parties. For example, the Trump administration consulted with Senator SCHATZ and me about nominees to fill Hawaii vacancies on the district and circuit courts. We worked together to identify nominees who would be qualified and appropriate for these lifetime appointments—Jill Otake for the district court and Mark Bennett for the Ninth Circuit. We returned our blue slips, and the nominations are moving forward.

Abandoning the blue slip has nothing to do with overcoming so-called Democratic obstruction of President Trump's judicial nominees. This President has seen more circuit court nominees confirmed at a faster pace than any modern President. In fact, he has bragged about the pace of confirmation of his judges, including at the State of the Union Address.

Instead, abandoning the blue-slip process is about gutting checks and balances that would prevent Donald Trump from packing the court with ideologically driven judges as quickly as possible.

This week, we are considering one of those judges—Michael Brennan—whose nomination should not proceed. It has come to the Senate without the traditional advice and consent and over the strong objection of his home State Senator, Ms. BALDWIN.

In fact, in a particularly hypocritical twist, Mr. Brennan was nominated to fill a seat that has been kept open for over 7 years because the senior Senator from Wisconsin—a Republican—refused to return a blue slip for Victoria Nourse—President Obama's nominee for this very same seat.

At that time, Mr. Brennan—the nominee we are debating today—even wrote an op-ed in the Milwaukee Journal Sentinel in 2011 arguing in favor of respecting the blue-slip requirement on the Nourse nomination, saying:

> There are now two Senators from Wisconsin from different political parties, so to exclude Johnson and those citizens who voted for him would be a purely partisan move.
>
> Johnson represents millions of Wisconsin citizens, just as Sen. Herb Kohl does and Feingold did. In the same way those senators had their say in Nourse's first nomination, Johnson should have his say . . . [He] just wants to be heard and fulfill his constitutional duty of ''advice and consent.''
>
> Why can't Johnson, elected by the citizens of Wisconsin, participate in the selection of a judge for a Wisconsin seat on the 7th Circuit, as Kohl did?

Now that the shoe is on the other foot, Mr. Brennan is perfectly happy to have his nomination move forward over the objections of one of Wisconsin's Senators—Ms. TAMMY BALDWIN. This is the kind of hypocrisy we have come to expect from this administration, but I am also not surprised that Senator BALDWIN did not approve Michael Brennan, considering his troubling views on the way the law works. He should not be confirmed to a lifetime appointment on the Seventh Circuit.

In a 2001 op-ed for the National Review online, Mr. Brennan expressed dangerous ideas that call into question the duty of Federal judges to follow precedent. In his op-ed, Mr. Brennan casts doubt on whether judges have a responsibility to rely on how other judges before them interpreted laws, what lawyers call stare decisis. He wrote:

> If, after reexamination of a legal decision, a court concludes that the ruling was incorrect, stare decisis does not require that the rule of that case be followed. . . . Bush-appointed judges cannot accurately be labeled as activists for reexamining and following only correct precedent.

I interpret this op-ed to mean that a judge is free to determine whether he or she will agree that the precedent is correct. That is not how the law works. So we, in the Judiciary Committee, asked Mr. Brennan about this article during his confirmation hearing, and he came up with a clever explanation for it. He claimed his article asserted that judges are not necessarily bound by decisions of their own district or their own circuit. His article, he claimed, did not argue that judges can disregard precedent of higher, controlling courts. That is not what he wrote.

It is a convenient explanation, I admit, but it doesn't really hold up if you read his op-ed, where he clearly argues that President George W. Bush's judicial nominees should receive a pass for not following the law. This is what used to be called a confirmation conversion.

As with too many of President Trump's nominees, we are being told to ignore what we read or hear and set aside common sense. We are told by these nominees that what they talked about yesterday, think about today, wrote about yesterday—we are supposed to just ignore all of that. We are supposed to pretend that what someone has advocated for in the past, no matter how recent, will have no bearing on what they will do as a judge, but, remember, Judge Brennan has said he doesn't feel bound, according to his op-ed piece, by precedent.

Judges, as former Chief Justice Rehnquist said, do not come to their positions as blank slates. Each of them brings their own ideas and perspectives to the bench.

The majority leader recently said his most consequential political act—political act—was blocking Judge Merrick Garland's nomination to the Supreme Court. This is the same majority leader complaining that Democrats are now obstructing President Trump's judicial nominees. What could be more obstructionist than to totally ignore a nominee to the Supreme Court, no less?

The majority leader's unprecedented action prevented President Obama's well-qualified, centrist nominee from even having a confirmation hearing, let alone a vote, and it paved the way a year ago for Senate Republicans to jam through President Trump's conservative, ideological nominee, Neil Gorsuch—a Federalist Society-backed nominee—to provide a five-vote conservative majority on the Court that will continue to roll back individual rights for decades. President Trump put his stamp on this approach when he tweeted, ''Republicans must ALWAYS hold the Supreme Court.'' They are taking this same approach to all of our Federal courts.

I take the Senate's constitutional obligation to provide advice and consent on judicial nominees very seriously. We should be carefully considering a nominee's record to ensure they understand that courts are supposed to protect the rights of minorities.

The courts do not belong to Democrats or Republicans, despite the fact that Donald Trump has said Republicans must always hold the Supreme Court. He applies that, by the way, to the district courts as well as circuit courts. We must ensure that judges with lifetime appointments will treat all Americans—all Americans, and, I would say, particularly minorities and women—fairly in court. This is what the blue-slip requirement is really about. Home State Senators have a unique role in ensuring that the Federal judges serving in their States are highly qualified, understand the importance of applying the law fairly, and meet the needs of their community.

I urge Senate Republicans to reverse their ill-conceived decision to functionally eliminate the blue-slip requirement. We must all stand together to respect Senator BALDWIN's objections and oppose this nominee—who, to me, is the height of being a hypocrite—or all of us are at risk.

I yield the floor.

The PRESIDING OFFICER (Mr. FLAKE). The Senator from Vermont.

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

The PRESIDING OFFICER. The Senate is not in a quorum call.

The Senator is recognized.

Mr. LEAHY. Mr. President, we ''new'' Members don't think to look up at the lights. I apologize, but I appreciate being recognized.

SENATE'S BLUE-SLIP TRADITION

Let me be serious for a moment. I am the longest serving Member of the Senate, I am a former chairman of the Senate Judiciary Committee, and I feel obligated to speak up about the erosion of the norms and traditions that protect the Senate's unique constitutional role.

There are only 100 Senators. We should be the conscience of the Nation. We have a unique role, but, this week, we are witnessing a further degradation of the once-respected role of the blue slip in the judicial confirmation process.

Now, partisans who value only political expediency have argued that blue slips are mere slips of paper, but, instead, they represent and help preserve something far more meaningful.

For much of this body's history, blue slips have given meaning to the constitutional requirement of advice and

consent. They have protected the prerogatives of home State Senators. They are the ones who have to vouch for somebody from their State, and they are the ones who have the most at stake.

I remember when a dear friend of mine, then-the Senator from Arizona, Barry Goldwater, called and asked if he could drop by and see me. He had recommended a person to President Reagan for the U.S. Supreme Court. It was Sandra O'Connor. He explained how they had looked at a number of people, and she was the best. With respect for Senator Goldwater, I agreed, and I supported her.

They have also ensured fairness and comity in the Senate. In many ways, traditions like the blue slip have been central to what makes the Senate the Senate. All of us, whether we are a Democrat or Republican, should care about good-faith consultation when it comes to nominees from our own States. The reasons are both principled but pragmatic. We know our States better than anybody else. We know who is qualified to fill a lifetime appointment to the bench, and, critically, we know the one constant in life is impermanence. That is precisely why traditions matter.

When I became chairman of the Judiciary Committee at the start of the Obama administration, every single Senate Republican signed a letter making the case for the importance of this tradition, and requesting that it be respected during the new administration. Republicans said: We are unified. We must follow the blue-slip tradition.

I didn't need that reminder. Under my chairmanship, during both the Bush and the Obama administrations, I respected the blue-slip tradition without exception, even when it was not politically expedient, even when I was attacked for protecting a Republican Senator's prerogative. I faced pressure from my own party's leadership to hold hearings for President Obama's nominees who had not received blue slips from Republican Senators. I was criticized by advocacy groups and even the editorial page of the New York Times.

I resisted such pressure. I did so because I believed then, and I still believe now, that certain principles matter more than party. It was certainly what every single Republican said they agreed with when President Obama was President. Not all Judiciary chairmen followed the same blue-slip policy as I did, but Chairman GRASSLEY did follow the same policy, at least when there was a Democrat in the White House. Last Congress, no judicial nominee received a hearing without both home State Senators returning positive blue slips. This Congress, coinciding with a change in the White House, there has been a change in the blue-slip policy. What was sacred to Republicans for the Democrats is not sacred to the Republicans for Republicans.

Tomorrow, the Judiciary Committee will hold a hearing for a nominee in the Ninth Circuit, Ryan Bounds. He is opposed by not just one but both of his home State Senators. If Mr. Bounds is ultimately confirmed, it will mark the first time in the history of the U.S. Senate that a judicial nominee is confirmed with opposition from both home State Senators. It is nothing we ever thought possible with Republican or Democratic Presidents because it would have been too partisan. It would have destroyed what is best for the Senate, would destroy the comity of the Senate, would destroy the ability for Senators to represent their home State.

Also, this week, the full Senate will consider the nomination of Michael Brennan to the Seventh Circuit, over the objection of home State Senator TAMMY BALDWIN. Mr. Brennan's nomination was not even supported by the bipartisan Wisconsin Federal Nominating Commission. This is a nominating commission made up of Republicans and Democrats. They did not support this nomination. For years, this has been a longstanding requirement for potential nominees of the Federal bench in Wisconsin, and because the bipartisan commission couldn't support him, it is no wonder Senator BALDWIN cannot, in good conscience, return her blue slip.

Many of us have established processes. I have. I have a bipartisan process in my State. Many have established these processes to vet and recommend nominees in our home State. Yet somehow Mr. Brennan was nominated, and he may be confirmed this week, even though it ignores a bipartisan commission.

Make no mistake, this kind of a confirmation would do lasting damage to the Senate's traditions, would do lasting damage to the Senate I love, would do lasting damage to a Senate, which I served for almost 44 years.

My concern is not about a mere piece of paper. My concern is, we are failing to protect the fundamental rights of home State Senators—Republicans and Democrats alike—and we are failing in our constitutional duty to provide our advice and consent. This is a unique requirement the U.S. Senators have—advice and consent. There are 100 of us. Four hundred and thirty-five House Members don't have this; we do.

Mr. Brennan's nomination makes a mockery of the blue-slip process. It makes a mockery of the time-tested process that home State Senators have abided by in Wisconsin for decades—under both Republican and Democratic administrations, and that should concern all of us.

I understand the pressure on my Republican colleagues to help a President from their own party to fill judicial vacancies; even a President who attacks the very legitimacy of our judiciary, who tweeted attacks against members of the Federal judiciary. The dilemma is that yielding to such pressure—undermining a Senate tradition simply due to a change in the White House—will do lasting damage to the integrity of this body. The Senate should never function as a mere rubberstamp for nominees seeking lifetime appointments to our Federal judiciary.

Some may dismiss these warnings. I served in the Senate long enough to know that partisan winds tend to change direction. Inevitably, the majority becomes the minority. It has happened several times since I have been here. The White House changes hands. That has happened several times since I have been here. Then, the shoe is on the other foot, which is precisely why maintaining a single, consistent policy is so critical.

I urge my fellow Senators of both parties to consider the damage we are doing to this body by abandoning one of the few remaining sources of bipartisan good will in our judicial confirmation process. A vote for Mr. Brennan is a vote to abandon our ability to serve as a check on not just this President but any future President of either party. Chasing expediency provides fleeting advantage. It inflicts lasting harm on this body, and it is within our power to put a stop to it.

I urge all my Senate colleagues to ensure that home State Senators are provided the same courtesies during the Trump administration the home State Senators—both Republicans and Democrats—were provided during the Obama administration. For that reason, I ask my fellow Senators to oppose Mr. Brennan's nomination unless he has bipartisan support from his home State.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, first of all, I want to thank the distinguished Senator from Vermont, who has been such a role model to me since I came to the Senate—we started working together on technology issues and worked together on so many matters dealing with appropriations and finance—for all his counsel, not just on this but over the years. I thank him for the courtesy of being allowed to go next.

NOMINATION OF RYAN BOUNDS

Mr. President, there is now a vitally important debate happening on the Senate floor with respect to judicial nominations. What is clear to me is, the majority is now chipping away at a century of bipartisan tradition that has protected the interests of those in our home State and served as a check on the power of the Executive. It is the Senate bowing down to the White House, derelict in its constitutional responsibility to provide or withhold advice and consent on nominees. In my view, this is a dangerous mistake that is going to have harmful consequences for decades.

Today, the debate at hand is over the mishandling of the nomination of Michael Brennan to the Court of Appeals for the Seventh Circuit. This could be the first time in decades that a judicial