

keep an open mind and get to know the Brett Kavanaugh whom I know, his family and friends know, and the American people are coming to know. I hope we can confirm him with a strong bipartisan vote so that he can serve our American community from a new role—that of Associate Justice of the Supreme Court.

I yield back my time.

The PRESIDING OFFICER. The Senator from Delaware.

#### TRUMP-PUTIN SUMMIT

Mr. CARPER. Mr. President, as my colleagues and the Presiding Officer may know, I spent many years of my life in the Navy. I spent some 23 years, starting at the age of 21, on Active and Reserve Duty in the U.S. Navy as a naval flight officer, and I spent most of those 23 years as a P-3 aircraft mission commander. I was even, for a limited period of time, the air intelligence officer for my P-3 squadron when we were deployed in Southeast Asia.

I flew hundreds of missions during both the Vietnam war and the Cold War, conducting surveillance operations, gathering intelligence on the Soviets and on others who undermine and destroy the American way of life.

As a Cold War warrior, watching an American President yesterday blatantly ignore attacks on a democracy and our intelligence agencies was beyond galling. It was reprehensible—reprehensible.

Four days ago, Special Counsel Mueller indicted 12 Russian intelligence officers for interfering in our democratic elections in 2016. That same day, last Friday—Friday the 13th—the Director of National Intelligence, our old colleague, Dan Coats from Indiana, said that our country's digital infrastructure is literally under attack. Here is what he said:

The warning signs are there. The system is blinking. It is why I believe we are at a critical point.

That was on Friday the 13th.

Yesterday, our President, with the entire world watching, chose to attack not the Soviets, not the Russians, but Bob Mueller. He is one of the finest people I have ever known and worked with. He attacked Bob Mueller and rebuked the U.S. intelligence community—with whom I have worked as a member of the Homeland Security committee for any number of years, as has our Presiding Officer—instead of siding with the 17 U.S. intelligence agencies, all of whom agreed unanimously, without dissent, that the Soviets, the Russians, intervened in our election in 2016 in an effort to throw the election to Donald Trump and to take it away from Hillary Clinton, the Democratic nominee. There is no question that is what they did.

Our President chose to ignore that, and instead of admiring and speaking to the work of the intelligence agencies and concurring with them yesterday, he decided to side with an authoritarian thug, Vladimir Putin. That was a defining moment in our Nation's history.

I think it is a sad moment in our Nation's history. We ought to move immediately to pass bipartisan legislation, introduced in the Senate earlier this year, to allow Bob Mueller's critical work and that of the people working with him to be completed without the constant threat of political interference.

#### NOMINATION OF BRETT KAVANAUGH

Mr. President, having said that as a predicate, I want to turn to the nomination of Brett Kavanaugh to serve on the Supreme Court. Brett Kavanaugh used to clerk for a Federal judge named Walter Stapleton. Most people who are outside of the Delaware Valley—and maybe Maryland, Pennsylvania, New Jersey—haven't heard of Walter Stapleton. But if you have been involved in legal issues or judicial issues there, you may recall that he was nominated to serve as a district court judge, a Federal district judge, in Delaware and served there for a number of years with distinction.

He went on to serve on the Third Circuit Court of Appeals in our region—again, serving with distinction. I think he assumed senior status in that court in 1999, after many years of service on the Federal bench.

In the second half of the last century, he was seen as a giant in the judicial system—the Federal judicial system—certainly in our part of the world, but I think beyond our borders.

When George W. Bush, my former colleague as Governor, as President, nominated Brett Kavanaugh to serve on the DC Circuit Court of Appeals, among the people I consulted with was former Judge Walter Stapleton and others who had clerked for him and worked with him. They knew Brett Kavanaugh and were very complimentary, as our colleague ROB PORTMAN has been today, talking about the human side of him and the qualities I think we would admire in almost anybody.

When I was a kid growing up, there used to be a guy on the radio—ABC radio—many years ago. His name was Paul Harvey. I don't know if our Presiding Officer is old enough to remember Paul Harvey. He would give the news, and he would do things like give the top of the news, and he would say “Page 2”—and sort of like turn the page and report the rest of the news.

I am going to go to page 2 here today with respect to Brett Kavanaugh. I voted for him. There are about a dozen Democrats in 2006 who voted for cloture; four of us—Robert Byrd, Mary Landrieu, I think, Ben Nelson, and I—voted for confirmation. We voted our hopes rather than our views. We voted, in part, because of what we had learned from others who knew him, who had worked with him, and who admired him. I have said flatout that if I had known then what I know now about the kinds of decisions he would write and support over the following 12 years, I would not have voted for him in 2006. I think it is highly unlikely I would vote for him today.

I think it is time to hit the pause button on such consequential nominees, like Mr. Kavanaugh, whose writings have repeatedly made clear that he believes the President is above the law. This is a man, Mr. Kavanaugh, who worked with Kenneth Starr to go after Bill Clinton as President, hammer and tong, for alleged misdeeds and misconduct that he apparently had done.

Now, some 20 years later, that same Brett Kavanaugh seems to have—rather than feeling that Presidents definitely are not above the law, that Presidents have to be held accountable like anybody else, he seems to have done a 180. Instead, he basically seems to feel that Presidents are almost above the law and cannot be held accountable.

I don't get it; I don't know how someone can change on something—it wasn't just during the Starr years. To have gone from that position of being such a fervent attack dog in going after Bill Clinton to basically saying that the Presidents can pretty much do, without oversight, what they see fit—that is one of the issues I want to discuss with Judge Kavanaugh, when I meet with him, hopefully later this month.

For that reason alone—Judge Kavanaugh's views of the President, with the President being above the law, especially at this point in time in our Nation's history—I think that one issue, that one reason, should be enough to say let's hit the pause button. Let's hit the pause button on this nomination. There are a number of other reasons why Judge Kavanaugh is, in my view, the wrong pick for the Nation's highest Court. I want to stress just a few of those today.

In May 2006, as a nominee to the DC Circuit Court of Appeals, Brett Kavanaugh made a pledge under oath. Brett Kavanaugh pledged to Members of this body that if confirmed, he would “interpret the law as written and not impose personal policy preferences.” Those are his words, not my words. Mr. Kavanaugh went on to pledge that he would “exercise judicial power prudently and with restraint.” Brett Kavanaugh pledged that he would “follow precedent in all cases fully and fairly.” Those are not my words; they are his words. Brett Kavanaugh pledged that he would, above all, “maintain the absolute independence of the judiciary,” which is, in his words, “the crown jewel of our constitutional democracy.”

I took Brett Kavanaugh at his word in 2006. I trusted him when he made those pledges. I afforded Mr. Kavanaugh, as a young lawyer, the opportunity to fulfill his promise to faithfully uphold and interpret our laws as written. I expected him not to inject his personal policy preferences or the ideology of special interests and groups like the Heritage Foundation into his decision making on the bench.

I know now, a little more than 12 years after he made those pledges, that

my trust in Brett Kavanaugh was misplaced. As a judge on the DC Circuit Court of Appeals, Brett Kavanaugh has broken his pledges repeatedly.

There is an old saying in my State: Fool me once, shame on you; fool me twice, shame on me. Judge Kavanaugh, shame on you, but you won't fool me twice.

Brett Kavanaugh's broken pledges impact the lives of just about every American. They may well affect millions of Americans with preexisting conditions in years to come, who risk losing access to affordable healthcare, as well as a woman's freedom to make her own healthcare decisions. They affect hard-won workers' rights, consumer protections, and civil rights enacted into law over decades for the protection of future generations. They affect the independence of our judiciary and the system of three separate, co-equal branches of government established by our Founding Fathers, a system designed to ensure that no citizen, not even the President of the United States, is above the law.

Judge Kavanaugh's broken pledges affect the water we drink, the air we breathe, and the world we will leave to our children and our children's children. Today, we seek to shine light on Brett Kavanaugh's environmental record—one which, sadly, all too often puts the interests of polluters ahead of those of the public.

One such example is when Mr. Kavanaugh rejected EPA's good neighbor rule, which regulates air pollution that travels across State lines to downwind States, such as Delaware, Maryland, New Jersey, New York, Connecticut, and others. In the case of *EME Homer City v. EPA*, he sided with polluters and ignored petitions from Delaware and eight other States, as well as the District of Columbia, when he said EPA lacked the authority to require upwind States to be better neighbors. Judge Kavanaugh's views were deemed too extreme even for some of the Supreme Court's conservative Justices, who reversed his decision, saying that he had followed his own policy views rather than the law written by Congress.

Just yesterday, I was with First State officials and concerned citizens in the State of Delaware, all speaking out against the current EPA's misguided decision to reject Delaware's ability and that of our neighboring States to address dangerous pollutants blowing into our State from dirty powerplants to the west of us. Delaware families—especially children and those with asthma—still suffer from harmful pollution that lands in our communities through no fault of our own. That is just not right.

When I was Governor of Delaware for 8 years, from 1993 to 2001, I could have shut down my State's economy, taken every vehicle off the road, and shut down every business. We would have still been out of compliance for clean air with respect to ozone because of the

air coming into our State from States to the west, our upwind States. Think about that.

There is a reason why we have a golden rule. There is a reason why we talk about the Good Samaritan. There is a reason why we have the saying: We ought to treat other people the way we want to be treated. We want to be treated like a good neighbor. If the shoe were on the other foot, we wouldn't send our pollution to those States. EPA should stand up for our States and say enough is enough, but apparently Judge Kavanaugh disagrees.

Brett Kavanaugh also dissented from an opinion on toxic air pollution written by Chief Judge Merrick Garland. In *White Stallion Energy v. EPA*, Mr. Kavanaugh said that EPA had to consider the costs to industry when determining whether powerplants should have to reduce toxic air pollution that causes cancer and lowers the IQ of children. Justice Scalia quoted Brett Kavanaugh directly when the Supreme Court later adopted Mr. Kavanaugh's position in another 5-to-4 decision, even though the Clean Air Act doesn't say a thing about having to consider costs.

In *Coalition for Responsible Regulation v. EPA*, Mr. Kavanaugh rejected the longstanding interpretation that Congress gave EPA the authority to control any air pollutant, including greenhouse gases that contribute to climate change. Mr. Kavanaugh argued that taking the Clean Air Act at its word and interpreting "any air pollutant" to include greenhouse gases would lead to what he considered—again, as his own personal position and not as a matter of law—absurd results.

Mr. Kavanaugh not only has proven to be untrustworthy in this regard, but he has already called into question EPA's authority to regulate greenhouse gases and combat climate change.

These cases and the ideas advanced by Judge Kavanaugh in his opinions have striking similarities to those advanced by recently departed Trump administration official Scott Pruitt, and that should worry every Member of this body. Scott Pruitt may be out as Administrator at the EPA, but if Brett Kavanaugh is confirmed to serve on the Supreme Court, Mr. Pruitt's dangerous anti-environment agenda will continue to wreak havoc, this time with the weight of our Nation's highest Court behind it for a long time. Put simply, Brett Kavanaugh will attempt to finish, in many respects, what Scott Pruitt started.

I take seriously the Senate's constitutional role of providing advice and consent on a President's nominee to the Supreme Court. As Governor of Delaware, I nominated scores of men and women to serve on our courts—supreme court, court of chancery, superior court—major courts not just for Delaware, actually, but for the country. I always felt that the Delaware Legislature should carefully consider

my nominees, give them a hearing, meet with them, and in the end, vote them up or down.

I felt we should have done that with Merrick Garland. We should have done that with Merrick Garland almost 2 years ago. We treated him shamefully—we didn't, but some in this body did. As such, I will afford Brett Kavanaugh the opportunity my Republican colleagues—at least most of them—refused Merrick Garland, chief judge of the DC Circuit Court of Appeals, highly regarded by Democrats and Republicans alike, when they abdicated their constitutional responsibilities in 2016. Now they want to rush through, literally in only a couple of months, the nomination of Brett Kavanaugh.

As I said earlier, I look forward to interviewing Brett Kavanaugh in the coming weeks and providing him the opportunity to explain why he broke his pledges time and again. How could a person who seems that nice and that decent make so many wrongheaded and I think wronghearted decisions and support those decisions from the bench time and again?

We are in a battle on many fronts in this country. One of those battlefronts is with respect to our environment—the air we breathe, the water we drink, and the health of our people, young and old. We are fighting dangerous environmental rollbacks put forth by this administration—maybe not every day but just about every week. What we don't need in this country, where we have lived by and been sustained by an incredible system of checks and balances for years, for decades, for centuries, we don't need a Supreme Court that will similarly side with polluters over public health.

I yield back my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. 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. Mr. President, to follow up on the remarks of our distinguished Democratic ranking member on the Environment and Public Works Committee, Senator CARPER, who spoke about the environmental prospects of Trump's nominee, Brett Kavanaugh, should he reach the Supreme Court, I come at this from a very particular angle. Let me start by kind of laying the predicate, if you will, for my comments.

A long, long time ago, when the Founding Fathers were setting up our country, they brought over from England the tradition of an independent judiciary and of the common jury. It was extremely important to the founding generation. The Declaration of Independence made reference to efforts to interfere with the right to trial by jury.

The efforts by British agents of influence to interfere with American juries was a constant thorn. The feeling was that the independence of courts and, particularly, the independence of jurors was a very significant check and balance in the constitutional system that the Founders were setting up.

These were experienced politicians. These were thoughtful people who had read and debated a lot about governance. They understood that there were times when very powerful interests were able to dominate a legislative body, there were times when very powerful interests were able to dominate a Governor or other chief executive and, indeed, there were times when that same very powerful interest could not only dominate the legislative branch but also the executive branch at the same time. Therefore, you needed to have a third branch of government—an independent branch of government—to which you could go to be sure that you were being treated with justice. They designed it all fairly carefully.

The jury has a lot of advantages to it. You don't get repeat jurors. Every jury veneer, every jury pool, is a new group. The reason for that is to make it hard for big interests to be able to go to people who might be jurors and try to fix the jurors in their favor in the same way they go to legislatures and try to fix legislators in their favor. You do not know who your jury is going to be until it is called up. So you can't apply influence to a jury. If you try, it is actually a crime. It is called tampering with a jury.

We very carefully set up independent judges and pools of regular citizens who were to come in, virtually at random, to do one jury service and then to go back to their lives, and we did it for a reason. Blackstone described that reason as to provide a safeguard for regular citizens against other more wealthy and powerful citizens, more wealthy and powerful interests.

It is an interesting piece of our constitutional analysis because, in most places, what has been set up is a structure that has been designed to protect the common citizen against the excesses of government. The checks and balances have been generally set up to protect the ordinary man and woman against excessive use of government power against them.

With the juries, Blackstone said, it is a little bit different. It is not just abuse of power by government; it is abuse of power by the more wealthy and powerful interests, because the Founders knew that it would be the more powerful and wealthy interests who would come in and try to fix the legislature, who would try to fix the Governor or, at the Federal level, the President, and that, therefore, the jury would stand as the guardian and the bulwark of regular Americans against influence from the more powerful and wealthy interests.

Look around at who the more powerful and wealthy interests are in our

country right now. Collectively, the biggest is probably the fossil fuel industry. If you add up the whole Koch brothers' Koch Industries' apparatus, if you add up ExxonMobil, Chevron, Shell, and the whole American Petroleum Institute population, if you look at the extent to which they have seized control of the National Association of Manufacturers and the U.S. Chamber of Commerce, and if you put that whole array together, it is very likely not only the most powerful political influence effort now, but it may very well be the most powerful political effort in American history. Those wealthy and powerful interests are hard at work at making sure that their interests come first and that the interests of ordinary Americans come at a very distant second.

The way in which Mr. Kavanaugh comes to this nomination smells of all of that influence already. For starters, he was selected through a very private process—from all of the information we have about it—that is moderated by a group called the Federalist Society but which checks in with all of the big Republican funding special interests to make sure that they are all OK with the nominee. There is a preclearance by special interests that takes place for these judicial nominees. Obviously, the most powerful and wealthy special interest—the biggest political force, perhaps ever—is going to be a part of that checklist.

There can be no doubt that if the fossil fuel industry were not checked off on Brett Kavanaugh, he would not be the nominee. There is no doubt in my mind that they and other special interests—the gun lobby, the anti-choice crowd, the Wall Street folks—all had the chance to say: No, not that guy. Find me somebody who will be good to us.

So Kavanaugh has already cleared that process. Now you see the confirmation process underway, and you see big special interests' dark money already out, campaigning for him.

The last time we had one of these contests, it was this: Is it going to be Merrick Garland? No, we are going to stop him dead and not even give him a hearing. We are going to bring on this character, Gorsuch, and he is going to come in.

Somebody spent nearly \$18 million in political ads to support that switch. Somebody felt it was worth \$18 million to have Gorsuch and not Garland on the Supreme Court. We don't know who that person was because of the dark money protections that are such a scourge in our democracy right now. That individual donor's hand is hidden behind all of this dark money machinery, but we do know that there is a person—an entity—who spent \$18 million to have it be Gorsuch, not Garland.

So that is the track record for this.

Here comes Kavanaugh, and the same machinery is now up for him. He was precleared by the special interests, and big dark money interests are already

spending money for him. Who in his right mind would believe that this guy is not predisposed in the direction of those big special interests? It is almost impossible to imagine under these political circumstances.

When you look at his record on the DC Circuit, this is a guy who has been on the warpath against environmental protection. This is a guy who is Scott Pruitt in robes. This guy is really something.

Now, he was not on the original Trump list, as I understand it. So maybe he has been spending his time auditioning on the DC Circuit for this incredibly dominant special interest—the fossil fuel industry—and exhibiting his ability and his willingness to make anti-environment decisions, to make pro-corporate decisions, and to make pro-polluter decisions so that he can inch his way, maybe, onto the Trump list for the Supreme Court.

Sure enough, not only is he on the list, but he is now the nominee. His record is absolutely abysmal. You would have to call him an environmental extremist. It is truly, truly exceptional to think of all of the different cases in which he has been involved. My colleague from Hawaii is here. So I am not going to go through them all, but as this goes forward, I will have plenty of time to explore these issues with him.

It is going to be very, very important to the big polluters to have Kavanaugh instead of Kennedy because, when you look at the record in the Supreme Court, there has been a considerable array of decisions on environmental matters in which Justice Kennedy has been the swing vote. So extract Justice Kennedy with his retirement and put in Kavanaugh with his record from the DC Circuit, his preclearance by the polluting interests, and the fact that big-money folks are already out there pushing for him. They are going to want something.

I suspect what they are going to want is a reversal of Justice Kennedy's position in favor of the environment and all of the issues on which he was the 5-to-4 tiebreaker in favor of the environment. Now all of those cases will go back the other way, and polluters will rule.

Polluters already rule here. We are incapable of doing anything serious about climate change. Polluters completely dominate over in the House. They have written this ridiculous letter and have told the House that it shouldn't even do a carbon price. They have put all of their polluter front-group names on this letterhead. Of course, Trump still thinks that climate change is a hoax.

You have a situation that the Founding Fathers were concerned about. You have an enormous special interest with extraordinary power that dominates the Senate and the House and that has completely gotten this administration by the choke chain. Now what it wants to do is to extend its power to the one

part of the government the Founding Fathers set up to be able to tell the special interest no, to require it to follow the truth, to require it to look at real evidence, to subject witnesses to cross-examination, to provide discovery so that you know what is really going on, and for there to be penalties if you try to tamper and for there to be penalties if you lie.

This is not the environment that the big polluters like. So they want to control it. I see the nomination of Brett Kavanaugh as an effort, basically, at agency capture at the Supreme Court level. We have to be very careful about this.

I yield to my distinguished colleague from Hawaii.

The PRESIDING OFFICER (Mr. RUBIO). The Senator from Hawaii.

Ms. HIRONO. Mr. President, I thank my colleague, the Senator from Rhode Island.

In Hawaii, we understand the importance of caring for our planet. The Native Hawaiian community embraced the idea of “malama ‘aina,” a respect for and responsibility to care for the land in a way that protects our environment for future generations. That is why Hawaii has led the way in enacting measures to fight climate change and safeguard our natural resources. In the last few years alone, Hawaii has set ambitious goals to move to 100-percent renewable energy and become carbon neutral.

We were the first State in the country to commit to meeting the objectives of the Paris climate agreement. In contrast, the Trump administration has spent the last year and a half disparaging the idea of protecting our land and natural resources. Donald Trump has taken action after action to prioritize the interests of his supporters in the fossil fuel industry at the expense of our environment.

The President filled his administration with appointees who refuse to accept the realities of climate change. He named two Environmental Protection Agency Administrators—Scott Pruitt and Andrew Wheeler—who don’t even believe in the EPA’s mission of protecting the air we breathe and the water we drink.

Administration officials have weakened rules that regulate pollution and protections for our natural resources. These actions have led to lawsuits by groups who embrace “malama ‘aina” and seek to protect our environment. These lawsuits will be decided by our courts. The outcomes will depend on an independent, fair, and unbiased judiciary.

A number of these cases will come before the Supreme Court. In the October term, the Court will be hearing a case called *Weyerhaeuser Company v. U.S. Fish and Wildlife Service* to decide whether the Federal Government can protect endangered species on private land. Cases making their way through the lower courts include *California v. EPA*, which challenges the Federal

Government’s regulations on vehicle emissions, and *West Virginia v. EPA*, which challenges President Obama’s Clean Power Plan. These cases raise crucial questions that will determine whether the government has the power to protect our environment. The answers to those questions may very well come from the Supreme Court.

The President’s nominee to the Supreme Court, Brett Kavanaugh, raises serious concerns about whether he would be that fair arbiter on environmental issues, the kinds of cases that will surely come before the Supreme Court. Throughout his time on the circuit court of appeals, Judge Kavanaugh has argued for weakening environmental regulations. Basically, his decisions benefit industry over the environment.

In *Coalition for Responsible Regulation, Inc. v. EPA*, Judge Kavanaugh argued that the EPA should not regulate greenhouse gases under the Clean Air Act because the cost to business was more important than protecting the environment and public health from climate change. He said that the EPA should not include greenhouse gases in the interpretation of the statute that says EPA can regulate any air pollutant because, as far as Judge Kavanaugh was concerned, such a requirement or enabling the EPA to do that would result in higher costs for businesses. Judge Kavanaugh did not consider the cost to the environment.

In Hawaii, we are already paying the price of climate change caused by greenhouse gases. Our coastlines are disappearing, corals in our oceans are dying, and catastrophic floods are becoming more frequent and more severe. The science behind the need to regulate greenhouse gases is clear. This message is lost on the President and apparently on Brett Kavanaugh, as he argued for a very limited interpretation of the EPA’s authority to regulate.

In another environmental case, Judge Kavanaugh sided with the fossil fuel industry in his dissent in *White Stallion Energy Center v. EPA* in 2014. He argued that under the Clean Air Act, the EPA should not—should not—regulate toxic air pollutants from powerplants without factoring in what those regulations would cost polluters. The majority disagreed with Judge Kavanaugh, saying that the EPA’s approach “is clearly permissible,” consistent with prior Supreme Court instruction, and consistent with the purpose of the legislation, which was, of course, to protect the environment and the health and safety of people. When the case went to the Supreme Court, then-Justice Scalia quoted Judge Kavanaugh in his reversal.

Judge Kavanaugh’s opinions even went so far as to attempt to restrict the manufacture and sale of renewable fuel. In a 2012 case, *Grocery Manufacturers Association v. EPA*, Judge Kavanaugh opposed the EPA’s grant of E15 waivers. These waivers would permit the manufacture and sale of a type

of renewable fuel that would help our Nation decrease its dependence on foreign oil. In his dissent, Judge Kavanaugh argued that the EPA’s rule permitting this renewable fuel would in effect force the production of renewable fuel. There is nothing in the statute that talked about forcing anybody to do anything. Actually, the word in the statute is “permit.” Permitting is not the same as forcing. Of course, Judge Kavanaugh certainly knew the difference before taking a position that supported the fossil fuel industry.

Judge Kavanaugh’s record on these environmental issues makes it highly likely that as a Supreme Court Justice, he would favor fossil fuel interests over human health, renewable energy, and protecting our planet.

Senators have a constitutional responsibility to provide advice and consent on all judicial nominations, particularly those to the highest Court in the land, the Supreme Court. This responsibility requires us to take note of the fact that the Trump administration continues to fill the courts with deeply conservative, ideologically driven judges who will hold lifetime positions. The administration and their conservative allies expect that some of these judges will continue on to appellate courts and to the Supreme Court.

Mr. President, this week, we will be voting on two nominees for Federal appellate courts: Andrew Oldham from Texas for the Fifth Circuit and Ryan Bounds from Oregon for the Ninth Circuit. I will be voting no on both of these nominations.

Andrew Oldham has been an ideological warrior behind some of Texas Governor Greg Abbott’s most extreme positions against a woman’s right to choose, against LGBTQ people, and against solutions for the 800,000-plus Dreamers put at risk for deportation by Donald Trump’s rescinding of DACA.

In 2013, as deputy solicitor general of Texas, Mr. Oldham defended a severe anti-choice Texas law, HB2, that put restrictions on doctors delivering reproductive healthcare. The restrictive provisions were upheld by the Fifth Circuit but struck down in a subsequent U.S. Supreme Court case called *Whole Woman’s Health v. Hellerstedt*.

In 2014, Mr. Oldham served as counsel of record for Texas in its successful challenge to the Deferred Action for Parental Accountability, or the DAPA Program. DAPA would have provided protections for the parents of Dreamers so families would not be cruelly separated, as we are seeing with such terrible and sad results today under Donald Trump’s zero tolerance policy at the border.

While Mr. Oldham was advising Governor Abbott on legislation, his boss supported or signed bills to restrict the rights of the LGBTQ community by regulating bathroom usage in public schools and allowing faith-based groups to deny adoptive and foster parents who conflict with their beliefs.

In his response to the Senate Judiciary Committee's questions about these extreme positions, Mr. Oldham sought to discount them as merely advocacy positions on behalf of a client, that being the Governor of the State of Texas, while Mr. Oldham's career shows otherwise.

#### NOMINATION OF RYAN BOUNDS

Mr. President, I turn now to Ryan Bounds, who was nominated to a circuit court judgeship even though the President knew that Mr. Bounds did not have the approval of either of his home State Senators. The nominee himself admitted that Oregon's two Democratic Senators, his home State Senators, RON WYDEN and JEFF MERKLEY, played no role in his selection.

The Judiciary Committee ignored the traditional blue-slip process, which has been basically adhered to for over 100 years, by holding a hearing on Mr. Bounds' nomination even though neither of his home State Senators returned his blue slip. The Congressional Research Service could not find a single instance where a judicial nominee, without at least one blue slip returned by a home State Senator, had a hearing or was confirmed by the Senate, but nonetheless Mr. Bounds' nomination proceeds apace.

In writings that were not disclosed to the Oregon selection committee that reviewed his application, Mr. Bounds published a number of very offensive articles on race and gender while he was an undergraduate. While these writings were brought to light by a third-party organization, Mr. Bounds himself should have disclosed them to the committee. His articles took disparaging positions on topics, including race relations, opposition to "multiculturalism," LGBTQ rights, and labor rights.

In closing, I seriously question whether, based on their full records, these two nominees can be the impartial and non-ideological judges we expect of life-tenured judges to our Federal courts, let alone, as in the case of these nominees, to the circuit courts. We all know that the circuit courts are only one step removed from the Supreme Court.

These questions of fairness and impartiality will continue to apply to judicial nominees as long as the President continues to choose judges vetted by two far-right, ideologically slanted organizations backed by millions of dollars—the Federalist Society and the Heritage Foundation. This is certainly the case with Mr. Oldham's and Mr. Bounds' nominations to the circuit courts and Judge Kavanaugh's nomination to the Supreme Court.

My colleague from Rhode Island, Senator WHITEHOUSE, went into length about these very well-funded entities that have spent millions to support Neil Gorsuch on the Supreme Court, and that they are going to do the same thing with Judge Kavanaugh's appointment to the Supreme Court. Those who

appear before Federal circuit judges and, of course, the Supreme Court should be able to rely on a fair, impartial, and objective judge, free of ideological propensities. Neither Andrew Oldham nor Ryan Bounds fits that bill.

I will be voting no later this week on both of these nominees and urge my colleagues to vote against these confirmations as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

#### NOMINATION OF BRETT KAVANAUGH

Ms. SMITH. Mr. President, I rise today to express my strong concern about Judge Brett Kavanaugh's nomination to the Supreme Court. In particular, I want to discuss today his troubling record on the environment and what that means for people's health.

Judge Kavanaugh has demonstrated that he simply doesn't believe that existing law allows new environmental threats to be addressed via any sort of regulation. I am talking about existing law designed to protect human health and our environment.

When you take a look at Judge Kavanaugh's record, one thing becomes abundantly clear: Judge Kavanaugh has tried to weaken Clean Air Act protections even though the act controls pollutants such as smog and carbon monoxide, which contribute to asthma, heart attacks, and even premature deaths. They put our health at risk.

In a 2012 case, Judge Kavanaugh authored an opinion that found the EPA had exceeded its authority when the Agency directed upwind States to literally stop blowing smoke onto their downwind neighbors. The good news is that the Supreme Court was more sensible than Judge Kavanaugh. Justices Kennedy and Roberts joined four others in a 6-to-2 decision to overturn Judge Kavanaugh's lower court ruling. Writing for the majority, Justice Ginsburg found that the EPA does have the power to act to protect people's health. I agree with the Supreme Court's 2012 decision, and so do most Americans. An April 2018 poll found that 75 percent of Americans support even stricter limits on smog.

What Judge Kavanaugh particularly doesn't like is that the Clean Air Act specifically gives the Environmental Protection Agency the right—the duty, even—to regulate new pollutants that threaten people's health. He has objected to using the law to establish new programs to reduce mercury—a potent toxin that harms developing brains. In 2014, Judge Kavanaugh lashed out at tough standards for mercury—a toxin that has been found to harm children's development.

Judge Kavanaugh's narrow view of the Clean Air Act could be extremely damaging to our efforts to address climate change by regulating greenhouse gases. Although the act does not mention greenhouse gases by name, the Supreme Court has held that the EPA does have the power to regulate them.

In fact, the Court held that the act requires the EPA to address any air pollutants that are found to endanger human health. But Judge Kavanaugh still seems to have a problem with adding new pollutants to that list. This is even though Judge Kavanaugh claims to believe what virtually every scientist tells us: that manmade climate change is real and is an enormous threat to our planet and to our health. But merely accepting climate science is too low a bar because even if Judge Kavanaugh believes in the urgent challenge of climate change, he doesn't seem to believe there is an urgent need to address it, as his record demonstrates.

Over the next few decades, the Supreme Court will have many opportunities to weigh in on how our government can work to protect our environment, particularly regarding climate change.

And the stakes are high: Scientists tell us that in order to avoid dangerous global warming, we must reduce our carbon dioxide emissions to zero sometime between 2050 and 2065. But in 2018, global carbon emissions are still increasing, not decreasing.

At the same time, President Trump is attempting to backpedal on every commitment our country has made toward fighting global warming. He is pulling us out of the Paris climate agreement. He is pulling back the Clean Power Plan. He is looking for ways to force utilities to keep expensive coal plants online—a move that would cost Americans billions of dollars in increased electricity bills.

All of these moves will hurt the environment and harm the health of Americans, and in each case, Judge Kavanaugh's record shows that he is likely to act as nothing but an enabler.

My State of Minnesota is already experiencing the cost of climate change. The rains in Minnesota are growing more intense, leading to increased damage from flooding. As our winters grow milder and our summers warmer, plant and human diseases are spreading. Many scientists predict that the forests in my State will retreat rapidly, leaving Minnesota looking like Kansas by the end of this century.

But it does not need to be all bad news. A rapid transition to emissions-free energy sources is necessary to avoid the worst effects of climate change, but this change will bring economic opportunity to our country. We just need to rise to the challenge. In Minnesota, wind and solar and biofuels are already potent drivers of job growth.

If Judge Kavanaugh succeeds in overturning the Federal obligation to reduce greenhouse gas emissions, the clean energy transition in our country will certainly slow. We will lose the competitive advantage to China and other economic rivals in the race to develop the technology and innovations of an affordable, clean energy future.