some of my colleagues on the other side of the aisle. I made my case. They made their case. I just don't see why this man is not qualified. He was a law clerk for two Supreme Court Justices. He served in the Justice Department and had a distinguished career there. He was also a successful lawyer in the private sector. And of course, he has been a Federal judge for a decade. So we can look at his record.

My colleague from Georgia just talked about that record. It is why the American Bar Association—a group not known to be a conservative body—decided that he was ''well qualified.'' They unanimously declared him to get their highest rating of ''well qualified.'' This is what they said about him. They said:

Based on the writings, interviews, and analyses we scrutinized to reach our rating, we discerned that Judge Gorsuch believes strongly in the independence of the judicial branch of government, and we predict that he will be a strong but respectful voice in protecting it.

That is why the American Bar Association gave him their highest rating. Not qualified? By the way, nobody objected—nobody—for any reason, to his nomination to serve as a Federal judge, to be a circuit court judge, a level right below the Supreme Court, back in 2006. Not a single Senator objected. By the way, those Senators included Senator Hillary Clinton, Senator Barack Obama, Senator Joe Biden, and a number of Senators, of course, who are still here today with us, who chose to filibuster this nomination. So I don't know.

I heard some of my colleagues talk about some of his decisions. They have picked one or two of his decisions as judge over the past 10 years and said they didn't like the outcome, and that is why he is not qualified to sit on the Supreme Court. I have a couple of concerns with that argument. One, Judge Gorsuch has decided over 2,700 cases. I am sure we can all find one or two of these we didn't like. That is true for any judge. As I said, I voted for a number of President Obama's nominees, and I voted against others based on the merits and based on their qualifications. It didn't mean I agreed with them—trust me—or disagreed with them on everything. The odds are very good that you agree with Judge Gorsuch's decisions a lot more than you disagree with them. You know why I say that? Because the odds are really good that you agreed with them. Let's try 97 percent, because 97 percent is the number of his decisions that were unanimous with the other judges on a three-judge panel. So 97 percent of the time, his decisions were unanimous.

Who is on these three-judge panels? Well, it is usually bipartisan in the sense that it is nominees who have been nominated by different Presidents of different parties. In the case of his circuit court, there is Judge Paul Kelly, who was appointed by President George H.W. Bush. There have also been several of his colleagues who were appointed by President Bill Clinton. Judge Gorsuch even mentioned in his testimony that he was on judge panels. He presided with Judge William Holloway, who was appointed by President Lyndon B. Johnson. So these three-judge panels tend to have judges that were appointed by Republicans and Democrats alike—97 percent of the time unanimous. And 98 percent of the time, his decisions were in the majority.

So again, I think the odds are pretty good that we are going to agree with Judge Gorsuch a lot more than we disagree when we look at his cases. He is a consensus builder. He is a guy who figures out how to come to a decision people agree with on different sides of the aisle, and from different points of view. That is what his record his. Actually, that doesn't surprise me at all, because he clerked in the Supreme Court for two Justices. One was Byron White and the other was Justice Anthony Kennedy. Those are two Justices who get a lot of heat. Byron White did, and Anthony Kennedy does—from both sides. Why? Because they tend to be in the middle. They write a lot of decisions that are consensus decisions. They tend to be that fifth vote on a 5-to-4 decision. That is whom he clerked for.

To note that somehow this guy shouldn't be confirmed for the Supreme Court because of one or two decisions just doesn't seem to be legitimate to me. This is a guy who had thousands of decisions, and the vast majority were 98 percent or 97 percent unanimous. He had one decision that was appealed to the Supreme Court because the litigants must have thought he was wrong. They took it to the Supreme Court to correct him. What happened? The Supreme Court affirmed it. They agreed with Judge Gorsuch.

I don't know whom you could find out there among judges who has a stronger record. In every case, somebody wins and somebody loses. I get that. Think about this: Out of Judge Gorsuch's 180 written opinions, only one has ever been appealed to the Supreme Court—wow. And they agreed with his ruling.

He made it clear he makes decisions not based on the outcome he likes, but based on what the law says. He thinks his job on the court for the last decade—and going forward—is to actually look at the law and decide what the law says and what the Constitution provides, not what he wants.

I think that is the kind of judge we would want—particularly those of us who are lawmakers, right? We are the ones writing the laws. We would hope that would be respected and that judges wouldn't try to legislate. This is what he said in his testimony:

A judge who likes every outcome he reaches is very likely a bad judge . . . I have watched my colleagues spend long days worrying over cases. Sometimes the answers we reach aren't ones we would personally prefer. Sometimes the answers follow us home and keep us up at night. But the answers we reach are always the ones we believe the law requires.

Interesting perspective. He is saying: Hey, if you like all your decisions, you are probably not a very good judge because your personal beliefs aren't always going to be consistent with what the law says or the Constitution says.

He goes on to say:

I've ruled for disabled students, for prisoners, for the accused, for workers alleging civil rights violations, and for undocumented immigrants. Sometimes, too, I've ruled against such persons. My decisions have never reflected a judgment about the people before me, only a judgment of the law and the facts at issue in each particular case.

Again, it seems to me that is the kind of person you want on the court. Making a decision as a judge is not about ruling in favor or against somebody because you like them or don't like them. It is about applying what the law says. As he said in his testimony recently, his philosophy is ''to strive to understand what the words on the page mean . . . [to] apply what the people's representatives, the lawmakers, have done.'' That is us. That is the House. That is people who are elected back home by the people who expect us to be the elected representatives and to listen to their concerns and then vote. Those laws should not be rewritten by the judiciary. That is the approach he takes. I would think any legislator would want to ensure the laws we pass are applied as written. Much more importantly, that is what people want too. That is what people should insist on. We want our votes to count. We want our voices to be heard.

President Lincoln warned in his first inaugural address that if judges legislate from the bench, ''the people will have ceased to be their own rulers.''

''The people will have ceased to be their own rulers'' if judges legislate from the bench.

I think President Lincoln was right. When judges become legislators, the people do have less of a voice. Judge Gorsuch himself summed it up. He said: ''If judges were just secret legislators, declaring not what the law is but what they would like it to be, the very idea of government by the people and for the people would be at risk.'' I think that is the deeper issue here.

Again, I think he is the kind of judge we should want. Judge Gorsuch and I had the chance to sit down and talk about this philosophy. We talked about his background and his qualifications. I asked him some very tough questions, as he got asked during the Judiciary Committee nomination process. His hearings were something that all Americans had the opportunity to watch. He did a great job, in my view, because he did focus on how he believes that his job is not to allow his personal beliefs to guide him but, rather, upholding the law as written and the Constitution.

I think that approach is a big reason he has earned the respect of lawyers and judges from across the spectrum, by the way. If you look at the people who say this guy is a great judge, it goes all the way across the political spectrum.

Professor Laurence Tribe of Harvard Law School, an advisor to former President Obama, said Judge Gorsuch is ''a brilliant, terrific guy who would do the Court's work with distinction.'' Those of you who know Laurence Tribe, he is well-regarded, considered to be a liberal thinker on many issues. But he has looked at the guy, and he has looked at his record. He knows him. He says he is brilliant, terrific, and will do the Court's work with distinction.

Neal Katyal—you have heard about him. He was the Acting Solicitor General for President Obama, a guy who knows a thing or two about arguing before the Supreme Court. He said Judge Gorsuch's record ''should give the American people confidence that he will not compromise principle to favor the President who appointed him. . . . He's a fair and decent man.''

This goes to what the ABA said about him: Independent. He will protect the independence of the judiciary.

Look, he is smart, no question about it. You saw him answer those questions. You have seen his record. He is qualified, as we talked about. He is certainly a mainstream judge, when you look at his opinions—98 percent of the time in the majority, 97 percent of the time unanimous. Three-judge panels. He has the support—the bipartisan support—of a majority of the Senate.

By the way, the American people, as they have plugged into this, also think he ought to be confirmed. There is a recent poll by the Huffington Post, which is not considered a conservative newspaper or entity. They said the people want us to confirm Neil Gorsuch by a 17-point margin. Why? Because they watched this. They looked at the guy. They saw the hearings. They looked at his record. People believe he is the right person to represent them on the Supreme Court.

So, again, while I am disappointed this process has become so polarized and divisive here in this body, I am glad to see this good man take a seat in our Nation's highest Court. I believe he deserves our support.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate 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.

TRIBUTE TO FREY TODD

Mr. MCCONNELL. Mr. President, today it is my privilege to celebrate the retirement of Frey Todd, the ''Mayor for Life'' of Eubank, KY.

In the last census, Eubank was home to fewer than 400 Kentuckians, but despite their small number, the Eubank community is proud of their town and their mayor.

Since the 1960s, Todd has served his community on the town board. He spent 10 years as the chair of the board, and when Kentucky reorganized municipal governments in 1982 and the position of mayor became available, he proudly was elected its first mayor. And every 4 years since, Todd has been elected by his constituents to be their mayor.

Over his 35-year tenure as mayor, Todd has overseen major projects like the construction of the senior citizens center and the Eubank Water System.

In a small town like Eubank, the people and their government are almost as close as family. Throughout his entire career, Mayor Todd has shown his passion for his constituents, and they have returned the affection.

At the age of 82, Todd announced his retirement from public service. I would like to join with all the people of Eubank to thank him for his years of dedication and congratulate him on an impressive career.

ARMS SALES NOTIFICATION

Mr. CORKER. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee's intention to see that relevant information is available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications which have been received. If the cover letter references a classified annex, then such annex is available to all Senators in the office of the Foreign Relations Committee, room SD–423.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY COOPERATION AGENCY,
Arlington, VA.

Hon. BOB CORKER,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16–80, concerning the Army Corps of Engineers' proposed Letter(s) of Offer and Acceptance to the Government of Kuwait for airbase construction and services estimated to cost $319 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J.W. RIXEY,
Vice Admiral, USN, Director.

Enclosures.

TRANSMITTAL NO. 16-80

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Government of Kuwait.

(ii) Total Estimated Value:
Major Defense Equipment * $ 0 million.
Other $319 million.
Total $319 million.

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:

Non-MDE: Design, construction, and procurement of key airfield operations, command and control, readiness, sustainment, and life support facilities for the Al Mubarak Airbase in Kuwait. The U.S. Army Corps of Engineers (USACE) will provide project management, engineering services, technical support, facility and infrastructure assessments, surveys, planning, programming, design, acquisition, contract administration, construction management, and other technical services for the construction of facilities and infrastructure for the airbase. The overall project includes, among other features, a main operations center, hangars, training facilities, barracks, warehouses, support facilities, and other infrastructure required for a fully functioning airbase.

(iv) Military Department: U.S. Army Corps of Engineers (USACE) (HBE).

(v) Prior Related Cases. if any: N/A.

(vi) Sales Commission. Fee, etc., Paid. Offered, or Agreed to be Paid: None.

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None.

(viii) Date Report Delivered to Congress: April 6, 2017.

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Government of Kuwait—Facilities and Infrastructure Construction Support Service

The Government of Kuwait has requested possible sale for the design, construction, and procurement of key airfield operations, command and control, readiness, sustainment, and life support facilities for the Al Mubarak Airbase in Kuwait. The U.S. Army Corps of Engineers (USACE) will provide project management, engineering services, technical support, facility and infrastructure assessments, surveys, planning, programming, design, acquisition, contract administration, construction management, and other technical services for the construction of facilities and infrastructure for the airbase. The overall project includes, among other features, a main operations center, hangars, training facilities, barracks, warehouses, support facilities, and other infrastructure required for a fully functioning airbase. The estimated total cost is $319 million.

The proposed sale will contribute to the foreign policy and national security of the United States by supporting the infrastructure needs of a friendly country which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The facilities being constructed are similar to other facilities built in the past by USACE in other Middle Eastern countries. These facilities replace existing facilities and will provide autonomous airbase operations to the Kuwait Air Force. The new airbase will ensure the continued readiness of