There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ), the Senator from Georgia (Mr. ISAKSON), and the Senator from Alabama (Mr. SESSIONS).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. CARPER), the Senator from Delaware (Mr. COONS), the Senator from California (Mrs. FEINSTEIN), the Senator from Connecticut (Mr. MURPHY), the Senator from Vermont (Mr. SANDERS), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

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

The result was announced—yeas 88, nays 3, as follows:

[Rollcall Vote No. 56 Ex.]

YEAS—88

Alexander	Franken	Murkowski
Baldwin	Gardner	Murray
Barrasso	Gillibrand	Nelson
Bennet	Graham	Paul
Blumenthal	Grassley	Perdue
Blunt	Harris	Peters
Booker	Hassan	Portman
Boozman	Hatch	Reed
Brown	Heinrich	Risch
Burr	Heitkamp	Roberts
Cantwell	Heller	Rounds
Capito	Hirono	Sasse
Cardin	Hoeven	Schatz
Casey	Inhofe	Schumer
Cassidy	Johnson	Scott
Cochran	Kaine	Shaheen
Collins	Kennedy	Shelby
Corker	King	Stabenow
Cornyn	Klobuchar	Sullivan
Cortez Masto	Lankford	Tester
Cotton	Leahy	Thune
Crapo	Lee	Tillis
Daines	Manchin	Udall
Donnelly	Markey	Van Hollen
Duckworth	McCain	Warren
Durbin	McCaskill	Whitehouse
Enzi	McConnell	Wyden
Ernst	Menendez	Young
Fischer	Merkley	
Flake	Moran	

NAYS—3

Rubio	Toomey	Wicker

NOT VOTING—9

Carper	Feinstein	Sanders
Coons	Isakson	Sessions
Cruz	Murphy	Warner

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

APPEALING THE RULING OF THE CHAIR

The question before the Senate is, Shall the decision of the Chair to hold the Senator from Massachusetts in violation of rule XIX stand as the judgment of the Senate.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ), the Senator from Georgia (Mr. ISAKSON), and the Senator from Alabama (Mr. SESSIONS).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. CARPER), the Senator from Delaware (Mr. COONS), the Senator from California (Mrs. FEINSTEIN), the Senator from Vermont (Mr. SANDERS), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

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

The result was announced—yeas 49, nays 43, as follows:

[Rollcall Vote No. 57 Ex.]

YEAS—49

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

NAYS—43

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

NOT VOTING—8

Carper	Feinstein	Sessions
Coons	Isakson	Warner
Cruz	Sanders	

The PRESIDING OFFICER. The decision of the Chair stands as the judgment of the Senate.

The Democratic leader.

Mr. SCHUMER. Mr. President, I yield 1 minute to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. KING. Mr. President, Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. KING. In the opinion of the Chair, would one Senator calling another Senator a liar during debate on the floor of the Senate be a violation of rule XIX?

The PRESIDING OFFICER. In the opinion of the Chair, it would.

Mr. KING. Thank you, Mr. President. I yield back.

The PRESIDING OFFICER. The Senate majority leader.

Mr. MCCONNELL. Here is what transpired. Senator WARREN was giving a lengthy speech. She had appeared to violate the rule. She was warned. She was given an explanation. Nevertheless, she persisted.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Ms. HARRIS. Mr. President, the suggestion that reciting the words of the great Coretta Scott King would invoke rule XIX and force Senator WARREN to sit down and be silent is outrageous.

MOTION TO PROCEED IN ORDER

Mr. President, I move that the Senator from Massachusetts be permitted to proceed in order.

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

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 clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ) and the Senator from Alabama (Mr. SESSIONS).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. CARPER), the Senator from Delaware (Mr. COONS), the Senator from California (Mrs. FEINSTEIN), the Senator from Vermont (Mr. SANDERS), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

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

The result was announced—yeas 43, nays 50, as follows:

[Rollcall Vote No. 58 Ex.]

YEAS—43

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

NAYS—50

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

NOT VOTING—7

Carper	Feinstein	Warner
Coons	Sanders	
Cruz	Sessions	

The motion was rejected.

The PRESIDING OFFICER. The Democratic leader.

Mr. SCHUMER. Mr. President, if the average American heard someone read a letter from Coretta Scott King that

said what it said, they would not be offended. They would say that is someone's opinion; that is all.

It seems to me that we could use rule XIX almost every day on the floor of the Senate. This is selective enforcement, and another example of our colleagues on the other side of the aisle escalating the partisanship and further decreasing comity in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I have a question. I guess it is in the nature of a parliamentary question, and that is, whether it would be in order to ask unanimous consent that the letter from which Senator WARREN read be put into the RECORD as a confirmation that she was, in fact, accurately reading from the letter, that it be added as an exhibit in the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. The text of the letter is in the RECORD of the Senate as the Senator was reading it in her testimony.

Mr. WHITEHOUSE. The text of the letter as she read it, but not the complete letter.

The PRESIDING OFFICER. The Senator may ask consent.

Mr. WHITEHOUSE. I ask unanimous consent that the complete letter from which Senator WARREN read be printed in the CONGRESSIONAL RECORD to confirm that she has in fact read from it.

The PRESIDING OFFICER. Is there objection?

Mr. RISCH. I object.

The PRESIDING OFFICER. Objection is heard.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, this is fascinating. I say to my colleagues, I have served here longer than any other Member of this body. I have been here 42 years. I have been here when the Democrats were in the majority and when the Republicans were in the majority, with Democratic Presidents and Republican Presidents. I have never, ever seen a time when a Member of the Senate asked to put into the RECORD a letter especially by a civil rights icon and somebody objected. It has always been done.

I have had letters that people have asked to be put in that were contrary to a position that I might take. Of course, I would not object. They are allowed to do it. I have seen letters when Members of both sides of the aisle have debated back and forth and the other side would put in letters that were contrary to their opponents' positions, and of course nobody objected.

Don't let the Senate turn into something it has never been before. I would hope that cooler heads would prevail, and we go back to the things that made the Senate great, that made the Senate the conscience of the Nation, as it should be.

I have never once objected to a Senator introducing a letter, even though they took a position different than mine. I have never known of a Republican Senator to do that, and here we are talking about a letter from a civil rights icon.

Let's not go down this path. It is not good for the country. It is not good for the Senate, it is not good for democracy, and it sure as heck is not good for free speech.

I admire the Senator from Rhode Island. He is a man of great integrity, a man who was attorney general of his State and U.S. attorney in his State. His request was something that is normally accepted automatically. I would hope Senators would reconsider.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Mr. President, I am the one who entered the objection, and let me say to my good friend from Vermont that I agree with him 100 percent that we should get back to what made the Senate great.

We have rules around here, and the rules are very clear that you don't impugn another Senator. Now, you can't do that in your words and you can't do it with writings. You can't hold up a writing that impugns another Senator and say: Well, this is what somebody else said. I am not saying it, but that is OK.

It is not OK. It is a violation of the rules, and we should get back to what made this Senate great, and that is, to stay within the rules, stay within civility, and not impugning another Senator, whether it is through words or whether it is through writings.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Mr. President, I have a parliamentary inquiry as well.

The first question, Mr. President, is this: It is my understanding that the ruling of the Chair was based on the advice of the Parliamentarian. Is that accurate, Mr. President; on the advice of the Parliamentarian that the rule had been violated?

The PRESIDING OFFICER. No. The Chair sustained the ruling of the majority leader on his own.

Mr. RUBIO. OK. The second question I have, Mr. President: Does the rule say anything that impugns another Member of the Senate, directly or indirectly? Is that an accurate reading of the rule?

The PRESIDING OFFICER. The Senator is correct, and I will read the paragraph. This is rule XIX, section 2.

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

Mr. RUBIO. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. A parliamentary inquiry.

The PRESIDING OFFICER. State your question.

Mr. MERKLEY. If a Member of the Senate is being considered for nomination, and we are exercising our advice and consent power, and if there is factual conduct in that individual's background that is presented on the floor that is uncomplimentary, would presenting the facts of that conduct in the process of debating an individual be considered in violation of rule XIX?

The PRESIDING OFFICER. The rule makes no distinction between those Senators who are nominees and those who are not. The rule does not permit truth to be a defense of the slight.

Mr. MERKLEY. Mr. President, just to make sure I understand that clearly, if we are considering a nominee who happens to be a Senator and we state factual elements of their background, for example, the conviction of a crime that is inappropriate conduct in the past, stating the factual record about an individual would be considered in violation of rule XIX?

The PRESIDING OFFICER. Each of these cases will be decided by the Presiding Officer in the context at that time.

Mr. MERKLEY. Just to clarify, if I could, therefore, the point is that something could be absolutely true, as, perhaps, a point that was made earlier—a statement can be true in a letter that is presented—but even if it is true and accurate for a person under consideration for a nomination, it would still be in violation. In other words, the fact that an individual is found in violation of rule XIX doesn't mean that the statement had to be false. It could have been a true statement?

The PRESIDING OFFICER. You are correct, Senator.

Mr. MERKLEY. Thank you.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. CORNYN. Mr. President, I just want the RECORD to be abundantly clear. The language that resulted in the vote that we had invoking rule XIX was related to a quotation from Senator Ted Kennedy that called the nominee ''a disgrace to the Justice Department, and he should withdraw his nomination and resign his position.'' That was the quote. Our colleagues want to try to make this all about Coretta Scott King and it is not. I think the complete context should be part of the RECORD.

Mr. MERKLEY. Parliamentary inquiry.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. SCHUMER. Mr. President, it is my understanding—I was not there—that there was a warning over Senator Kennedy's letter, but the actual ruling was based on Coretta Scott King's letter; is that correct?

The PRESIDING OFFICER. Yes, that is correct.

Mr. SCHUMER. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, pursuing Senator MERKLEY's hypothetical, if it came before the Senate that a Member of the Senate who was a nominee seeking the advice and consent of the Senate to the position was, for example, in fact, a horse thief, and we found the fact that he was a horse thief to be relevant to whether or not he should be confirmed, say, to the Department of Interior, which has authority over lands, does the ruling of the Chair mean that it would not be in order for the Senate or for Senators to consider what in my hypothetical is the established fact that the Senator was a horse thief as we debate his nomination here on the floor?

The PRESIDING OFFICER. Once again, the answer is the same, that each of these decisions will be made at the time and in the context in which they occur, and the decision of the Chair is subject to a vote of the Senate and an appeal.

Mr. WHITEHOUSE. I guess, Mr. President, what I don't understand is that we have fairly significant responsibilities under the Constitution to provide advice and consent. It appears that the ruling of the Chair has just been that when a Member of this body is the subject of that advice and consent, then derogatory information about that person is not in order and is a violation of rule XIX on the Senate floor. And with that being the ruling, I don't know how we go about doing our duties. Are we supposed to simply blind ourselves to derogatory information, discuss it privately in the cloak rooms, not bring it out onto the floor of the U.S. Senate, this supposedly great debating society that actually has a constitutional responsibility to discuss both the advantages and the deficits of a particular nominee?

The PRESIDING OFFICER. In each case, it is the opinion of the President, subject to the final vote by the Senate to support or not to support the President's decision.

Mr. WHITEHOUSE. So the precedent going forward is that any Senator who discusses derogatory information that is a matter of public record, that may even include criminal behavior by a Senator who is a candidate for Executive appointment that requires advice and consent, is at risk of being sanctioned by this body by a simple partisan majority of this body under rule XIX if they raise those issues on the floor?

The PRESIDING OFFICER. It is not necessary for a point of order to be raised under rule XIX, but if the point of order is raised, an opinion will be made and it is subject to a vote of the Senate in the manner previously described.

Mr. WHITEHOUSE. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Mr. President, I first have a parliamentary inquiry. These are the continuing rules of the Senate that have been in existence previous to this time and have carried over into this session, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. RUBIO. The reason I ask that is the following—but I think we all feel very passionate about the issues before us. I have not been here as long as Senator LEAHY, whose service has been quite distinguished over a long period of time. I truly do understand the passions people bring to this body. I like to think that I, too, am passionate about the issues before us.

I think this is an important moment. It is late. Not many people are paying attention. I wish they would though because I think the question here is one of the reasons I ran for this body to begin with. Maybe it is because of my background; I am surrounded by people who have lost freedoms in places where they are not allowed to speak. One of the great traditions of our Nation is the ability to come forward and have debates.

But the Founders and the Framers and those who established this institution and guided us over two centuries understood that that debate was impossible if, in fact, the matter became of a personal nature. I don't believe that was necessarily the intention here, although perhaps that was the way it turned out. But I think it is important for us to understand why that matters so much.

I want people to think about our politics here in America because I am telling you guys, I don't know of a single Nation in the history of the world that has been able to solve its problems when half the people in the country absolutely hate the other half of the people in that country. This is the most important country in the world, and this body cannot function if people are offending one another, and that is why those rules are in place.

I was not here when Secretary Clinton was nominated as a Member of this body at the time, but I can tell you that I am just barely old enough to know that some very nasty things have been written and said about Senator Clinton. And I think the Senate should be very proud that during her nomination to be Secretary of State—despite the fact that I imagine many people were not excited about the fact that she would be Secretary of State—to my recollection, and perhaps I am incorrect, not a single one of those horrible things that have been written or said about her, some of which actually did accuse her of wrongdoing, was uttered on the floor of the Senate.

I happen to remember in 2004 when then-Senator Kerry ran for President. Some pretty strong things were written and said about him. I was here for that when he was nominated and confirmed to be Secretary of State. And I don't recall a single statement being read into the RECORD about the things that have been said about him.

Now, I want everybody to understand that at the end of the night, this is not a partisan issue. It really is not. I can tell you this with full confidence that if one of my colleagues on this side of the aisle had done that, I would also like to think that I would have been one of those people objecting, and here is why.

Turn on the news and watch these parliaments around the world where people throw chairs at each other and throw punches, and ask yourself: How does that make you feel about those countries? It doesn't give you a lot of confidence about those countries. I am not arguing that we are anywhere near that tonight, but we are flirting with it. We are flirting with it in this body, and we are flirting with it in this country. We are becoming a society incapable of having debates anymore.

In this country, if you watch the big policy debates that are going on in America, no one ever stops to say: I think you are wrong. I understand your point of view. I get it. You have some valid points, but let me tell you why I think my view is better. I don't hear that anymore.

Here is what I hear almost automatically—and let me be fair—from both sides of these debates. Immediately, immediately, as soon as you offer an idea, the other side jumps and says that the reason you say that is because you don't care about poor people, because you only care about rich people, because you are this or you are that or you are the other. And I am just telling you guys, we are reaching a point in this Republic where we are not going to be able to solve the simplest of issues because everyone is putting themselves in the corner where everyone hates everybody.

Now I don't pretend to say that I am not myself from time to time in heated debates outside of this forum. I have been guilty of perhaps hyperbole, and for those—I am not proud of it.

But I have to tell you, I think what is at stake here tonight and as we debate moving forward is not simply some rule but the ability of the most important Nation on Earth to debate in a productive and respectful way the pressing issues before us. I just hope we understand that because I have tremendous respect for the other Chamber, and I understand that it was designed to be different. But one of the reasons I chose to run for the Senate and, quite frankly, to run for reelection is that I believed I served with 99 other men and women who deeply love their country, who have different points of view, who represent men and women who have different views from the men and women whom I may represent on a given issue and who are here to advocate for their points of view, never impugning their motives.

One of the things I take great pride in—and I tell this to people all the time—is that the one thing you learn about the Senate is, whether you agree with them or not, you understand why every single one of those other 99 people are here. They are intelligent people, they are smart people, they are

hard-working people. They believe in what they are saying, and they articulate it in a very passionate and effective way.

When I see my colleague stand up and say something I don't agree with, I try to tell myself: Look, I don't understand why they stand for that, but I know why they are doing it. It is because they represent people who believe that.

I am so grateful that God has allowed me to be born, to live, and to raise my family in a nation where people with such different points of view are able to debate those things in a way that doesn't lead to war, that doesn't lead to overthrows, that doesn't lead to violence. And you may take that for granted.

All around the world tonight, there are people who, if they stood up here and said the things that we say about the President or others in authority, they would go to jail. I am not saying that is where we are headed as a nation; I am just saying, don't ever take that for granted.

The linchpin of that is this institution. The linchpin of that debate is the ability of this institution through unlimited debate and the decorum necessary for that debate to be able to conduct itself in that manner.

I know that tonight was probably a made-for-TV moment for some people. This has nothing to do with censuring the words of some great heroes. I have extraordinary admiration for the men and women who led the civil rights effort in this country, and I am self-conscious or understanding enough to know that many of the things that have been possible for so many people in this country in the 21st century were made possible by the sacrifices and the work of those who came before us.

This has to do with a fundamental reality, and that is that this body cannot carry out its work if it is not able to conduct debates in a way that is respectful of one another, especially those of us who are in this Chamber together.

I also understand this: If the Senate ceases to work, if we reach a point where this institution—given everything else that is going on in politics today, where you are basically allowed to say just about anything, for I have seen over the last year and a half things said about people, about issues, about institutions in our republic that I never thought I would see ever—ever. If we lose this body's ability to conduct debate in a dignified manner—and I mean this with no disrespect to anyone else. I don't believe anyone came on the floor here tonight saying: I am going to be disrespectful on purpose and turn this into a circus. But I am just telling you that if this body loses the ability to have those sorts of debates, then where in this country is that going to happen? In what other forum in this Nation is that going to be possible?

So I would just hope everybody would stop and think about that. I know I have been here only for 6 years, so I don't have a deep reservoir of Senate history to rely on. But I know this: If this body isn't capable of having those debates, there will be no place in this country where those debates can occur. I think every single one of us, to our great shame, will live to regret it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. SCHUMER. Mr. President, I don't want to prolong this much more. In light of what my friend from Florida said, I would just reread what I said earlier.

If average Americans heard someone read a letter from Coretta Scott King that said what it said, they would not be offended. They would say that is someone's opinion. That is all.

It seems to me we could use rule XIX almost every day on the floor of the Senate, as my colleague from Maine so pointedly and piquantly exhibited a few minutes ago.

This selective enforcement is another example of our colleagues on the other side of the aisle escalating the partisanship and further decreasing the comity of the Senate, which I treasure as well. This was unnecessary.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I take umbrage with what the minority leader said. I sat here and listened to the distinguished Senator from Massachusetts, who went on and on and on. Many of her remarks were criticizing a fellow colleague in the Senate. I don't know about the other side, but I find it offensive for either side to be criticizing, as was done here tonight, a sitting Member of the Senate.

I am absolutely astounded that the Democrats, my friends on the other side, have taken to the war tables a desire to defeat JEFF SESSIONS. I have been here a long time, and I have to say that I knew JEFF SESSIONS even before he came here, and I have known him since he has been here. And, yes, I differ with him on a number of issues, but I would never say things about him as have been said by my colleagues on the other side. I think that we all ought to take some stock in what we are doing here.

JEFF SESSIONS is a very fine person. Think of his wife. She is a really fine person. Jeff has been here 20 years. He has interchanged with almost all of us. Sometimes you agree with him, and sometimes you disagree with him, but he has always been a gentleman. He has always been kind and considerate of his colleagues. I can't name one time when he wasn't. Yet we are treating him like he is some terrible person who doesn't deserve to be chosen by the current President of the United States to be Attorney General of the United States.

I think we ought to be ashamed of ourselves—I really do—on both sides. And frankly, we have to get to where everything is not an issue here. I know some of my friends on the other side and I have chatted, and they are not happy with the way this body is going with good reason.

Everything doesn't have to lead to a gun fight on the floor, but that is where we are going. And frankly, sometimes there is an awful lot of politics being played here on both sides.

Look, I happen to like the senior Senator from Massachusetts. I think she is an intelligent, lovely woman in many ways. But I have to tell you, I listened to her for quite a while, and she didn't have a good thing to say about a fellow Senator. Frankly, I don't think that is right. If we don't respect each other, we are going down a very steep path to oblivion.

I would hope that both sides would take stock of these debates. We can differ. We understand that the Democrats are not happy with the current President. We are happy with him. We can differ on that, and we can fight over various issues and so forth. But to attack a fellow Senator without reservation seems to me the wrong thing to do.

It may not have risen to the level of a violation of the rules, but I think it comes close, and I have sat here and listened to most of it and, frankly, I don't believe that the distinguished Senator from Massachusetts was right in any respect. I have been here a long time and I have seen some pretty rough talk, but never like we have had this first couple of months here. We have gone so far on both sides that we are almost dysfunctional.

I admit it was tough for the Democrats to lose the Presidential election. Most people thought that Hillary Clinton would win. I was not one of them. I thought there was a real chance because I knew a lot of people would not say for whom they were going to vote. I think, correctly, I interpreted that meant that they were going to vote for Donald Trump, and the reason they were is that they are tired of what is going on. They are tired of what is hurting this country. They are tired of the picayune little fights that we have around here.

I think we have to grow up. I suggest that all of us take stock of ourselves and see if we can treat each other with greater respect. I have to say, I resented—as much as I like the distinguished Senator from Massachusetts, I resent the constant diatribe against a fellow Senator. Even if everything she said was true, it wasn't the right thing to do. I don't think any of us should do that to them, either. We can differ, we can argue, we can fight over certain words and so forth, but I have been appalled at the way the Democrats have treated JEFF SESSIONS. I have found JEFF SESSIONS—having worked with him for 20 years and having disagreed with him on a number of things—to be a gentleman in every respect and to present his viewpoints in a reasonable and decent way.

I would hope that my colleagues on the other side would consider voting

for JEFF SESSIONS or at least treating him with respect.

I admit that I think some of this comes from the fact that they are very upset at Donald Trump, and it is easy to see why. He won a very tough, contested election against one of their principal people. That is hard to take, maybe. That doesn't justify what has been going on against JEFF SESSIONS.

We ought to be proud that JEFF has a chance to become the Attorney General of the United States, and he is going to be. That is the thing that really bothers me. Everybody on the other side knows that we have the votes to finally do this. Yet, they are treating it as though this is something that they have to try and win—which they are not going to win—and, in the process, treating a fellow Senator with disdain. It is wrong.

We should all take stock of ourselves. I am not accusing my colleagues of not being sincere, but they have been sincerely wrong. I am personally fed up with it. If we want to fight every day and just go after each other like people who just don't care about etiquette and courtesy, I guess we can do that, but I think it is the wrong thing to do.

I hope all of us will stop, take note of what has been going on, and on both sides start trying to work together. I know it was tough for my Democrat friends to lose the Presidential election. I know that was tough. And they didn't think they were going to, and, frankly, a lot of us didn't think they were going to. I did think that. But, then again, I was one of two Senators who supported Donald Trump, in my opinion, with very, very good reason. I am sure that doesn't convince any Democrats on the other side.

The fact is that we have to treat each other with respect or this place is going to devolve into nothing but a jungle, and that would truly be a very, very bad thing.

I am not perfect, so I don't mean to act like I am, but I have to say that all of us need to take stock. We need to start thinking about the people on the other side. We need to start thinking about how we might bring each other together in the best interests of our country and how we might literally elevate the Senate to the position that we all hope it will be.

I love all of my colleagues. There is not one person in this body that I don't care for a lot. I disagree quite a bit with some of my colleagues on the other side, and even some folks on our side, but that doesn't mean that I have to treat them with disrespect.

I yield the floor.

The PRESIDING OFFICER (Mrs. ERNST). The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I first want to say a few words about the Senator from Massachusetts and her passion and what she has brought to this Chamber. While I know she has not been allowed to complete her remarks today, I know that will not silence her, and we look forward to hearing from her tomorrow and many days in the future on so many topics.

I also wanted to say something about my friend from Utah. We have worked together on so many bills. I have seen firsthand that he means what he says about treating this Chamber with the dignity that we all deserve and that the American people deserve.

Also, I was especially impressed by the words from the Senator from Florida. When I see the majority leader and the Democratic leader over there talking in the corner now, I think that is a good sign, because I have never seen a time where the Senate is more important, as the Senator from Florida was mentioning.

This is a moment in time where the Senate will not just be a check and balance, but it is also a place for compromise. The one issue where I would differ slightly with my friend and colleague from Utah is that this isn't just about Democrats responding with surprise or anger to the election of a new President. There have been a lot of things said in the last few months, including calling judges ''so-called judges'' and some of the discussions and comparisons to foreign leaders, and things that we have heard from the White House in the last few weeks, including the order that was issued that some of our Republican colleagues expressed a lot of concern about and that the Senate wasn't involved in and that a lot of law enforcement people weren't involved in.

There have been reasons that people's passions are high, and there are reasons that are good ones because we care about this country. So I hope people will see that in perspective for why people are reacting the way they do.

As for the Senator from Alabama, as I would call him for the purpose of these remarks, I am someone who has worked well with him. We have done bills together on adoption, and we have worked together on trafficking, and I am proud of the work I have done with him. We have also gone to the State of the Union together every single year, and I value his friendship.

I came to the conclusion that I couldn't support him not for personal reasons, but because of some of the views he has expressed in the past and his record on the Violence Against Women Act, his views on immigration, and his views relating to voting rights.

I think many of our colleagues, especially those who serve on the Judiciary Committee, feel the same way—that this wasn't personal, but we simply had a deep disagreement with some of his views on certain issues.

Today I thought I would focus on the voting rights issue. I spoke earlier about the Violence Against Women Act, and I think that is a good place to start as we work together going forward. We have seen an attack on America's election system; we have had 17 intelligence agencies talking about the fact that a foreign country tried to influence our election. It is the core of our democracy. I know the Senator from Florida himself has said that this time it happened to one candidate, one party, and the next time it could be another party, another candidate. So this idea of voting—this idea of the freedom to vote—is the core of our democracy.

One of the most important duties of the Justice Department—and that is the office for which the Attorney General would run—is safeguarding voters' access to the ballot box. This issue is important in my State. We had the highest voter turnout of any State in the country in this past election, and part of the reason we had such a good turnout is that we have good laws that allow for people to vote. It allows for same-day registration. We make it easy for people to vote; we don't make it hard. For me, that is one of the major duties of the Justice Department, and that is to enforce our voting rights.

I will never forget when I traveled to Alabama in the last few years with one of the leaders, Congressman JOHN LEWIS, who was one of the 13 original Freedom Riders. In 1964 he coordinated the efforts for the Mississippi Freedom Summit, recruiting college students from around the country to join the movement, to register African-American voters across the South. People from my State went, and people from every State in this Chamber went there for that March.

On March 7, 1965, Congressman LEWIS and 600 other peaceful protestors attempted to march from Selma to Birmingham to protest violence against civil rights workers. As they reached the crest of the Edmund Pettus Bridge, they saw a line of troopers blocking their way. At the end of the bridge, those peaceful marchers were attacked, just for calling for the right to vote. JOHN LEWIS's skull was fractured, and he still bears that scar to this day.

The weekend that I went back there, 48 years after that bloody Sunday, was the weekend that the police chief of Montgomery actually handed Congressman LEWIS a badge and publicly apologized for what happened to him that day, 48 years later. But as moving as that apology was, we still have a duty to make sure that those sacrifices were not in vain. We also need to make it easier for people to actually vote, and that is a promise still unmet in America over 50 years later, whether it is lines at voting booths or whether it is laws in place that make it harder to vote.

I just look at this differently, having come from a high voter turnout State, a State where we have same-day registration, and when we look at the other high voter States that have that same-day registration station—Iowa, the Presiding Officer's State is one of them; that is not really a Democratic State, yet they have a high voter turnout and people participate and feel a part of that process. New Hampshire, Vermont, these States are truly split, but what we want to see is that kind of participation.

A couple of months after I was in Selma, the Supreme Court handed down its decision in the case of Shelby County v. Holder. In this decision, the Justices found that a formula in section 4 of the Voting Rights Act was unconstitutional. This formula was used to decide which States and localities needed to have Federal approval for any changes made to their voting rights laws, endangering the progress made over the past 50 years.

According to a report by the Brennan Center for Justice, following the Shelby County decision, 14 States put new voting restrictions in place that impacted the 2016 Presidential election. Three other States also passed restrictive voting measures, but those laws were blocked by the courts. So the harm is very real and very serious, and we can't sit by and just let this happen.

Specifically, we need a Department of Justice that will vigorously enforce the remaining sections of the Voting Rights Act as well as the National Voter Registration Act and the Help America Vote Act. Currently, a majority of the States are not complying with the National Voter Registration Act, leaving voting rolls outdated and preventing eligible voters from casting their ballots. Without a Department of Justice that makes the enforcement of these laws a priority, the rights of voters will continue to be infringed.

Congress also needs to take action through legislation to make right what came out of that Supreme Court decision. Effectively throwing out the preclearance provision of the Voting Rights Act just doesn't make sense. As Justice Ginsberg put so well in her dissent, ''Ending preclearance now is like throwing away your umbrella in a rainstorm because you are not getting wet.''

Those marchers in Selma sacrificed too much for us not to fight back. That is why I cosponsored legislation last Congress that would amend the Voting Rights Act.

I am under no illusion that amending the Voting Rights Act in Congress will be easy. It won't be. We have seen some bipartisan support. In fact, Congressman SENSENBRENNER, from my neighboring State of Wisconsin, who sponsored the reauthorization in 2006, called for Congress to restore the Voting Rights Act. As he put it, ''the Voting Rights Act is vital to America's commitment to never again permit racial prejudices in the electoral process.''

Another issue I want to focus on this evening that I raised in Senator SESSIONS' hearing is the fundamental importance of freedom of the press. My dad was a newspaper reporter, and up until a few years ago, he was still writing a blog. So I am especially sensitive to, and concerned about, maintaining the press's role as a watchdog.

On a larger note, the role of journalists is critical to our Nation's democracy. That is why our Founders enshrined freedom of the press in the First Amendment. When we look at what we are seeing in the last few years in our country, what concerns me is this assault on democracy. We have voting rights issues with people unable to vote, with lines, with restrictive voting laws passed as opposed to finding ways to allow more people to vote. We have outside money in politics. Recently, we have some of the things being said about judges, and now we have some assault on this notion of the freedom of the press.

Thomas Jefferson said that our first objective should be to leave open ''all avenues to truth,'' and the most effective way of doing that is through ''the freedom of press.'' This is still true today. Freedom of the press is the best avenue to truth. In fact, these values are more important now than ever, at a time when people are not exactly valuing the freedom of the press.

I believe there are two distinct roles journalists will hold that Congress must preserve and strengthen in the coming years. The first is providing the people with information about their government. Sometimes this is as simple as covering the passage of a new law in a public forum. This work doesn't just lead to a better, informed public. It can also lead to important actions.

Thanks to excellent reporting from across the country, Americans have been energized in the past. For instance, just a few weeks ago there was an attempt to gut the Office of Congressional Ethics over in the House. That came out, people were outraged, it was reported on, and they backed down.

The second role we must preserve is journalists' responsibility to be fact-checkers. They research, they provide context, and, when they need to, they correct. We need newspapers and media to stand up for what is true and what is factual. Unlike what was recently said—not in this Chamber—the press cannot simply keep its mouth shut. The American people deserve the truth, and we are all relying on journalists to keep digging for it. I take this personally and seriously.

In Senator SESSIONS' hearing I asked him whether he would follow the standards now in place at the Justice Department, which address when Federal prosecutors can subpoena journalists or their records and serve to protect reporters engaged in news-gathering activities. The previous two Attorneys General both pledged not to put reporters in jail if they were simply doing their job under the law.

The Senator from Alabama did not make that commitment. When I asked him about this in his hearing, he said he had not yet studied those rules. He also did not make a commitment when I later asked him to do that on the record.

The Senator from Alabama has also raised concerns in the past about protecting journalists from revealing their sources, including opposing the Free Flow of Information Act when it was considered by the Judiciary Committee in 2007, 2009, and 2013. So at this time, when our freedom of the press has been under attack at the highest levels of government, I believe it is critically important that our Justice Department continues to function as an independent voice that will protect the ability of journalists to do their job.

Lastly, I want to take a moment to focus on the importance of the Antitrust Division at the Department of Justice. As ranking member of the Antitrust Subcommittee, I am concerned about the state of competition in the marketplace. I wish to take a few minutes on this issue.

I did ask Senator SESSIONS about this at his hearing, and he said he was committed to an independent division in the Justice Department and to continue that work without outside influence. I continue to believe that this issue will be important because of the massive amount of mergers we are seeing. The legal technicalities behind our antitrust laws will not be familiar to most Americans, but effective antitrust enforcement provides benefits we can all understand. When companies vigorously compete, they can offer consumers the lowest prices and the highest quality goods and services.

Senator SESSIONS has stated that he will support the independence of that division, and I want to make clear how critical this is. It is absolutely essential that our next Attorney General enforces our antitrust laws fairly and vigorously, and that this person protects the integrity of the Antitrust Division's prosecutorial function from inappropriate influence. This is because vigilant antitrust enforcement means more money in the pockets of American consumers. The Attorney General can do this by identifying and preventing competition problems before they occur, like stopping a merger that would allow a few dominant players to raise prices, or, when a merger is allowed to move forward, putting conditions in place to protect competition.

The next Attorney General will also be able to stop price-fixing cartels that hurt consumers by artificially inflating prices for goods such as auto parts, TVs, and tablet computers. Last year alone, the Justice Department obtained more than $1 billion in criminal antitrust fines. Anticompetitive practices have serious impacts on consumers; for example, pay-for-delay settlements that keep cheaper generic drugs from coming onto the markets. Estimates suggest that eliminating those sweetheart deals would generate over $2.9 billion in budget savings over 10 years and save American consumers billions on their prescription drug costs. That is why Senator GRASSLEY and I worked on bipartisan legislation to give the Federal Trade Commission greater ability to block those anticompetitive agreements. Our Preserve Access to Affordable Generics Act would increase consumers' access to cost-saving generic drugs.

The bottom line is this. Antitrust enforcement is needed now more than ever. We are experiencing a wave of concentration across industries. Just last year, then-Assistant Attorney General for Antitrust Division Bill Baer, a lifelong antitrust practitioner, said his agency was reviewing deals with such antitrust concerns that they should never have made it out of the corporate boardroom.

Not only will antitrust violations mean higher prices for Americans and less innovation, but the indirect effects are equally troubling. There is concern that undue concentration of economic power would exacerbate income inequality. There is also concern that concentration can hurt new businesses, stifling innovation. Why would you innovate if there is just one or two firms? Only effective antitrust enforcement by the Attorney General will prevent those harms, and effective enforcement can occur only if the Department of Justice makes enforcement decisions based on the merits of the individual case, rather than politics.

Traditionally, the White House has not interfered with antitrust enforcement decisions, but recent reports indicate that the President has discussed pending mergers with CEOs during ongoing antitrust reviews. Some companies have also publicly reported their conversations with and their commitments to the President. In both Senator SESSIONS' hearing and in a follow up letter, I raised this issue with him. The Senator from Alabama said: ''It would be improper to consider any political, personal, or other non-legal basis in reaching an enforcement decision.''

That is the correct answer. I plan to rigorously protect the Antitrust Division's prosecutorial integrity to make sure it is principled and is done right. Antitrust and competition policy are not Republican or Democratic issues. A merger in the ag industry could have an effect on farmers in Iowa, as the Presiding Officer knows. These are consumer issues, and these issues could not be more important to all Americans. We can all agree that robust competition is essential to our free-market economy and critical to ensuring that consumers pay the best prices for what they need.

I want to switch gears and conclude today by speaking about the President's Executive order regarding refugees, especially those from Muslim countries, which has caused so much chaos across our country over the past several weeks.

While I know Senator SESSIONS was not involved in writing the Executive order, it is very important that going forward, obviously, the Attorney General and the Department of Justice's Office of Legal Counsel have a responsibility to review Presidential Executive orders and assure they are legal and done right.

I sent a letter, with Senators DURBIN, WHITEHOUSE, FRANKEN, COONS, and BLUMENTHAL, and we asked Senator SESSIONS what he would have done if the President's Executive order came across his desk. As a former prosecutor, I have long advocated for thorough vetting and supported strong national security measures.

I believe that the No. 1 priority should be making people safe. While working to strengthen biometrics and other security measures is a good goal, this is not the way our government should work—that an order should be put out there without properly vetting it and figuring out the effect it would have on a four-year-old girl who is in a refugee camp in Uganda. That happened.

In my State, there was a mom who had two children, a Somali mother in a refugee camp. She got permission to come over to our State and to our country as a refugee. But she was pregnant, and when she had that baby, that baby did not have permission to come with her. So she had a Sophie's choice: Does she leave the baby in the refugee camp with friends and go to America with her two other daughters, or do all of them stay in the refugee camp in Uganda? She made a decision that she would go with her two older girls, that that would be the safest thing for them.

For 4 years, she worked to get the child that was left behind in the refugee camp to America to be reunited with her sisters. The baby, who is now 4 years old, was to get on a plane on the Monday after the President's Executive order was issued. The 4-year-old could not get on that plane.

Senator FRANKEN and I got involved. We talked to General Kelly. He was more than generous with his time. They made an exception, and the 4-year-old is now in Minnesota. But it should not take a Senator's intervention—as many of my colleagues know that have worked on these cases—to get a 4-year-old who is supposed to be reunited with their family, something that our government had worked on for 4 years and Lutheran Social Services in Minnesota had worked on for 4 years.

If Senator SESSIONS is in fact confirmed as the next Attorney General, these are actual issues he is going to have to work on, and beyond that, we have the issue of how people in our country are afraid.

We have 100,000 Somalis in Minnesota. We have the biggest Somali population in the country. A man who works for me started with my office 10 years ago and has been our outreach to the Somali community. He was just elected to the school board.

We have Somalis elected to our city council. They are part of the fabric of life in our State. Congressman EMMER, who actually took the seat held by Michele Bachmann, is the cochair, along with Congressman ELLISON, of the Somali caucus in the House of Representatives. We have not seen this as a Democratic issue or a Republican issue in our State. We have welcomed these refugees.

We have the second biggest population of Hmong in the United States of America. We have the biggest Liberian population. We have one of the biggest populations of people from Burma. We have 17 Fortune 500 companies in our State. When these refugees come over, they are legal workers, and they are a major part of our economy. So it is no surprise that during the last year, when we heard the kind of rhetoric that we have heard, people have been concerned—not just the refugees themselves, not just their friends and family, but a lot of people in our State. The churches have gotten involved—all kinds and every denomination in our State—to stand up for our Muslim population. Why? Because they have all heard the story. One of my most memorable stories was from a family whom I heard about when I was visiting with some of our Muslim population in Minneapolis. This was a story of two adults who actually had been in our State during 9/11. And during 9/11, George Bush stood up and he said: This isn't about a religion. This is about evil people who did evil things, but it is not to indict a religion.

His U.S. attorney at the time, the Republican U.S. attorney, went around with me—the elected prosecutor for the biggest county in our State—and we met with the Muslim population and assured them they were safe and told them to report hate crimes. The family, these two adults, they were there then. Nothing bad happened to them. No one called them a name.

Fast-forward to this summer. They are at a restaurant with their two little children. They are just sitting there having dinner.

A guy walks by and says: You four go home. You go home to where you came from.

The little girl looked up at her mom, and she said: Mom, I don't want to go home and eat tonight. You said we could eat out tonight.

The words of an innocent child. She didn't even know what that man was talking about because she only knows one home. That home is our State, and that home is the United States of America.

If Senator SESSIONS is confirmed for this position, he is going to have an obligation to that little girl who was in that restaurant and to all of the people in our country because this is the Justice Department of the United States of America.

As a former prosecutor, I know a big part of that job is prosecuting cases and doing all we can to keep America safe from evildoers, but it is also about keeping our Constitution and our rights safe.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, the Attorney General of the United States holds a vital and also somewhat unique position in the Federal Government. The Attorney General of the United States is tasked with

significant responsibilities that must be executed independently, sometimes even in defiance of the White House's wishes and interests.

The Attorney General of the United States is tasked with enforcing our laws fairly, justly, and evenhandedly, as well as with protecting the civil and constitutional rights of all Americans of all persuasions, of all backgrounds. The Attorney General of the United States does not work for the President so much as for the people and does not serve the administration so much as the law.

I have served in the U.S. Department of Justice. I have felt its esprit de corps, its pride. That pride is founded on a firm sense of the Department's willingness to stand on what is right, even against the wishes of the White House. One fine example of this was Attorney General Ashcroft challenging and refusing to accede to the wishes of the White House on the Bush administration's warrantless wiretapping of Americans. The Department of Justice is well aware of the importance of its independence.

A successful Attorney General must be stalwart in protecting the Department from political meddling by the administration or by Congress. We need only look back to Attorney General Gonzales's resignation to recall how badly things turn out when an Attorney General yields to political pressure.

An Attorney General also makes policy decisions about where and how to direct the Department's $27 billion budget and when and how to advise Congress to recommend new laws and modify existing policies. These are policy choices an Attorney General makes. It is no answer to questions about those policy choices to say: I will follow the law. That doesn't apply in this arena of funding decisions and legislative recommendations that are policy choices not dictated by law. Those policy choices can have a profound effect on individuals, on communities, and on the fabric of our Nations.

Americans should be able to trust that their Attorney General will not only enforce the laws with integrity and impartiality but stand up for Americans of all stripes and fight on behalf of their rights. That is the prism through which I evaluate Senator SESSIONS' nomination.

I have known Senator SESSIONS for a decade and have enjoyed working with him on a number of pieces of legislation. However, the standard by which I evaluate an Attorney General nominee is whether Rhode Islanders will trust that in the tough clinches, he will always be independent and always fair.

I have reviewed Senator SESSIONS' career as an attorney and as a Senator, as well as his testimony before the Judiciary Committee. I have reflected on my own duties and experience as my State's attorney general and as the U.S. attorney in Rhode Island. I have also served as an attorney in our State attorney general's office.

By the way, the attorney general in Rhode Island has full prosecutive authority. Many States have a division in which the attorney general has a narrow ambit of authority and district attorneys do the bulk of the criminal prosecution—not so in Rhode Island.

I have also had the occasion to listen closely to very strong and honest, serious concerns from Rhode Islanders who have made it plain to me that they fear what Senator SESSIONS would do as head of the Justice Department. For every constituent of mine who has expressed support of his nomination, 15 have expressed opposition.

Senator SESSIONS has fought against fixing our immigration system, opposing as the leading opponent of bipartisan legislation which, had it passed, would have spared us much of the current debate over walls and immigration.

Senator SESSIONS fought against our bipartisan criminal justice and sentencing reform bill.

Senator SESSIONS opposed reauthorizing the Violence Against Women Act—a bill which is vitally important to the Rhode Island Department of Attorney General and to the anti-domestic violence groups around Rhode Island.

Senator SESSIONS' record on support of gay and lesbian Americans has alarmed many Rhode Islanders. Public statements and confirmation testimony by Senator SESSIONS suggest that he brings a religious preference to the Department and that what he calls secular attorneys would be, to him, suspect compared to Christian attorneys. That distinction between a secular attorney and a religious attorney is one that runs counter to very solid principles upon which my State was founded. Roger Williams brought to us freedom of conscience.

Senator SESSIONS has called Breitbart News a bright spot. I must disagree. Breitbart News is not, to me, a bright spot. Breitbart has published baseless and inflammatory articles with titles like ''Birth Control Makes Women Unattractive and Crazy.''

In fairness, I should disclose that Senator SESSIONS' nomination carries an additional burden with me as the nominee of this President and this White House. The need for an independent Attorney General has rarely, if ever, been greater.

On the campaign trail, the American people witnessed Donald Trump glorify sexual misconduct, mock a disabled reporter, and make disparaging remarks about immigrants and minorities. We all witnessed chants at Trump rallies of ''lock her up.'' At his confirmation hearings, Senator SESSIONS excused these as ''humorously done.'' In mass rallies that also featured people getting beaten and the press caged and vilified, this didn't seem very humorous to many Americans. I think Americans know that the good guys in the movie are not the ones in the mob; the good guy is the lawman who stands on the jailhouse porch and sends the mob home. To me, that ''lock her up'' chant was un-American. I believe that across the country it made honest prosecutors' stomachs turn.

Not surprisingly, many Americans are fearful of what the Trump administration will mean for them, for their families, and for their country.

The problems with this President did not end with the campaign. President Trump and his family have brought more conflicts of interest to the White House than all other modern Presidents and families combined. The proposed Trump domestic Cabinet is an unprecedented swamp of conflicts of interest, failures of disclosure and divestment, and dark money secrets. We have not even been permitted, in the course of our nomination advice-and-consent process, to explore the full depth of that unprecedented swamp because the dark money operations of nominees have been kept from us. In one case, thousands of emails are still covered up. The Trump White House traffics in alternative facts, operates vindictively, and is a haven for special interest influence. None of this is good. All of this suggests that there will be more or less constant occasion for investigation and even prosecution of this administration.

Independence is at a premium. Nothing could have made this more clear than the first disagreement between the Trump White House and the Department of Justice, whose outcome was that the Acting Attorney General—a woman with 30 years' experience in the Department, a career prosecutor, former assistant U.S. attorney, former U.S. attorney, and someone recognized for her leadership throughout the Department—was summarily fired.

This is also not a good sign. In recent history, Attorneys General Gonzales, Meese, and Mitchell were politically close to their Presidents, and the Gonzales, Meese, and Mitchell tenures did not end well.

Attorney General Mitchell worked for President Nixon. They met when their New York law firms merged in the early 1970s, and they became law partners. John Mitchell was the campaign manager for Nixon's 1968 Presidential campaign. There were signs that things weren't quite right because when Nixon nominated Mitchell to be his Attorney General, he appealed directly to FBI Director Hoover not to conduct the usual background check. Mitchell ultimately resigned as Attorney General in order to run President Nixon's reelection campaign. So the political link between Mitchell and Nixon was very close, and sure enough, scandal ensued. Attorney General Mitchell turned out to be a central figure of the Watergate scandal. As the chairman of the reelection committee, the famous CREEP, Mitchell was responsible for appointing G. Gordon Liddy and approving the dirty tricks program while still Attorney General.

That dirty tricks program ultimately included breaking into national Democratic headquarters in the Watergate.

The upshot of this was that Mitchell was charged with conspiracy, obstruction of justice, and three counts of perjury. He was convicted on all counts, and he served 19 months in prison.

Attorney General Edwin Meese was also very close to President Reagan. Meese joined the 1980 Reagan Presidential campaign as Chief of Staff. He ran the day-to-day campaign operations and was the senior issues adviser. After the election, Edwin Meese was given the job of leading the Reagan transition, and once in office, Reagan appointed Meese as Counselor to the President. According to press accounts at the time, Meese was known as someone who ''has known the President so long and so well, he has become almost an alter ego of Ronald Reagan.'' That was the political background between Meese and President Reagan.

Again, it did not end well. Meese came under scrutiny for his role in the Iran-Contra scandal. The congressional committee that reported on the Iran-Contra scandal in November 1987 determined that Meese had failed to take appropriate steps to prevent members of the administration from destroying critical evidence. An independent counsel named Lawrence Walsh finished a report in 1993 that stated that Meese had made a false statement when he said Reagan had not known about the 1985 Iran-Contra deal. Iran-Contra was not the only controversy that plagued Attorney General Meese. A company called Wedtech Corporation was seeking Department of Defense contracts in the early 1980s. The company hired Meese's former law school classmate and his personal attorney, a lawyer named E. Robert Wallach, to lobby the Reagan administration on its behalf. Attorney General Meese helped Wedtech at Wallach's urging get a special hearing on a $32 million Army engine contract, although the Army considered the company unqualified. Well, the contract was awarded to Wedtech, and then one of Meese's top deputies went to work for Wedtech.

The Federal criminal investigation that resulted led to the conviction of E. Robert Wallach, the former law school classmate and personal attorney of Meese, for whom he had set up the meetings with the government.

Independent counsel James McKay investigated the Wedtech contract, including investigating allegations of misconduct by Meese. While Meese was never convicted, he resigned following the issuance of the independent counsel's 800-page report.

Third is Attorney General Gonzales. Attorney General Gonzales was close to then-Governor Bush in Texas. He was his general counsel. When Governor Bush became President Bush, Gonzales came to Washington to serve as White House Counsel. He was appointed Attorney General in 2005. During his tenure at the Department of Justice, there were multiple investigations, many of which played out before the Senate Judiciary Committee, involving the Warrantless Wiretapping Program, the U.S. attorney's scandal, and inquiries into the Department's management of the torture program legal opinions.

Ultimately, Members of both Houses of Congress called for Attorney General Gonzales's resignation—or demanded that he be fired by the President—and Attorney General Gonzales resigned.

There is a track record here of Attorneys General who are politically close to a President coming into harm's way and doing poorly in the Department. One particular office that is vulnerable to this kind of undue proximity, and failure of independence, is a body in the Department of Justice called the Office of Legal Counsel. Jack Goldsmith, a former head of the Office of Legal Counsel—and a Republican, by the way—testified before the Senate Judiciary Committee that ''more than any other institution inside the executive branch, OLC is supposed to provide detached, apolitical legal advice.'' And it has an honorable tradition of providing such advice to a remarkable degree, but under the Bush administration, the OLC departed from that tradition. It came up in a number of ways. The first was during our investigation into President Bush's Warrantless Wiretapping Program.

When Office of Legal Counsel memos supporting the program came to light, I plowed through a fat stack of those classified opinions that were held in secret over at the White House and pressed to have some of the statements declassified. Here are some of the statements that were declassified found in those OLC opinions:

> An Executive order cannot limit a President. There is no constitutional requirement for a President to issue a new Executive order whenever he wishes to depart from the terms of a previous Executive order.

So this means a President could issue an Executive order, have it published in the Federal Register, put it forward as the policy of the administration—a direction to all the attorneys in the administration—and then secretly depart from it without ever changing what the public is told about the policy. A theory like this allows the Federal Register, where these Executive orders are assembled, to become a screen of falsehood, behind which illegal programs can operate in violation of the very Executive order that purports to control the executive branch. That was just one.

Another one I will quote: ''The President exercising his constitutional authority under Article II, can determine whether an action is a lawful exercise of the President's authority under Article II.''

If that sounds a little bit like pulling yourself up by your own bootstraps, well, it sounds that way to me, too, and it runs contrary to a fairly basic constitutional principle announced in the famous case of Marbury v. Madison—which every law student knows—which says: ''It is emphatically the province and duty of the judiciary to say what the law is.''

A third example—and this is another quote from an OLC opinion: ''The Department of Justice is bound by the President's legal [opinions.]''

Well, if that is true, what is the point of a President sending matters over to the Department of Justice for legal review? If the President did it, and it is therefore automatically legal, there would be no function to the Department of Justice accomplishing that legal review.

So in this area of warrantless wiretapping, the Office of Legal Counsel within the Department of Justice came up with what seemed to be quite remarkable theories in the privacy and secrecy of that office, in those classified opinions that are really hard to justify in the broad light of day. That is why independence matters so much. Obviously, the White House wanted those opinions to say what they said, but in the clear light of day, they don't hold up.

Let us move on from the warrantless wiretapping opinions of the Bush Department of Justice to the OLC opinions that the Bush administration used to authorize waterboarding of detainees. Again, I was one of the first Senators to review the OLC opinions, and when I read them, I will say I was quite surprised. I was surprised not just by what they said but by what they didn't say. One thing that was entirely omitted was the history of waterboarding. Waterboarding was used by the Spanish Inquisition, by the Khmer Rouge in Cambodia, by the French-suppressing revolts in Algeria, by the Japanese in World War II, and by military dictatorships in Latin America. The technique, as we know, ordinarily involves strapping a captive in a reclining position, heels overhead, putting a cloth over his face, and pouring water over the cloth to create the impression of drowning. Senator JOHN MCCAIN, held captive for more than 5 years by the North Vietnamese, said this of waterboarding:

> It is not a complicated procedure. It is torture.

American prosecutors and American judges in military tribunals after World War II prosecuted Japanese soldiers for war crimes for torture on the evidence of their waterboarding American prisoners of war. None of that history appeared in the Office of Legal Counsel opinion.

The other major thing the Office of Legal Counsel overlooked was a case involving a Texas sheriff who was prosecuted as a criminal for waterboarding prisoners in 1984. Let's start with the fact that this was a case that was brought by the Department of Justice. It was the U.S. attorney for that district who prosecuted the sheriff. The Department of Justice won the case at trial.

The case went up on appeal to the U.S. Court of Appeals for the Fifth Circuit, the court one level below the U.S. Supreme Court. In its appellate decision, the U.S. Court of Appeals for the

Fifth Circuit described the technique as ''water torture.''

All a legal researcher had to do was to type the words ''water'' and ''torture'' into the legal search engines Lexis or Westlaw, and this case would come up: United States v. Lee. You can find it at 744 F2d 1124.

Over and over in that published appellate opinion by the second highest level of court in the Federal judiciary, they described the technique as torture. Yet the Office of Legal Counsel never mentioned this case in their decision.

Ordinarily, what a proper lawyer is supposed to do, if they find adverse precedent—i.e., decisions that appear to come down a different way than the argument the lawyer is making—is they report the decision to the court, and then they try to distinguish it, they try to convince the judge they are before why that case was either wrongly decided or does not apply on the facts of their case. But the Office of Legal Counsel did not offer any effort to distinguish the Fifth Circuit decision; it simply pretended it did not exist or it never found it. It is hard to know which is worse.

At sentencing in the Lee case, the district judge admonished the former sheriff who had been found guilty of waterboarding: ''The operation down there would embarrass the dictator of a country.''

Well, it is also pretty embarrassing when what is supposed to be the institution inside the executive branch that is supposed to provide detached, apolitical legal advice in an honorable tradition of providing such advice, to a remarkable degree, to quote Professor Goldsmith, misses a case so clearly on point.

That was not the only OLC error. In addition to the warrantless wiretapping statements, in addition to the Office of Legal Counsel opinions on waterboarding, they undertook a review of the Foreign Intelligence Surveillance Act.

In the Foreign Intelligence Surveillance Act is something called an exclusivity provision. It says this: The Foreign Intelligence Surveillance Act ''shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral and electronic communications may be conducted.'' Shall be the exclusive means. Seems pretty clear. But the Office of Legal Counsel said about that language—I quote them here: Unless Congress made a clear statement in the Foreign Intelligence Surveillance Act that it sought to restrict Presidential authority to conduct wireless searches in the national security area, which it has not, then the statute must be construed to avoid such a reading—which it has not.

Congress said that this shall be the exclusive means. If the OLC was not happy reading the language of the statute, they could go to a court where this language had already been construed. The decision was called United States v. Andonian, and the judge in that case ruled that this language, the exclusivity clause—I am quoting the court's decision—''reveals that Congress intended to sew up the perceived loopholes through which the President had been able to avoid the warrant requirement.''

The exclusivity clause makes it impossible for the President to opt out of the legislative scheme by retreating to his inherent executive sovereignty over foreign affairs. The exclusivity clause assures that the President cannot avoid Congress's limitations by resorting to inherent powers.

In the face of that case law, the Office of Legal Counsel held that Congress had not said what it said and this was not exclusive language, even though a court had said so.

The reason I share those three stories is because it really matters in important issues when the Department of Justice has the capability and the courage to stand up to the President. It really matters when they get it wrong. It really matters when they say things that simply are not correct or legally sound in order to support a warrantless wiretapping program. It really matters when they don't find the case on point to evaluate whether waterboarding is torture. It really matters when they go around a clear congressional statute which a judge has said closes the door to going around that statute by simply saying privately: Well, that door is not actually closed. It matters.

I have insufficient confidence that as Attorney General, Senator SESSIONS will be able to stand up to the kind of pressure we can expect this White House to bring. We know that this White House operates vindictively and likes to push people around.

We found out recently that Mr. Bannon went running over to see General Kelly to tell him to undo the green card waiver of the Muslim ban. Thankfully General Kelly refused and stuck by his duty. But this is the kind of White House we have, where they try to push people around to do the wrong thing.

They are so contemptuous of authority outside their own that they are willing to attack a Federal judge who disagrees with them, calling him a ''so-called judge.'' They are willing to fire an Acting Attorney General who disagrees with them, firing her summarily and accusing her of betrayal. The pressure this White House can be expected to bring on the Department of Justice to conform itself not to the law but to the political demands of the President is going to be intense.

Moreover, the conflicts of interest that crawl through this White House and that crawl over this swamp Cabinet offer every reasonable cause to believe that there will have to be investigations and prosecutions into this administration.

That combination of a target-rich environment in this administration for investigation and prosecution with a vindictive White House that does not hesitate to try to bully officials into conformity calls for the highest degree of independence. I do not feel Senator SESSIONS makes that standard. He was too close to the President during the political race. He has not stood up against any of those excesses I have mentioned since then. It is with regret that I must say I will not be able to vote to confirm him.

One of the reasons I became a lawyer was because of ''To Kill a Mocking Bird.'' As a kid, I just loved Atticus Finch. He is great in the movie. He is even better in the book. Some of the things that Atticus Finch says about the law and about human nature are so brave and so profound that from the first time I read that book, boy, I would love to have been Atticus Finch. I would love to have had the chance to stand in the breach when everyone was against you and stick up for doing something that was right. Gosh, that felt so great.

Like the scene in many movies, the hero is not a part of the mob, not carrying a torch toward the jailhouse; the hero is the lonely lawman who sits on the porch and won't let the mob in. That is what I think we are going to need in our next Attorney General.

I yield the floor.

The PRESIDING OFFICER (Mr. SULLIVAN). The Senator from Oregon.

Mr. MERKLEY. Mr. President, I will be speaking later tonight, perhaps about 2 o'clock, possibly on through 4 o'clock, but I wanted to take a few moments now and share some of the letter that was discussed earlier and share it in a fashion that is appropriate under our rules. I would like to thank very much my colleague from New Jersey for yielding a few minutes in order to do so.

I think it is important for us to understand the context of what this letter was all about. This letter was a statement of Coretta Scott King, and it was dated Thursday, March 13, 1986. She noted: ''My longstanding commitment which I shared with my husband Martin''—of course that is Martin Luther King—''to protect and enhance the rights of black Americans, rights which include equal access to the Democratic process, tells me to testify today.'' Then in her letter she goes on to essentially present an essay about the essential role of voting rights in our country, and so I will continue to read in that regard. She says:

> The Voting Rights Act was and still is vitally important to the future of democracy in the United States. I was privileged to join Martin and many others during the Selma to Montgomery march for voting rights in 1965. Martin was particularly impressed by the determination to get the franchise of blacks in Selma and neighboring Perry County. As he wrote—

Now she is quoting Martin Luther King—

> ''Certainly no community in the history of the negro struggle has responded with the enthusiasm of Selma and her neighboring

town of Marion. Where Birmingham depended largely upon students and unemployed adults to participate in nonviolent protests of the denial of the franchise, Selma has involved fully 10 percent of the negro population in active demonstrations and at least half the negro population of Marion was arrested on 1 day.''

That was the end of the quote from her husband. She continued writing:

Martin was referring, of course, to a group that included the defendants recently prosecuted for assisting elderly and illiterate blacks to exercise that franchise.

Each time she refers to franchise, she is referring to this fundamental right to vote under our Constitution.

And she continued:

In fact, Martin anticipated from the depth of their commitment 20 years ago, that a united political organization would remain in Perry County long after the other marchers had left. This organization, the Perry County Civic League, started by Mr. TURNER, Mr. Hogue, and others, as Martin predicted, continued ''to direct the drive for votes and other rights.''

That is a quote from her husband. And then she continued. In this letter, she says:

In the years since the Voting Rights Act was passed, Black Americans in Marion, Selma, and elsewhere have made important strides in their struggle to participate actively in the electoral process. The number of Blacks registered to vote in key Southern states has doubled [she said] since 1965. This would not have been possible without the Voting Rights Act.

She continues in her essay. She says:

However, Blacks still fall far short of having equal participation in the electoral process. Particularly in the South, efforts continue to be made to deny Blacks access to the polls, even where Blacks constitute the majority of the voters. It has been a long uphill struggle to keep alive the vital legislation that protects the most fundamental right to vote. A person who has exhibited so much hostility to the enforcement of those laws, and thus, to the exercise of those rights by Black people should not be elevated to the federal bench.

She continues in her letter to note:

Twenty years ago, when we marched from Selma to Montgomery, the fear of voting was real, as the broken bones and bloody heads in Selma and Marion bore witness. As my husband wrote at the time, ''it was not just a sick imagination that conjured up the vision of a public official sworn to uphold the law, who forced an inhuman march upon hundreds of Negro children; who ordered the Rev. James Bevel to be chained to his sickbed; who clubbed a Negro woman registrant, and who callously inflicted repeated brutalities and indignities upon nonviolent Negroes peacefully petitioning for their constitutional right to vote.

This is what Martin Luther King is referring to was the specific actions of sheriffs in the South who were representing the law. And then Coretta Scott King continued:

Free exercise of voting rights is so fundamental to American democracy that we cannot tolerate any form of infringement of those rights. Of all the groups who have been disenfranchised in our nation's history, none has struggled longer or suffered more in the attempt to win the vote than Black citizens. No group has had access to the ballot box denied so persistently and intently.

Over the past century, a broad array of schemes have been used in attempts to block the Black vote. The range of techniques developed with the purpose of repressing black voting rights run the gamut from the straightforward application of brutality against black citizens who tried to vote, to such legalized frauds as ''grandfather clause'' exclusions and rigged literacy tests.

Now she proceeds to note that other techniques were used to intimidate Black voters and that included investigations into the absentee voting process, and this concerned her a great deal. And she notes that Whites have been using the absentee process to their advantage for years without incident. Then, when Blacks, realizing its strength, began to use it with success, criminal investigations were begun.

Then she proceeds to address that there were occasions where individuals with legal authority chose to initiate cases specifically against African Americans while ignoring allegations of similar behavior by Whites, ''choosing instead to chill the exercise of the franchise by Blacks by his misguided investigation.''

Let me continue later in the letter. She addresses her concern over the prosecution illegally withholding from the defense critical statements made by witnesses and that witnesses who did testify were pressured and intimidated into submitting the ''correct'' testimony. That is incorrect testimony.

Many elderly Blacks were visited multiple times by the FBI who then hauled them over 180 miles by bus to a grand jury in Mobile when they could have more easily testified at a grand jury twenty miles away in Selma. These voters, and others, have announced they are now never going to vote again.

She obviously is addressing issue after issue that affected the Black franchise, the franchise of African Americans, the ability to vote, and then she returns to her essay about how important this is.

The exercise of the franchise is an essential means by which our citizens ensure that those who are governing will be responsible. My husband called it the number one civil right. The denial of access to the ballot box ultimately results in the denial of other fundamental rights. For, it is only when the poor and disadvantaged are empowered that they are able to participate actively in the solutions to their own problems.

Coretta Scott King continues:

We still have a long way to go before we can say that minorities no longer need to be concerned about discrimination at the polls. Blacks, Hispanics, Native Americans and Asian Americans are grossly underrepresented at every level of government in America. If we are going to make our timeless dream of justice through democracy a reality, we must take every possible step to ensure that the spirit and intent of the Voting Rights Act of 1965 and the Fifteenth Amendment of the Constitution is honored.

The federal courts hold a unique position in our constitutional system, ensuring that minorities and other citizens without political power have a forum in which to vindicate their rights. Because of this unique role, it is essential that the people selected to be federal judges respect the basic tenets of our legal system: respect for individual rights and a commitment to equal justice for all.

The integrity of the Courts, and thus the rights they protect, can only be maintained if citizens feel confident that those selected as federal judges will be able to judge with fairness others holding differing views.

And she concludes her letter having examined a number of incidents in the historical record with this conclusion:

I do not believe Jefferson Sessions possesses the requisite judgment, competence, and sensitivity to the rights guaranteed by the federal civil rights laws to qualify for appointment to the federal district court.

And that is the context of her letter; that voting rights matter a tremendous amount. I applaud the efforts of my colleague from Massachusetts to make this point and share this essay with the body of the Senate earlier this evening.

Mr. WHITEHOUSE. Will the Senator yield for a question?

Mr. MERKLEY. I yield.

Mr. WHITEHOUSE. Mr. President, may I ask the Senator, through the Chair, if the letter from which he just read has a date?

Mr. MERKLEY. Well, the answer is that it does have a date, and that is Thursday, March 13, 1986.

Mr. WHITEHOUSE. 1986. And is the Senator aware of the occasion that brought this letter to the Senate?

Mr. MERKLEY. I am.

Mr. WHITEHOUSE. What was that occasion?

Mr. MERKLEY. That occasion was a hearing before the Senate Judiciary Committee regarding the potential appointment of the individual to the U.S. District Court for the Southern District of Alabama.

Mr. WHITEHOUSE. And this letter was made a matter of record in that hearing?

Mr. MERKLEY. I do not know if it was made a matter of record.

My impression initially was that she had read this letter at the hearing, but I am not sure if it was presented in person or as a document submitted to the committee.

Mr. WHITEHOUSE. But clearly the content of this letter has been a matter known to the Senate and, depending on what the facts may show, may actually have been a record of the Senate for more than 30 years.

Mr. MERKLEY. I believe that is probably correct.

Mr. WHITEHOUSE. So a Senator of the United States has been accused of violating a rule of the Senate for restating to the Senate a phrase that has been a matter of record in the Senate—if, indeed, that is the case—for 30 years.

I yield the floor.

MORNING BUSINESS

TRIBUTE TO ADMIRAL LLOYD R. ''JOE'' VASEY

• Mr. MCCAIN. Mr. President, last week, we celebrated the 100th birthday of an American for whom my family