

v. Wade. Those are his words: “pro-life judges” and “automatic.”

He also said that Chief Justice Roberts has been “an absolute disaster”—his words—for voting to uphold the healthcare law and said his judicial appointments “will do the right thing, unlike Bush’s appointee John Roberts, on *ObamaCare*.”

It is near impossible to imagine that President Trump would select a nominee who isn’t hostile to our healthcare law and to healthcare for millions and millions of Americans and who isn’t hostile to a woman’s freedom to make her own healthcare decisions.

We can be sure of this because President Trump, during the campaign, asked Leonard Leo, the founder of the Federalist Society, to assemble a list of possible Supreme Court Justices for him to pick from. Mr. Leo was not only aware of Candidate Trump’s preference for a Supreme Court that would reverse *Roe v. Wade*; he himself spent his career in pursuit of it.

That is not just my view. According to Edward Whelan, one of the most prominent legal conservative activists and bloggers, “no one has been more dedicated to the enterprise of building a Supreme Court that will overturn *Roe v. Wade* than the Federalist Society’s Leonard Leo.” No one has been more dedicated to overturning *Roe v. Wade* than the very man who chose the list of 25.

That is what we are up against here. That is why America is on tenterhooks, so worried about any choice from this list.

Let me repeat again that Mr. Leonard Leo is the man who assembled Trump’s list of potential Supreme Court nominees, and no one—no one—has been more dedicated to overturning *Roe v. Wade* than Leonard Leo.

Normally, in the Senate we have a process of advise and consent on the Supreme Court. In the old days, the President would consult with Republicans and Democrats in the Senate on a qualified judge and, then, after careful deliberations, nominate a jurist who could get bipartisan support. What we have here is the exact opposite.

The President has gone to two “far out of the mainstream” hard-right groups—the Heritage Foundation and the Federalist Society—and asked them, not the Senate, to advise and consent on a Supreme Court nomination.

Whomever the President selects tonight, if that nominee is from the preapproved list selected by Leo and the Heritage Foundation, everyone ought to understand what it means for the freedom of women to make their own healthcare decisions and for the protections for Americans with preexisting conditions: Those rights will be gravely threatened.

We are going to hear a lot this summer about precedents. The traditional question in these matters has been: Will the nominee defer to precedent? Nominees will be asked if they respect

settled law. This is known as the principle of *stare decisis*. The nominee always answers that, yes, he or she will respect and defer to precedent, and Senators nod their heads, having received this rickety, vague assurance that the nominee will not rock the judicial boat and turn the clock back decades. But for two reasons, this standard of settled law—*stare decisis*—is no longer an adequate standard by which to judge nominees. Why?

First, we have ample evidence from the past several years of judges who have sworn in their confirmation hearings to respect precedent and then have reversed their stand once on the Court. For example, in his confirmation hearings, then-Judge Gorsuch said:

Precedent is like our shared family history of judges. It deserves our respect.

Last week—just last week—now-Justice Gorsuch voted to overturn 41 years of precedent in the *Janus* decision, relying on flimsy and fabricated legal theory. It was so flimsy, in fact, that Justice Kagan wrote in dissent that the majority overruled precedent, “for not exceptional or special reason, but because it never liked the decision . . . subverting all known principles of *stare decisis*.”

Justice Roberts—another person who swore he would obey precedent—said he would call balls and strikes as he saw them, that he would interpret law rather than make it. Of course, it was Justice Roberts who was then responsible for overturning 40 years of precedent in the *Citizens United* decision, which so set back our politics and so deepened the swamp that so many Americans despise, by allowing huge amounts of dark money, unreported, to cascade into our political system.

On two of the most important rulings in the history of the Roberts’ Court, a cumulative 81 years of precedent were thrown out the window, despite the earnest promises of Justices Roberts and Gorsuch at their hearings.

When they say they will obey settled law, you can’t believe it. You can’t believe it because it just hasn’t happened in this new conservative Court that is so eager to make law, not interpret it.

There is a second reason, which is maybe even more important, why the principle of “I will follow settled law” no longer works, and that is President Trump. We already know that President Trump’s nominee will be prepared to overturn the precedents of *Roe v. Wade* and *NFIB v. Sebelius*. We know that because President Trump has said so. When the President has a litmus test for his nominees and only chooses from a preapproved list of nominees designed to satisfy that litmus test, it is certainly not enough for a judge to prove his or her moderation by invoking *stare decisis*. *Stare decisis* and respect for precedent have become an almost meaningless bar to set for a Supreme Court nominee. At this critical juncture, with so many rights and liberties at stake, U.S. Senators and the American people should expect an af-

firmative statement of support for the personal liberties of all Americans from the next Supreme Court nominee.

The American people deserve to know what kind of a Justice President Trump’s nominee would be. President Trump is the one who made a litmus test for his nominee, not us. The onus is on his nominee to show where he or she might stand.

Considering the ample evidence that President Trump will only select a nominee who will undermine protection for Americans with preexisting conditions, give greater weight to corporate interests than the interests of our citizens no matter what precedent says, and vote to overturn *Roe v. Wade*, the next nominee has an obligation—a serious and solemn obligation—to share their personal views on these legal issues no matter whom President Trump selects tonight.

NORTH KOREA

Mr. President, briefly, on another matter—the ongoing negotiations with North Korea over their nuclear program. Despite all the reality show pomp and circumstance, the negotiations have, thus far, been a flop. After the summit, President Trump declared, without any evidence—that is so typical—that “North Korea is no longer a nuclear threat” to the United States. The reality, of course, is far different.

Recent reports have shown that North Korea is making upgrades to a nuclear facility and expanding ballistic missile manufacturing. Just a few days ago, North Korean media called the negotiations with Secretary of State Pompeo “deeply regrettable,” accusing the Trump administration of pushing “a unilateral and gangster-like demand for denuclearization.” Talks are going great, and then our side is accused of being gangster-like?

For the President to say North Korea is no longer a nuclear threat and then have North Korea’s Foreign Ministry come back and say what they said, shows the disconnect between President Trump’s rhetoric, the reality, and the sheer incompetence of this administration. For those who say—and I hear it all the time from many of my Republican friends in my State and throughout the country—they say: Look, we don’t like the President’s style. We wish he didn’t tweet so much, but we support him because he is “getting stuff done.” Take a look at the yawning gap between what the President claims and what he has actually achieved. On North Korea and on so many other issues—taxes and healthcare are two other examples—the President makes grand promises but fails to deliver for the American people.

HEALTHCARE

Finally, Mr. President, one word on healthcare. Another issue the President has failed to deliver on is healthcare. After promising far better and cheaper healthcare for all Americans, President Trump has relentlessly

sabotaged our healthcare system, undermined key protections for Americans with preexisting conditions, done all he can to see the premiums rise. Probably the No. 1 issue bothering America today is rising healthcare costs.

Last week, the Trump administration found another way to sabotage our existing healthcare system, suspending a critical program that stabilizes the healthcare insurance markets. This comes at a time when 2019 premiums are being filed, and insurers from coast to coast are saying the Republican sabotage is causing premiums to increase, to be much higher than they need to be. Many of these insurers are also saying that if the Trump administration enacts further sabotage, such as actions like this one and the expansion of junk plans that hurt people with preexisting conditions, then insurers may need to amend their rates and raise premiums even more. This relentless healthcare sabotage is politically motivated, spiteful, and accomplishes nothing except to raise costs on middle-class families and taxpayers. The Trump administration needs to fix this newest sabotage as quickly as possible.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority whip.

FILLING THE UPCOMING SUPREME COURT VACANCY

Mr. CORNYN. Mr. President, this evening, the President of the United States will perform his duty and nominate a person to serve as the next Supreme Court Justice to fill the vacancy left by Associate Justice Anthony Kennedy, who announced his retirement at the end of July. I look forward to joining the President this evening, along with a number of my colleagues, for that historic announcement. It is an important day because the person selected will help decide many cases that will have a deep and lasting impact on American history. Certainly, Justice Kennedy played that role many times in many close cases.

There are a great many talented men and women who are qualified for Justice Kennedy's seat, I believe, and that is why the President's choice is so difficult. All of these candidates who have been identified as a potential pool of candidates have the intellectual capacity that has developed over many years, along with a rigorous understanding of the law. They have demonstrated their analytical skills in a variety of ways—by studying at top-tier law schools, clerking for well-respected judges on the courts of appeals and the Supreme Court, in their public speeches, in the courses they have taught, in the articles they have published, working at the highest levels inside government and prominent law firms, and, of course, in the case of the final four, serving on an appellate bench, which is the midlevel, intermediate Federal court which, for all practical purposes in most cases, is the court of last resort since the Supreme

Court only hears roughly 80 or so cases a year.

I know the President has considered a handful of these jurists. He revealed a list of potential appointees to the Court when he ran for President, and I think that probably was one reason why he was elected because when people saw the quality, the experience, and the qualifications of the individuals he said he would consider for the Supreme Court, I think it gave them greater confidence he would choose wisely, given the opportunity as President, to appoint somebody to the Court.

These individuals who are in the pool of prospective nominees have come from different academic and professional backgrounds, but I have no doubt the selection will be a good one primarily because of the one appointment the President has already made to the Supreme Court, which is Justice Neil Gorsuch.

Justice Gorsuch did not disappoint those of us who supported his nomination during his first year on the Court. He has demonstrated not only the power of his pen but the clarity of his thought and the force of his legal reasoning. I am sure his predecessor, Justice Scalia, would be proud of the fact Justice Gorsuch succeeded him on the Court and has left a record of accomplishments in such a short time.

President Trump and Justice Gorsuch taught us all a valuable lesson last year. At the end of the day, the decisions of the Supreme Court should not be much affected by the personalities or the life stories of the Justices themselves. That is because the interpretation of the law should always be separate and apart from the people who apply it, and the Justices and their work must be insulated from the day-to-day politics that happen inside this Capitol Building and the statehouses around the country.

The Court is not a partisan or political institution. After all, that is the way our Founders—the people who created this great country—and our Founding documents wanted it to be. Wisely, they figured there needed to be someone who would make a final decision in the event of a controversy or a lawsuit, but the Court itself should not put a finger on the scale or be a player in the partisan battles that occur here in Washington, DC. Indeed, the Court should be and is a separate and equal branch of government and must stand on its own, apart from the political biases and persuasions that pervade the District of Columbia. So I, along with many other people, am excited to hear the President's choice.

TRIBUTE TO JUSTICE ANTHONY KENNEDY

Before we begin this confirmation process, let me acknowledge the work and the legacy of departing Justice Kennedy. I thank Justice Kennedy for his 40-plus years serving this country on the Federal bench. He has presided over and authored the majority opinion in many high-stakes cases of national importance. He may be somewhat hard

to pigeonhole at times, but I think it is safe to say he has remained committed to upholding the integrity of the judiciary throughout the course of his career. As a former State supreme court justice myself, I can attest that the work of a judge is painstaking, time-consuming, but obviously extraordinarily important. So we are grateful to Justice Kennedy for his willingness, his ability, and his determination to carry out his important work as a Federal judge.

After being appointed by President Reagan and having served on the Supreme Court for the last three decades, he has furthered the pursuit of American justice one case at a time through calm times and turbulent times. He was an important member of the Court who recognized one's individual right to keep and bear arms under the Second Amendment, and he recently upheld the President's ability to protect national security and limit immigration from countries that have no ability to vet and to identify potential sources of terrorism in their own countries.

As Justice Kennedy concludes his tenure on the Court at the end of the month, we wish him and his wife, Mary, and his children many more happy years together.

FILLING THE UPCOMING COURT VACANCY

Mr. President, meanwhile, after the President's announcement this evening, the Senate will fulfill its constitutional role by providing advice and consent on whomever President Trump nominates. We plan to consider the nominee and his or her record thoroughly. That is our responsibility.

As the senior Democratic Senator from Connecticut said recently, "the Senate should do nothing to artificially delay" the consideration of the next Justice. I agree. It is also consistent with the standards set by former President Obama and Vice President Biden. In 2010, which was a midterm election, just like this year, Senate Democrats confirmed President Obama's nominee, Elena Kagan, to the Supreme Court.

After President Trump makes his selection, Senators will have the opportunity to meet with the nominee, examine his or her qualifications, debate them, and then vote. We will vote this fall to confirm Justice Kennedy's successor. I know Chairman GRASSLEY will manage a fair confirmation process in the Judiciary Committee. He always has.

It is crucial that as this process begins to unfold, the President's nominee not be subjected to personal attacks from an increasingly agitated and vitriolic Democratic Party. My frustration is that we used to debate an individual nominee's qualifications, but, as with the Gorsuch nomination, we have seen that anybody whom President Trump would nominate would be uniformly opposed by our friends across the aisle.

Based on what we have seen so far, we know that the confirmation process