

It is a wonderful thing, but the exultation by the President and others of the greatness of North Korea doing this evades me. We can't be fooled into giving the North Korean regime credit for returning Americans who never should have been detained in the first place. American citizens are not diplomatic bargaining chips. While we celebrate the return of the three Americans, for the sake of their freedom and their families, we should not feel as if we need to give Kim Jong Un anything in return.

It is troubling to hear President Trump say that Kim Jong Un treated the Americans excellently. Kim Jong Un is a dictator. He capriciously detained American citizens, robbed them of their freedom, and didn't let them go home to their families. Their release should not be exalted; it should be expected. It is no great accomplishment of Kim Jong Un to do this.

When the President does this, he weakens American foreign policy and puts Americans at risk around the world. If our adversaries look at what the President has said in reaction to Kim Jong Un, why shouldn't they detain American citizens and get a huge pat on the back when they release them?

It is like so many of the President's foreign policy actions—quick, not thought through, related to show and to ego. If our adversaries from Iran to China who already wrongfully hold Americans think they can get something—praise, standing, diplomatic concessions—by unlawfully detaining Americans in their country, you can bet they will try. These are bad people, the leaders of these dictatorships like Iran.

So I caution the administration. We are all rooting for diplomacy to succeed on the Korean Peninsula, but we cannot sacrifice the safety of American citizens around the world in exchange for an illusory veneer of peace. I worry that this President, in his eagerness to get acclaim and a photo op, will strike a quick and bad deal, not a strong and lasting one. President Trump and Secretary Pompeo must seek strong, verifiable, enduring commitments from North Korea to disarm.

NUCLEAR DEAL WITH IRAN

Madam President, now on oil prices and Iran, earlier this week the President exited the Iran deal. We all know that. Even as someone who opposed the deal—which I did because I thought it was flawed; I thought President Obama and Secretary Kerry should have waited longer and given more time for the sanctions to bite, and we would have gotten a stronger and better deal. I still believe that. But once the deal is in place, it seems to me that we should not be focused on undoing this deal. We don't want a nuclear Iran. That is one of the reasons I opposed the deal. But there is no report from anybody, including our own intelligence, that Iran is violating that part of the deal.

In the meantime, Iran is doing some very bad things. It is not a country we

should admire or respect in any way—the leadership, anyway. They are trying to develop an ICBM. They are creating havoc with the Houthis in Yemen. Worst of all, in my opinion, the greatest immediate danger is that there are Iranian Revolutionary Guard troops in Syria, right near Israel's border, and hundreds, if not thousands, of deadly rockets that Iran gives to Hezbollah, a militant terrorist organization. They placed them in Lebanon where they have hegemony in certain areas. That is the greatest danger to Israel. That is the greatest danger to peace in the Middle East. Down the road, it will be the greatest danger to the United States, at least in the next several years.

What we should be doing is not undoing this deal right now but creating new sanctions and telling Iran that if they continue giving missiles to Hezbollah, if they continue sending troops to Iran, if they continue their activities with the Houthis and the placing of additional missiles, we will put on additional sanctions. That is the smartest thing to do, and that is what is most in need now, given America's and the world's security needs. But we need our allies to do it.

Sanctions don't work when they are unilateral. We learned that in South Africa years ago with apartheid. Only when the sanctions became broad and enacted by many nations did they have an effect. It is the same situation here.

The United States, by pulling out of the agreement and getting our European allies' noses way out of joint, makes it far harder to enact new sanctions on what I perceive to be the greatest dangers we face.

There is one other thing Americans should realize about pulling out of the Iran deal, and that is it affects gasoline prices across the country. According to the U.S. Energy Information Administration, gas prices will rise over the summer, and the average American family can expect to pay \$200 more this driving season than last. The Iran deal is certainly some part of that. For middle-class families, \$200 this summer is more than the tax break they will get, if they get one at all.

When President Trump makes rash decisions without consideration of the consequences and no coherent strategy, which is what has happened with Iran, the American people pay the price in many different ways: security, the declining ability to find and go after the greatest dangers we face with Iran, and money out of our own pocketbooks with an increase in gasoline prices. One of the ways Americans will pay for President Trump's unthought-out decision to exit the Iran deal will be at the gas pump this summer.

So again, to repeat, I didn't think the deal was a good deal; still, I am proud I voted no. But at this time, in this place, and for so many reasons, pulling out precipitously without our allies involved does not achieve anything, does not achieve the goals we need to

achieve, and hurts Americans in different ways.

PRESCRIPTION DRUG PRICES

Madam President, finally, on prescription drugs, tomorrow the President will give a speech on another important topic in American healthcare: the high cost of prescription drug prices. He is right to give that speech. Americans suffer from the highest prescription drug costs in the developed world. On average, Americans pay over \$850 a year on prescription drugs, compared to an average of \$400 across 19 other industrialized nations. Remember, that is on average.

If you are sick and need one specific new drug on the market for your condition, you could be paying in the tens of thousands of dollars per month for that drug. Sometimes that new drug isn't much different from one already on the market and hasn't been proven to be more effective. Sometimes pharmaceutical companies intentionally corner the market on the drug and raise prices by absurd percentages. We saw that with Mr. Shkreli, and there is no cop on the beat to stop the Shkrelis of the world. It is outrageous, venal, and hurts seniors, the infirm, and regular middle-class families every day.

We ought to do something about it. That is why Democrats make lowering the cost of prescription drugs a central pillar of our Better Deal agenda. We propose that there should be greater transparency from companies when they are proposing to increase the prices of their drugs. We propose allowing the government to negotiate for lower drug prices and to establish an office that would go after the most egregious companies and actors who are raising prices on drugs for no reason—price-gouging enforcement. If we were in the majority, these policies would be our top priorities.

Hopefully, President Trump will get on board. In fact, I agree with a lot of what President Trump has already said on the issue. He said that the drug companies are "getting away with murder" and in the State of the Union Address he said:

One of my greatest priorities is to reduce the price of prescription drugs. Prices will come down.

President Trump's rhetoric focuses on a problem that we have to address, and we hope sincerely that tomorrow he will follow through on that rhetoric with a tough and detailed plan to achieve what we both wish to achieve. But so far, President Trump has taken little action to downgrade the price of prescription drugs. He installed a former top executive of a pharmaceutical company, Alex Azar, to be the Secretary of Health and Human Services. Now, 6 months before the election, without consulting Democrats or Republicans on the Hill, he will give a speech tomorrow on his plan to bring down the cost of prescription drugs.

We welcome the newfound attention. We sincerely hope the President outlines a clear, strong plan in detail

about how to tackle this incredible problem. Another "all hat and no cattle" speech will not get the job done. More rhetoric, more half measures will not move the needle.

We need to do something bold and effective to bring down the outrageous cost of prescription drugs, and we Democrats have a good, strong proposal. We hope he will embrace it.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Madam President, let me just say, as a personal matter, this is the first time I have seen you presiding in the Senate. It is a nice sight, and I welcome you.

I am here today to talk about the eroding and perhaps even vanishing tradition that we refer to in the Senate as the blue slip. People don't necessarily know what a blue slip is, but there has been a tradition with respect to U.S. attorneys, local U.S. district judges, U.S. marshals, and the seats on the U.S. circuit courts of appeals that are by tradition associated with a particular State. With respect to all of those nominations, there has been a tradition that they require the approval of the home State Senators. The mechanism for that approval is called a blue slip, and there actually is a blue slip.

The tradition in the Senate Judiciary Committee that was very rigorously enforced most recently by Chairman LEAHY, when he was chairman, is that a nominee for one of those offices does not get a hearing and cannot proceed without the blue slip of the home State Senators. I commend the ranking member on the Judiciary Committee, Senator DIANNE FEINSTEIN, on the great work she has done on the minority report she led that describes the history of the blue slip and the extent to which what we are doing today is a break with that tradition.

What provokes this is the nomination of Michael Brennan to proceed without a blue slip having been returned by his home State Senator, Ms. BALDWIN. Obviously this signals a disrespect to the local Senators with respect to the office for which they heretofore had a blue slip. It also represents a very significant shift of power in Washington from this body, from this Chamber, to the Oval Office, which is a little bit unusual. Politics come and politics go, but it is rare for a political body like the Senate to willingly and willfully emasculate itself to some degree and transfer all of that power down to the executive branch and to the Oval Office. I think there is a quite significant price to be paid for this choice.

Representing Rhode Island, we are on the First Circuit Court of Appeals. There is one seat—we are not a very big State; we have just one seat—on the U.S. Court of Appeals for the First Circuit, more properly, that is denominated as the Rhode Island seat. It is now occupied by a terrific judge, the Honorable Rogerie Thompson, whom Senator REED and I had a very significant role in getting appointed to that position. Should she step down, that vacancy would ordinarily be seen as the Rhode Island seat on the U.S. Court of Appeals for the First Circuit, and we would expect that we would be consulted and that our blue slips would be honored with respect to a nominee the President—whichever President—wished to push through.

Without divulging too many confidences, I will say that there was some considerable back-and-forth with the Obama administration in order for Senator REED and me to get the assurances we needed that judges we approved of would be appointed.

What I can't figure out is how the tradition of circuit courts of appeals seats having an affiliation with a particular State survives this decision to stop honoring blue slips for circuit courts of appeals. Every single Senator in this Chamber represents a State that lays claim to a certain seat—or a certain number of seats for the big States—on our circuit courts of appeals, but the only thing that undergirds that is the blue slip. The notion that there is a Rhode Island seat on the First Circuit or a Texas seat on the Fifth Circuit or New York seats on the Second Circuit or California seats on the Ninth Circuit or an Alaska seat on the Ninth Circuit doesn't exist in the Constitution. It doesn't exist in law. It exists by virtue of traditions of the Senate, and the only tool that gives that tradition any teeth at all is the blue slip.

So what happens if we, on a categorical basis, decide that circuit court of appeals nominees are no longer subject to the home State blue slip?

(Mr. SULLIVAN assumed the Chair.)

At that point, there is no method for assuring that there is any home State affiliation for that seat whatsoever. A future President could choose to put a New York judge, a Tennessee judge, or an Alaska judge into the so-called Rhode Island seat on the First Circuit. Contrarily, if a so-called Alaska seat on the Ninth Circuit opened up, a future President could put a Rhode Islander into that seat because the only mechanism preventing that from happening is the fact that we honor each other's blue slip. That is the only mechanism that protects this long tradition that the seats on the U.S. circuit courts of appeals are associated with particular home States.

So in this mad rush to get circuit judges confirmed—a rush that has completely overwhelmed this body and that has just completely stampeded the tradition of the blue slip—one of the

prices that we will pay is that there is no longer any mechanism to enforce that any seat on any circuit court of appeals in this country has any association with any State.

I have been joined by my distinguished colleague from Massachusetts on the floor. Massachusetts is a bigger State than Rhode Island. Massachusetts has several seats that the Massachusetts delegation would claim as the Massachusetts seats on the First Circuit if and when an opening should occur in those seats. But with no blue slip, how does that stay a Massachusetts seat? How do we have any voice in this whatsoever if there is no blue slip?

We could easily end up in a situation in which all of the circuit courts of appeals have essentially been nationalized. I think there are a great number of lawyers who would more than happily pull up stakes and travel to another location. The distinguished Presiding Officer from Alaska and I have had conversations about the enormous reach of the Ninth Circuit. That already takes quite a lot of traveling. For a lawyer to have the distinction of being able to be a U.S. court of appeals judge—let's say that I have to pull up stakes and move from Texas to Rhode Island—there are plenty of lawyers who would do that.

I urge my colleagues—as we undo this blue slip—to think about where this road ends, because a few years from now, if there is a President of a different party and there are circuit court nominees who come up, our Republican colleagues who have supported the abandonment of the blue slip will have no objection and no complaint—no legitimate objection and no legitimate complaint—if seats that are nominally the Alaska seat, the Massachusetts seat, the Rhode Island seat on the circuit get simply given to somebody else. There is no mechanism to prevent that if we don't honor the blue slip. That entire tradition falls right behind the collapse of the blue slip for the circuit courts of appeals.

Of course, it is a massive transfer of power from this body to the Oval Office, which is obviously fine with our Republican friends now, given the identity of the person who is in the Oval Office, but that is not forever. Changes like this are forever. So we need to think this through.

I will close by saying this. Why is it that we would behave in such a peculiar way with respect to the institution that we love and serve, as to basically disable ourselves with respect to local control over circuit court of appeals nominees and transfer that entire power down to the Oval Office? Why would we do that? That is peculiar behavior.

When you look to the heavens and you see peculiar behavior from heavenly bodies, you look for an explanation. One of the reasons we know that dark stars and black holes exist is because they create peculiar behavior

in the heavenly bodies around them. What might be the dark star that is causing the peculiar behavior of the Senate in willfully disabling its own power and authority with respect to nominations for circuit courts of appeals? What could explain the otherwise inexplicable dismantling of our own tradition and our own authority in this area?

I submit that there is a \$17.9 million donation that was brought to bear on the nomination of Judge Garland—the obstruction of that nomination—and the subsequent nomination of Judge Gorsuch from one donor. One anonymous donor put nearly \$18 million into an effort to manipulate that process. That is not what has gone wrong with the Courts of Appeals, but it is a signal of powerful political interests out there seeking control over judicial nominees. For what other reason would an individual donor anonymously spend nearly \$18 million? That is just one donor. There is plenty of anonymous money flowing into operations that seek to get specific types of people into robes.

My concern is that it is the power of special interests that is the dark star that is causing the Senate to undergo this deformation of its traditions—this relinquishment of our individual power as Senators and our group power as a branch of government.

It is special interest power that is driving this. There are special interests, such as the gun lobby, that would like to be able to go into a court and know that they have a judge who is predisposed in their favor. There are special interests, such as anti-choice groups, that would like to go into court and know that they have a judge who is predisposed in their favor. The actual very dark money forces that are meddling in our politics are desperate to show up in court when the question of dark money is litigated and have a judge who they know is predisposed in their favor.

There are business interests that seek to disable, diminish, and hobble courts and juries, and provide people home cooking arbitration alternatives to their constitutional right to go to court and to face a jury of their peers. They are very interested in seeing to it that when they appear in court on those issues, they have a judge who they believe is predisposed in their interests.

I cannot think of another reason why the Senate, as an institution, after all this time, would unilaterally disable itself, would unilaterally emasculate itself with respect to the role of the selection of our circuit court of appeals nominees.

I think this is a day that we will come to regret because that first step to get Judge Brennan confirmed may seem very attractive and appealing to a great many of my colleagues, but once you have crossed that Rubicon with that first step, there is no path that I can see that protects the right of individual Senators to assert an inter-

est in a specific seat or a number of seats on the circuit courts of appeals.

I think we have more or less taken an irrevocable step toward nationalizing the appointments of all circuit court of appeals nominees, and we will look back on this day and say: What fools we were.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Ms. WARREN. Mr. President, I want to start by thanking my colleague from Rhode Island for both his powerful analysis of the influence of money on the selection of our judicial nominees and also for his point about the blue slip and the implications of what this means for an independent judiciary.

He has been a strong voice on this for a long time, and I think his speech on it was extraordinary and something that I hope everyone listens to and pays attention to.

We are facing an unprecedented attack on our courts. This week, once again, Senator MCCONNELL has scheduled confirmation votes on a slate of extremist judicial court nominees—nominees who have demonstrated that they are not committed to the principles of equal justice under law. In this administration, Senate Republicans have been working at breakneck speed to jam our courts with pro-corporate, narrowminded elitists who will tilt the scales of justice in favor of the rich and powerful and against everyone else. They are willing to bend and break and change every rule in the book to do it.

Their latest strategy is to ignore the blue slip. For over a century, home-State Senators have played a critical role in the judicial confirmation process by using something called a blue slip to determine whether a judicial nomination should move forward. The Senate Judiciary Committee has historically refused to move forward on a nomination without a blue slip from both home-State Senators. In fact, during the Obama administration, Senate Republicans insisted on maintaining that rule, refusing to move forward on any judicial nominee who did not secure blue slips from both home State Senators. They even stretched the rule beyond all reasonable bounds to stop fairminded, mainstream nominees from being confirmed. But now that Donald Trump is in the White House, Republicans have changed their tune. In order to force extremist nominees onto our courts, they are willing to toss the blue slip right out the window.

Michael Brennan, President Trump's nominee to serve on the Seventh Circuit Court of Appeals, is just the latest example. Even though Mr. Brennan did not receive a blue slip from both home-State Senators, Senate Republicans moved forward on his nomination. Perhaps the ultimate irony is that when President Obama nominated another candidate to fill this very same seat, Mr. Brennan penned a strong defense of

Senator JOHNSON's decision to withhold his blue slip. Now that the shoe is on the other foot, those principles have magically disappeared.

Let's be clear here. There are plenty of reasons for any Senator to be concerned about Mr. Brennan's fitness to serve on the Federal bench. I will just mention a few.

Mr. Brennan has mocked millions of hard-working women who have faced sexism and obstacles to advancement.

He has dismissed the idea of a glass ceiling.

Mr. Brennan has defended a Wisconsin law that added unnecessary barriers to women who were seeking access to abortion, even in the case of rape or incest.

Mr. Brennan supports criminal sentencing policies that slap low-level offenders with long jail sentences and exacerbate the problem of mass incarceration in America.

And it gets worse. Mr. Brennan believes that it is A-OK for judges to refuse to follow binding court precedent when the judge just thinks it is incorrect. Now, that is extreme.

But Senate Republicans have shown that they just don't care. They are willing to do whatever it takes to hand over our courts to moneyed interests.

NOMINATION OF THOMAS FARR

There are many other radical nominees who are also in line. I want to take some time to talk about one of them, but I think it is important to explain just what is at stake here.

In 2015, I was honored to join thousands of marchers to commemorate the anniversary of Bloody Sunday. On that chilly March morning 53 years ago, hundreds of nonviolent voting rights advocates, including many poor and rural African Americans who had been systemically shut out of the political process, joined together to march 54 miles from Selma to Montgomery to demand equal access to their constitutional right to vote. As they crossed the Edmund Pettus Bridge, the marchers, including my friend Congressman JOHN LEWIS, came face-to-face with a wall of State troopers armed with billy clubs. The troopers had one message for the marchers: Turn back. Don't fight this fight. It is not worth it.

Fully aware that they were putting their lives on the line, the protesters decided it was worth it. They held their ground. As the protesters fell to their knees to pray, they were brutally attacked by the State troopers.

As television footage and pictures of the brutality that day ricocheted across America, the country was forced to grapple with an ugly truth: In a country that is supposed to be a beacon of democracy, many citizens had systematically been stripped of the fundamental right to vote.

The march set in motion the signing of the Voting Rights Act of 1965—a landmark law that banned racially discriminatory voting practices. I wish I could say the fight for voting rights ended that day—the day President