

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume executive session to consider the following nomination, which the clerk will report.

The assistant bill clerk read the nomination of Rod J. Rosenstein, of Maryland, to be Deputy Attorney General.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12:30 p.m. will be equally divided in the usual form.

The Democratic whip.

## DAYS OF REMEMBRANCE CEREMONY

Mr. DURBIN. Mr. President, I will yield the floor if the Democratic leader arrives, but until his arrival, I would like to do two things—first, join in the comments made by the majority leader, Senator McCONNELL, relative to the Holocaust remembrance.

This is the day on which we gather in the Rotunda each year to remember the atrocities of World War II, which includes remembering the Holocaust victims, so many who were Jewish people as well as Polish people—the list goes on and on—as well as those who were gay and gypsies. This was an ethnic cleansing—the worst ever seen in the history of this world. We remember it on this day, as we should.

Mr. President, on a separate issue, before us now is the nomination of Rod Rosenstein to be the Deputy Attorney General of the United States.

The Deputy Attorney General oversees the day-to-day operations of the Department of Justice. In any circumstance, this is an important position that requires a nominee with experience, independence, management skills, and good judgment, which is especially true today.

Many of us questioned whether Attorney General Sessions was the right person to be the chief law enforcement officer of the United States of America at this moment in history. Unfortunately, many of the actions of the new Attorney General, since he was confirmed, have not erased these concerns. The Attorney General has already begun making dramatic changes at the Justice Department, including on critical issues like criminal justice, civil rights, immigration, and funding for crime prevention.

Just last week, Attorney General Sessions disparaged a Federal judge from Hawaii who issued an order blocking the Trump administration's Muslim travel ban.

Attorney General Sessions said: "I really am amazed that a judge sitting on an island in the Pacific can issue an order that stops the President of the United States from what appears to be clearly his statutory and constitutional power."

Senator MAZIE HIRONO, my colleague on the Senate Judiciary Committee and the junior Senator from Hawaii,

pointed out that Hawaii was granted statehood in 1959 and called the Attorney General's comments "insulting and prejudiced."

Also, last week, Attorney General Sessions called into question the status of the Deferred Action for Childhood Arrivals Program, also known as DACA. When asked about DACA, Attorney General Sessions said: "We can't promise people who are here unlawfully that they're not going to be deported."

That is exactly what DACA is. It is a commitment to young people who were brought to the United States as children and grew up in our country that they will be protected from deportation on a temporary renewable basis. Attorney General Sessions' statement is contrary to his own administration's policy as established by President Trump and Homeland Security Secretary John Kelly, who have primary responsibility for immigration enforcement.

The last confirmed nominee for Deputy Attorney General was Sally Yates, a veteran prosecutor and U.S. attorney from Georgia. Ms. Yates displayed sound judgment as Deputy Attorney General, and she was unafraid to speak truth to power.

Ms. Yates became the Acting Attorney General at the end of the Obama administration, and when President Trump signed his unconstitutional Muslim ban Executive order on January 27, Sally Yates told the White House she could not defend the order in court because she was not convinced it was lawful. Ms. Yates was then fired by President Trump for disagreeing with him. However, multiple Federal courts agreed with Ms. Yates' position and blocked this unconstitutional Executive order. Time and history have proven Ms. Yates correct.

We need a Deputy Attorney General like Sally Yates, who is highly competent and has the independence to say no to the President and to the Attorney General when necessary.

Rod Rosenstein has served as the U.S. Attorney for the District of Maryland since 2005 under both Democratic and Republican Presidents. I do not question his experience or his competence. As a member of the Senate Judiciary Committee, I looked closely at his nomination. I asked him many questions in the hearing. I sent some followup letters, and I appreciate that he has been forthcoming in his responses.

Mr. Rosenstein has pledged to be an independent voice and has committed that he will not recommend any changes in Justice Department policies until he evaluates them, discusses them with appropriate officials, and determines that changes are warranted.

I expect he will be confirmed. Upon confirmation, Mr. Rosenstein will immediately be tasked with responsibility over critically important issues over which he will need to display both

sound judgment and independence. Four come to mind.

First is the ongoing investigation into Russia's efforts to interfere with the 2016 Presidential election to help the Trump campaign. What Russia did in our election last year was a cyber act of war against our democracy. It is imperative that we get to the bottom of what happened and make sure it never happens again. I have called for an independent, bipartisan investigation into Russia's election interference. The Republican majority of the House and Senate have resisted this call.

Instead, Republicans in Congress have referred this matter to the Intelligence Committees of both Houses, perhaps hoping it will fade away behind closed doors. I hope the Intelligence Committees will step up and conduct an investigation that is worthy of the importance of this issue, but when it comes to potential criminal acts involving Russia's election interference, the responsibility to investigate falls solely on the Justice Department.

Attorney General Sessions has had to recuse himself from the investigation because of his work for the Trump campaign and his failure to disclose his contacts with Russian officials last year. That means the Deputy Attorney General now has the responsibility over this investigation.

It will be incumbent on Mr. Rosenstein to ensure this investigation is conducted with independence, diligence, and integrity. I believe that appointing a special counsel is the best way to ensure this. I hope he will make that appointment. If Mr. Rosenstein does not appoint a special counsel, the spotlight will be on him personally to make sure the investigation is conducted properly, no matter where it leads. I hope he exercises good judgment. This investigation is too important to get wrong.

The second issue that will require independence and good judgment from the Deputy Attorney General is the Justice Department's threat to withhold Federal funding to prevent violence across America, including in the city of Chicago.

The Trump administration's message has been confusing, to say the least, when it comes to Federal efforts to prevent violence. On the one hand, President Trump, in the middle of the night, tweets "Chicago needs help," and "Send in the Feds," but then the administration threatens to cut off critical funding for violence prevention under programs like Byrne JAG unless cities agree to turn their local police departments into deportation forces.

It is pretty obvious that cutting off Federal violence prevention funding will hurt the cause of violence prevention. Do not take my word for it. Ask any law enforcement leader.

Listen to what the International Association of Chiefs of Police said: "Penalizing communities by withholding assistance funding to law enforcement

agencies and other critical programs is counterproductive to our shared mission of reducing violent crime and keeping communities safe.”

It is no secret that the Attorney General is fixated on immigration, but we need the Deputy Attorney General to ensure that this fixation does not undermine the important ways that the Justice Department and local law enforcement cooperate to reduce violent crime.

This administration cannot call itself a law-and-order administration and then do something like cut the funds for violence prevention when police chiefs across America say that is just wrong.

The third area of critical importance is criminal justice policy. Today, our Federal prisons are 30 percent over capacity, and runaway prison expenditures are undermining important public safety priorities like crime prevention, drug courts, and addiction treatment.

The largest increase in the Federal prison population has been nonviolent drug offenders who are then separated from their families for years on end as a result of inflexible mandatory minimum sentences. This has a destructive effect on communities and erodes faith in America in our criminal justice system.

Congress needs to pass legislation to reform our Federal drug sentencing laws, but the Justice Department’s policies for nonviolent drug offenses also can help.

Under the Obama administration, the Smart on Crime Initiative directed Federal prosecutors to reserve stiff mandatory minimum sentences for individuals convicted of serious offenses. This initiative has been very effective in focusing the Department’s limited resources on the worst offenders and ensuring that people convicted of low-level, nonviolent offenses are not subjected to these same mandatory minimum penalties.

Attorney General Sessions has signaled that he wants to eliminate the Smart on Crime Initiative, and certainly those of us who listened to his opposition to criminal sentencing reform are not surprised. But, as Deputy Attorney General, Mr. Rosenstein will chair the Task Force on Crime Reduction and Public Safety that has been established by the President. This gives him an important voice. I hope he will work to ensure that the Department’s charging policy reserves stiff mandatory sentences for only serious violent offenders.

Mr. Rosenstein would also be responsible for determining the fate of the Justice Department’s efforts to work constructively with State and local law enforcement to protect civil rights and improve community and police relations. In particular, Mr. Rosenstein should continue negotiations to pursue police reform in Chicago, backed up by an enforceable consent decree. The former U.S. attorney in Chicago, Zach

Fardon, felt strongly that a consent decree was needed to correct the systemic problems we face. Mr. Rosenstein has shown more openness to using consent decrees than Attorney General Sessions, who has an ideological personal hostility toward them. I hope Mr. Rosenstein will look carefully at this issue in Chicago and respect the judgment of Mr. Fardon and the career DOJ professionals who spent over a year investigating this matter.

Mr. Rosenstein also will be responsible for reigning in the Attorney General’s worst instincts on immigration. It is no surprise to any Member of this Chamber that when the issue of immigration came to the floor, the leading opponent on immigration reform was Senator Sessions of Alabama. I believe he offered 100 amendments to the immigration reform bill that passed the U.S. Senate. He has spoken out over and over again about his opposition to immigration reform.

The Attorney General has already directed Federal prosecutors across the country to make immigration cases a higher priority and look for opportunities to bring serious felony charges against those who cross the border without authorization. Federal prosecutors understand this is not the right approach. Listen to Paul Charlton, the U.S. attorney for Arizona under the Bush administration. According to him, this new directive will overburden the Federal courts already struggling to handle the volume of immigration cases. He said: “Prosecution and incarceration do not adequately address the real need, which is a reform of the immigration laws.”

Let me conclude. I see the Democratic leader on the floor.

There are a number of critical issues that will require sound judgment and leadership from the next Deputy Attorney General. I hope Mr. Rosenstein will approach these issues with the professionalism and integrity that have earned him bipartisan praise as U.S. Attorney in Maryland. I hope he will be willing to speak truth to power and to stand up to the President and the Attorney General if necessary.

I will support Mr. Rosenstein’s nomination. I hope we can work together constructively on the important matters facing the Department of Justice.

Mr. President, I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

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

MR. SCHUMER. Mr. President, first let me thank my friend from Illinois for his always thoughtful and good words. I agree with his sentiments on Mr. Rosenstein, whom I will support as well.

#### GOVERNMENT SPENDING BILL

Mr. President, first I want to say that it is very good news that the President seems to be taking the wall off the table in the negotiations we are having on an appropriations bill this week. It would remove the prospect of

a needless fight over a poison pill proposal that Members of both parties don’t support. On a bill as important as one to keep the government open, it is a dangerous prospect for the administration to push so hard for such a flawed, incomplete, and unthought-out proposal on a must-pass spending bill. It could tank what would have been productive, bipartisan, bicameral negotiations between the leaders in both Houses. If the threat of the wall is removed, as I hope is the case, our negotiations can continue and we can hopefully continue to resolve all of the outstanding issues by Friday.

Make no mistake about it, there are other important issues to resolve—no poison pill riders, above all, and the ratio of defense and nondefense spending in terms of increases above the baseline. On the nondefense side, miners are very important on our side, getting permanent healthcare for these miners who have struggled their whole lives; the issue of cost-sharing, where 6 million people could lose their healthcare because it would become unaffordable; and the issue of Puerto Rico, which is struggling so, are among those that we feel are important as well. There are other issues to resolve as well, but I am hopeful we can address them as the week moves forward. Poison pill riders are something that could really hurt the bill, and we don’t want that to happen.

#### THE PRESIDENT’S FIRST ONE HUNDRED DAYS

Mr. President, on another matter, as we quickly approach the 100-day mark of the Trump Presidency, it is a good time to look back on what this administration has accomplished and has not accomplished. One thing is clear: This President has either broken or failed to fulfill many of the promises he made to working families during the campaign. This morning, I wish to focus on one area in particular—this President’s promises to working people on jobs and the economy.

One of the President’s key rationales as to why he would be an effective President was that he was a good businessman who could create jobs and get the economy moving much faster than anyone predicted. But on the major issues of jobs, including outsourcing, “Buy American,” trade—key economic issues that help job growth in America, that help working families—President Trump has made scant progress during his first 100 days and has broken several core campaign promises he made to kick-start the economy for working families.

On jobs, President Trump said he was going to be “the greatest job President that God ever created,” but have we seen one significant piece of legislation that would create jobs from this President? What about infrastructure, for instance? That is something that would create tons of good-paying jobs, and Candidate Trump talked about it a lot when he campaigned. He promised to fix America’s crumbling infrastructure, pledging a \$1 trillion plan to do