

Honorable Jerome, or “Jay,” Powell to be the Chairman of the Board of Governors of the Federal Reserve System.

I appreciate this opportunity to immediately follow my colleague Senator BROWN, as he and I serve together in leading the Banking Committee on critical issues like this. Senator BROWN has very well described a number of the critical aspects of what this nomination means to America. I don't think there is any overstating the importance of this nomination—one of the very few most important nominations any President gets to make.

The Federal Reserve Chairman plays a critical role in shaping the U.S. and global economic landscape as well as the regulations affecting financial institutions and markets.

If confirmed to this position, Governor Powell would be central to ensuring a safe and sound financial system while also supporting a vibrant, growing economy. He will play a key role in right-sizing Federal regulations and alleviating unnecessary burdens, a stated goal of the Federal Reserve. He would also Chair the Federal Open Market Committee, the body charged with making key decisions for the Nation's monetary policy.

Governor Powell has a unique background, which will help him lead the Federal Reserve. He has demonstrated his understanding of the markets and regulations during his tenure over the past 5 years at the Federal Reserve.

Most recently, he has served as Chairman of the Fed's Committee on Supervision and Regulation, a highly important and impactful position.

Governor Powell previously served as Assistant Secretary and Under Secretary of the Treasury under President George H.W. Bush, where he was responsible for policy affecting financial institutions, the Treasury market, and other critical areas of our economy. He also has firsthand experience in investment banking and was a partner in the Carlyle Group before being appointed to the Board of Governors.

Governor Powell was reported out of the Banking Committee with overwhelming bipartisan support last year and was recently approved again this year with near-unanimous support. If confirmed to this new role, I look forward to continuing our work together with Governor Powell on a host of important issues before the Banking Committee.

I support this nomination today and urge all of my colleagues to do the same.

Thank you.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, I ask unanimous consent to engage in a colloquy with Mr. FLAKE, the Senator from Arizona.

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

#### EARMARKS

Mr. LEE. Mr. President, if you have been following the circus in this town

long enough, you probably remember earmarks, the infamous special interest spending provision that party leaders used to sprinkle over unpopular legislation, sort of like heavily subsidized sugar.

Even if you aren't familiar with this concept, you may be familiar with specific wasteful earmarks, such as the infamous \$223 billion “bridge to nowhere” in Alaska or the \$3.4 million turtle tunnel in Florida, which was precisely what it sounds like, a 13-foot-long underground tunnel that was intended not for people, not for automobiles, not for train traffic but for turtles, or the so-called “monuments to me,” buildings that politicians named after themselves.

Earmarks were everything Americans couldn't stand about Washington, DC. They enabled corruption, and they facilitated waste. They wreaked of entitlement. They were the swamp, and then they went away for 7 wonderful years and counting. They went away because Republicans banned them after the 2010 election cycle, when the tea party wave rolled through Washington, lifted by an anti-cronyism message. Now some politicians in the House of Representatives are trying to bring earmarks back. Now, I have heard some bad ideas in my time in the Senate, but this one takes the cake.

Just like in a horror movie, the swamp thing is coming back to life—or at least it is trying to—even after we hit it in the face with a shovel.

Earmark fans never left Washington, of course. They have just been lying low, waiting for memories of their waste and abuse to somehow fade from our public consciousness, from our awareness, and our discussions about Washington.

Now, 7 years later, these politicians and their special interest pals think they have found a nifty argument to rehabilitate pork-barrel spending. They point to the dysfunction in Congress and say earmarks would somehow make all of that better. It is a little bit like saying: There is a fire over here, let's pour some gasoline on it and see what happens.

Sure, these offenders admit earmarks are frequently unseemly. They have to acknowledge that. There is no getting around that point, but they claim earmarks are a kind of industrial lubricant for the sausage-making factory that is Congress.

According to them, bringing earmarks back will get the machine churning out sausage again, just like before. Like many terrible political arguments, this one has some acknowledgeable, superficial appeal.

Congress is, indeed, dysfunctional, and earmarks probably would make it easier for some people in Congress, some party leaders and others, to buy votes for their bills, but why should we believe our problems would be solved if we just hand more power over to the already powerful few in Congress, if we make it easier for them to pass un-

popular bills like ObamaCare or massive amnesty?

It was the elites from both parties who reduced Congress to its present lowly state. The public despises Congress, and it certainly is not because we killed earmarks. It is because the public distrusts the elites who rule them and the awful unrepresentative laws they passed with the help of earmarks, no less, prior to the 2010 election cycle, when the American people said: Enough is enough when it comes to earmarks.

Now, the fight over earmarks is really a fight over two very different, competing visions of how Congress should govern. The Washington establishment likes the current system, where just a few lawmakers negotiate and write bills behind closed doors.

This system, itself, works great for the swamp. If you like the swamp, then you probably love earmarks. It keeps cash flowing through certain offices and their alumni's lobbying shops on K Street. There are tough decisions made in secret without any accountability or fidelity to the public, to the people we represent.

This corrupt system excludes all but a handful of well-positioned Representatives and Senators. So it effectively disenfranchises hundreds of millions of Americans whose representatives have little say over what actually passes into law. Bringing back earmarks would only make that situation worse.

An alternative system would be one of transparency, of decentralization, of legislative accountability. Representatives and Senators would write legislation collaboratively in the open for all to see, forcing popular compromises and, yes, from time to time, taking tough votes.

The reason Congress doesn't work like this right now is because the establishment is afraid of what the public might see and how they might vote in response to what they see. Governing out in the open would require Members to do the hard work of learning about issues before forming coherent positions.

The present broken system is much easier, at least in this critical respect: It lets a small handful of lawmakers do all the thinking and the scheming, and it rewards docile lawmakers with the occasional earmark to tout to their constituents back home, to tout to them as if to ask: Aren't I wonderful?

Earmarks would make life better for politicians, in other words, but it would make life worse for the country, much worse. That we are even considering such a bargain; that it is even being discussed as a serious matter in the House of Representatives is an insult to logic and is exactly why Congress is held in such widespread public disdain.

Eventually, I believe, Congress will reform itself. As the old adage goes: “If something cannot go on forever, it won't,” but it will take a lot of painful decisions before we get to that point.

We will have to struggle hard to extricate ourselves from the mess.

Bringing back earmarks would represent a step backward in this struggle—back to cronyism, back to waste, and, yes, back to the swamp. This is something we cannot allow. This is something that cuts against our very interests as Americans and as Members of an institution that has called itself the world's greatest deliberative legislative body.

So I would ask my friend from Arizona, Senator FLAKE, for his thoughts on the matter and what he thinks about the wisdom, or lack thereof, in bringing back this horrible tradition.

Mr. FLAKE. Mr. President, I thank the Senator from Utah. Let me just say that during a televised, bipartisan meeting recently at the White House, the President suggested that we might be more collegial around here, more efficient in Congress, if we would just bring back earmarks. The reaction from the lawmakers present was decidedly mixed. Some cheered that declaration, but most of us, I have to say, recoiled at the thought.

As someone who served in Congress during the gluttonous earmarking era, when pork was used regularly to buy and sell Congressmen's votes, I can tell you firsthand this is an idea that nobody ought to be laughing at or embracing. Amidst public corruption investigations and a constant stream of embarrassing headlines about sweetheart deals for family and friends, Congress was forced to place a moratorium on earmarks about 7 or 8 years ago.

Earmarking does not improve the legislative process. In fact, it compromises Members into ignoring unethical behavior and voting for bad bills that they would otherwise oppose. Remember, ObamaCare was approved with just a single vote being secured with an earmark—the one that was derided as the “Cornhusker kickback.” Likewise, when Senators receive earmarks, they are agreeing to support hundreds of other earmarks stuffed into an appropriations bill.

When people say the appropriations process would be a lot smoother, would work a lot better with earmarks, I would respond by saying that there was a period of about 10 years when earmarks really hit the high point, in 1994 or 1995 through 2006. I served in the House from 2001 to 2012, and during that time we had earmarks for part of the time and went without earmarks part of the time. And 2005, I think everybody recognizes, was the high point—or the low point, if you want to put it that way. There were a total of 16,000 earmarks spread across 12 appropriations bills and 1 authorization bill, worth about \$30 billion.

One would think that if we had that much to grease the skids in Washington, we should have been able to pass all appropriations measures and move through the process. We would have a more collegial, compliant body. During that time, in 2005—I just

checked—we passed only five appropriations bills in the House—only five. We ended up with an omnibus bill, and that was when Republicans controlled the House, the Senate, and the White House.

So this notion that we have to have earmarks, and if we just get back to earmarks then this place will run smoothly and we will get through the appropriations bills—with 16,000 earmarks, worth about \$30 billion, only five appropriations bills were approved.

We all remember too well the indoor rain forest in Iowa, the teapot museum in North Carolina, and, of course, the bridge to nowhere in Alaska. When a challenge was made to that infamous bridge and other pork projects, not-so-veiled threats were leveled at Senators and Members of Congress who dared question their colleagues' projects.

We simply cannot go back to that time.

I remember well during that time one particular episode when we were all in HC-5 of the House basement. It was during the appropriations season, and all of a sudden one Member ran into the room just breathless. He had the list—the list from the Appropriations Committee—as to who was getting the earmarks and who wasn't. It was largely a staff-driven process. But then everybody would—the thing was, we have to get these earmarks; we have to go announce them quickly in the House before the Senators take credit for them. That was the atmosphere at that time. That was not a high point. That is not something we want to return to.

I was looking at some of what I said in the House at that time and some of what I quoted when we were trying to get rid of them in 2009. At that time, The Hill newspaper had reported that a prominent lobbying firm was the subject of a Federal investigation into potentially corrupt political contributions. It had given \$3.4 million in political contributions to no less than 284 Members of Congress.

There were lobbying shops that were set up for that purpose—simply to be at the intersection of earmarks and policy.

The Hill also reported on February 10, 2009, that this firm, which specialized in obtaining earmarks in the defense budget for a long list of clients was “recently raided by the FBI.”

The New York Times noted that the same lobbyist for that firm “set up shop at the busy intersection between political fundraising and taxpayer spending, directing tens of millions of dollars in contributions to lawmakers while steering hundreds of millions of dollars in earmark contracts back to his clients.”

This is a process that simply is too tough to police when it gets this way.

During my time in the House, over a series of a number of years, I went to the House floor literally hundreds of times to challenge individual earmarks in these spending projects. For those who think that you can go and chal-

lenge these earmarks and have somebody say “Yes, all right, I didn't want to spend money on that teapot museum anyway; that is a bad idea,” that rarely happened. In the hundreds of times I went to the floor to challenge earmark spending, there was only one vote that I won—only one in hundreds of times. That is because the process of log-rolling takes over, where one Member will say: I will protect your earmark if you protect mine. It was more likely that I would get 30, 40, 50 votes, and if I was challenging a popular appropriator, I would get even fewer because nobody wanted to challenge them because their own earmarks would be threatened.

This is not a process that we want to go back to. This is not something that we should be proud of in our history. Several of our colleagues ended up in jail. One of them actually had an earmark bribe menu printed, in hand, on his congressional letterhead which read: If you want an earmark for this much, here is what it will cost you, under the table. He ended up doing time in prison. Not every Member did that, obviously, but it is a process that is too difficult to control.

Here is the worst part about earmarks generally. Some will say that it is just a fraction of spending; it is just a couple of percentage points off the Federal budget, which is true. But the problem is, once you get back into earmarking, the Appropriations Committee spends an inordinate amount of time—the majority of its time—focusing on that 1 or 2 percentage points of the funding and gives up its oversight responsibilities on the other 98 percent of the budget.

We simply don't do the oversight that we should be doing on the Federal agencies and how they spend this money. That is the worst part of earmarking—that we simply give up oversight. Yes, we pay a lot of attention to that 1 or 2 percent of funding, but we give up oversight on the rest, effectively.

So I hope we don't go there. That is why I am introducing bipartisan legislation, joined by my colleague from Utah, to permanently ban all congressional earmarking. Senators McCASKILL, TOOMEY, MCCAIN, LEE, PORTMAN, JOHNSON, RUBIO, ERNST, FISCHER, and SASSE are all on as cosponsors. I hope that when this is brought to the floor, it passes, and we don't go back to this practice of earmarking.

I turn back to my colleague from Utah to hear what other thoughts he has on the subject.

Mr. LEE. Mr. President, I am grateful for the work that has been done by the Senator from Arizona on this topic.

One of the first times I remember seeing the Senator from Arizona on TV, many years before I was elected to the Senate, was while he was serving in the House of Representatives. I saw him interviewed on national television, talking about this issue—talking about the corruption that inevitably flows

from a system that allows for favors like these to be handed out. I remember the immense respect I had for this man whom I did not yet know and wouldn't come to know for another decade or so, but who was willing to call out something that he believed was contrary to public policy, contrary to any system that would result in a good consequence, a good outcome for the American people.

I also appreciate the comment he made a moment ago about a familiar refrain by defenders of earmarks. Senator FLAKE mentioned that over time people would point out that earmarks were, even during their heyday, maybe representing a couple of percentage points of total Federal spending. Well, that may be true, if you want to put it that way, in those terms, as they inevitably did at the time, quite persistently. But it overlooks a few things. It is a much larger percentage, of course, of discretionary spending, and of domestic nondefense discretionary spending could even be a larger percentage. But more to the point, something that is only 2 percent doesn't necessarily mean that it is having a favorable impact and that it is not having an impact that is itself very significant.

When you look at a mile-long train, the engine car might represent only about 2 percent of the total length of the train, but it is what is driving the train. It is what is determining where the train goes, and if that train is going in a wrong direction, that can be very bad. So I have always found unpersuasive the initially persuasive argument that this is just a tiny segment of Federal spending.

At the end of the day, earmarks represent everything that we are uncomfortable with about Washington. Moving back to them would represent a departure from a very favorable reform that we had in this body 7 years ago.

So I would ask Senator FLAKE, who has served in Congress longer than I have and who has seen this, to tell us what he fears most about bringing back earmarks.

Mr. FLAKE. Well, I thank the Senator from Utah. One of the things I fear most is that we are having a tough enough time controlling spending.

Dr. Coburn, who served in the House—I admired his time there. He went after earmarks and after a lot of these appropriations, and he did the same thing when he came to the Senate until the last day he was here. He had a saying. He said: "Earmarks are the gateway drug to . . . spending addiction."

What he meant by that is if you give an earmark in an appropriations bill, some people will say "Well, it is just an earmark for a couple of million dollars for a Rock and Roll Hall of Fame"—that was actually one. The problem is, once you get your earmark there, you are obligated to support that entire bill, no matter how ballooned it becomes.

During the period, particularly in 2001 to 2006, boy, we bloated up a lot of

appropriations bills. We were running basically at almost a surplus in 2001, and by the time we got to 2006, it was anything but, and nondefense discretionary spending and defense spending related to earmarks increased significantly. It just was not a good trend.

So what I fear most is that we have been able to have some control on non-defense discretionary spending, and the growth of that has been slower than other things, but once you start getting earmarks in these bills, then you will be obligated to support them no matter what. Then you support bloated appropriations bills just to protect your earmark. The process of log-rolling takes effect—I protect yours if you protect mine.

That is one thing I fear.

I turn it back to the Senator from Utah.

Mr. LEE. Mr. President, Senator Coburn said this is the "gateway drug" for big government. That is such an appropriate analogy. It reminds me of a news clip that I saw a couple of years before I ran for the U.S. Senate, when there was coverage of a very large spending bill that came up short—and those on the news commented at the time: Well, it is well understood in Washington that what is now going to have to happen is they are going to have to add probably tens of billions of dollars to this bill, which they will do, and they will end up getting it passed by adding these "sweeteners" as they call them—earmarks, essentially—in order to get people to vote for them for the same reason that Senator FLAKE just mentioned.

The dangers of bringing back earmarks are numerous, and it is my strong view that we should not do that. We should avoid this like the plague.

Thank you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### SENATE REFORM

Mr. WICKER. Mr. President, the Senate voted yesterday to reopen the government. I am glad that cooler heads and bipartisan good will prevailed before too much damage was done, but where do we go from here?

The leadership of both Houses needs to negotiate appropriations caps for the rest of this year and all of next year. We all need to do our part to make sure this is done immediately. As a matter of fact, half of that job is practically done. Our colleagues in the House have a promise from the Speaker of the House to consider a Defense appropriations bill at the spending level set by the most recent National Defense Authorization Act. That amount is \$700 billion and represents an increase of \$88.6 billion over last year's enacted spending level—a welcome development. It would seem to make

sense for this body to adopt that figure in the Senate bill, and the job would be halfway done. I hope our leaders will not wait until the week after next to get us an agreement on domestic spending.

Let's not approach the next few days as if the battle lines are again drawn. Rather than using the coming days to suit up for the next showdown, perhaps we can work to strengthen the Senate so that it does the governing that our Founders envisioned, the governing that the statesmen who preceded us have protected. Americans do their jobs day in and day out, and they expect the same hard work from their elected representatives in Washington.

In this regard, I would like to call attention to an op-ed by radio host Hugh Hewitt that was published online yesterday by the Washington Post. It is titled "How to end the Senate's astonishing dysfunction"—a pretty graphic title for an op-ed. Mr. Hewitt warns that the institution of the Senate is "careening toward widespread contempt, as happened to its Roman predecessor even before the emperors turned it into a fancy advisory council." One might be inclined to agree given the events of the past few days. Indeed, we have reached an embarrassing low point where a government shutdown is wrongly used as a bargaining chip for merely political gain. Mr. Hewitt concludes, "It would be best for both parties to head off change imposed from pressure from the outside with change organically orchestrated from within by those with care for the body and its original design."

There are plenty of experts with ideas on how to create a more efficient and more effective Senate. Those ideas should be welcomed now. But those of us who took an oath in this Chamber and serve with the great legacy of this institution cannot stay on the sidelines. We occupy a unique position to drive reforms and to make the Senate better, ensuring its existence and its success for the next generation.

There is real hope that these reforms have already begun. For example, there has been support by both Democrats and Republicans to change the procedural rules on executive and judicial nominations, shortening postcloture debate from 30 hours to 8 hours. The Democratic-led Senate passed this rule on a temporary basis in 2013, with bipartisan support. Our colleague from Oklahoma, Senator LANKFORD, has a thoughtful proposal. He suggests that we permanently shorten postcloture debate on executive and judicial nominations. I agree with this proposal. The practice of confirming noncontroversial nominees is a courtesy historically given without needless delay to whoever occupies the Oval Office, to whom ever the public has installed as President, Democrat and Republican alike.

Delays are not only inconvenient as the new administration tries to put its team in place, but more importantly,