done its job. It has forged a bipartisan agreement that would keep the government open through September as well as provide additional border security.

As with all bipartisan agreements, it is the product of compromise. Each side gave a little; each side got a little. The conferees deserve our praise for their hard work, their commitment, and their success.

This agreement is the last train leaving the station away from another dreaded government shutdown. The last time we were all in this situation, the President signaled his support for a government funding bill, only for him to retreat at the last possible moment—precipitating the longest shutdown in our history. It was the Trump shutdown, and he now seems to admit that again.

No one wants to see a rerun of that movie. The President must not repeat his mistakes of the recent past.

President Trump, sign this bill.

Neither side got everything it wanted in this bill, but both sides wanted to avoid another shutdown—Democrats and Republicans, House and Senate.

President Trump, sign this bill.

The parameters of the deal are good. It provides additional funding for smart, effective border security. Let me repeat that. It does not fund the President's wall, but it does fund smart border security that both parties support. It also provides humanitarian assistance and beefs up security at our ports of entry. Though it hasn't been discussed much during the negotiations, the passage of this agreement clears the way for the six bipartisan appropriations bills that have languished. These bills contain important priorities, including more support for infrastructure, housing, Tribal healthcare, the census, and money to combat the opioid crisis. I look forward to passing all of these appropriations bills, alongside the DHS agreement, this week.

One of the last things that has to be dealt with is the negotiating of a good compromise to fix some of the problems that have been created by the Trump shutdown. We are trying to get the conferees to approve a proposal to deal with Federal contractors. Thousands of Federal contractors have not been reimbursed from the 35-day shutdown. This issue is still hanging in the balance. The Republicans should join the junior Senator from Minnesota and the Democrats in approving this legislation as soon as possible.

The contractors, many of them just working people, are in the same boat as government employees, except they haven't gotten their backpay. They should. No one should stand in the way of that. It is just not fair to them. They were hostages, just like the government workers were hostages. So I hope we can include that in these final hours of negotiations. It is very important.

Now, the only remaining obstacle to avoiding a government shutdown is the uncertainty of the President's signature. So I repeat my request: President Trump, say you will sign this bill. Remove the ax hanging over everyone's head. To make progress in our democracy, you have to accept the give-and-take. You have to accept some concessions. You have to be willing to compromise.

Any American President who says my way or no way does a real disservice to the American people. President Trump, in politics, to quote the Rolling Stones, ''You can't always get what you want.'' It is time to put the months of shutdown politics behind us.

NOMINATION OF MICHAEL PARK

Mr. President, on another matter, today the Judiciary Committee is holding a confirmation hearing on the nomination of Mr. Michael Park for the Second Circuit Court of Appeals, which covers my home State of New York.

I have always assessed judges on three criteria: excellence, moderation, diversity. While Michael Park satisfies the first and third prongs of my test, he fails miserably on the second—modification.

Mr. Park has spent much of his career working in opposition to civil rights and seeking to advance the rightwing agenda that lies at the very core of the Federalist Society's mission. Mr. Park is currently working to defend the Trump administration's effort to insert a citizenship question into the 2020 census—a cynical effort to discourage people from responding to the census.

He has been on the frontlines of the effort to dismantle affirmative action policies in education. In 2012, he submitted an amicus brief to the Supreme Court, writing on behalf of the petitioner who sought to have the university's use of race, as one consideration among many, in the admissions process struck down as unconstitutional.

He is currently representing the plaintiffs in a suit challenging Harvard's affirmative action policy. He has worked to deny women's reproductive freedoms when he represented the State of Kansas against a challenge to its attempt to defund Planned Parenthood and ban it from participating in the State Medicaid Program.

In 2012, he submitted a brief to the Supreme Court in NFIB v. Sebelius urging the Court to strike down the entire Affordable Care Act. This nominee rather wants to get rid of the whole ACA.

If the American people knew the kind of nominees President Trump is nominating and the kind of nominees the Republican majority is supporting, so against everything they believe in—America believes in Roe v. Wade, America believes in keeping the ACA, America believes in voting rights—if they knew all these details, they would be appalled, and our Republican colleagues rarely bring these things to the floor legislatively. They know they would be roundly defeated, but it is sort of an end run—pick judges who in the courts will uphold these unpopular positions.

Mr. Park has a long and detailed record of support for the most conservative legal causes. A judge is asked to interpret the law rather than make the law, to apply fairly the legal principles set forth by precedent, not reread the Constitution to fit the political cause of the moment.

Mr. Park's career does not give me the confidence that he can be an impartial arbiter on the Second Circuit. I will oppose his nomination, and I will urge my colleagues to do the same.

Now, in the not-so-distant past, my objection to this nomination would mean that the chairman of the Judiciary Committee would not move forward with the nomination out of respect for home State Senators in the blue-slip tradition—but not in this Congress, not with this Republican majority.

Since the election of President Trump, Senate Republicans, led by Leader MCCONNELL, Chairman GRASSLEY, and now Chairman GRAHAM, have unceremoniously discarded the blue-slip tradition. My colleagues on the other side will say it is because we haven't worked with them in a timely manner to fill these vacancies, but let's not kid ourselves. This is about one thing and one thing alone—the desire of the Republican majority to ram through more of the Federalist Society's handpicked, hard-right judges.

Last Congress, the majority confirmed two judges over the blue-slip objections of Democratic Senators BALDWIN and CASEY. A third, Ryan Bounds, would have been confirmed over the objections of Senators WYDEN and MERKLEY if not for Senator SCOTT's principled objection to Bounds' past racist writings.

The practice continues, unfortunately, in this Congress. Last week, the Judiciary Committee voted along party lines to advance an additional four circuit court nominees over the blue-slip objections of five Democratic Senators—BROWN, MURRAY, CANTWELL, BOOKER, MENENDEZ—and in the coming weeks, the committee will move forward with two additional court nominees over the objections of Ranking Member FEINSTEIN and Senator HATCH.

Last Congress, we worked with the White House to move eight New York judges—one circuit, seven district—through the Judiciary Committee in a bipartisan way. That is how it should work. I would like to cooperate on New York judges this Congress, but the continued consideration of Michael Park, combined with the majority's clear intentions to ignore the blue-slip tradition, makes this very difficult, if not impossible. I know the leader is proud of what he is doing on judges. I don't think history will look very kindly on it; A, putting such hard-right judges, so against what the American people believe, in office. History will not look kindly on that as their decisions come down; but second, eliminating the last

vestiges of bipartisanship as we select judges.

NOMINATION OF WILLIAM BARR

Mr. President, finally, the Senate will soon resume debate on the nomination of William Barr to be the Attorney General. I oppose this for many reasons, and later today I will join my Democratic colleagues during debate time to lay out my opposition to this nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the leader for his comments. I want to just say that the Democrats on the Judiciary Committee agree with him, and on their behalf, I would like to make the following comments.

Last week, the Judiciary Committee voted on the nomination of William Barr to be Attorney General of the United States. All Democrats voted against the nomination. There are reasons.

There is no question that Mr. Barr is qualified. He previously served as Attorney General from 1991 to 1993, and he has had a long legal career, but the question before us is whether Mr. Barr is the right choice to lead the Justice Department, at this time, with this President, when there are currently several active investigations that implicate this President, his campaign, his advisers, and/or his inner circle.

The answer for me and the Judiciary Committee Democrats is no. Let me explain why. Five months before being named for the Attorney General position, Mr. Barr wrote an extensive 19-page, single-spaced memo in which he provided great detail and legal arguments for his view of the President's absolute authority. Mr. Barr then shared and discussed that memo with the White House Counsel and the President's defense lawyers.

In this memo, Mr. Barr outlined his views on Special Counsel Mueller's investigation into possible obstruction of justice, the unitary executive, and whether a President can, in fact, be indicted.

One example, Mr. Barr argued that Special Counsel Mueller should not be allowed to question the President about obstruction of justice—point 1.

He concluded that the law does not apply to the President if it conflicts with a broad view of Executive authority, and that view is often referred to as the unitary executive.

Under this belief, conflict of interest laws cannot and do not apply to the President of the United States because, as Mr. Barr writes in his memo, ''to apply them would impermissibly 'disempower' the President from supervising a class of cases that the Constitution grants him the authority to supervise. Under the Constitution, the President's authority over law enforcement matters is necessarily all-encompassing.''

Read the memo. This is on page 11.

Further, Mr. Barr asserted that ''the Constitution, itself, places no limit on the President's authority to act on matters which concern him or his own conduct.''

Mr. Barr went on to explain that, in his view, President Trump would have virtually unlimited authority over the Executive branch. As he said in his memo, the President ''alone is the Executive branch. As such, he is the sole repository of all Executive powers conferred by the Constitution. Thus, the full measure of law enforcement authority is placed in the President's hands, and no limit is placed on the kinds of cases subject to his control and supervision.''

That is page 11 of the memo.

Importantly, based on these conclusions, Mr. Barr asserts that certain Presidential actions—including firing FBI Director James Comey or telling the FBI to go easy on Michael Flynn—is never obstruction of justice.

In fact, Mr. Barr even said that ''the President's discretion in these areas has long been considered 'absolute,' and his decisions exercising this discretion are presumed to be regular and are generally deemed nonreviewable.''

That is page 10 in the memo.

This is a stunning legal argument. Taken to its natural conclusion, Mr. Barr's analysis squarely places this President above the law. To argue that the President has no check on his authority flies in the face of our constitutional principles of checks and balances and should be concerning to Democrats and Republicans.

Mr. Barr's views about the power of the President are especially troubling in light of his refusal to commit to making the special counsel's findings and the report publicly available, and his refusal to agree to protect the other investigations into President Trump.

When I asked Mr. Barr about this at the hearing, he said, in his own words, that he would ''make as much information available as I can consistent with the rules and regulations that are part of the special counsel regulations.''

When others pressed him, he changed his answer to suggest that he may instead release a summary of the special counsel's findings. This is not acceptable. There is nothing in existing law or regulations that prevents the Attorney General from sharing the special counsel's report and underlying factual findings with the American public. Many of us believe this report is seminal to the Presidency, and the public must be able to read it.

In addition, as part of our oversight responsibilities, Congress routinely requests and receives confidential information related to closed investigations. In fact, recently Congress asked for and received investigative information, including transcripts of FBI interviews of witnesses involved in the examination of Secretary Clinton's emails. This matter should be treated no differently.

After Mr. Barr's hearing, I sent him two letters. First, I asked him to provide Congress and the American public with the full accounting of the Mueller investigation, including any report prepared by the special counsel himself.

Secondly, I asked him in writing to commit to protecting all investigations into matters surrounding President Trump and the 2016 election.

Mr. President, I ask unanimous consent that these two letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 17, 2019.

MR. BARR: I very much appreciated your responses to questions before the Committee and hearing directly from you on many important issues. As I noted during the hearing, ensuring access to Mueller's findings and recommendations—unchanged—is of utmost importance. To this end, I and others asked you about releasing the report as drafted from the Special Counsel. When I first asked you, you clearly stated you would provide the report. Specifically, I asked,

''Will you commit to making any report Mueller produces at the conclusion of his investigation available to Congress and to the public? And you responded, ''As I said in my statement, I am going to make as much information available as I can consistent with the rules and regulations that are part of the special counsel regulations.''

I then asked, ''Will you commit to making any report on the obstruction of justice public?'' You responded, ''That is the same answer. Yes.''

Later as others pressed you on these answers you expanded by saying:

''As the rules stand now, people should be aware that the rules I think say that the Special Counsel will prepare a summary report on any prosecutive or declination decisions, and that that shall be confidential and shall be treated as any other declination or prosecutive material within the Department.''

In fact the regulations state, ''At the conclusion of the Special Counsel's work, he or she shall provide the Attorney General with a confidential report explaining the prosecution or declination decisions reached by the Special Counsel.''

As you may be aware, there is nothing in the regulations saying the report should be ''treated as any other'' Department material, nor is there anything defining confidential. Finally, there is no language in the regulations indicating that Congress cannot have access—especially when the materials in question relate to a completed investigation.

It is also worth noting that in the most recent past practice, the Department has provided Congress with investigative reports and other materials, including notes and summaries of witness interviews. Specifically, with regard to the investigation into Secretary Clinton the Department provided investigative reports, as well as notes and summaries of witness interviews. As you testified ''the country needs a credible resolution of these issues'' which argues in favor of complete transparency and public disclosure of as much information as possible, consistent with national security and active law enforcement needs.

I would appreciate your response on this as quickly as possible, and prior to the Committee's consideration of your nomination in our Executive Business meetings.

Sincerely,

DIANNE FEINSTEIN,
U.S. Senator.