

months and months and several deadly accidents to persuade Senate Democrats to stop obstructing a fully qualified nominee to lead the Federal Railroad Administration.

Or take the example of district court judges. With only one exception, we have had to file cloture on every single district court nominee. It doesn't matter if every Democrat on the Judiciary Committee supported the nominee. It doesn't matter if every Democrat in the whole Senate supports the nominee. No matter what, our colleagues across the aisle are insisting on obstruction, for no apparent reason.

Here are some of the final vote totals for these district judges: 96 to 1; 98 to 0; 97 to 3; 95 to 0; 96 to 0; 98 to 0, once again; 100 to 0.

Back in January, it took more than a week of the Senate's time to confirm four district court judges, and not one Senator voted no on any of them—a whole week to do four district judges, and not one Senator voted no on any of them.

Our problem is not the qualified personnel before us. Our problem is that nearly half of the Senate has decided that resisting for the sake of resistance is more politically advantageous than doing right by this institution or by our constituents. This, regrettably, is where we are: Democrats chewing up hours of Senate time on nominees that literally no Senator opposes.

I understand that my friends on the other side have a number of disagreements with the President. That tends to happen in politics, but that is no excuse at all for this historic obstruction of noncontroversial nominees. It is bad for the Senate. It is unfair to the American people.

That is why I support Senator LANKFORD's efforts to enact the very same rules change—the very same rules change—that a large and bipartisan majority agreed to back in 2013, when the Democrats were in the majority here in the Senate. It would empower the Senate to process nominations more quickly while preserving ample opportunity for debate. It is precisely the rules change that my friend the Democratic leader supported back in 2013. I joined in that bipartisan effort, along with a number of my fellow Republicans. It passed 78 to 16—78 to 16. The White House may have changed hands, but the last time I checked, fair is still fair, and common sense is still common sense.

So Senator LANKFORD is giving my Democratic colleagues their very own chance to show that principled convictions matter more than political convenience. I am proud to back his proposal. I am glad to see the Rules Committee advance it to the floor yesterday. There is no reason why every Senator shouldn't be able to join us.

Otherwise, until our Democratic colleagues put aside their historic obstruction, Republicans continue to do our duty and process the President's nominations, one way or the other. Let

me repeat that. We are processing these nominations, one way or the other.

After Mike Pompeo, I filed cloture on Ric Grenell's nomination to serve as Ambassador to Germany. We will vote on this confirmation later this afternoon.

So why don't we turn over a new leaf together and start rebuilding the comity and customs that ought to define our work here.

Just yesterday, the Rules Committee held a very productive meeting that took a step in that direction. Colleagues from both sides of the aisle took a serious look at what we can do as a body to more efficiently fulfill our responsibilities in the appropriations process. That follows on a productive meeting I had with the Democratic leader, the Appropriations chairman, and the ranking member a few days ago.

So I am hopeful about the prospects of moving forward together. We need to keep this momentum going and extend it—not just to appropriations but to nominations. This Congress has already made great progress implementing a pro-growth, pro-opportunity agenda for the middle-class, including historic tax relief for families and small businesses, but there is a lot more to do.

That is how the Senate should be spending our time—exchanging ideas and fighting for the American public.

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#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

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#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

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#### EXECUTIVE SESSION

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#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session and resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Mike Pompeo, of Kansas, to be Secretary of State.

The PRESIDING OFFICER. Under the previous order, the time until 12 noon will be equally divided between the two leaders or their designees.

The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to complete my remarks on the floor.

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

#### CONFIRMATION PROCESS

Mr. HATCH. Mr. President, there is no excuse for the delays in the con-

firmation process except sheer partisanship. It amounts to an ongoing partial government shutdown, and it definitely hurts the American people. Such obstruction is not worthy of the Senate, and the resulting judicial vacancies do great harm to the judicial system.

These are not my words but the words of the Senator from Vermont, Mr. LEAHY, when he chaired the Judiciary Committee in 2014. Judicial vacancies today are 60 percent higher than when he expressed those concerns back then. Vacancies are 52 percent higher than what he said was a “disaster for our Nation's overburdened courts.”

The Administrative Office of the U.S. Courts labels some judicial vacancies as judicial emergencies because of their duration and impact on case-loads. On March 12, 2012, the Senator from Illinois, Mr. DURBIN, said that 35 judicial emergency vacancies would cause the administration of justice to suffer at every level. Today, there are 72 judicial emergency vacancies, more than twice as many as Senator DURBIN warned about.

To be fair, I have to say that the left-wing groups that are such faithful allies of Senate Democrats are no better. In July 2012, for example, the Alliance for Justice proclaimed that 76 vacancies demonstrated “an overall and ongoing vacancy crisis in the federal courts.” Today, vacancies are 88 percent higher than the crisis level, and all we hear from the Alliance for Justice are calls to oppose and obstruct even more. Judicial vacancies today are 74 percent higher than when the Brennan Center for Justice said the Senate was not meeting its obligation to the American people.

If high judicial vacancies harm the judicial system and prevent Americans from seeking justice, why aren't Democrats and their leftwing allies leading the effort to confirm judicial nominees today? If Democrats once said that 79 vacancies constitutes a crisis, why are they silent about 143 vacancies today?

Today we face the highest judicial vacancy total since June of 1991, after Congress had created dozens of new judgeships. It is crystal clear why this dire situation confronts us today. The process for appointing Federal judges, after all, has only three steps: nomination by the President, consideration by the Senate Judiciary Committee, and a decision by the full Senate.

The first step in the judicial appointment process is Presidential nominations. President Trump has made more judicial nominations than his predecessors of both parties at this point, so he is not the problem—as you can see from that chart.

The second step is consideration by the Judiciary Committee. Chairman CHUCK GRASSLEY has held a hearing on 75 of those nominations—more than under previous Presidents, so the Judiciary Committee is not the problem.

That leaves the third step right here on the Senate floor. Even though President Trump is ahead of the nomination

pace, and the Judiciary Committee is ahead of the hearing pace, the Senate's confirmation pace is half what it was at this point for the past five Presidents.

March 20, I spoke here about some of the below-the-radar obstruction tactics Democrats are using to make this part of the process as time-consuming and cumbersome as possible. Let me offer a brief review. Democrats once complained about U.S. district court nominees being reported from the Judiciary Committee on a party-line vote. That is happening at a rate of more than four times as great today.

Democrats once criticized the failure to cooperate in scheduling floor votes for judicial nominees. So far, Democrats have forced the Senate to take separate votes to end debate, called a cloture vote, on 96 percent—96 percent—of President Trump's judicial nominees. The Senate has been forced to take 16 times as many cloture votes on President Trump's judicial nominees as under the last 12 Presidents combined at this point. You heard me right. The Senate has been forced to take 16 times as many cloture votes on judicial nominees as under the last 12 Presidents combined at this point. That is every President since the cloture rule was first applied to nominations in 1949.

In 2014, with a Democratic President, Democrats said that every time the minority refuses to cooperate in scheduling confirmation votes, every time the majority leader is forced to initiate the cloture process, the Senate is forced to take up scarce floor time, when we know these nominees will be confirmed. Today, Democrats are using that and other tactics on a scale this body has never seen before.

Democrats once objected to voting against confirming U.S. district court nominees who were supported by their own two Senators. At this point, President Obama's confirmed district court nominees had received a total of zero negative votes—zero. President Trump's district court nominees have received 73 negative votes—73. Think about that. Think about the unfairness of it.

Each of these, and more besides, is a tactic that Democrats once condemned but are today pushing to record levels of obstruction. Even more important than seeing where we are and how we got here is understanding why the Democrats and their leftwing allies are working so hard to prevent President Trump from appointing judges.

I have served in this body and on the Judiciary Committee for nearly 42 years. I have participated in the confirmation of half of all article III judges who have ever served in this country, from the beginning. In all that time, the conflict over judicial appointments has never been over judicial nominees; it has always been over judicial power. The vacancy crisis we face today is a consequence of the broader, ongoing conflict over the kind of judge America needs on the bench.

America's Founders gave us a system of government that includes a judiciary with a role defined by three important principles. First, as Founder James Wilson put it, the people are masters of the government. Second, the Constitution is the primary way that the people set rules for government. Third, among those rules is the separation of powers into three coequal but different branches.

Judges acting consistent with these principles, what I have called impartial judges, fit the design of our system of government and the liberty it makes possible. Judges who depart from those principles, what I have called political judges, are at odds with that design and undermine our liberty. President Trump is committed to appointing impartial judges, while those working so hard to obstruct his his nominees favor political judges.

President Obama led the way in the quest for a political judiciary. First, as a Senator evaluating judicial nominees and then as a President choosing them, he said judges decide cases based on their empathy, their vision of how the world works, their core concerns, and their deeply held beliefs. If judges make decisions on their personal views, then it is no wonder the Democrats want so badly to know a judicial nominee's personal views.

I will never forget the confirmation hearing for Chief Justice John Roberts in 2005. Democrats pressed him to commit, in advance and under oath, to particular results in different categories of cases. They asked repeatedly: Whose side will you be on? Political judges take sides, even before cases come before them, because their main objective is to ensure that the favored side wins and that the preferred political interest is served.

We see this in plain view today. Democrats observe a judicial nominee's personal views, or his legal views on behalf of a client, and insist that those views will dictate his judicial views. This is why many Democrats will oppose any nominee who has conservative personal beliefs or who has advocated for conservative clients. To them, there is no difference between politics and law.

Democrats oppose judicial nominees because of their personal views, even when the American Bar Association—which has never been accused of being conservative—gives those nominees its highest rating. The appeals court nominee confirmed this week, for example, received that rating only after the ABA considered, in its words, his “compassion, decisiveness, open-mindedness, courtesy, patience, freedom from bias, and commitment to equal justice under the law.”

In their heart of hearts, those who favor political judges have no problem with judicial minds being closed or biased so long as that leads to results they like. They seek politically correct results by any judicial means.

That judiciary is very different from the one contemplated by the Founders

of this great country. That judiciary is very different from the one described by the oath of judicial office, by which a judge commits to do justice without respect to identities or interests. That judiciary is very different from the one that makes our liberty possible.

The liberty we enjoy is by design, not by accident. That design requires judges with a limited and defined role. Impartial judges support the liberty our system of government was designed to provide while political judges undermine it. Impartial judges take the law as it is and apply it fairly to decide cases, leaving decisions about what the law should be to the American people and their elected representatives. Political judges take decisions about what the law should be away from the American people, manipulating the meaning of statutes and the Constitution to follow their own views and their own agenda.

The conflict over judicial appointments is, and will remain, a conflict over judicial power and, therefore, a conflict over the system of government crafted by America's Founders. Remember the three principles I mentioned earlier. Impartial judges allow the American people to remain the masters of government; political judges become the masters of the people. Impartial judges follow the rules the American people put in the Constitution; political judges change the meaning of those rules to suit their own ends. Impartial judges respect the separation of powers while political judges breach it.

The unprecedented obstruction of judicial nominees today is a tool in the campaign for an increasingly politicized judiciary. The rhetoric of that campaign is all about desirable objectives, all about good intentions. I close with the words of Daniel Webster, who represented two different States in the House and represented Massachusetts in the Senate before serving as Secretary of State under three different presidents. He said:

Good intentions will always be pleaded for every assumption of authority. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.

That is Daniel Webster. Let me repeat that again because Webster is one of the greatest people who ever served in this government.

Good intentions will always be pleaded for every assumption of authority. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.

America needs impartial judges so that the American people can be the masters of government and so that liberty can thrive.

Let me go over that quote again from Daniel Webster. I will end with this.

Daniel Webster said:

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Some of those Founding Fathers really knew what they were talking about, and Webster was certainly one of them in many respects.

All I can say is that we have a chance to work together to do what is right and in the best interest of the American people. I intend to see that we do that, and I hope we can because this country is worth it. Our system of government is the best this world has ever seen, and I want to see it continue to be.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HYDE-SMITH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

If no one yields time, the time will be charged equally.

#### RECOGNITION OF THE MINORITY LEADER

The Democratic leader is recognized.

#### SPECIAL COUNSEL LEGISLATION

Mr. SCHUMER. Madam President, I watched the President on TV this morning, and like most Americans, so many Americans, I was aghast. The President seems to live in an alternative reality. He says things that are patently false, and he thinks that just by saying them, they become true. With the number of 180-degree turns—direct contradictions to what he has said before—the name-calling, and blaming, if you watched the President this morning and the way he acted, it was so unbecoming of a President, unbecoming of a democracy.

We believe in truth. People may have different value systems, but to just make up things as he goes along and to, without blinking an eye, contradict things that he said that were exactly the opposite a few hours, a few days, a few weeks ago is not who any President of any party of any ideology should be.

What the President said this morning was embarrassing to America, to democracy, and to any American who prizes truth.

One of the things the President said this morning was that he has decided not to be involved in the Russia probe but may change his mind. That is why it is so good this morning that the Judiciary Committee is marking up bipartisan legislation that will protect Special Counsel Mueller from political interference.

From the very beginning, Special Counsel Mueller's investigation has been about following the facts of how a

foreign, hostile power interfered with our free and fair elections—the wellspring of our democracy. That investigation must be allowed to proceed safely from the President's heavy hand. The President can't make this go away by name-calling. He can't dispute facts. He can't dispute the fact that Russia's interfering in our election is very dangerous and must be investigated no matter where it leads.

It is so abundantly clear from the President's remarks this morning and from so many other things he has said that he has little regard for the rule of law. He seems to have this view that the purpose of the Justice Department is to protect his interests and persecute his enemies. That is not a democracy. The purpose of the Justice Department is to defend the rule of law, and no man or woman is above the law. It is not, simply, to go after his friends. He is angry when the Justice Department does something he doesn't like even though it is following the law. Again, that is not the hallmark of our democracy.

I am so proud of our Judiciary Committee and Chairman GRASSLEY in their rising to the occasion—proposing and hopefully passing legislation that says we will protect the rule of law and that we will protect our democracy by not allowing the President to fire the special counsel at will because he simply doesn't like the results he comes up with.

Again, the Judiciary Committee, this morning, makes us proud. It rises to the occasion to tell the President that he cannot tamper with the very wellsprings of our democracy and that he will pay a bipartisan price if he does.

I particularly praise Chairman GRASSLEY. We have worked together on many things, and we have had our differences on many things, but this morning he is rising to the occasion. History regards such moments very favorably. I hope we will get a large vote this morning.

#### APPROPRIATIONS PROCESS

Madam President, while we are speaking about bipartisanship, there is another bit of good news. There are two shoots of bipartisanship springing up today—the Judiciary Committee's action on preventing the President from firing Mueller and an agreement between Senator SHELBY, Leader MCCONNELL, and me to try to begin moving appropriations bills the way we used to—in a bipartisan way.

We had a very good meeting yesterday in which we laid out the parameters of how to do this. We talked about not letting extraneous amendments disrupt the process. We talked about doing our job the way it used to be done—doing all of the appropriations bills this year and doing them in a bipartisan way, having the chairs and ranking members of the subcommittees work together to craft a bill that both sides can be happy with even though neither side will be happy with everything in it.

I hope that it moves forward. I pledge to the Members of this body and to the American people that I am committed to making that process move forward in a fair, bipartisan way and to trying to restore some of the semblance of bipartisanship that we used to have in this place and bring it back to actual action and reality, not just verbiage.

#### VA SECRETARY NOMINATION

Madam President, we just received word that the President's nominee to be the next Secretary of the VA has withdrawn his nomination. The allegations swirling around the nomination of Dr. Jackson were troubling and raised lots of questions, but the real blame here falls on the administration for once again being sloppy and careless in the vetting process. Dr. Jackson didn't go through a careful vetting. Some of these things might have been discovered beforehand, and he wouldn't have had to go through the process he went through.

The Veterans' Affairs Committee did the right thing. They didn't seek to go after Jackson; people came to them. When people come to them—particularly military folks—with serious and troubling allegations, they have an obligation to investigate. I salute Chairman ISAKSON and Ranking Member TESTER for pursuing those allegations.

Dr. Jackson went through a maelstrom, and he should tell his patient, I guess, the President, that he, the President, caused this problem by not properly vetting, by making these decisions on the fly, by making sure they don't count.

Our obligation above all is not to any one individual but to the millions of veterans in America. They deserve a department that treats them well. They deserve the best healthcare, and we need someone to run the VA who is up to the job.

I hope the President learns his lesson. I hope the next nominee is thoroughly vetted before he or she is sent to the Congress. Most of all, I hope our veterans can get the kind of leader they deserve.

#### HEALTHCARE

Madam President, finally, on another matter—healthcare—next week, health insurance companies will begin to announce their initial proposed rates for 2019 in each State across the country. When they do, every American should remember that President Trump and congressional Republicans have spent the last 1½ years trying to sabotage our healthcare system in a way that would increase costs and decrease access to quality healthcare.

It is true that last summer the Senate Republican effort to repeal our current healthcare system and gut Medicaid—an effort that would have left tens of millions uninsured and raised costs on millions more—ended, thankfully for the American people, in failure.

Despite that legislative failure, President Trump, his administration, and congressional Republicans have