scratcher to me how he could reach that conclusion. Whatever damage has been done to the civil peace in the last 3 years certainly has had nothing to do with same-sex marriage.

When I came to the Senate, I believe I was the first Member of this body who came out for marriage equality. Back then, I said: This is pretty simple, folks—if you don't like gay marriage, don't get one. Regrettably, this nominee not only doesn't share that view, but he wrote that recognizing the right to marriage equality would, in his view, endanger the civil peace.

He represented Gloucester County, VA, in an effort to deny a transgender student's right to use the bathroom aligned with the gender identity. He also represented rightwing lawmakers in North Carolina, defending broadly discriminatory legislation that became known as the bathroom bill.

The list of concerning episodes and disqualifying work in Mr. Duncan's career does take a fair amount of time to actually walk through. What I will just tell you is that when I look at Mr. Duncan's background, what I see is a long record of hostility toward the rights of women and minority Americans. He has consistently defended powerful special interests over the rights of those who don't have political action committees, aren't powerful, and don't have high-priced lobbyists.

As Senators consider how to vote on this nomination, I find it hard to believe that this track record of bias that I have outlined this afternoon will suddenly vanish, will just disappear on confirmation. In my judgment, this is an individual who should not serve on the bench. I urge my colleagues to vote no.

I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Ms. CANTWELL. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. CANTWELL. Mr. President, I come to the floor to speak in opposition to the nomination of Kyle Duncan for the U.S. Circuit Court for the Fifth Circuit.

I find his nomination troubling, but I find many of President Trump's nominees for judges troubling because they want to restrict established rights or roll back privacy issues, whether it is Roe v. Wade or LGBT rights.

In many cases, Mr. Duncan has tried to take away these very important reproductive rights for women. From 2012 to 2014, he was the lead counsel on the Hobby Lobby v. Sebelius Supreme Court case. That flawed decision allows closely held corporations to deny FDA-approved contraceptive coverage to women employees if the company owners object to the contraception based on religious beliefs.

More than half of the working-age women in Washington State get their healthcare coverage through their employer. They pay for their coverage through hard-earned wages and compensation. Their employer should not be able to just cherry-pick what benefits they get because the owners have a self-professed religious objection.

Mr. Duncan also tried to go after State laws protecting birth control access. Thanks in part to Washington State pharmacist Jennifer Erickson, Washington State has a law on the books requiring all pharmacies to stock and deliver all lawfully prescribed drugs, including contraception, but Mr. Duncan worked to take that hard-fought access away.

In 2016, he filed a brief urging the Supreme Court to take up a challenge to the Washington State pharmacy law in order to strike it down.

He also worked to deny access to constitutional rights to terminate pregnancies. In the Whole Women's Health case, Mr. Duncan filed a brief defending an unconstitutional Texas law that restricted access to safe and legal abortions at qualified health providers.

Ultimately, in the Whole Women's Health case, the Supreme Court rightly struck down this very deceptive Texas law, finding it had nothing to do with medical necessity and placed an undue burden on women.

In the landmark case of Obergefell v. Hodges, Mr. Duncan authored an amicus brief which argued against same-sex marriage, and he has represented North Carolina in their defense of the ''bathroom bill,'' which discriminated against transgender individuals. We need to expand the rights of the LGBT community, not nominate a judge who believes we should roll back these laws that are so important to the individuals in my State.

Mr. Duncan also defended North Carolina's restrictive voting laws which limited early voting, prevented same-day registration, and placed limitations on where people could vote. The appeals court found that these restrictions violated the Voting Rights Act because they were disproportionately affecting African Americans. We do not need to see a judge on our bench who is trying to limit people's participation in our democracy as we are trying to protect their access to voting.

It is no secret the Trump administration has been chipping away at women's healthcare and constitutional rights by using every tool at their disposal. I am especially troubled that the President is intent on nominating judges, such as this one, who do not respect the settled law of Roe v. Wade.

The administration is making every attempt to roll back these important privacy laws. Kyle Duncan, the nominee we are considering, has spent decades doing the same. That is the reason I oppose his confirmation, and I urge my colleagues to do the same. I hope they will follow in making sure we protect these important rights.

Thank you.

I yield the floor.

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

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

SENATE RULES ON NOMINATIONS

Mr. LANKFORD. Mr. President, earlier today, the minority leader came to the floor to talk about multiple issues. During that conversation, he called me out by name regarding a rules proposal that I have in front of the Rules Committee this week. He said that he vehemently disagrees with that rules proposal. He even mentioned that he knows that I came here in 2014 and that I should study the history of the Senate a little bit more before I bring up a rules proposal. Well, I would only tell my colleague that I have studied the history, and I would like to get a little bit of context around those comments.

The rules proposal that the minority leader is opposing is the exact same rules proposal that he actually voted for in 2013 when he was on the Rules Committee and then voted for again when it came to the floor of the Senate. This is not some radical proposal.

In 2013, Democrats found intolerable what was happening with the nomination process, so at the beginning of 2013, they worked with Republicans and said: We need to be able to put a structure in place to get nominations through because a President should be able to have his staff put in place, and there shouldn't be an arbitrary slowdown of that process.

Republicans came on board, even during a very contentious time, because Republicans did not agree with the policies of President Obama. Yet they agreed.

With a vote of 78 total votes, 78 votes on the floor of the Senate, a rule change was made that was proposed by Senator Reid, supported by Senator SCHUMER, and supported by Senator MCCONNELL, to say that this is a rule change that will go into place. It was a very simple rule. The rule was just for nominees.

When nominees come to the floor, the minority can always ask for additional time to debate. Most of the time in the past, they have not, but they could. The time allotted for that purpose is 30 additional hours for debate. The assumption is that it is a controversial nominee when 30 additional hours of debate is required.

The time was lowered in this 2013 rule so that for district court nominees, just 2 hours of debate on the floor is needed because, quite frankly, district court nominees had never been held up on a cloture vote, so 2 hours of extra time. The nominees have already been through the committee process. They have already been approved. Now

they are coming to the floor, and if there is a request for additional time, they would get an additional 2 hours on the floor. For any other nominee, they would get 8 hours of additional time, if they even asked for more time. Supreme Court, circuit court, and Cabinet-level nominees would remain at 30 hours.

That was the agreement that was made and that we functioned under in 2013 and in 2014. Fast-forward to today. A historic new precedent has been set for any President coming in. It was absolutely not done by Republicans in the past, and it was absolutely not done by Democrats in the past, but it is being done now.

Right now, there are 67 judges pending and 139 executive nominees pending—139. In just the past year and a few months, Democrats have requested 85 cloture votes—that is asking for an additional 30 hours of debate time.

They can say: Well, these nominees need to be vetted. These are all nominees who have already gone through the committee process, have already waited in line. There has been a tremendous amount of vetting. Even if this was additional vetting—an additional 30 hours of debate on the floor—for most of these nominees by far, there has been less than an hour of actual debate on the floor for these individuals, but 30 hours has been requested. It is not 30 hours of debate. In fact, just over the past couple of weeks, we have had district court judges, and they have had a demand for a cloture vote on them, and we had less than 15 minutes of additional debate time for those individuals on the floor, but 30 hours had to be allocated. There was less than 15 minutes of actual debate on that person.

This is not about vetting. That is a good line for the media. That is a good line for the base. This is about slowing down the Senate. This is about slowing down the process.

Again, giving a side-by-side, the minority leader said that this is about keeping intact the power of the minority, that the power of the minority needs to be maintained in the Senate. I totally agree. That is why I am trying to work this through a normal rules process—the same rule the minority leader supported on the Rules Committee in 2013 and the same rule he voted for on the floor. The only difference now is that it is not Democrats in power, it is Republicans in power. Republicans joined Democrats in 2013 to be able to put this in place, but for some reason, now that Republicans are in power, Democrats are saying that this is an onerous rule that will take away the power of the minority.

The only real thing that has changed here—other than that now the Republicans are in control rather than Democrats—is one other thing; that is, the nuclear option. When Senator Reid and Senator SCHUMER put in place the nuclear option at the end of 2013, at that time, there were 20 judges pending and 56 executive nominations. But they unilaterally changed the rules of the Senate to be able to drop down nominations from 60 to 51 because they were so frustrated that there were 20 judges pending and 56 executive nominations. May I remind my colleagues that right now there are 67 judges pending and 139 executive nominations pending.

The minority was so frustrated when they were in the majority that they had to go nuclear and unilaterally change the rules in November of 2013, even after Republicans joined them in January of 2013 to change the cloture rules because there were 20 judges pending. Yet now there are 67 judges pending. At that time, there were 56, so they went nuclear on the executive nominations. Now there are 139.

Listen, this is not an argument that I am trying to make based on a partisan issue. I am trying to go back to the agreement that was made in 2013, which was a bipartisan agreement. That worked for that time period. Republicans and Democrats supported it, and it worked. We actually had a process that was in place. I am asking to take that Democrat-written document and say: Let's make that the rule from here on out—not just for this session but from here on out—so that we would have consistency whether Republicans or Democrats are in control.

All I am asking is that Democrats vote again now for the same thing they voted for in 2013 when they asked Republicans to join them; for Democrats to join us and to say: Let's make this the clear rule for everyone. That is the history that I think needs to get into this conversation.

Quite frankly, I am not asking for something radical. I am trying to do a rules change the right way, by the rules as they are written, going through the Rules Committee and having a hearing, which we had in December, having a markup in the Rules Committee, and bringing it to the floor of the Senate and actually implementing a rules change. If there is another proposal we want to consider, I will be glad to have that conversation.

I am not looking to make it contentious; I am trying to actually solve a bad precedent because the precedent that has been set by the minority party right now will be the new precedent when the next President comes. So the next time there is a Democratic President, I can assure my colleagues that Republicans will say: We will just do the same thing the Democrats did to the Republican President—we will do that to the next Democratic President. And year after year, this toxic environment will get worse. The only way to dial back the volume is to actually fix the rules to make sure they stay fair for everyone.

Again, this is not a partisan move for me; this is trying to get the Senate to actually function and work again.

This rule change that was done in 2013—Senator Reid and Senator MCCONNELL came to the floor of the Senate and had a colloquy, and in that colloquy, Senator Reid said:

> It is our expectation that this new process for considering nominations as set out in this order will not be the norm—

That is, asking for additional time for every person—

> but that the two leaders will continue to work together to schedule votes on nominees in a timely manner by unanimous consent, except in extraordinary circumstances.

Those were Senator Reid's comments. But now, this has been invoked more than 80 times by the minority just this year. There have not been 80 extraordinary circumstances. Quite frankly, many of these individuals waited out additional time for cloture and then they were confirmed almost unanimously. They weren't controversial; it was about slowing down the Senate.

Let's get this fixed. When the Senate is broken—and it is certainly broken in process right now—the Senators can fix the Senate by fixing our own rules. That is what I am encouraging our body to do. I do understand the history—although the minority leader is right, I wasn't here when the nuclear option was imposed. When Democrats did the historic change to the Senate rules, unilaterally—I wasn't here then. Senator SCHUMER did support that and did make a radical change at that time. I have to read about that history. But I can tell my colleagues that we can fix our future—and not just for Republicans but for the country—if we actually fix this rule change for the future.

With that, I yield the floor.

The PRESIDING OFFICER. The majority leader.

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following nomination: Executive Calendar No. 765.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nomination.

The bill clerk read the nomination of Lt. Gen. Paul M. Nakasone to be General in the United States Army while assigned to a position of importance and responsibility under title 10, U.S.C., section 601.

Thereupon, the Senate proceeded to consider the nomination.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate vote on the nomination with no intervening action or debate; that if confirmed, the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action; that no further motions be in order; and that any statements related to the nomination be printed in the RECORD.

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

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