

I wanted to say to Attorney General Sessions: Listen, I understand that you are recused from the Russia investigation, but do you think that means you are not allowed to watch the news or read a newspaper? My God, what is going on here?

It is clear that Attorney General Sessions has an ongoing difficulty remembering his own interactions with Russians and the extent to which he knew about Russian contacts with other members of the Trump campaign. As the record demonstrates, Attorney General Sessions has misrepresented the truth about those contacts to Members of this body time and time again. The interference by a hostile power in our Nation's elections represents an attack on democracy itself, and the inability of our Nation's top law enforcement official to speak with a clear and consistent voice about what he knows of the Russian operation is disturbing.

Tomorrow morning, the Attorney General will appear before the House Judiciary Committee, where I am confident he will once again face questions about this issue. It is my hope that this time Attorney General Sessions will answer those questions honestly, but in light of his misrepresentations to Members of this body, Attorney General Sessions has an obligation to return to the Senate and explain himself.

Getting to the bottom of Russia's interference in the 2016 election is a matter of national security, and Attorney General Sessions owes the American people an explanation about what he knows. He needs to return to the Senate Judiciary Committee to set the record straight.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

BLUE-SLIP COURTESY

Mr. GRASSLEY. Madam President, in the last several weeks, there has been a lot of discussion regarding the blue-slip courtesy that applies to judicial nominations. I want to take a moment to clarify a few things. My position hasn't changed. Like I said in November of last year, I intend to honor the blue-slip courtesy, but there have always been exceptions.

First, the blue slip has always been a Senatorial courtesy. It is premised on the idea that home State Senators are in a very good position to provide insights into a nominee from their State for the Federal judiciary. It is meant to encourage consultation between the White House and home State Senators about judicial nominations. That is why I value the blue-slip tradition and ask for the views of Senators on all nominees to courts from their respective States.

Throughout its history, the many chairmen of the Senate Judiciary Committee have applied this blue-slip courtesy differently. That is a chairman's prerogative. The chairman has the authority to decide how to apply the courtesy. Over the past 100 years, there have been 18 chairmen of the Senate

Judiciary Committee who recognized the value of the blue-slip courtesy, but only 2 out of these 18 chairmen required both Senators to return positive blue slips before scheduling a hearing.

The practice of sending out blue slips to home State Senators started 100 years ago, in 1917. Chairman Charles Culberson started the blue-slip practice to solicit the opinions of home State Senators, but he did not require the return of two positive blue slips before the committee would proceed on a nominee. In fact, in the blue slip's very first year, Chairman Culberson held a hearing and a vote for a nominee who received a negative blue slip. His successors over the next nearly 40 years had the same policy. It was not until 1956 that the blue-slip policy changed under Chairman James Eastland, a Democrat from the State of Mississippi. Chairman Eastland began to require both home State Senators to return positive blue slips before holding a hearing and a vote.

Chairman Eastland, as history tells us, was well known for his segregationist views. Unfortunately, it is likely that he adopted a strict blue-slip policy to veto judicial nominees who favored school desegregation. This is what Villanova Law School Professor Tuan Samahon explained: "When segregationist 'Dixiecrat' Senator John Eastland chaired the Judiciary Committee, he endowed the blue slip with veto power to, among other things, keep Mississippi's federal judicial branch free of sympathizers with *Brown v. Board of Education*."

After Chairman Eastland retired in 1979, Senator Kennedy became chairman. He got rid of Senator Eastland's policy. He didn't want a single Senator to be able to unilaterally veto a judicial nominee. Senator Kennedy's policy was that an unreturned or negative blue slip wouldn't prevent the committee from conducting a hearing on a nominee. Then along comes Senator Strom Thurmond, continuing this policy when he became chairman. So did Senator Joe Biden. So did Senator ORRIN HATCH. Each of those chairmen allowed hearings for nominees who had negative or unreturned blue slips.

In 1989, Chairman Biden sent a letter to the White House articulating his blue-slip policy. This is what Chairman Biden wrote: "The return of a negative blue slip will be a significant factor to be weighed by the committee in its evaluation of a judicial nominee, but it will not preclude consideration of that nominee unless the Administration has not consulted with both home State Senators prior to submitting the nomination to the Senate."

Obviously, chairmen from both parties saw the danger of allowing one or two Senators to veto a nominee for political or ideological reasons. My predecessor, Chairman LEAHY, reinstated Chairman Eastland's strict blue-slip policy. Some believe he did so in order to exert firmer control over the new Bush administration nominees, but

even he said he wouldn't stand for Senators abusing the blue slip to delay or block nominees. Chairman LEAHY said the blue-slip courtesy was "meant to ensure that the home state Senators who know the needs of the courts in their state best are consulted and have the opportunity to make sure that the nominees are qualified" and should not be "abused simply to delay [the Committee's] ability to make progress filling vacancies."

Chairman LEAHY also said:

I assume no one will abuse the blue-slip process like some have abused the use of the filibuster to block judicial nominees on the floor of the Senate. As long as the blue-slip process is not being abused by home-state Senators, then I will see no reason to change that tradition.

As I have said all along, I will not allow the blue slip to be abused. I will not allow Senators to block nominees for political or ideological reasons. This position is consistent with the historical role of the blue-slip courtesy. It also matches my personal experience with the blue slip.

I am going to tell you about a personal experience I had when I first came to the U.S. Senate. In my first year in the Senate, a vacancy arose on the Eighth Circuit. At the time, I served with a Republican, my senior Senator from Iowa, Roger Jepsen, and we had a Republican President, Ronald Reagan. Senator Jepsen and I thought the nominee should be a State judge from Des Moines so we recommended his name to the White House—not like we do now in Iowa, submit two or three names, four names sometimes, for the President to pick from. In 1981, the White House decided they would like to consider another name for the vacancy. The other individual, Judge Fagg, was a State court judge in Iowa. The White House interviewed the judge who was supported by both Senator GRASSLEY and Senator Jepsen along with having interviewed this other nominee.

President Reagan, ultimately, nominated the other nominee for the vacancy. He was not the person Senator Jepsen and I recommended, but the White House thought that he was better suited to the circuit court, and that ended up being the correct decision. Judge Fagg served with great distinction for more than two decades. Even though he was not our pick, Senator Jepsen and I returned our blue slips on the nominee. That was not unusual as more deference has always been given to the White House, particularly for circuit court nominees, which is different from district court nominees.

When Judge Fagg was nominated to the Eighth Circuit, both Senators from Iowa were Republicans, and the blue slip practice did not change when Senator Harkin, a Democrat, was elected to the Senate, succeeding Senator Jepsen.

Senator Harkin and I served together for 30 years, and we did not have any problems with judicial nominees. Generally, when there was a Republican

President, I sent a list of names to the President, and when there was a Democratic President, Senator Harkin sent a list of names to the White House. We served together for those 30 years and never had any problems with blue slips, not once.

During the Clinton administration, a vacancy arose on the Eighth Circuit. The White House nominated Bonnie Campbell for the court. Ms. Campbell was originally from New York and had previously worked for two Democratic Senators. For 6 years, she served as chairwoman of the Iowa Democratic Party. Ms. Campbell was elected as Iowa's attorney general after having defeated the Republican candidate. She also ran for Governor against Gov. Terry Branstad. After she lost that election, she was appointed by President Clinton to a position within the Department of Justice.

It happens that I liked Ms. Campbell very much. She was not the type of nominee I would have picked for the court, but that did not stop me from returning my blue slip.

Ms. Campbell was a controversial nominee. During the campaign for Governor, she was quoted discussing Christian conservatives. She said: "I hate to call them Christian because I am Christian, and I hate to call them religious, because they're not, so I'll call them the radical right."

Ms. Campbell had a very liberal record and had spent most of her career as a politician, and a lot of people did not want me to return her blue slip. So why did I return her blue slip? In the process, I was criticized extensively by the conservative base of my State of Iowa.

I did that because the blue slip is not supposed to allow the unilateral veto of a nominee. A Senator cannot use a blue slip to block a nominee simply because he or she does not like the nominee's politics or ideology. A Senator cannot use a blue slip to block a nominee because it is not the person the Senator would have picked.

The President gets to nominate judges. The White House should consult home State Senators, and it is important that they do so in a meaningful way. The White House may disagree with Senators and may determine that a different individual is more suited to serve on the circuit court, but so long as there is consultation, the President generally gets to make that call. So I will not let Senators abuse the blue slip to block qualified nominees for political or ideological reasons.

I yield the floor.

Mr. SCHUMER. Madam President, I rise today to highlight the importance of the Gateway Project and express my continued frustration with the administration's approach to infrastructure and this critical project. The current Hudson River tunnels were built in 1908 and are rapidly deteriorating, a problem that was made far worse by Hurricane Sandy. Time is running out, and we must quickly build new tunnels

under the Hudson River before the current tunnels have to be closed for repairs.

The closing of either tunnel without a new tunnel in place would be devastating because it would essentially shut down the Northeast Corridor, the transit route from Boston to Washington that produces over \$3 trillion in economic output, a full 20 percent of the national gross domestic product. The importance of this project cannot be overstated.

Unfortunately, despite repeated campaign promises to focus on infrastructure investment, President Trump has proposed severe cuts to infrastructure programs, including the Capital Investment Grant Program. That cut is significant because it was the likely source of funding for the Gateway project. In addition to proposing to cut the funding needed for the Gateway Project, the Department of Transportation has been unresponsive to a number of important interim actions that are necessary to advance this critical project.

Given the lack of focus on infrastructure investment by the current administration and the continued roadblocks the administration has erected in front of the Gateway Project, I must oppose the nomination of Mr. Derek Kan to be Under Secretary of Transportation.

Mr. GRASSLEY. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam 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.

The question is, Will the Senate advise and consent to the Kan nomination?

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

The ACTING PRESIDENT pro tempore. 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 North Dakota (Mr. HOEVEN).

Further, if present and voting, the Senator from North Dakota (Mr. HOEVEN) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER) and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

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

The result was announced—yeas 90, nays 7, as follows:

[Rollcall Vote No. 270 Ex.]

YEAS—90

Alexander	Barrasso	Blumenthal
Baldwin	Bennet	Blunt

Boozman	Gardner	Murray
Brown	Graham	Nelson
Burr	Grassley	Paul
Cantwell	Harris	Perdue
Capito	Hassan	Peters
Cardin	Hatch	Portman
Carper	Heinrich	Reed
Casey	Heitkamp	Risch
Cassidy	Heller	Roberts
Cochran	Hirono	Rounds
Collins	Inhofe	Rubio
Coons	Isakson	Sasse
Corker	Johnson	Schatz
Cornyn	Kaine	Scott
Cortez Masto	Kennedy	Shaheen
Cotton	King	Shelby
Crapo	Klobuchar	Stabenow
Cruz	Lankford	Strange
Daines	Leahy	Sullivan
Donnelly	Lee	Tester
Duckworth	Manchin	Thune
Durbin	Markey	Tillis
Enzi	McCain	Toomey
Ernst	McCaskill	Van Hollen
Feinstein	McConnell	Warner
Fischer	Moran	Whitehouse
Flake	Murkowski	Wicker
Franken	Murphy	Young

NAYS—7

Gillibrand	Schumer	Wyden
Merkley	Udall	
Sanders	Warren	

NOT VOTING—3

Booker	Hoeven	Menendez
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The nomination was confirmed.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I ask unanimous consent that with respect to the Kan nomination, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Steven Gill Bradbury, of Virginia, to be General Counsel for the Department of Transportation.

Mitch McConnell, John Hoeven, Thom Tillis, Tom Cotton, Cory Gardner, Jerry Moran, John Barrasso, Luther Strange, Mike Crapo, John Cornyn, Richard Burr, Mike Rounds, Orrin G. Hatch, David Perdue, Marco Rubio, John Thune, John Boozman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Steven Gill Bradbury, of Virginia, to be General Counsel of the Department of Transportation, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from North Dakota (Mr. HOEVEN).