

over the past 2 years. In June 2015, then-Candidate Trump told CNN's Jake Tapper that he would apply a pro-life litmus test for his nominees to the Supreme Court. He did it again at a press conference last March, during the third Presidential debate, and shortly after his election.

This isn't the only litmus test President Trump promised to apply. In February 2016, President Trump committed to appointing a Justice who would allow businesses and individuals to deny women access to health care on the basis of so-called religious freedom. In February 2016, President Trump told Joe Scarborough he would make upholding the Heller decision on guns another litmus test for his Supreme Court nominee. Like tens of millions of Americans, I am deeply concerned that President Trump applied each of these tests before he nominated Judge Gorsuch to the Supreme Court.

In the weeks and months ahead, I will carefully and extensively scrutinize Judge Gorsuch's record. I will question him on his judicial philosophy and how he interprets the Constitution. I will insist he clarify his position on a woman's constitutionally protected right to choose, on voting rights, and the appropriate balance between corporate interests and individual rights. I will do my job as a United States Senator. The American people deserve nothing less from each of us.

I yield the floor.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### STREAM BUFFER RULE

Mr. MCCONNELL. Mr. President, for the last 8 years, the Obama administration has pushed through a number of harmful regulations that circumvent Congress, slow growth, shift power away from State and local governments toward Washington, and kill a lot of jobs. Even on the way out the door, the former administration's regulatory onslaught continued as they pushed through more midnight regulations. These nearly 40 major regulations, which were pushed through by the Obama administration since election day, would cost Americans a projected \$157 billion, according to one report.

Fortunately, with a new President, we now have the opportunity to give the American people relief and our economy a boost. One of the most important tools we have is the Congressional Review Act, which allows Congress to provide relief from heavy-handed regulations that hold our country back.

The House just took an important step by sending us two pieces of legisla-

tion that will reassert congressional authority and make a real impact for the American people.

One of those resolutions will address a regulation that puts U.S. companies at a competitive disadvantage to private and foreign companies. Passing this resolution will allow the SEC to go back to the drawing board so that we can promote transparency, which is something we all want, but to do so without giving giant foreign conglomerates a leg up over American workers. We will take it up soon.

The other resolution, which we will take up first, will address an eleventh-hour parting salvo in the Obama administration's war on coal families that could threaten one-third of America's coal-mining jobs. It is identical to the legislation I introduced this week and is a continuation of my efforts to push back against the former administration's attack on coal communities.

Appalachian coal miners, like those in my home State of Kentucky, need relief right now. That is why groups like the Kentucky Coal Association, the United Mine Workers Association, and 14 State attorneys general, among others, have all joined together in a call to overturn this regulation.

The Senate should approve this resolution without delay and send it to the President's desk. The sooner we do, the sooner we can begin undoing the job-killing policies associated with the stream buffer rule. This is not a partisan issue; this is about bringing relief to those who need it and protecting jobs across our country. I hope our friends across the aisle will support our Nation's coal miners and join me in advancing this resolution.

After we address these regulations, both the House and the Senate will continue working to advance several other CRA resolutions that can bring the American people relief.

#### MOTION TO PROCEED TO LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

Mr. SCHUMER. I announce that the Senator from Delaware (Mr. COONS) and the Senator from Illinois (Mr. DURBIN) are necessarily absent.

The PRESIDING OFFICER (Mr. TILLIS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 41 Ex.]

#### YEAS—55

Alexander	Flake	Murkowski
Barrasso	Gardner	Paul
Blunt	Graham	Perdue
Boozman	Grassley	Portman
Burr	Hatch	Risch
Capito	Heitkamp	Roberts
Cassidy	Heller	Rounds
Cochran	Hoeben	Rubio
Collins	Inhofe	Sasse
Corker	Isakson	Scott
Cornyn	Johnson	Shelby
Cotton	Kennedy	Sullivan
Crapo	Lankford	Thune
Cruz	Lee	Tillis
Daines	Manchin	Toomey
Donnelly	McCaIn	Wicker
Enzi	McCaskill	Young
Ernst	McConnell	
Fischer	Moran	

#### NAYS—42

Baldwin	Harris	Peters
Bennet	Hassan	Reed
Blumenthal	Heinrich	Sanders
Booker	Hirono	Schatz
Brown	Kaine	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Stabenow
Carper	Leahy	Tester
Casey	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Feinstein	Murphy	Warren
Franken	Murray	Whitehouse
Gillibrand	Nelson	Wyden

#### NOT VOTING—3

Coons	Durbin	Sessions
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The motion was agreed to.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The majority leader.

#### DISAPPROVING A RULE SUBMITTED BY THE DEPARTMENT OF THE INTERIOR—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to H.J. Res. 38.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to H.J. Res. 38, a joint resolution disapproving the rule submitted by the Department of the Interior known as the Stream Protection Rule.

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. SCHUMER. I announce that the Senator from Delaware (Mr. COONS) and the Senator from Illinois (Mr. DURBIN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 42 Leg.]

#### YEAS—56

Alexander	Blunt	Burr
Barrasso	Boozman	Capito

Cassidy	Hatch	Perdue
Cochran	Heitkamp	Portman
Collins	Heller	Risch
Corker	Hoeven	Roberts
Cornyn	Inhofe	Rounds
Cotton	Isakson	Rubio
Crapo	Johnson	Sasse
Cruz	Kennedy	Scott
Daines	Lankford	Sessions
Donnelly	Lee	Shelby
Enzi	Manchin	Sullivan
Ernst	McCain	Thune
Fischer	McCaskill	Tillis
Flake	McConnell	Toomey
Gardner	Moran	Wicker
Graham	Murkowski	Young
Grassley	Paul	

## NAYS—42

Baldwin	Harris	Peters
Bennet	Hassan	Reed
Blumenthal	Heinrich	Sanders
Booker	Hirono	Schatz
Brown	Kaine	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Stabenow
Carper	Leahy	Tester
Casey	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Feinstein	Murphy	Warren
Franken	Murray	Whitehouse
Gillibrand	Nelson	Wyden

## NOT VOTING—2

Coons	Durbin
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The motion was agreed to.

# DISAPPROVING A RULE SUBMITTED BY THE DEPARTMENT OF THE INTERIOR

The PRESIDING OFFICER. The clerk will report the joint resolution.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 38) disapproving the rule submitted by the Department of the Interior known as the Stream Protection Rule.

The PRESIDING OFFICER. Pursuant to 5 USC 802(d)(2), there will be up to 10 hours of debate, equally divided between the proponents and the opponents of the resolution.

The Senator from Utah.

## NOMINATION OF NEIL GORSUCH

Mr. LEE. Mr. President, I rise to speak about the nomination of Judge Neil M. Gorsuch to be an Associate Justice on the U.S. Supreme Court.

Confirmation of anyone appointed to the Federal judiciary is a big deal. Confirmation of someone appointed to serve on the Supreme Court of the United States is an exceptionally weighty matter. I therefore approach this with the seriousness it deserves. I approach this as one who has argued in front of Judge Gorsuch. I found as a lawyer that he is an exceptional judge, an unusual judge—a judge who comes to argument with an unusual degree of preparation, having read all the briefs and apparently all of the cases and all of the statutes cited in the briefs.

There are some judges who at oral argument are constantly asking questions, but they are not necessarily questions that need to be asked. Perhaps some judges want to hear the sound of their own voices. That is, of course, something that would never happen here, in the U.S. Senate, but it happens sometimes with other people. There are other judges who might be

quiet throughout an argument. Then there is a unique category of judge, a judge who doesn't necessarily speak constantly but a judge who listens attentively and then pounces at the moment when he or she sees the pivotal moment in the case arising.

The late Justice Oliver Wendell Holmes, Jr., used to say there was a point of contact in every case. When asked, he pointed out that the point of contact in any case is the place where the boy got his finger caught in the machinery. I learned that quote when I was in law school. I have never entirely understood what it means, but it reminds me of the fact that in every case, there is a pivotal fact and a pivotal aspect of the law which, when properly understood, can help lead the court to a proper disposition of the legal question at hand.

Judge Gorsuch is one of those rare judges who is able to seize upon the point of contact in any case. He does so with seeming effortlessness. Yet I know he does it in a way that requires a lot of effort because these things don't just come naturally. They come only as a result of faithful study of the law, of faithful attention to detail in every case, reading every brief in every case.

Judge Gorsuch does this in part because he was well trained. When we look at his background, we can see that excellence has always been something we have been able to see from him. He graduated with honors from Harvard Law School and received a doctorate in jurisprudence from Oxford. He clerked for three brilliant and very well-respected jurists: Judge David Sentelle on the U.S. Court of Appeals for the DC Circuit and Justice Byron White, as well as Justice Anthony Kennedy of the U.S. Supreme Court. We could not ask for a better legal education or a stronger record of accomplishment from a young lawyer.

After his clerkship, Judge Gorsuch entered into private practice, where he was a trial attorney for 10 years. In 2005, he joined the U.S. Department of Justice as Principal Deputy Attorney General, and he became a judge on the Tenth Circuit in 2006, where he has served for the last decade.

Judge Gorsuch has what I would consider—and I think what most would acknowledge—is the correct approach to the law. He is a judge's judge, both literally and figuratively—literally, because he sits on the U.S. Court of Appeals for the Tenth Circuit. He literally judges the rulings of other judges. It is his job to decide whether other judges have done the right thing. And he is a judge's judge figuratively in the sense that he has the characteristics that all judges aspire to—or at least should. He decides cases based on what the law says and not on the basis of what a particular judge might wish the law said.

I particularly enjoyed last night listening to Judge Gorsuch speak at the White House, his reference to what he considers an important, telltale sign of

a good judge or a bad judge. He said: "A judge who likes every outcome he reaches is very likely a bad judge, stretching for results he prefers rather than those the law demands." So a bad judge is one who necessarily likes all the results he reaches, and it naturally follows that a good judge will, from time to time, necessarily disagree with some of the judge's own rulings. In other words, the outcome of the case doesn't necessarily match up with the outcome the good judge would prefer—or the judge, an all-powerful ruler who had the power not only to interpret the law but also make it, establishing rules, embodying policies that would govern in all cases.

This is the essence of the conservative legal movement—the judicial conservative movement, we might say—in which Justice Scalia was so influential, which is why it is so fitting that Judge Gorsuch has been named to replace Justice Scalia.

Judges do not have a roving commission specifically to address all of the evils that plague society. They don't have a roving commission to decide big policy questions of the sort we debate in this Chamber every day. The judge's role, rather, is to apply the facts to the case at hand, and, in the case of the Supreme Court, to provide guidance to lower courts so they can resolve difficult and consequential questions of law. Judge Gorsuch understands the difference between being a judge and being a legislator, and that is very much reflected in his work on the bench.

When I had the privilege of practicing law and appearing in front of Judge Gorsuch, I was able to be the beneficiary of his skill as a judge and of his commitment to the rule of law. Over the last few days, I have had the privilege of reading many of his opinions. I spent hours upon hours poring through his opinions. Knowing that he might well be named to the Supreme Court, knowing he was one of the potential nominees made me want to learn more about him than I already knew. I have to say, every single opinion I read, without exception, was impeccable to an unusual degree. They are methodical. They are careful. They are studious. They reflect a degree of academic and professional craftsmanship rarely seen. He treats the parties appearing before him with dignity and respect. He takes their arguments seriously, and he respectfully explains their arguments as he addresses them.

I know from my time in the practice of law that no one likes to lose a case, but I doubt any litigant has read a Judge Gorsuch opinion and felt like he failed to understand their position or that he failed to take their views seriously with the credibility and dignity they deserve. This is a crucial yet, sadly, often underrated factor when reviewing the work of any judge.

Most of all, his opinions are just brilliant. They are digestible to lawyers