funding for the Federal task force that is studying the harmful algae blooms like the one I have been describing here.

I hope every Member of the Florida delegation—especially those who are in areas where water is allowing algae to bloom—will join this Senator in calling on the Speaker of the House to take up and pass this important bill in the House. We need to do it fast while all of this algae is blooming, and that would be before the House goes out in recess for their August break. Time is critical.

Again, I want to show you what this algae looks like. You can see these thick chunks on the surface of the water where it almost looks like a blue-green carpet. When that algae dies, you can't believe the smell that comes from it. We must act, and the time to act is now.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FILLING THE UPCOMING SUPREME COURT VACANCY

Mr. GRASSLEY. Madam President, tonight the President will announce his nominee for Associate Justice of the Supreme Court of the United States. That announcement is because of a vacancy created by Justice Kennedy's recent retirement.

Justice Kennedy left an important legacy of more than three decades on the Supreme Court. I voted for his confirmation 30 years ago. Justice Kennedy demonstrated his deep commitment to our constitutional liberties. It is no surprise that some of his greatest opinions defended free speech and religious liberty. I hope Justice Kennedy's successor carries forward this legacy.

I am optimistic that the person the President nominates tonight will be highly qualified and committed to the rule of law. I am optimistic because President Trump already appointed one such Supreme Court Justice: Neil Gorsuch.

The President's selection process is the most transparent in history. He issued a list of potential Supreme Court nominees directly to the American people during his 2016 campaign. To my knowledge, no other Presidential candidate has ever done that. The list demonstrated the types of Justices he would appoint to the Bench. The American people voted for President Trump in part because of that list of names and what it reflected and his promise to nominate these types of jurists.

Any of the 25 people on the President's list would be an excellent choice and worthy of the Senate's serious consideration, but already we are seeing from liberal outside groups and some of the Democratic leadership a desperate attempt to block the nominee—any nominee—by whatever means necessary. Democratic leaders have pledged to block anyone from the President's list without even knowing who that nominee is and regardless of his or her qualifications. Think about that a while. The President has a list of 25 names, but some Democratic leaders have already said that not one of them is acceptable, zero out of 25 highly respected, highly qualified individuals—not even worthy of this body's consideration. That is an incredible statement by some of the leaders on the other side of the aisle.

This preemptive attack on a yet-to-be-named nominee is a preview of the obstacles and calls for needless delays we are sure to see from some of my colleagues. I have already heard several weak arguments made in an attempt to delay the confirmation hearing, but the Democratic leaders have shown their hand. The motive is to block any nominee from the President's list. Whatever reasons for delay, it is clear that their single motivating factor is blocking the nominee selected tonight, whoever he or she is.

The first delay tactic I heard was that the Senate shouldn't confirm a nominee during a midterm election, but the Senate has never operated like that. Justice Kagan and Justice Breyer were confirmed in midterm election years, in addition to many Justices who served before them. Democratic leadership and outside groups are so desperate to block this nominee that they are willing to rewrite history to do it.

We have a long history of confirming Justices nominated during a midterm election year. We don't have a long history of confirming Justices nominated during a Presidential election year. It has been nearly 80 years since we have done that. Former chairman Joe Biden announced in 1992 that the Senate shouldn't confirm any Justices during a Presidential election year. Senator SCHUMER said something similar in 2007—the year before a Presidential election. The Biden-Schumer rule pertains only to Presidential elections, not midterm election years.

It is important to let the American people decide who should choose a nominee for a Supreme Court vacancy. That is why I waited until after the 2016 Presidential election to hold hearings for a Supreme Court nominee. But the individual who selects nominees—the President of the United States—is not on the ballot in midterm elections. The rule simply doesn't apply during a midterm election, and that is this year.

Another losing talking point is that we shouldn't confirm any nominee while Robert Mueller's investigation is ongoing. And who knows when that is going to end. This argument is again inconsistent with the historical precedent. Look at what President Clinton was involved in—an investigation of that President over Whitewater. At the same time, Justice Breyer was appointed to the Supreme Court—at a time when the independent counsel was doing that investigation. At the time, his documents were under a grand jury subpoena. What other constitutional powers do the proponents of this argument believe that the President should surrender simply because of an investigation?

This is obstruction masquerading as silliness. What drives this preemptive obstruction, you might ask. It is liberal outside groups' stated fear that the President's nominee will vote to invalidate the Affordable Care Act or overturn Roe v. Wade. Well, the same five-Justice majority who preserved the Affordable Care Act is still on the Court. Justice Kennedy voted to strike it down. Replacing him with a like-minded Justice would not change the outcome. We hear the same thing about Roe v. Wade every time there is a Supreme Court vacancy. It was a big deal when Sandra Day O'Connor was appointed to the Court 37 years ago. Yet Roe v. Wade is still the law of the land.

It is pretty clear that Justices have a way of surprising us. Who could have predicted that Justice Scalia would strike down a ban on flag-burning? It is a fool's errand to try to predict how a Justice will rule on some hypothetical future case.

This regular uproar about Roe v. Wade shows the difference between how many Democrats and Republicans view the courts.

Liberal outside groups and many Democrats have a litmus test. They seem to be very results-oriented and focus on policy outcomes of judicial decisions. They expect—they even demand—their judges to rule in favor of their preferred policies. Liberal outside groups and their allies simply want judges to be politicians hiding under robes. That is why Senate Democrats were so blatant in changing Senate rules so that they could stack the DC Circuit Court of Appeals. Former Democratic leader Harry Reid made no bones about making sure there were enough DC Circuit judges to protect the Obama administration's policies on regulations.

Republicans, on the other hand, want judges who will rule according to the law and leave policymaking to elected representatives, where the Constitution prefers and demands that it be.

I don't want judges who decide cases based upon whether the results are liberal or conservative. Judges should rule according to the law, no matter what their views are on policy outcomes. Judge Gorsuch recently said that judges wear ''robes, not capes.'' I agree with that assessment.

Liberal outside groups and their allies want judges who will decide cases with liberal policy results. Republicans expect judges to leave their policy aside when deciding a case. That is the

fundamental difference that will become crystal clear to the American people during this confirmation debate.

The Senate Judiciary Committee will hold a hearing for the nominee in the coming weeks. Exactly when, I don't know, and I shouldn't know at this point. I want to emphasize a few things, though. One, it is inappropriate for Senators to ask the nominee how he or she would rule on certain cases sometime in the near future or 10 years from now. Two, it is inappropriate to ask the nominee about his or her personal views on the merits of Supreme Court precedent.

The bottom line is that Senators should not try to extract assurances from nominees on how they will decide particular cases in exchange for a confirmation vote because how do you know down the road—1 year or 2 years or 15 years—what the case might be at that particular time?

Justice Ginsburg made it pretty simple for everybody. During her confirmation hearing in the early 1990s, she set the standard, promising, in her words, ''no hints, no forecasts, no previews.'' She said this in a further long quote:

> It would be wrong for me to say or to preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously.

This standard was reaffirmed by every Supreme Court nominee since then. For the last 25 or 26 years, the Ginsburg rule has been what is followed by other nominees for the Supreme Court. Justice Kagan said this about Roe v. Wade, following the Ginsburg rule:

> I do not believe it would be appropriate for me to comment on the merits of Roe v. Wade other than to say that it is settled law entitled to precedential weight. The application of Roe to future cases, and even its continued validity, are issues likely to come before the Court in the future.

I expect this nominee announced tonight to likewise follow the Ginsburg standard. I will ask the nominee how he or she views the law and a Justice's role on the Bench. I will not presume to know how a nominee will rule on any case that might come before the Court today, tomorrow, or 10 years from now. I certainly will not be basing my vote on whether I think I will agree with the majority of his or her decisions.

The press has reported that the President has focused on six or seven potential nominees for this vacancy. Each one is well qualified and would make an outstanding Supreme Court Justice.

The nominee will get a full and fair hearing. Under my watch, the Senate Judiciary Committee will never be a rubberstamp. Several recent nominees to lower courts learned that the hard way.

The process will be fair and will be transparent, as much as I can make it. That has been my approach during my nearly 38 years in the Senate—and all of those 38 years on the Senate Judiciary Committee—and I will not change that. The American people must be confident that this Senate has fulfilled its constitutional duty of very independently vetting this nominee before we confirm a Justice to a lifetime appointment on the highest Court in the land.

I eagerly await the President's announcement this evening. I look forward to hearing from the nominee when he or she appears before the Senate Judiciary Committee.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MORAN). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Ms. HIRONO. Mr. President, I have been consistently voting against cloture motions to proceed to debate on judicial nominations because the process by which we are considering these nominations has been deeply broken.

I will again, today, be voting no on cloture even though the nominee we are voting on to fill a vacancy on the U.S. Court of Appeals for the Ninth Circuit is Mark Bennett from Hawaii. I support Mark Bennett's nomination, and I spoke on his behalf during the Senate Judiciary Committee hearing. When debate time ends, I will vote for his confirmation.

Mark is recognized as being one of the best qualified lawyers in the State of Hawaii. He has served as a Federal prosecutor, our State's attorney general, and in private practice. He has experience in trial and appellate work, on civil and criminal matters, at the State and Federal levels. He understands legislating and has served in the executive branch. He has received high ratings from the American Bar Association and from the Hawaii State Bar Association. He is well respected and has been honored multiple times by his colleagues.

I have every confidence that Mark will put his skills and experience to good use on the bench as a fair and impartial judge who is beholden to nothing but the law and the Constitution. However, as has been my practice since the beginning of this Congress and session, I will vote no on cloture on Mark's nomination. I will vote this way to call attention to my disagreement and deep concern over how the Senate Judiciary Committee is conducting its judicial nomination hearings.

The Senate has a constitutional obligation to provide advice and consent on judicial nominees, and I take this obligation very seriously. The American people depend on the Senate to fully consider and vet each judicial nominee. Throughout the course of their lifetime appointments, these judges will issue rulings and opinions that will touch each of our lives. The process of nominating, considering, and confirming judges should be a deliberate one. Its purpose should not be to confirm as many judges as quickly as possible. Senators should be able to provide input on who should sit on the Federal bench. Senators should have adequate opportunity to hear from third-party experts about the records and qualifications of each nominee, and Senators should have enough time to question and examine a nominee during the confirmation hearing. Yet, over the past year and a half, we have seen a breakdown in the way this process should work.

The President has, essentially, outsourced the judicial selection process to two organizations that have strong, ideologically driven agendas—the Federalist Society and the Heritage Foundation. These nominees have been chosen without the consent of their home State Senators, as has been the practice through what is known as the blue-slip process. By ignoring the traditional blue-slip process, the President and his allies in Congress have been rendering the Senate's constitutional obligation to provide advice and consent increasingly meaningless.

The White House and the chairman of the Judiciary Committee have also undermined the independent processes through which the American Bar Association's Standing Committee on the Federal Judiciary evaluates whether a nominee is qualified for the job. Ignoring this traditional process has resulted in the nominations and confirmations of a number of deeply unqualified judges. Some of these nominees have been unable to answer basic questions about judicial procedure or the law during their confirmation hearings. Others lack the kind of experiences one would want in those who will have lifetime appointments to the Federal courts.

Under this administration, we have also seen the rushed considerations of many nominees for the Federal circuit courts. Judges who serve on our circuit courts are only one step away from the Supreme Court and deserve to be scrutinized closely in the Judiciary Committee. Over the last year and a half, however, the Judiciary Committee has overridden the objections of the minority to hold an unprecedented six nomination hearings with more than one circuit judge nominee being considered simultaneously on one panel. This means that members of the Judiciary Committee have only 5 minutes in total to ask questions of not just one but two circuit court nominees, including the time it takes for them to answer our questions. This is scarcely enough time to vet these nominees, many of whom are highly controversial and deserve maximum scrutiny. The American people deserve much more as we consider lifetime appointments to the Federal bench.

Until we return to a normal process through which we consider lifetime appointments to the Federal bench, I will continue to oppose cloture on each judicial nomination by this President and encourage my colleagues to join me in this effort.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Mark Jeremy Bennett, of Hawaii, to be United States Circuit Judge for the Ninth Circuit.

Mitch McConnell, John Cornyn, Deb Fischer, Mike Rounds, John Barrasso, John Hoeven, Roger F. Wicker, Shelley Moore Capito, Steve Daines, John Boozman, Orrin G. Hatch, Thom Tillis, David Perdue, Mike Crapo, Richard Burr, Pat Roberts, Johnny Isakson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Mark Jeremy Bennett, of Hawaii, to be United States Circuit Judge for the Ninth Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Nebraska (Mrs. FISCHER), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Mr. SULLIVAN).

The PRESIDING OFFICER (Mr. LANKFORD). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 72, nays 25, as follows:

[Rollcall Vote No. 144 Ex.]

YEAS—72

Alexander	Hassan	Perdue
Baldwin	Hatch	Peters
Bennet	Heinrich	Portman
Blumenthal	Heitkamp	Reed
Brown	Hyde-Smith	Roberts
Cantwell	Isakson	Rubio
Capito	Johnson	Sanders
Cardin	Jones	Schatz
Carper	Kaine	Schumer
Casey	Kennedy	Shaheen
Cassidy	King	Shelby
Collins	Klobuchar	Smith
Coons	Leahy	Stabenow
Corker	Lee	Tester
Cornyn	Manchin	Tillis
Cortez Masto	Markey	Toomey
Donnelly	McCaskill	Udall
Duckworth	McConnell	Van Hollen
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Gillibrand	Murkowski	Whitehouse
Graham	Murphy	Wicker
Grassley	Murray	Wyden
Harris	Nelson	Young

NAYS—25

Barrasso	Boozman	Crapo
Blunt	Burr	Cruz
Booker	Cotton	Daines
Enzi	Hoeven	Rounds
Ernst	Inhofe	Sasse
Flake	Lankford	Scott
Gardner	Moran	Thune
Heller	Paul	
Hirono	Risch	

NOT VOTING—3

Fischer	McCain	Sullivan

The PRESIDING OFFICER. On this vote, the yeas are 72, the nays are 25.

The motion is agreed to.

The Senator from Ohio.

STRESS TESTS FOR BANKS

Mr. BROWN. Mr. President, earlier this month, the Fed released the results of its annual stress test—exercises designed to ensure that the largest banks can withstand economic shocks and will not need another taxpayer bailout in the event of a crisis. These stress tests were not in effect a decade ago before the last crisis and likely would have prevented—or made much softer—the economic landing that we had.

What happened with these annual stress tests that just came out illustrates exactly what is wrong with Washington, what is wrong with this Congress, and what is wrong with Wall Street.

The Fed allowed the seven largest banks to redirect $96 billion—that is 96 thousand million—that should be used to pay workers, reduce fees for consumers, or protect taxpayers from bailouts. Instead, it allowed the seven largest banks to plow that money into share buybacks and dividends to reward wealthy executives and generally wealthy investors. Two banks, Goldman Sachs and Morgan Stanley, had capital below the required amounts. That is right. Those banks failed the test, but they got passing grades anyway. The Fed called them up, let them haggle over the test results, and allowed them to proceed with buybacks and dividends that drained their required capital.

In what classroom in America would a teacher grade a paper and preliminarily give it an F and then negotiate with the student over test results and then say, OK, you passed? But the stakes in this case are a lot higher than one midterm exam. We are talking about the biggest banks in the country. We are talking about whether they send money to the wealthiest investors or, instead, have enough skin in the game to protect taxpayers.

So why are these buybacks such a problem? Share buybacks and dividends juice stock prices but do little to increase long-term growth in companies and do very little to reward the workers who make a company's success possible.

During the last crisis, we saw big banks send money out the door with buybacks and dividends just months before they imploded and cost taxpayers billions. Watchdogs in the Bush administration had the tools to intervene sooner but, instead, courted Wall Street at the expense of the rest of the country. Some of those regulators today were in the Treasury Department, in the Bush White House, and the Fed in those days and didn't see the crisis coming. They turned their backs and said: It is OK to allow these dividends and allow these stock buybacks.

Back to this year, the seven largest banks in the country increased their 2018 stock dividends paid to investors by 24 percent compared to last year. The banks that the Fed allowed to increase their stock buybacks increased their repurchases by a stunning 63 percent. What teller, what salesperson, what branch bank manager in Lorain, OH, Mansfield, OH, or Miamisburg, OH, got a raise like that in the last year?

My colleagues don't think much about this, but the average teller in America makes $12.50 an hour. Bank executives are making $5 million, $10 million, and $20 million, and they get big raises on top of that. They get stock buybacks, juicing their compensation as their stockholdings go up and up. Yet the average teller makes $12.50 an hour.

Wells Fargo doubled its buybacks—an increase of more than 100 percent. The money spent on stock buybacks alone is 314 times more than what it would cost the bank to boost employee wages to $15 an hour. Remember that the average teller makes $12.50 an hour in this country.

Wells CEO Tim Sloan got a 36-percent raise last year, even in the wake of scandal after scandal. I found the ads you see all over the place, watching a Cleveland Indians game on TV, sitting in my living room in Cleveland. I have seen these ads in Washington. I have seen them all over—how Wells Fargo is going to learn from its past mistakes. They were once the greatest company, they failed, and now they will be a great company again. But they gave their CEO—who clearly has had some serious issues at that bank—a 36-percent raise.

Again, tellers make $12.50 an hour. Wall Street banks are rewarding themselves rather than workers and, in the process, draining the capital that should be their safeguard against taxpayer bailouts.

I hear my colleagues on both sides of the aisle say: We will never allow a bailout again.

We are doing things that will set us up to do that because we are moving away from the reforms we made. The problem is getting worse. The Fed wants to make the tests even easier next year, weakening the key constraints that caused Goldman Sachs and Morgan Stanley to fail this year, or would have caused them to fail if they hadn't talked their way out of it. It is quite a student who can talk their teacher out of it.

Federal Reserve Vice Chair Randal Quarles has also floated giving more leeway to banks to comment on the tests before they are administered. I like Vice Chairman Quarles. I did not vote to confirm him. I like him. I respect him. I sat across the table from