to languish in limbo for months because Democrats will not agree to move the nominee forward outside of the lengthy cloture process.

As Senators, we have to take our confirmation responsibility seriously, and sometimes that means that we oppose a candidate who raises serious concerns about his or her suitability for the position for which he or she has been nominated. What it should not mean—what it should not mean—is that we reflexively slow-walk qualified candidates simply because we don't like the President who is doing the nominating. But that is what Democrats have done over the past 2 years, over and over and over. Again and again, the President has put up a qualified candidate the Democrats don't really object to, and, again and again, they have forced the leader to file cloture on the nomination, delaying confirmation for weeks or months.

How do we know the Democrats didn't have genuine objections to a lot of these candidates? We have the Democrats' votes to prove it. Nearly half of the recorded cloture votes in the 115th Congress received the support of 60 or more Senators when it came to a vote. More than one-third of the recorded cloture votes ultimately received 70 or more votes in support. That means that more than one-third of the time, 17 or more Democrats voted in support of ending debate on a nomination and moving forward to a vote. Yet, in each of those instances, Democrats delayed the nomination from coming to a vote by forcing the leader to file cloture.

In one particularly egregious instance of objection, Democrats forced the Senate to spend more than an entire week considering four district court judges, even though not one single Democrat voted against their confirmation. That is right. Not one single Democrat voted against their confirmation. These judges could have been confirmed in minutes by a voice vote. Instead, Democrats forced the Senate to spend more than an entire week considering the nominations, a week that could have been spent on the many issues—serious issues that are facing this country—or a week that could have been spent on nominations that actually needed to be debated on the Senate floor.

During the 115th Congress, Senate Democrats forced 128 cloture votes on President Trump's nominees—128 cloture votes. Do you want to know how many cloture votes Republicans forced during President Obama's first Congress, his first 2 years in office? Twelve.

In our democracy, you win some elections and you lose some elections. That is the way it goes. Sometimes you are a big fan of the person in the White House and sometimes you are not. That is the nature of free elections. That is the nature of life in a democracy.

But 2-plus years on, Democrats still can't accept that they lost the 2016 Presidential election. They have spent the past 2 years doing everything they can to oppose the President, even if the American people get hurt as a result.

There is a reason that Senators, during previous administrations, have not objected to votes on a President's nominees, even when they didn't like the President. It is because Senators have generally recognized that a President needs to fill vacancies in the executive branch so that the work of the government can get done. Senators have also tended to think that a President duly elected by the American people deserves to be able to staff the administration that the American people have chosen.

Democrats have apparently decided that it is more important for them to be able to express their antipathy to President Trump than for the government to be able to get its work done.

Democrats' unprecedented obstruction has also eaten up time that the Senate could have been spending on other priorities—from growing our economy to making healthcare more affordable, to helping Americans save for education and their retirement.

I would like to suggest to my Democratic colleagues that 2 years is long enough for throwing a tantrum over the 2016 Presidential election. It might be time to accept the election results and to work with Republicans to confirm the President's nominees in a timely fashion. After 2-plus years of Democratic obstruction, I am not holding out a lot of hope, but there is always a chance that Democrats will decide that it is time to stop playing partisan games and to start focusing on the business of the American people.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SCOTT of Florida). Without objection, it is so ordered.

NOMINATION OF PAUL B. MATEY

Mr. BOOKER. Mr. President, I rise today to speak on the nomination of Paul Matey, who has been nominated by President Trump to a New Jersey seat on the U.S. Court of Appeals for the Third Circuit.

The Constitution actually charges this body with a sacred obligation. This body is charged by our Founders and by our Constitution with providing advice and consent on the individuals the President nominates to serve on the Federal courts.

Over the last century, the United States has developed a process for carrying out that duty of evaluation, evaluating those nominees, but just a couple weeks ago, the body broke a century-old precedent. Until then, the Senate had never ever confirmed a judicial nominee over the objections of both home State Senators. I looked into this through the Congressional Research Service, and they didn't find a single example where that has ever happened.

During the last century before the Trump administration, you could count on one hand the number of times the Senate had confirmed a judicial nominee when even one home State Senator had objected. That happened four times during the 1980s and once during the 1930s. That is it. But with the nominees now coming to the Senate floor, to this body, it is breaking a longstanding, bipartisan tradition and has jettisoned that rule and that idea. This has already happened—ignoring the objections of one home State Senator—five times.

Now that is happening in a doubling-down capacity. The Senate confirmed Eric Miller to the Ninth Circuit a couple weeks ago, and he was opposed by both of his home State Senators, my friends PATTY MURRAY and MARIA CANTWELL. This was the first time in a century that this body has disregarded the objections of both duly-elected Senators, who know their States, who know their communities. It was a breakdown of this longstanding, bipartisan tradition, this idea that this body is different from the majoritarian body in the House; that in this body, we believe home State Senators should have a say on the nomination of judges. Not that they are in line ideologically—clearly, when you have a Republican President, you are going to see Republican-appointed judges. But this breakdown has now undermined this tradition that in the Senate, we find a way to come together and work together on this sacred duty of putting people into that third branch of government.

What worries me now is this week, the Senate is on the brink of doing it again. Senate Republicans are moving to confirm an individual to the Third Circuit over the objections of both home state Senators—in this case, both home State Senators from New Jersey, Senator MENENDEZ and me. So this moment is personal to me, but more importantly, I want to sound the alarm yet again and not just sit as a bystander to history and let this Senate tradition be eviscerated.

When I first got to the Senate, I made it known that I really wanted to be a member of the Judiciary Committee. It took me years to get on that committee. I am so proud to be on a committee that has an incredible record of doing bipartisan work, whether it was the bill we passed out of committee to protect Robert Mueller or just last Congress when we worked together across the aisle to do comprehensive criminal justice reform.

I know the history of that committee. I have been watching it since I was much younger and had a lot more hair. I knew that this committee—as Senator DURBIN so eloquently described last week in our markup committee—this is a committee whose

Members have worked together to confront many great challenges. But now we find ourselves in a perilous position where important guardrails that were put in place to properly vet judicial nominees are being thrown by the wayside.

The latest development in the Senate is disregarding the blue-slip tradition, which over the last century has enabled home State Senators to have a meaningful role in the nomination process.

In late January of this year, the Senate Judiciary Committee held a markup meeting for 44 judicial nominees. Folks around here were literally calling it the monster markup. At that meeting, I told Chairman GRAHAM, just as I had told Chairman GRASSLEY last year, that the White House had not meaningfully consulted with me or Senator MENENDEZ ahead of that markup. In fact, I pointed out, the White House had not offered to even arrange a meeting between Mr. Matey and me or Senator MENENDEZ. We didn't get an offer of a meeting before the nomination. We didn't get an offer of a meeting before the confirmation hearing. We didn't get an offer of a meeting before the markup.

Chairman GRAHAM said he would make sure that Mr. Matey and I would be able to meet before the full Senate voted on his nomination, and we did. I really appreciate that and Senator GRAHAM being a man of his word. But when I met with Mr. Matey last week, our conversation was refreshingly honest because we both knew it was just a courtesy. We knew this process was completely backward. Two home State Senators had just been rendered completely irrelevant in the selection of a circuit court judge from their State.

I ask any of my colleagues to imagine this: that a person to the circuit court from their community—and Mr. Matey is from my city—that you don't even have a chance to meet with them, have a discussion, ask them questions. If it weren't for my presence on the Judiciary Committee, where I got 5 minutes to question him, this person would have sailed through without any consultation with two home State Senators. I ask my colleagues how they would feel if this happened to them.

This breaking of a century-old precedent has made it clear that we are going to keep on breaking it. This is something that is now going to become a part of this body. Are we all really comfortable with the implications of that?

The Republicans on the Judiciary Committee just voted out two Second Circuit nominees over the objections of their home State Senators—again, historically unprecedented—and three more nominees to the Ninth Circuit with the very same problem are about to come before this committee.

Senate Republicans seem to be intent on dismantling the century-old process for the vetting of judicial nominees. This is being done methodically—taking it apart piece by piece, whatever it takes to push through these nominees.

The pendulum does swing in this place. I was told by Senators whom I respect—I still remember coming here and sitting down with some of the statesmen in this area on both sides of the aisle. I still remember conversations with Senator Harkin, who is no longer here, and Senator McCain telling me to respect the traditions of this body, to understand that this body, as our predecessors said, should be the cooling of the partisan rage or passions of the time; that we should preserve those parts of this institution that create comity, that force us to come together. But the wound that is being created right now goes to the ability of any Senator in this body to truly represent their State.

Look, the pendulum is going to swing. Eventually, there is going to be a Democratic President. This body will shift again. Every single Senator, should they stay in this body, is probably going to see the time when, because of what we are doing today, they will have no say whatsoever when it comes to their constitutional duty of advice and consent.

My message to my colleagues is this: The feeling I had last week when I met with Mr. Matey is a feeling that everyone in this Chamber is going to have at some point if we do not stop this now. If we continue down this path, you will find yourself rendered irrelevant in the selection of judicial nominees from your State. You were duly elected by the people of your State, and there won't be a thing you can do to stand up for their interests in this process.

This will be a sad chapter if we allow it to be written into our history. It doesn't have to be this way. We could go back in this process. We could say: You know what, this guy is qualified. Why don't we go back and have the process done the right way—have the White House sit down with their home State Senators and see if they can work out a deal, as it was done before, to make sure we have a role in the process the Founders designed.

The guardrails we have established in this body have an important purpose: to enable the Judiciary Committee and Senators to properly vet judicial nominees, to ensure that those nominees are not just qualified to serve but that they are more in the mainstream, not ideologues, and to ensure that they have a good judicial temperament.

We cannot walk away from the longstanding Senate practice of respect for the views of home State Senators about the judges who will serve in their State. I urge my colleagues to vote no on this nomination because of the trashing of the processes that have been a time-honored way of doing things in the Senate. But let me be clear. This is about more than just the dismantling of the Senate procedures. As a Senator, I do have a perspective on the nature of some of the nominees who are being put forward to serve on our courts, and I want to take a moment to speak to that.

The Constitution charges this body with vetting the President's judicial nominees for good reason. It is our duty as Senators to provide a check and balance on those nominations to ensure that people who serve as Federal judges can be fair and impartial. It is our duty to help protect the independence of the judiciary. But over and over, we are seeing that President Trump is selecting nominees precisely because they will bring an ideological agenda to the bench.

This will be seen as we soon consider the nomination of Neomi Rao to the DC Circuit Court. Ms. Rao is a prime example of how the administration is working to politicize our Federal courts to achieve far-right policy objectives that do not sit in the mainstream of America. The examples of this are not just rhetoric; the examples of this are clear.

The DC Circuit Court often gets the last word on legal challenges to important regulatory protections. Who is the person the President has chosen to sit on this court? Ms. Rao has dedicated much of her career as a law professor and as a Trump administration regulatory czar to tearing away critical protections for American citizens.

During her time in the Trump administration, Ms. Rao has overseen efforts to roll back an array of Federal protections, from fair housing to clean air and water, from women's rights to LGBTQ rights, from food safety to workers' rights, to so many areas that impact Americans of all backgrounds and all aspects of American life. She has also criticized landmark decisions by the Supreme Court. Other Trump nominees have not gone as far as she has. She literally criticized Brown v. Board of Education, Lawrence v. Texas, and Roe v. Wade.

Worse still, Ms. Rao has been unwilling to make the firm commitment to recuse herself from legal challenges to regulations that her office reviewed while she was a Trump administration regulatory czar. This is fundamental to the independence of our judiciary.

If you compare her position to others within the Trump administration, you will see that other judicial nominees, including President Trump's prior nominee to the DC Circuit, have pledged to recuse themselves from matters they worked on in the executive branch, but Ms. Rao is refusing to do the same.

Given her long track record of opposing critical Federal protections, the serious concerns about independence and recusal, Ms. Rao is the wrong person to sit on the DC Circuit Court, and I urge my colleagues to vote no on the nomination as well.

Most importantly, I urge my colleagues—all of my colleagues, Democrats and Republicans—who do not want to be rendered irrelevant in the selection of judges from their States to

stop—stop—this evisceration of a long-standing blue-slip tradition in the Senate.

I thank you for the time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

JUDICIAL NOMINATIONS

Mr. CORNYN. Mr. President, this week, the Senate will continue to fill vacancies across the Federal bench.

This afternoon, we will vote to confirm Paul Matey to be U.S. Circuit Court Judge for the Third Circuit, and then we will move to the nomination of Neomi Rao for a seat on the DC Circuit Court of Appeals—the seat that was vacated by Justice Brett Kavanaugh.

Throughout her career, Ms. Rao has served in all three branches of government. She clerked for Justice Clarence Thomas on the U.S. Supreme Court and Judge Harvie Wilkinson on the Fourth Circuit Court of Appeals. She also worked here in the Senate on the Judiciary Committee for then-Chairman Orrin Hatch.

She has worked as Associate Counsel and Special Assistant to President George W. Bush and in her current position as Administrator for the Office of Administration and Regulatory Affairs—one of the most important and least understood Federal Agencies.

In addition to her outstanding career in public service, Ms. Rao was also an associate professor at the Antonin Scalia Law School at George Mason University and is a leading scholar in the field of administrative law.

Knowing her impressive background, it was no surprise to see that the American Bar Association, once hailed by the minority leader as the ''gold standard by which judicial candidates are judged,'' rated her as ''well qualified.''

When considering this particular seat, it is hard to imagine anyone better prepared. The DC Circuit Court of Appeals has sometimes been referred to as the ''second highest court in the land'' and is unique because its caseload is disproportionately weighted toward administrative law and litigation involving the Federal Government.

Despite her outstanding qualifications, our Democratic colleagues have attempted to tank Ms. Rao's nomination over decades-old writings. That sounds pretty familiar, although, as I recall, Justice Kavanaugh was excoriated for things in his high school yearbook. At least we have moved on to college when it comes to Ms. Rao.

During her confirmation hearing last month, critics reverted back to that Kavanaugh playbook and began criticizing her for things she wrote in college rather than asking her productive questions about maybe what she has learned since that time or how her views may have changed or how she has functioned as head of the OIRA or how her office has reduced regulatory costs by more than $23 billion. Instead, critics chose to focus on her decades-old writings in college.

Over the years, Ms. Rao has done what we have all done: She has grown and learned from her experiences. She has repeatedly said that she no longer holds the views that she wrote about back in college.

I believe we should judge a nominee not by views they expressed in high school or college but what they have done since that time as mature adults and professionals. So just add me to the long list of people who believe Neomi Rao should be confirmed for the DC Circuit Court of Appeals.

Two dozen former Supreme Court clerks who worked alongside Rao sent a letter to the Judiciary Committee, touting her qualifications. They said:

> Many of us have worked in government, at both the federal and state levels, some for Democrats and some for Republicans. . . . While our professional and personal paths may have diverged, one of things we have always shared is admiration for Neomi. We are confident she will serve our country well on the DC Circuit.

We have seen similar letters from her classmates at both Yale and the University of Chicago Law School, as well as a group of more than 50 of her former law students.

Her former students wrote:

> Our views span the political spectrum; we have differing positions on the role and work of the Federal judiciary; and we have gone on to work in law firms, government, public interest organizations, and judges' chambers. Yet despite her differences, we all agree that Professor Rao would make an outstanding addition to the bench. We have no doubt that, if confirmed, she would be a brilliant and fair arbiter of the cases that came before her.

I agree.

I supported Ms. Rao's nomination in the Senate Judiciary Committee, and I will once again look forward to supporting her nomination when the full Senate votes on her nomination this week.

FREEDOM OF INFORMATION ACT

Mr. President, on another matter, this Saturday will mark the 268th birthday of James Madison, the Father of the Constitution and an ardent advocate for open government.

It is no coincidence that near his birthday each year, we also celebrate something called Sunshine Week—a time to promote transparency in government and access to public information.

I have always been proud of the fact that Texas is known for having one of the strongest and most robust freedom of information laws in the country. As attorney general of Texas for 4 years, it was my privilege to enforce those laws.

We strive to maintain an open and honest government. Not only does it keep citizens in the know, it also helps keep government accountable.

As we all know, Justice Brandeis famously said: ''Sunlight is said to be the best of disinfectants.'' When I came to Washington, I wanted to bring that same Texas sunshine to the national level.

During my time in the Senate, I have made government transparency a priority, and I have pressed for more openness in the Federal Government through commonsense legislation.

Over the last decade-plus, my closest ally in that effort has been my friend and colleague from Vermont, Senator PAT LEAHY. Some people consider us to be the odd couple when it comes to this topic because Senator LEAHY is on the other end of the political spectrum.

As a conservative, I think if people act in government as if their actions are going to be known and available to the people they work for—the taxpayers—it really changes their behavior. It doesn't require Congress or the government to pass more regulation or more laws to get them to do what they know they should do if they knew that what they were doing was going to be made public; hence, my support for the Freedom of Information Act and public information law.

Senator LEAHY and I have worked so well together because we understand that this is not a Republican or Democratic issue. We both recognize that whether it is a Republican administration or a Democratic administration, everyone wants to trumpet their successes and hide their failures. That is just human nature. But in order for our government to run well and the American people to trust that it is running well, we need transparency and the accountability that goes along with it.

Safeguarding our right to public information is the Freedom of Information Act, or FOIA. FOIA serves not as a weapon but as a shield, protecting the American people from a government that may seek to abuse its power or conceal fraud and abuse.

In the more than 50 years since FOIA was first enacted, we have seen a tug of war taking place in both Republican and Democratic administrations, with some favoring more openness and others favoring less. That is why it is so important that we fight here in the Senate to ensure that the balance doesn't tilt away from transparency.

This is a great opportunity both to reflect on the important steps we have taken in the past and to recommit ourselves to the ongoing important work that we still need to do.

I believe the most significant legislation Senator LEAHY and I shepherded during our work together is the FOIA Improvement Act, which became law in 2016. It required government Agencies to operate under a presumption of openness when considering whether to release government information.

It also aimed to reduce the overuse of exemptions to withhold information from the public and to minimize the bureaucracy in the FOIA request process by requiring the creation of a single