

programs—education, law enforcement, infrastructure. None of those programs were addressed in the conference. Instead, the richest Americans will likely get an even bigger tax break.

There is no reason to rush the bill through the Senate.

Tuesday night, as our Presiding Officer knows, we had an election in Alabama. This Chamber is waiting for the seating of a new Senator. Shouldn't the people of Alabama have their voices in the Senate present for a vote on the tax bill?

Again I would say to my friend the majority leader, slow down and wait for Senator-Elect Jones to arrive before taking any more votes on the tax bill. Democrats waited for Republican Senator Scott Brown in 2010, but now that the shoe is on the other foot, Republicans don't seem to want to do the same. It is the right thing to do, and it will give every Senator and the American people more time to consider the legislation.

NET NEUTRALITY

Finally, Mr. President, a word on the FCC's vote today on net neutrality. We depend on a free and open internet to spur innovation and job creation. Our economy works best when innovators and entrepreneurs and businesses of all sizes compete on a level playing field. Net neutrality, very simply, says that everyone deserves the same, fair access to the internet. Consumers, small businesses, students, everyone from the elderly couple using Skype to talk to their grandchildren who are half a country away, to the startup company operating out of its founder's basement—everyone deserves the same access to and quality of internet as the big corporations.

When I was growing up in Brooklyn, my father owned a small exterminating business. If his competitor down the street had received a preferred electricity rate, he would have rightly been outraged, and the law would have protected him from unfair treatment. We don't reserve certain highways for a single trucking company, and we don't limit phone service to handpicked stores. We shouldn't reserve high-speed internet for a favored few corporations either. Yet now President Trump's appointed Chairman of the FCC, Ajit Pai, is on the verge of eliminating net neutrality, which will bring to an end the free and open internet that has enabled so many successful companies and has created so many jobs.

Our internet is the envy of the world. Why are we changing it in a way that could harm it? If net neutrality is eliminated, the internet may resemble a toll road, with the highest bidders cruising along private fast lanes while the rest of us inch along on a single, traffic-choked public lane. We could be forced to purchase internet packages, much like cable packages, and pay for more popular sites. It is hard to imagine an entrepreneur building the world's next revolutionary, billion-dollar company while she sits in bumper-

to-bumper traffic online. It is hard to imagine that average consumers are going to get a good deal if internet service providers are unshackled and offer premium service to premium customers.

Again, President Trump talks one way and acts another. He talks like he is helping the middle class. He is fully supportive of the FCC and his hand-picked Chairman while he hurts the middle class and helps the big interests when it comes to the internet.

By ending net neutrality, Chairman Pai and the Trump administration are once again siding with corporate interests against consumers and small business. Once again, the Trump administration is picking CEOs over citizens—just as in the tax bill and now on net neutrality—and thwarting the comments of millions of Americans who have sent comments to the FCC asking them to save net neutrality and to keep the internet free and open to everyone.

The American people have spoken. I hope Chairman Pai and President Trump are listening.

Before I yield the floor, I want to thank my friend, the senior Senator from Connecticut, for his valiant and strong struggle to keep the internet free, open, and available to the little guy and gal equally as it is to the big shots.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I wish to thank the senior Senator from New York, our minority leader, for his very powerful and eloquent remarks on net neutrality. He has been a leader in protecting consumers in so many areas, and this one is preeminently important.

We are here on a day when the FCC may well repeal the net neutrality order. I spoke at length about it yesterday, and I am struck by the mockery that the FCC will make of consumer protection if it proceeds with this very misguided and mistaken course. It is a course that will be reversed, I believe, in the courts if it is followed, and it should be reversed in this body as well. It is profoundly important to the future of the internet to have access and affordability to innovation, to our economy, and to job creation. The open and accessible internet is part of our lifeblood economically and culturally in this country. Part of what makes America great is the freedom of access and innovation.

FIFTH ANNIVERSARY OF THE SANDY HOOK MASS SHOOTING

Mr. President, I want to talk today on the occasion of the fifth anniversary of the Sandy Hook massacre in my State of Connecticut. It was one of the saddest days of my life and one of the worst days of my public career when I went to the elementary school in Newtown, CT, along with a number of my colleagues who will be speaking today as well, Congresswoman ESTY and Senator MURPHY.

In the Judiciary Committee, just moments ago, Senator FEINSTEIN circulated a framed copy of the front page of the Daily News of Wednesday, December 15, 2012—5 years ago, almost to the day. That front page has photographs of the 20 beautiful children who were lost in that unspeakable act of terror and horror. They are 20 wonderful human beings who would be 11 years old today. Their great teachers were killed as well.

Having valued and known their parents as friends and fellow advocates in the effort to achieve commonsense legislation against gun violence, I know how deeply that pain is still felt. The healing is far from over. The grief never ends. The prayers and thoughts of mine go every day to the loved ones who lost those children and educators.

Prayers and thoughts are not enough. It never has been after any of these massacres, and it never will be after the mass killings or for the one-by-one deaths in our communities—90 every day in this great country. Gun violence kills 90 people every day, and 150,000 have perished since Sandy Hook.

So as we commemorate this awful day, 5 years ago, let us rededicate ourselves to act to honor those victims with action, to honor all those with action. It is never too soon to honor the victims with action.

On that front page of the Daily News, there is a line that says “New York’s Hometown Newspaper.” New York wasn’t the hometown to those Sandy Hook victims, but America felt that Sandy Hook was every town in America, and it is indeed quintessentially an American town, filled with wonderful people who hugged and grieved together that day.

That night, in the St. Rose of Lima Church, and in the days following, when there were calling hours and funerals, one after the other, it seemed like they would never end. In some ways they have never ended, because those families’ losses are still real and urgent. For us the task of honoring those 20 beautiful children and the 6 educators ought to be real and urgent, even more so today than it was then.

That day we prayed in the St. Rose of Lima Church. I said to the congregation that the whole world is watching. The whole world was watching. The world is watching America to see whether we will act.

We are not the only country with mental health problems. Our rate of mental illness is no greater than any other developed industrial country, but our rate of gun violence is off the charts compared to other countries. There is no excuse for it. There is no rational explanation for it.

As we prayed and grieved then, in the wake of that senseless, horrific tragedy, Congress turned its back. It turned its back on those courageous and strong families who came here in

the weeks following, talking to our colleagues, across the aisle and on this side, asking for commonsense measures, background checks. There was a bipartisan measure then to extend background checks and achieve other gun violence prevention measures, which unfortunately failed on this floor to gain enough votes. We had 55, but we needed 60. From the Gallery on that day, someone shouted: "Shame."

December 14, 2012, will be forever a stain on our Nation's history. That day will forever be a black mark on the United States of America, but so will the day that those commonsense measures were rejected in this Chamber. That shame was richly deserved on that day.

Congress saw the photos of those innocent babies, those wonderful children. It saw their grieving parents. It saw the lines of terrified and traumatized children that day being led to safety out of their elementary school. It saw the war zone that the school became when that mass killing turned it into something that no teacher, no educator ever could have foreseen. Those educators helped save lives.

Congress saw and heard the stories of how brave educators sought to shield their children from the bullets coming from that assault weapon on that day. Unfortunately, the vice-like grip of the gun lobby and, principally, the NRA—let's be blunt about who is leading that lobby—prevailed. In the 1,825 days since the Sandy Hook tragedy, despite the 150,000 people who have perished from gun violence since then, Congress has chosen inaction. It has disregarded public safety and the clear will of the American people. It has heeded instead the campaign contributions of the gun lobby, and it has failed to act. It has been complicit in the continuing scourge of gun violence by its inaction. It has been complicit in those deaths. It has been an aider and abettor, in fact, to the 90 killings each day as a result of gun violence. Shame on Congress if it fails to act now.

Today I am not just heartbroken; I am furious. I am angry beyond words about Congress's complicity, about the inaction we have seen, about Congress's abject failure to take commonsense steps that will protect the American people, about its failure to meet this public health crisis with the kind of action that the American people deserve and need. If 90 people every day were perishing from Ebola or some contagious disease—even the flu—there would be an outcry, an outrage, and we would be clamoring to do something.

Here, the solutions are self-evident. None of them is a panacea. None is a single, magic solution to this problem. The trap raised by the gun lobby that none will necessarily deal with the mass killing that just happened is, indeed, a trap we should reject.

The ban on bump stocks might have prevented Las Vegas but not Charleston. The closing of the 72-hour loophole that permits purchasers to buy a gun if

the background check has not been completed in 72 hours might not have prevented Las Vegas, but it would have prevented Charleston. Dylann Roof purchased the gun only because he was able to circumvent the background check as a result of that 72-hour loophole.

The ban on certain kinds of high capacity magazines might not have prevented San Bernardino or Orlando, but it would have helped to prevent Sandy Hook.

We will never know whether any of these measures would prevent every one of the killings that we cite, but each of them can save lives, and if we save one life, we will have saved the world.

Shame on Congress for allowing this tragic anniversary to be followed by so many more—Sutherland Springs, Las Vegas, Orlando, Charleston, and each and every day in the news. Every day, none of our communities is immune from this scourge. It is truly a public health crisis.

I am hopeful that there may well be a crack in the united partisan front emerging. I am proud to be part of a very powerful bipartisan alliance involving our colleagues, Senators Scott and Cornyn, across the aisle, as well as Senator MURPHY and other Senators on this side of the aisle. I hope we can make modest and crucial improvements to the National Instant Criminal Background Check system.

The NICS system should be fixed. The Fix NICS Act will provide incentives and encourage States to do better reporting. Right now there are immense gaps in reporting in the States and even in the Federal Government, which is why, in fact, perhaps, Sutherland Springs occurred, because of a failure to report by the Air Force a domestic violence conviction by court-martial that would have barred the shooter from lawfully obtaining a weapon, had it been reported accurately.

The Fix NICS bill would ensure that Federal and State authorities comply with existing law and accurately report relevant criminal history records to the background check system. This step is the least we can do, not the most, but it is the bare minimum.

While there is broad support for this modest but significant measure, the Republican leadership in the House is already attempting to sabotage it by linking it and pairing it with the truly dangerous Concealed Carry Reciprocity Act. That act would sabotage the laws of States like Connecticut that seek to protect our citizens. It would, in effect, provide that permits from other States be treated like driver's licenses, no matter how lenient or even nonexistent the provisions may be for obtaining permits in those other States. It would eviscerate rights of States like Connecticut to protect our citizens with higher standards.

These basic measures to prevent gun violence have no threat whatsoever to

gun ownership. They ensure that people who are a danger to themselves or others and convicted criminals and others already barred from buying weapons will not be permitted to carry a lethal firearm.

I respect the Second Amendment. It is the law of the land. No firearm should be taken away from law-abiding citizens. But the idea that there is nothing Congress can do to make a difference and save American lives is unacceptable and false. It is a political copout resoundingly rejected by the vast majority of Americans.

Ninety-five percent of Americans want background checks applied to all purchases. They overwhelmingly favor fixes to the present background check system that make the oversight of purchases more accurate, and they favor commonsense measures that will protect innocent human beings like the 20 beautiful children and sixth grade educators lost that day in Sandy Hook.

When I feel most discouraged and disgusted, I think of those families. I think of the parents of Olivia Engel, and I think of the parents of all of those beautiful children and wonder, as I am sure they often do, what lives they would be leading today. What would Olivia Engel be doing on this day filled with Sun and beauty? In Connecticut, this morning, it snowed. At 6 or 11, snow would still be a wonderful thing, never to be taken for granted by any child. This holiday—all of the wonder and beauty of this holiday—is never taken for granted by a 6-year-old or an 11-year-old. The possibilities, opportunities, dreams, and hopes were shattered on that day and lost forever.

I was at the calling hours for one of the children killed at Sandy Hook, and it was a gut-wrenching moment—every one of them. I spoke to the mother of one of those children, and I said: When you are ready, we should do something about gun violence.

She said, without hesitation, through reddened eyes and cracking voice: I am ready now. I am ready now.

America should be ready. America is ready. This body should follow America's lead—honor with action. If nothing else is remembered of that day 5 years ago, let us honor with action those strong and courageous families who have suffered this unspeakable horror, this unimaginable grief, and who have come here in years past to ask us to honor with action the victims, survivors, and loved ones of Sandy Hook and of all gun violence horrors in this country.

Thank you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the senior Senator from Connecticut for his words. The Senator from Connecticut is a former prosecutor who knows law enforcement backward and forward. I can only imagine the grief felt in his State. As a neighboring New England State, I recall the vigils, the

people coming to pray, and the sadness from what happened in our neighboring State of Connecticut. But as so many have said, we can express grief—and we should—but we have to do what the Senator from Connecticut and others have suggested, which is actually take some steps that might stop these things. So I applaud him for what he said.

Let me speak on another issue. This week, we voted on three circuit court nominees, just one step below the Supreme Court. All three of these nominees are extreme. One is objectively unqualified. The fact that we are so quickly casting floor votes on these troubling nominations, all of whom were reported out of the Judiciary Committee just last week, is a symptom of the Republicans' willingness to abandon decades of Senate tradition so that this body can serve as a rubberstamp for President Trump's nominees. The Senate will not be the conscience of the Nation or the check and balance it was always designed to be, but instead, a rubberstamp for the President.

Let me just cover a couple of things. Don Willett is a sitting justice on the Texas Supreme Court. That should mean something. Sitting judges have an obligation to exercise good judgment; to not say anything that would lead individuals to question their impartiality. A question I ask nominees all the time is: Can someone who comes into your court—whether they are Republican or Democrat, plaintiff, defendant, rich, poor, whatever—look at you and say: Well, at least this judge is going to show impartiality. Maybe I will win or maybe I will lose, but it will not be because the judge wasn't impartial. When you look at this sitting justice, Don Willett, he fails the standard of impartiality.

A few weeks ago, I questioned him about his tweet telling a young transgender woman, who was interested in playing softball to “Go away, A-Rod.” Justice Willett claimed that this tweet was in jest. But, let me say it again—a sitting justice telling a transgender teen to “go away” sends an unmistakable message to marginalized, vulnerable communities: Not all are welcome in my courtroom. Well, that is not a laughing matter.

This was not the first time that Justice Willett has worn his bias on his sleeve. As an aide to George W. Bush while he was Governor of Texas, he objected to then-Governor Bush declaring a “Business Women’s Week.” He opposed the proclamation’s mention of “glass ceilings, pay equity . . . [and] sexual discrimination/harassment.” He dismissed these very real barriers to women in the workforce as “hype.” For these and other reasons, I seriously question his judgment or that he would be seen by people coming into his courtroom as impartial.

Then we have James Ho, who is another troubling nominee. His views on social issues are, not surprisingly, ex-

treme. He has even offered effusive praise for Jeff Mateer, another Trump nominee who has publicly proclaimed that transgender children are part of “Satan’s plan.” Even as a judge, he has complained about the Supreme Court. Remember, these judges are supposed to follow the precedent of the Supreme Court. He has complained about the Supreme Court’s Obergefell decision. He said that it is going to lead to “people marrying their pets.” I don’t think any legal scholar anywhere from the right to the left would agree with that interpretation. Mr. Ho praised Mateer for “protecting and enforcing the . . . civil liberties of every Texan.” Well, it is not every Texan—just those he agrees with.

Of course, this race to confirm Mr. Ho that is zipping through here means that we will not have fully vetted him for this lifetime appointment. When he served in the Justice Department’s Office of Legal Counsel, he authored a memorandum that was cited in one of the shameful “torture memos.” These torture memos have turned out to be a blot on the conscience of the United States. Mr. Ho has refused to answer questions about his involvement, despite the fact that the torture memos are now very much in the public domain. Unfortunately, these kinds of non-answers are considered sufficient as of late, since Republicans are more interested in rubberstamping President Trump’s judicial nominees than asking serious questions of them as a coequal branch of government. I cannot believe that any Republican leadership would allow a nominee of a Democrat who would have been involved in the drafting of a key and controversial memorandum to be confirmed unless they are willing to answer questions about it.

Then we have Steven Grasz, whom the American Bar Association unanimously rated him as unqualified for the Federal bench. In the past 40 years, I recall seeing a unanimously unqualified rating only a few times, and those people never made it through. After an exhaustive review including more than 200 interviews about Mr. Grasz, the ABA concluded he could not separate his personal beliefs from his duties as a judge—a fundamental obligation of a judge. This is almost unprecedented to have a rating like this.

To have at least a qualified rating from the ABA is a basic qualification for a nominee to the Federal bench. Certainly, Republicans would insist on it if it was a Democrat’s nominee. The Republicans made it very clear that if a Democrat nominated somebody who got a “not qualified” rating—I don’t recall it happening, but if they did—they made it very clear that person would never be considered. Well, here is somebody who is declared “not qualified,” and yet they whipped him through. You would think “qualified” would at least be the bottom line for a nomination. You would think whoever is President, they are at least nomi-

nating somebody who could hit the threshold of being considered qualified.

Republicans are now casting aside the ABA as a biased institution; some have accused the ABA of opposing Mr. Grasz simply because of his opposition to abortion. Well, that is absurd. The ABA has rated 46 of President Trump’s 50 nominees as “qualified.” Let’s not delude ourselves, does anyone think that any of the 46 Trump nominees that the ABA rated as qualified support abortion rights? They would never get out of the White House if they did. So that argument—like so many others used to support these extreme nominees—does not pass the laugh test.

As the longest serving member of the United States Senate and a former chairman of the Judiciary Committee, I have spoken up about the steady erosion of the Committee’s norms and traditions. The Committee has processed un-vetted, extreme nominees at an unprecedented rate. President Trump will have four times as many circuit court nominees confirmed in his first year than did President Obama. The reason President Trump has four times as many circuit court nominees confirmed in his first year than did President Obama is because Republicans removed any and all guardrails on our confirmation process—the guardrails they insisted on when there was a Democratic President. No matter how careful the Democratic President was in picking that person, they had to have these guardrails. I thought, actually, the guardrails made sense.

The second you have a President who nominates extreme judges, they decided we don’t need those guardrails anymore because President Trump would never make a mistake. Nominees have had hearings scheduled before we even had the ABA ratings. Multiple circuit court nominees are regularly stacked on single panels. That is something Republicans insisted should not be done when there was a Democratic President. Now, unfortunately, the chairman—who is a friend of mine and a man I respect—has reversed his own blue-slip policy. He has begun to advance nominees without favorable blue strips from both home State Senators. That is the first time this has been done in the last two Presidents.

I fear we are doing lasting damage to our nomination process. I fear we are making the advice and consent process a completely laughable exercise. The three nominees who are set forth this week are evidence of that.

I am going to vote no on each of them because they are not qualified. I have voted for many Republican nominees. I might disagree with them philosophically, but they were qualified, just as I voted for many Democratic nominees. Some I disagreed with, but they were qualified. These nominees aren’t qualified. They are extreme. I want the standard I always asked for; that whoever you are, when you come into a courtroom, you can look at the

judge and say: OK, whether I am a plaintiff or defendant, rich or poor, facing the State as the respondent, no matter my political background, I am going to be treated fairly. I will win or lose my case on the merits, not on the judge's bias.

We are closing our door to that. We are closing our door to it when the President of the United States turns the selection process over to an extreme political, partisan group and then asks Republicans to rubberstamp it. I respect my Republican colleagues, but I can't imagine many of them ever standing for a Democratic President doing anything like this. I wouldn't.

I wish they would bring the Senate back to where we should be, where we can be, and where the country is better off when we are.

I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Ms. WARREN. Mr. President, 2 days ago, the GOP-controlled Senate confirmed Leonard Steven Grasz to a Federal appeals court. This is a man who is so aggressively ideological that he earned a rating of "not qualified" from the American Bar Association.

The ABA reached that conclusion, in part, after speaking with many of Mr. Grasz's peers who expressed concerns "that Mr. Grasz' strongly held social views and/or his deeply rooted political allegiances would make it impossible for him to have an unbiased and open mind on critical issues."

Those individuals have ample reason to be concerned. Among his many appalling views, Mr. Grasz believes discrimination against LGBTQ individuals is A-OK. He supports the harmful and discredited practice of conversion therapy and he opposes reproductive rights and the Republicans just confirmed him to a lifetime appointment as a Federal judge who will make life-changing decisions for millions of Americans.

The other judicial nominee the GOP-controlled Senate confirmed this week, Donny Willett, doesn't fall very far from that tree either. Mr. Willett, a current justice on the Texas Supreme Court, isn't shy about his radical right-wing views. He has bragged about being the most conservative justice on the Texas Supreme Court, and he has a record to show for it.

Mr. Willett believes judges should be able to easily overturn State and local laws that protect workers, including minimum wage laws and laws that allow workers to unionize. This view is so out of the mainstream that other conservative judges, including Chief Justice John Roberts and Judge Robert Bork, have rejected him.

Mr. Willett's radical views don't stop there. He has ruled to limit the rights of same-sex couples. He has mocked transgender individuals. He has demonstrated hostility to issues that affect working women, including pay equity, discrimination, and sexual harassment. Mr. Willett has ruled against efforts to help remedy discrimination in Texas schools. On issue after issue, Mr. Willett's record shows a stunning disregard of the issues that impact millions of Americans.

The truth is, Mr. Grasz and Mr. Willett are not unique. They are just a few of the many nominees whose records show they cannot fairly and impartially dispense equal justice under the law.

Right now, the GOP-controlled Senate is executing a breathtaking plan to fill our courts with rightwing, radical nominees like Mr. Grasz and Mr. Willett. It is a plan that has been long in the making. For years, Republicans have worked hand in hand with billionaire-funded, rightwing groups to ensure that our courts advance the interests of the wealthy and the powerful over everyone else.

First, after President Obama was elected, Republicans abused the filibuster to stop reasonable mainstream judges from filling vacancies on Federal courts. They didn't stop those nominees because of their qualifications. They didn't stop them because of their records. The Republicans stopped those nominees because they didn't want judges who cared more about justice than about protecting the powerful.

Then, once the filibuster was gone and Republicans had gained the majority in the Senate, they slowed the judicial nominations process to a crawl. Vacancies stacked up, and the courts became overloaded with cases.

Finally, last year, Republicans took their assault on our judicial system to new heights, refusing to consider any nominee put forward by the President to fill a Supreme Court vacancy. They threw the Constitution and Senate precedent right out the window to advance their radical agenda. It was shocking, and it was shameful.

Now that there is a Republican President who is committed to tilting our courts further in favor of the rich and the powerful, Republicans are looking to fill our courts with judges who share that commitment, no matter how unqualified they may be.

This week, the Senate will vote on one more of those judicial nominees, James Ho, a man who, like Mr. Grasz and Mr. Willett, will work to hand our courts over to powerful, pro-corporate interests. When it comes to money and politics, Mr. Ho's view is the more the better. He has argued that there should be no limits on campaign contributions, none—democracy for sale. According to Mr. Ho, the reason government is so corrupt isn't because there is too much secret money slithering through our political system but be-

cause government makes it too hard for those big donors to succeed in the private sector.

Tell that to the working families, the students, the teachers, and the small businesses that will be paying higher taxes to give those fat cat donors giant tax cuts.

Mr. Ho has also defended discrimination against LGBTQ individuals. While he was solicitor general of Texas, Mr. Ho defended Texas's ban on same-sex marriage. More recently, he has heaped praise on a Federal district court nominee who, among other disgusting statements, said that transgender children are part of "Satan's plan."

Here is another troubling aspect of Mr. Ho's record: his view on whether torture is illegal. While Mr. Ho worked in the Justice Department, he authored a memo relating to the treatment of prisoners of war. That memo is cited in one of the torture memos that became the basis for the Bush administration's illegal and immoral practice of torturing terrorism suspects. That memo was not provided to the Judiciary Committee, and Mr. Ho has refused to fully answer questions regarding his involvement in what ultimately became the Bush administration's policy on torture—information that every Senator should demand to see before we vote on his nomination.

Grasz, Willett, and Ho—just about all of Trump's judicial nominees—have a lot in common. They will put powerful interests before the rights of workers, before the rights of women, before the rights of LGBTQ individuals, people of color, religious minorities, and pretty much everyone else. Their radical, rightwing views mean that in their courts, it will be easier for giant corporations and wealthy individuals to get relief and harder for everyone else to find justice. That is the perverted, upside-down justice system that every Member of this Congress should be working to fix.

Now more than ever, we need judges who will stand up for equal justice for all, not just for the rich and the powerful. The records of the nominees before us this week show that they cannot meet that standard. That is why I voted no on the nominations of Mr. Grasz and Mr. Willett, and that is why I will be voting no on Mr. Ho. I urge my colleagues to do the same.

Mr. President, I yield.

Mrs. FEINSTEIN. Mr. President, I come to the floor today to discuss the three judicial nominations we are considering this week: Steven Grasz, for the Eighth Circuit Court of Appeals, and James Ho and Don Willett, both for the Fifth Circuit Court of Appeals.

Before I talk about those nominees, I would like to offer some background on the importance of circuit courts and remind my colleagues why we have so many judicial vacancies.

The Supreme Court hears between 100 and 150 cases each year out of the more than 7,000 it is asked to review. But in 2015 alone, more than 55,000 cases were filed in Federal appeals courts.

These cases range from crime and terrorism to bankruptcy and civil matters, and the judges who hear these cases will affect millions of Americans.

So it is extremely important who is confirmed to these lifetime positions. Federal judges have a tremendous impact on individuals, businesses, and the law. In a way, circuit courts serve as the de facto Supreme Court to the vast majority of individuals who bring cases. They are the last word.

These nominations are very important. That is why it is so concerning that Republicans for years refused to allow judgeships to be filled.

The simple fact is the rush to fill judicial vacancies is the direct result of Senate Republicans' historic obstruction of judicial nominees during President Obama's administration.

During President Obama's last 2 years in office, just 22 judicial nominees were confirmed. That is the fewest in a Congress since Harry Truman was President. In contrast, during the last 2 years of the George W. Bush administration, Senate Democrats confirmed 68 judicial nominees.

At the end of last year, three circuit court nominees and 20 district court nominees had been approved by the Judiciary Committee and were waiting for votes on the Senate floor. Republicans refused to schedule votes for those nominees, many of whom Republicans themselves voted for, so they could hold those seats open. Four more circuit court nominees and 52 district court nominees were pending in committee and never even received a hearing.

Now, 1 year later, the Senate is voting this week to confirm the 10th, 11th, and 12th circuit court nominees this year. Republicans went from delaying all nominees to cramming them through at a breakneck pace.

The 11 circuit court nominees who have already been confirmed are more than any President in the first year of office since Richard Nixon.

Two nominees we are considering this week, James Ho and Don Willett, lay out the Republican playbook.

These seats on the Fifth Circuit have been vacant since 2012 and 2013, even though the Obama White House tried to work with my colleagues from Texas to fill these seats with consensus nominees.

But once President Trump entered the White House, they wasted no time in rushing to put conservative judges in those seats.

Don Willett was nominated on October 3, James Ho on October 16.

Just a month later, on November 15, the Judiciary Committee held a hearing for both circuit court nominees on the same day, and cloture was filed immediately on both nominations after the committee advanced them.

The speed at which these judges are being rammed through the process is stunning.

In fact, on four occasions in the last 6 months our committee has held hear-

ings for two circuit court nominees at the same time. This happened only three times in all 8 years of the Obama administration.

This is a problem because it gives Senators less time to review each nominee's record and less time to ask each nominee questions. Candidly, it makes it very difficult for us to exercise our constitutional duty to "advise and consent."

We are already seeing the ramifications. Just yesterday, the White House announced that two of its nominees would not be moving forward. One nominee, Brett Talley, had already been voted out of the Judiciary Committee, but we learned of troubling undisclosed information while he was pending on the floor. This may not have happened if we had sufficient time and cooperation to fully review these nominees.

In the month of November, the Judiciary Committee had hearings for five circuit court nominees. I have served on this committee since 1993, and we have never held hearings for five circuit court nominees in a single month before. That is during a month when we spent a week at home for Thanksgiving.

Republicans refused to advance seven circuit court nominees last year, but now we are speeding through the process to fill those seats with conservative judges. Fairness aside, we should all be concerned that we are giving lifetime appointments to potentially unqualified nominees.

Now, I would like to talk about the three nominees we're considering this week. This week, Steven Grasz was confirmed to the Eighth Circuit.

The American Bar Association has rated 1,755 judicial nominees since 1989, and only two of those have been unanimously rated "not qualified" based on concerns over their impartiality.

One was a nominee for the Fifth Circuit in 2006 who was never confirmed. The other is Steven Grasz.

Let me repeat that. This week, for the first time since at least 1989, the Senate voted to confirm a nominee who was unanimously rated as "not qualified" by the American Bar Association.

The ABA doesn't rate nominees based on what the evaluators think. Rather, they review a nominee's written record, talk to the nominee, and interview many people who have direct personal and professional knowledge about the nominee.

Here are just two direct quotes from the ABA's review:

"Mr. Grasz's professional peers expressed concerns about his views of stare decisis, and questioned his commitment to it."

"[A] number of Mr. Grasz's professional colleagues expressed the view that, in terms of judicial temperament . . . Mr. Grasz is not 'free from bias.' Specifically, they expressed the view that he would be unable to separate his role as an advocate from that of a judge."

These are stunning indictments of a man who was confirmed to a lifetime seat on a circuit court.

Some of my Republican colleagues argue that the ABA is biased. The numbers just don't bear that out.

Over the last 30 years, during both Republican and Democratic Administrations, the ABA has rated nearly 1,800 nominees and rated only two "not qualified" based on their temperament.

I voted against Mr. Grasz's nomination and am very concerned that he was confirmed on Tuesday. He did not have the support of a single Democratic Senator.

Next I would like to talk about James Ho, nominated to the Fifth Circuit.

During his time at the Office of Legal Counsel, Mr. Ho wrote a legal analysis of the scope of the term "cruel, inhuman, and degrading treatment," which is prohibited under Common Article 3 of the Geneva Conventions.

Unfortunately, this memo remains classified, and we haven't seen it.

The reason we know this memo exists is because Jay Bybee cited it in one of the so-called torture memos, which were used to justify torture and have since been widely discredited.

The Bybee memo also appears to have relied on Mr. Ho's analysis to argue that because the term "cruel, inhuman, and degrading treatment" "appears to . . . have a rather limitless reach," conduct that qualifies as torture should be defined more narrowly than what is prohibited under international law.

It is this kind of flawed legal reasoning that allowed the U.S. Government to torture people, and I have argued that no vote should have taken place on Mr. Ho's nomination until we had access to that memo.

The Justice Department has provided us access to similar memos written by nominees for judgeships, so there is no reason to deny us access to the memo James Ho authored.

I can't possibly vote in favor of a nominee to a lifetime appointment who may have helped provide the legal basis for torture, and it is a shame we are voting on this nominee this week.

Finally, I would like to speak about Don Willett's nomination to the Fifth Circuit.

At his hearing, my first question was about his 1998 comments on a draft proclamation for then-Governor George W. Bush to honor the Texas Federation of Business and Professional Women in 1998.

Let me quote from them: "I resist the proclamation's talk of 'glass ceilings,' pay equity (an allegation that some studies debunk), the need to place kids in the care of rented strangers, sexual discrimination/ harassment, and the need generally for better 'working conditions' for women (read: more government)."

I asked Justice Willett if these were still his beliefs, and he refused to answer. I asked again, and again, he refused to answer. Senator DURBIN asked

the same question, and Justice Willett refused to disavow these beliefs.

As the National Women's Law Center wrote, "Mr. Willett's skepticism of the existence of sex discrimination should disqualify him from the bench. Litigants coming before Mr. Willett . . . would have reason to question whether their claims of discrimination, including sexual harassment and pay discrimination, would be fairly and impartially heard or, instead, treated as 'hype' to 'debunk.'"

I could not support Justice Willett's nomination.

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

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

(The remarks of Mr. CORNYN pertaining to the submission of S. Res. 361 are printed in today's RECORD under "Submitted Resolutions.")

Mr. CORNYN. Mr. President, on a separate and happier note, today is a great day for our Nation's Federal judiciary. Yesterday afternoon, we confirmed Justice Don Willett, who currently serves on the Texas Supreme Court, who has been nominated by President Trump to the United States Court of Appeals for the Fifth Circuit. Soon we will be voting on Jim Ho, the former solicitor general of the State of Texas, who has also been nominated to the Fifth Circuit Court of Appeals.

These are two outstanding nominees, and they reflect the best of Texas. They are each fathers, lawyers, scholars, public servants, and active participants in their communities. I wish to take just a few minutes to discuss each of their unique stories, as well as their sterling records of professional accomplishment.

Don Willett was raised in Talty, a small town outside of Dallas, TX. He was adopted at a young age and raised by a single mom for most of his life. She must have been one heck of a lady because her son went on to achieve great things from those humble beginnings.

He attended Baylor for undergraduate and Duke Law School. He clerked on the same court to which he has been nominated and now confirmed, the Fifth Circuit Court of Appeals. He worked in private practice and served Governor, and then President, George W. Bush.

That is not all, though. He went on to work at the Department of Justice's Office of Legal Policy and later served as deputy attorney general of Texas before his appointment to the Texas Supreme Court. He was elected to his first full term in 2006 and reelected in 2012.

While serving on my State's highest court, Justice Willett was recognized for his excellence by the Texas Review

of Law and Politics, which named him as its "Distinguished Jurist of the Year" in 2014.

Justice Willett's confirmation now is good news, and, perhaps, the best news for him personally is that he will no longer have to run for election, as he has had to do as a member of the Texas Supreme Court, because, of course, his appointment now is for life tenure.

Jim Ho's story is no less remarkable. Jim was born in Taiwan, and his parents immigrated to New York when he was a toddler. Jim learned English by watching Sesame Street.

When he was young, his parents moved to California, where Jim later attended Stanford before moving on to law school at the University of Chicago. As an adult, in his professional life, Jim clerked for Judge Jerry Smith on the Fifth Circuit, the court to which he has now been nominated and will be confirmed, and he later clerked for Justice Clarence Thomas on the U.S. Supreme Court.

Jim has worked in a variety of legal capacities in the private sector. He has also served at the Civil Rights Division and the Office of Legal Counsel at the Department of Justice.

It is when he was at the Civil Rights Division that I first met Jim and I offered him a job on my Judiciary Committee staff, where he served as my chief counsel. Later, serving as solicitor general, he had the highest win rate before the U.S. Supreme Court of any person who has served in that role. When I was attorney general of Texas, we created this position of solicitor general because we had line lawyers who would, literally, handle cases for State agencies and who would handle those cases all the way to the Supreme Court, but really they didn't have the experience or training as an appellate advocate that we needed to speak with a single voice for the entire State before the Federal courts. Jim held that role and performed with distinction. As I said, he was enormously successful in his appellate advocacy.

Jim also bears the distinction as the first Asian-American solicitor general of Texas, and he has taught as an adjunct professor at the University of Texas and is published in numerous scholarly journals.

Simply put, Jim Ho and Don Willett are two stars in the Texas legal firmament. They were extensively vetted by the bipartisan Texas Federal Judicial Evaluation Committee, appointed by Senator CRUZ and myself, as well as the Office of White House Counsel and the Department of Justice. I am glad we are now elevating them to the Federal bench.

I wish to commend the President on these excellent nominations, and I thank my colleagues for their votes to support these two exceptionally qualified men.

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

The PRESIDING OFFICER (Mrs. FISCHER). Without objection, it is so ordered.

REPUBLICAN TAX BILL

Mr. REED. Madam President, as Republicans in both Chambers rush to conclude their secret negotiations on the final details of their tax bill, I want to make clear to my colleagues what should be obvious about this legislation. We may not yet know the results of all of their horse-trading leading up to the final legislation, but the American people are watching this process. It is plain to see that, should this Republican bill become law, Republicans will have knowingly and deliberately made worse the most dangerous threats that we face to our economic and national security. Worse yet, they will have drained the public coffers that our children and our children's children will need to take up these challenges.

We all know what these challenges are. We face unprecedented income and wealth inequality that threatens to stifle the social mobility that is the hallmark of the American Dream. There is also declining productivity, which has kept middle-class wages stagnant, and bred economic anxiety for too many parents wondering if their children will attain a higher standard of living—much higher, they hope—than they have achieved. We have a surging deficit from decades of trickle-down economics and unpaid-for wars that, if left unaddressed, could apply huge pressure to our ability to keep our most basic promises to the American people, not to mention meeting our obligations as a world power.

To the families watching what is going on in Washington right now, the Republican end game appears to be to invite fiscal crisis due to irresponsible tax cuts for the wealthy and corporations, and then, because we have already given trillions of dollars away in tax cuts, to demand that Congress shred Social Security, Medicare, Medicaid, and other vital programs in order to pay our bills. We know this is the road that this bill sets us upon, and the American people certainly see this coming. So let no one who votes for this bill say that they did not know the consequences of their actions. This will not be remembered as tax reform, but rather as a serious mistake to be corrected in the future.

How do middle-class Americans know that Republicans did not write this bill for them? Because they have watched Republican economics rig the tax system in favor of the wealthy and corporations for years, even as wealth and income inequality have reached historic levels. They took the Republicans at their word when Republicans promised that the Bush tax cuts of 2001 and 2003, which skewed tax relief to the top