

this Senate and the House of Representatives—with the power of the purse.

I have my handy, small Constitution right here, and I would just again like to remind our colleagues that it says: ‘‘No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law, and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.’’

So article I of the Constitution is very clear. It is the U.S. Congress that has the power of the purse and has the authority to direct taxpayer moneys to the priorities that we decide.

I ask my colleagues whether they are prepared to relinquish that authority. In fact, I would make the point it is really not ours to relinquish because the Constitution is quite clear on this point.

We all know that yesterday the House of Representatives took a vote to say the President is not able to use the particular law he used the other day to declare an emergency. This Senate is going to be voting on that soon, and we have to ask ourselves as Senators what kind of precedent we want to set.

Do we want to adhere to our duties under the Constitution? Should any President be able to say, ‘‘Oh, my goodness. I don’t like what the Congress just did. I don’t like the fact that the Congress, through their duly elected Representatives and duly elected Senators, didn’t give me all the money I wanted for the wall, and so I am going to throw the Constitution out, and I am going to take money that the Congress proposed for one purpose, and I am just going to move it somewhere else’’?

I want my colleagues to think really carefully about the precedent we would be establishing if we allow that action to go unchecked.

We were just having a conversation here on the floor, my colleague from the State of Maryland and others, about the dangers and risks of climate change. That is a real crisis. I believe we should be investing a lot more funds in building out our clean energy infrastructure.

We may well have a future President, maybe sooner rather than later, who wants to do that. I just ask my colleagues whether they think that President should be able to declare a national emergency and spend money for that purpose even if this Congress has not appropriated the moneys for that purpose.

The idea that the President of the United States—any President of the United States—is going to declare an emergency simply because he or she did not get the appropriations request they asked for is unprecedented. We have looked. There have been times when people have declared emergencies, but we were not able to find any time where we have a situation like this, where a President, who tried

to get a certain appropriation for a certain purpose out of Congress, didn’t get it and immediately turned around and asked for a national emergency to do what the Congress had just denied them the authority to do.

Just this morning President Trump’s adviser, Kellyanne Conway, was on ‘‘FOX & Friends’’ and said the President had to act because Congress didn’t. In other words, the President had to act because Congress, on a bipartisan basis, through its duly elected representatives, did not give the President of the United States, the Executive, what the Executive asked for. That is why the President gets to declare an emergency.

That would create a lawless situation and a gross violation of our Constitution.

She went on to say: ‘‘It’s failed to do its job since he has been President on securing the border, and it has failed to do its job for decades, and so he waited for them.’’ In other words, because the President is dissatisfied with what the Congress did, he gets to tear up the Constitution and go his own way.

Back in 1983, when President Reagan was frustrated with the Congress and its control of the budget, he received a letter urging him to declare a state of emergency over our Nation’s finances. In response, President Reagan acknowledged his frustration but wrote: ‘‘I don’t believe the President has the power to declare an emergency short of war.’’

I urge my colleagues—I urge my colleagues—to be cautious in allowing any President to use or claim an emergency in order to undercut the clear division of power set forth in the Constitution between the legislative and the executive branch.

Yesterday Leader McCONNELL was asked about the legality of President Trump’s move, and the majority leader acknowledged he ‘‘hadn’t reached a total conclusion’’ on whether President Trump is acting legally.

Think about that. You have the majority leader acknowledging that the President may be acting unlawfully. I think it is pretty clear on its face for those who closely examine the Constitution and the power of the purse.

I think we are all called upon not as Republicans or Democrats but as Americans and as Senators in this Chamber to do our job and reject what is clearly an unconstitutional power grab. We should not passively submit to these actions. We should think about what we are going to do in light of the precedent that is being set here, and I hope we will do our jobs.

I will just close with another statement from President Washington’s Farewell Address where he cautioned against allowing any one branch of government to claim excessive power, even with the best of motivations. ‘‘Let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.’’

In my view, the President’s actions are not for the good, but I know many of my Republican colleagues would agree with the ends the President seeks with respect to using more moneys to build a wall. I understand that is the position of our Republican colleagues, but what George Washington warned us about was—whether we like what the President is doing or don’t like what the President is doing—if the President is diverting money away from the purposes this Senate and the House of Representatives directed to some other purpose this President or any other President may want that we have not authorized, that is a gross usurpation of power, and we should not allow it to happen.

So I ask my colleagues, let’s join together to do the business of the Senate, protect the Constitution, and do our jobs.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

NOMINATION OF ANDREW WHEELER

Mr. UDALL. Mr. President, I would associate myself with the comments of Senator VAN HOLLEN, who I think hit the nail on the head when it comes to this overreach by the President.

I rise in support of the growing calls for action on climate change that are echoing in every corner of this Nation.

The science is overwhelming, the evidence is clear, and unless we take immediate action, we will lose our planet as we know it. There is nowhere that has more at stake than my home State of New Mexico and the Southwest, which are in the bullseye of global warming. Unless we act against greenhouse gas pollution, rising temperatures, drought, wildfires, deforestation, we will permanently harm our communities.

Because I believe in climate science and because I believe we desperately need to act, I must strongly oppose the confirmation of Andrew Wheeler to lead our Nation’s Environmental Protection Agency. Mr. Wheeler has consistently advocated for measures that would damage the environment, hurt public health, and do long-term injury to the economy, and his record on climate change and the record of his administration are simply disqualifying.

Mr. Wheeler’s nomination is among the worst in a long line of backward nominations by this President. For someone who wants to lead the EPA—the key word being ‘‘protection’’—Mr. Wheeler’s priorities are upside down.

Let’s be blunt with the American people. Mr. Wheeler was not nominated to protect the environment and human health. He was nominated to unravel and undo the environmental protections that are now in place. He was nominated to stop any new environmental and public health protections from being initiated. He was nominated to go easy on those who violate existing environmental laws. He was nominated to stand in the way of climate science and climate action.

So far, by these measures, he has been a great success for a President who mocks climate science and who denies that this existential threat even exists, but there is no success for the American people. Mr. Wheeler's nomination puts the American public at great risk, and we should firmly oppose making his appointment permanent.

Unfortunately, Mr. Wheeler's upside-down priorities don't end at climate change. In addition to actively resisting climate action, Mr. Wheeler is not looking out for the health and well-being of my constituents or protecting my State's most precious resource, our water. There, like in so many other parts of the country, fire foam used by the Air Force has contaminated groundwater with toxic chemicals known as PFAS. These chemicals are linked to various cancers, heart disease, and other ailments. Groundwater in and around Cannon Air Force Base, near Clovis, NM, is contaminated with PFAS.

This is dairy country. One dairy is actually being put out of business because the PFAS is in groundwater and it has contaminated this farmer's water wells. The family that owns the dairy and its hard-working employees have drank water from these wells for years.

Will a Wheeler EPA put us in this situation? Will they help us out of it? During his confirmation hearings, he refused to commit to setting a drinking water standard. Then, later, we find out that he had already decided not to set standards for these toxic chemicals in December of last year. Under bipartisan pressure, he has since backed down and says EPA will set a standard—someday. I wouldn't hold my breath. In the meantime, millions of Americans and the dairies in eastern New Mexico are being hurt.

Furthermore, Mr. Wheeler is a committed soldier in the long-running assault on science that President Trump has championed. One of my constituents, Celerah Hewes, wrote this week asking me to vote against this nomination. She writes:

I grew up in Corrales, surrounded by farmland and fresh air. I remember when the Rio Grande was full of water and the ditches in the bosque flowed freely.

Climate change and drought have forever changed the land I call home and my daughter will not remember a time without severe fire danger and ozone pollution.

Celerah wants me to vote no because Mr. Wheeler "is putting our children's health and future at risk."

According to the 2018 "Fourth National Climate Assessment," we have 12 years to turn this around for Celerah, her daughter, and the world. Soon, the impacts will become irreversible.

The previous EPA set rules to reduce carbon pollution from powerplants by 32 percent by 2030. Mr. Wheeler's new plan will allow increased emissions from fossil fuel plants instead.

He is no better when it comes to even modest standards for methane waste

from oil and gas operations. Methane is an extremely potent greenhouse gas, 84 times more potent than carbon dioxide over the initial 20-year period. EPA's prior methane rules would have cut back methane pollution in a cost-effective way. Those regulations are out the window under Mr. Wheeler and replaced with loose rules, adding hundreds of thousands of tons of methane, volatile organic compounds, and toxins into the air.

Climate change is the most significant threat facing our planet. The EPA is the Agency that should be leading the charge on tackling this threat, but Mr. Wheeler is a former lobbyist for the coal industry. Like so many other nominations, the President has again put the fox in charge of the henhouse. This time, the consequences could be disastrous and irreversible for our country and our planet. If we vote to confirm him, there will be little, if any, hope for climate action for the next 2 years.

Mr. Wheeler leaves no doubt whose side he is on. His record shows that, under his watch, big polluters will get off scot-free.

Companies that pollute often try to reduce their cost of business and increase their profits by dumping that pollution and its costs on society as a whole. When environmental officials fail to enforce the rules against polluters, bad actors get an unfair advantage. Lax environmental enforcement is bad for American businesses that do the right thing and bad for taxpayers, who get stuck with the cleanup bills.

Sadly, Mr. Wheeler's EPA is the poster child for lax enforcement. In 2018, EPA collected the smallest amount of civil penalties against polluters since 1994. Inspections are half of what they were in 2010. EPA charged the fewest criminal defendants since 1991. It saw a steep drop in civil judicial enforcement cases as well. The bad news goes on and on.

So the best that can be said of Mr. Wheeler's record is that he is not Scott Pruitt. As far as we know, he has not abused taxpayer funds or staff for a variety of luxurious perks or rented his house from a lobbyist. But the bar is so low that it is in the Capitol basement.

Indeed, I believe that the EPA under this President has reached an all-time low. There is hardly even any pretense that their goal is to safeguard the environment and public health. They are actively damaging our environment and actively resisting action on climate change at a time when young people and so many others across New Mexico and this country are crying out for action. We simply must do better.

So I will vote no, and I will urge my colleagues to consider the consequences of this nomination for their children, grandchildren, and beyond, and to vote no as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### ORDER OF PROCEDURE

Mr. McCONNELL. Mr. President, I ask unanimous consent that notwithstanding the provisions of rule XXII, all postclosure time on the Wheeler nomination be considered expired at 12:30 p.m. on Thursday, February 28, with the time between 12 and 12:30 equally divided in the usual form; further, that if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action. I further ask that the cloture motion on Executive Calendar No. 12 be withdrawn and that following disposition of the Wheeler nomination, the Senate resume consideration of the Ryder nomination, with the time until 1:45 p.m. equally divided between the two leaders or their designees, and that at 1:45 p.m., the Senate vote on the nomination with no intervening action or debate; and that if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's actions.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### JOINT REFERRAL OF NOMINATION

Mr. McCONNELL. Mr. President, I ask unanimous consent that PN389, the nomination of Ian Paul Steff to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, sent to the Senate by the President, be referred jointly to the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation.

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

#### LEGISLATIVE SESSION

#### MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate be in legislative session for a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

(At the request of Mr. SCHUMER, the following statement was ordered to be printed in the RECORD.)

#### VOTE EXPLANATION

• Ms. SINEMA. Mr. President, I was necessarily absent but, had I been present, would have voted no on roll-call vote 29, the confirmation of Eric D. Miller to be a United States Circuit Judge for the Ninth Circuit.