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## Senate

The Senate met at 11 a.m. and was called to order by the Honorable DAN SULLIVAN, a Senator from the State of Alaska.

### PRAYER

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

Let us pray.

O God, who remains the same when all else fades, thank You for loving and using us for Your glory.

Guide our Senators in the footsteps of those who were willing to risk all for freedom, who transformed dark yesterdays into bright tomorrows.

Lord, uphold our Nation with Your wisdom and might, enabling it to continue to be a city of refuge for those whose hearts yearn for freedom. Keep us all from untimely and self-made cares, as we continue to look to You, the Author and Finisher of our faith.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. HATCH).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 2, 2017.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAN SULLIVAN, a Senator from the State of Alaska, to perform the duties of the Chair.

ORRIN G. HATCH,  
President pro tempore.

Mr. SULLIVAN thereupon assumed the Chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### RECOGNITION OF THE MAJORITY LEADER

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

### MEASURE PLACED ON THE CALENDAR—S. 274

Mr. MCCONNELL. Mr. President, I understand there is a bill at the desk due a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The bill clerk read as follows:

A bill (S. 274) to nullify the effect of the recent executive order that temporarily restricted individuals from certain countries from entering the United States.

Mr. MCCONNELL. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

### NOMINATION OF NEIL GORSUCH

Mr. MCCONNELL. Mr. President, I was surprised by a statement my friend the Democratic leader made right here yesterday. I am glad he came back to the floor to correct himself, though. I think we all appreciated the Democratic leader making clear that Republicans did not—let me repeat, did not—insist on 60-vote thresholds for either

of President Obama's two first-term Supreme Court nominees. Did not. We thank the Democratic leader for clearing that up. His statement also reminds us that both of the Supreme Court Justices President Clinton nominated got straight up-or-down votes as well. There is no reason someone like Judge Gorsuch, who has received widespread acclaim from both sides of the aisle, should be treated differently now.

When he was nominated to his current seat on the court of appeals, Judge Gorsuch received the American Bar Association's highest possible rating—unanimously “well qualified.” At his confirmation hearing, no one had a single negative word to say about him—not a single negative word. At his confirmation vote, no one cast a negative vote against him—not then-Senator Obama, not then-Senators Clinton, Biden, or Kennedy, and not my good friend Senator SCHUMER, either. Judge Gorsuch was confirmed in exceptionally fast time for a court of appeals nominee—just 2 months. So you have to wonder, if this nominee was so non-controversial in 2006 that a rollcall vote was not even required, what could possibly have changed since to justify threats of extraordinary treatment now? What has happened in the last 10 years? If the Democratic leader or anyone else in his conference did not raise a concern in committee or cast a single negative vote then, let alone even ask for a rollcall vote, what could possibly justify these so-called grave concerns—grave concerns—he claims to have now?

Professor Laurence Tribe, President Obama's law school mentor, called Judge Gorsuch a “brilliant, terrific guy who would do the Court's work with distinction.” This is Laurence Tribe, the President's constitutional law professor, one of the best-known liberal professors in the country.

Neal Katyal, President Obama's top Supreme Court lawyer, lauded Judge

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



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Gorsuch as “one of the most thoughtful and brilliant judges to have served our nation over the last century.” Over the last century. That is President Obama’s Supreme Court lawyer.

The left-leaning Denver Post recently highlighted Judge Gorsuch’s reputation as a “brilliant legal mind” who applies the law “fairly and consistently.”

I am happy to report that we have even been assured by liberal talk show host Rachel Maddow that Gorsuch is “a relatively mainstream choice.” Rachel Maddow.

Turns out, in the years since Judge Gorsuch’s unopposed Senate confirmation, he has shown himself to be the very kind of judge everyone hoped he would be, one who demonstrates a “sense of fairness and impartiality” that Democratic then-Senator Salazar lauded him for in 2006, which Salazar called a “keystone for being a judge.” That was the Democratic Senator from Colorado when he was confirmed in 2006.

That was Judge Neil Gorsuch’s reputation back then, and it is his richly deserved reputation still, as those in both parties who have known and worked with him continue to tell us. As one Democrat and Denver attorney put it, Judge Gorsuch is “smart [and] he’s independent.” The things we have heard from so many about Judge Gorsuch—smart and independent, fair and impartial, thoughtful and brilliant—are just the qualities we should expect in our next Supreme Court Justice. They are the same qualities I am confident Judge Gorsuch will bring to the Court.

#### CONGRESSIONAL REVIEW ACT RESOLUTIONS

Mr. MCCONNELL. Mr. President, this Republican-led Congress is committed to fulfilling our promises to the American people. That work continues now as we consider legislation to push back against the harmful regulations from the Obama administration. On its way out the door, the Obama administration forced nearly 40—40—major and very costly regulations on the American people. Fortunately, we now have the opportunity to work with a new President to begin bringing relief from those burdensome regulations.

Last night, the House sent us two resolutions under the Congressional Review Act—one of the best tools at our disposal to undo these heavy-handed regulations.

This afternoon, the Senate will have the opportunity to pass the first of these resolutions, a measure to overturn the stream buffer rule. The resolution before us now is identical to the one I introduced earlier this week, and it aims to put a stop to the former administration’s blatant attack on coal miners. In my home State of Kentucky and others across the Nation, the stream buffer rule will cause major damage to communities and threaten

coal jobs. One study actually estimated that this regulation would put as many as one-third of coal-related jobs at risk. That is why the Kentucky Coal Association called it “a regulation in search of a problem.” They joined with the United Mine Workers of America and the attorneys general of 14 States on both sides of the aisle urging Congress to act. We should heed their call now and begin bringing relief to coal country. Today’s vote on this resolution represents a good step in that direction.

Once our work is complete on this legislation, we will turn to another House-passed resolution that will protect American companies from being at a disadvantage when doing business overseas. Although the Securities and Exchange Commission may have had good intentions, the resource extraction rule costs American public companies up to nearly \$600 million annually and gives foreign-owned businesses in Russia and China an advantage over American workers. We all want to increase transparency, but we should not raise costs on American businesses, only to benefit their international competition. Let’s send the SEC back to the drawing board to promote transparency without the high costs or negative impacts on American businesses.

These CRA resolutions keep the interests of American families and workers in mind. Today, we will continue to chip away at the regulation legacy of the Obama years, with more CRA resolutions in the coming days as well.

Let’s pass these two resolutions without delay so we can send them to the President’s desk and continue giving the power back to the people.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

#### RECOGNITION OF THE MINORITY LEADER

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

#### NOMINATION OF NEIL GORSUCH

Mr. SCHUMER. Mr. President, I spoke at length about the Supreme Court nomination yesterday, but I just want to underscore a few points. We in the Senate have a constitutional duty to examine the record of Judge Gorsuch robustly, exhaustively, and comprehensively, and then advise and consent, as we see fit. We have a responsibility to reject if we do not.

We Democrats will insist on a rigorous but fair process. Part of that process entails 60 votes for confirma-

tion. Any one Democrat can require it. Many already have. It was a bar met by each of Obama’s nominations; each received 60 votes. Most importantly, it is the right thing to do. And I would note that a 60-vote threshold was reached by each of them either in cloture or in the actual vote.

On a subject as important as a Supreme Court nomination, bipartisan support is essential and should be a prerequisite. That is what a 60-vote threshold does; 60 votes produces a mainstream candidate. And the need for a mainstream consensus candidate is greater now than ever before because we are in major new territory in two ways.

First, because the Supreme Court, under Chief Justice Roberts, has shown increasing drift to become a more and more pro-business Court—siding more and more with corporations, employers, and special interests over working and average Americans—we need a mainstream nominee to help reverse that trend, not accelerate it. I will remind my colleagues, that is how President Trump campaigned, but his nominee seems not to be in that direction at all—not for the average working person but, rather, for special business interests.

Second, given that this administration—at least at its outset—seems to have less respect for the rule of law than any in recent memory and is testing the very fabric of our Constitution within the first 20 days, there is a special burden on this nominee to be an independent jurist, someone who approaches the Court without ideological blinders, who has a history of operating outside and above politics, and who has the strength of will to stand up to a President who has already shown a willingness to bend the Constitution.

Requiring 60 votes has always been the right thing to do on Supreme Court nominations, especially in these polarized times. But now in this new era of the Court, in this new administration, there is an even heavier weight on this tradition. And if the nominee cannot gain the 60 votes, cannot garner bipartisan support of some significance, then the answer is not to change the rules; the answer is to change the nominee and find someone who can gain those 60 votes.

Changing the rules for something as important as the Supreme Court gets rid of the tradition, eliminates the tradition of mainstream nominees who have bipartisan support. It would be so, so wrong to do. I know many of my colleagues on the other side are hesitant to do it, and I hope they will remain strong in that regard.

#### NOMINATIONS OF BETSY DEVOS AND ANDREW PUZDER

Mr. SCHUMER. Now, on another matter, the pending nominations of the President’s Cabinet, again, we are in