

around that. Senate Republicans even blocked their own. Only 22 judicial nominees were confirmed in the final 2 years of the Obama administration—the fewest in a Congress since Harry Truman was President.

In 2015 and 2016, the Judiciary Committee considered only five circuit court nominees. It considered that many in December of 2017 alone. There were nearly twice as many circuit judges confirmed in the first 2 years of the Trump administration as there were in President Obama's entire first term. Nominees are moving nearly twice as quickly under this President.

Republicans even blew up a century-old bipartisan practice of seeking input from Senators on judicial nominees from their home States. It is based on what has come to be known as the blue slip to consent to a hearing and a markup of a nomination. It is a tradition, by the way, Republicans fought to protect when a Democrat was President and they were in the minority. Under this President, they threw the blue-slip tradition out the window.

Republicans are also moving nominees in huge batches and at paces that prevent serious debate on their qualifications. A few months ago, the Judiciary Committee held a markup and voted out 46 nominees, including 44 judicial nominees. That had never been done before. It is a head-scratcher how that can meet any reasonable definition of "advice and consent."

The way my colleagues on the other side talk about the issue, you would think Democrats delayed every nomination for as long as possible. That just doesn't remotely resemble the truth.

Setting judges aside, what about the executive branch? The President and his advisers will tell you right out in the open that they don't want to nominate anybody. They have chosen to leave those positions vacant. That certainly doesn't meet a textbook definition of "Democratic obstructionism." I am the ranking Democrat on the Senate Finance Committee. Our committee has zero nominees ready for a committee vote. It is not because anybody is blocking them; it is because the Trump administration seems uninterested in putting nominees forward. Our committee, on a bipartisan basis, has done its job.

So, colleagues, you can't look at the record of nominees over the last 2 years, particularly on judges, and conclude that the Democrats have broken the Senate. It is just not true. I believe a number of my colleagues on the other side know it. When they want to go nuclear and change the rules, we get a parade of horror stories about how Democrats are obstructionists. It is a totally different story when they prefer to tout their record on nominations.

Let's hear from Republicans, from the President on down.

Here is the President tweeting in late 2017: "Judges at a record clip. Our courts are rapidly changing."

The President at a rally last year: "We have the best judges. We put on a

tremendous amount of great Federal district court judges. We'll be setting records. We are setting records. Appeals court judges. A Supreme Court judge—fantastic."

The Vice President, March 2018: "The President . . . set a record for the most court of appeal judges confirmed in the first year of an administration in American history."

Leader MCCONNELL said it all, speaking about the confirmed judges. He said "including a record number of circuit court judges for a President's first year."

More recently, Leader MCCONNELL said: "We confirmed every circuit judge. We've now done 29 circuit judges. That's a record for this quick in any administration in history."

After November's elections, when Democrats won control of the House, Leader MCCONNELL said: "I think we'll have probably more time for nominations in the next Congress than we've had in this one, because the areas of legislative agreement will be more limited between a Democratic House and a Republican Senate. . . . I don't think we'll have any trouble finding time to do nominations." That is Leader MCCONNELL. "I don't think we'll have any trouble finding time to do nominations."

Leader MCCONNELL said: "We intend to keep confirming as many as we possibly can for as long as we're in a position to do so."

My colleagues on the other side can't have it both ways, constantly talking about Democratic obstructionism and then, in effect, making all these statements about how they are setting records for getting people through. You can't have it both ways.

I am going to close on this. I am not going to apologize for opposing nominees who are unqualified, corrupt, or simply outside of the mainstream.

I opposed the nomination of Ryan Bounds to the Ninth Circuit because he concealed hateful writings to a bipartisan committee—since I became the State's senior Democrat, and now as the senior Senator, I have continued this committee. We have had a bipartisan selection committee that vets candidates. We had it when my former colleague, Senator Smith, who I know is a friend of the Presiding Officer's, was here. We always worked in a bipartisan way to address these issues. This was a nominee who concealed hateful writings from the bipartisan selection committee that vetted his candidacy, and he was forced to withdraw.

I opposed Neomi Rao because she also had put extreme views in writing, and those views closely mirrored the work she had done as a Trump appointee attacking protections for women's health, for sexual assault victims on campus, and for vulnerable communities across the country.

I opposed the nomination of Thomas Farr because he ruthlessly attacked the voting rights of people of color.

I opposed the nomination of Tom Price to lead the Department of Health

and Human Services because I thought he was just about as corrupt as they came and seemed to be laser-focused on taking away people's healthcare.

I opposed the nomination of Steven Mnuchin to be Treasury Secretary because I believed a history of profiting off of the suffering of millions of Americans ought to be disqualifying for that job.

Now, what has been the record? Multiple members of the Trump Cabinet have resigned under an ethical cloud. The rule change for which the Republican leader is pushing will cause the rushing through of even more unqualified and corrupt nominees at the sub-Cabinet level.

The bottom line is that all of the doomsday talk about the Democratic obstruction that is forcing the Republican leader's hand is simply out of touch with the facts. The Trump administration will find more support among the Democrats when it picks better nominees. It is a quaint idea—pick better nominees, and then you will get support. Instead, the nuclear option Leader MCCONNELL is set to trigger this week is a strategy that will take us in the opposite direction. It is going to make it easier to rush unqualified and extreme nominees through the Senate before anybody notices.

I oppose this change. I urge more of my colleagues on the other side to do the same.

NOMINATION OF DAVID BERNHARDT

Mr. President, I conclude my remarks by turning briefly to a related subject that deals with, I believe, compromised, corrupt Trump nominees.

The Energy and Natural Resources Committee is scheduled to vote tomorrow on the nomination of David Bernhardt to be the Interior Secretary, but there is developing news—news revealed just last night—that ought to be enough to put this flawed nomination on hold.

According to the Washington Post, "[t]he Interior Department's Office of Inspector General is reviewing allegations that acting secretary David Bernhardt may have violated his ethics pledge by weighing in on issues affecting a former client, the office confirmed Tuesday."

I made it clear in Mr. Bernhardt's hearing last week that I believed he had ethics problems owed to the appearance that he had been working on behalf of former clients while he had served as a public official. I am also very concerned about the real possibility that Mr. Bernhardt made false statements under oath in his nomination hearing last week. I asked the Interior Department's inspector general to look into these matters, but she has not had time to respond to my request. The fact is that the inspector general is just at the very outset of this process.

Here is the prospect this body faces. The Senate could be on its way to installing an Interior Secretary who

could almost immediately face an investigation for corruption and lying under oath. These are serious allegations that face Mr. Bernhardt, so I feel strongly that the vote in the Energy and Natural Resources Committee needs to be delayed until they can be investigated fully.

With all of the Trump nominees who have resigned in scandal—by the way, one being the predecessor of whoever will be the head of the Interior Department, Ryan Zinke, who, when he came for his confirmation hearing, promised nine times he would be like Teddy Roosevelt and left under an enormous set of ethical clouds—it is clear this Republican-controlled Senate has decided that it is going to confirm first, ask questions later, and maybe duck all of the hard questions altogether.

I believe that needs to change right now. It is time to restore public trust in this process. I do not believe the Senate should allow the Interior Department to turn into a revolving door of corruption and scandal. The vote on the Bernhardt nomination, in my view, should not proceed tomorrow in the Senate Energy and Natural Resources Committee.

I yield the floor.

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

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

The Senator from Texas.

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Mr. CORNYN. Mr. President, over the last 2 years, since the beginning of the Trump administration, our Senate Democratic colleagues have brought our work to a crawl over judicial and executive branch nominees. It is as if they have frustration and surprise over the election of President Trump in the first place and still haven't gotten over it. This is another way in which they have sought to undermine the administration—to deny the President the staff necessary to populate the various executive branch Agencies as well as the judiciary.

The way you do that in the Senate is by stringing out the amount of time it takes to confirm nominees who ordinarily would have been confirmed by consent or by voice vote—certainly, not by taking 3 days or so at a time to generate a confirmation. It is not because these nominees are unqualified or even controversial; it is simply because this is how the resistance operates at a time when President Trump is President of the United States. These nominees are being used as a weapon to slow the work of the Senate and, really, to deny us the floor time in which to do other things that we might be doing that would be beneficial to the American people, and they have been running this play repeatedly over the last 2 years.

In February of 2018, President Trump nominated John Ryder to serve on the board of the Tennessee Valley Authority. The work of the TVA is undeniably important, but this isn't the sort of high-profile job that typically leads to a contentious nomination. In fact, these board positions are normally confirmed by voice vote.

Mr. Ryder was, by any account, well qualified for the job. He received unanimous support from the committee of jurisdiction, the Committee on Environment and Public Works. Under normal circumstances, he would have been quickly confirmed by the entire Senate. Our Democratic friends, instead, decided to delay and delay and delay some more and forced the Senate to hold a cloture vote on the nominee, which caused him to sit in limbo for 400 days.

I wonder how many Americans who want to serve their country in some positions that require Senate confirmation can afford to put their lives on hold and wait for 400 days or more just for the Senate to get around to doing something that should be somewhat of a routine job.

With Mr. Ryder, in the end, the irony would almost be funny if it were not so pathetic. Ultimately, he was confirmed by voice vote. For 400 days, we waited to achieve the result we all knew we were to have all along if Mr. Ryder were to hang in there long enough. For 400 days, the TVA waited for the vacancy to be filled without there being an end in sight, and for 400 days, Mr. Ryder and his family waited and waited and waited with uncertainty. Sadly, he is not alone. He is part of a long list of nominees who have received similar mistreatment.

There is one Texan, a friend of mine, who had to wait even longer. Susan Combs is a fourth-generation rancher from Big Bend who has led an impressive career in both the public and private sectors and has gained the respect of virtually every person who has crossed her path.

She served as a member of the Texas House of Representatives, then as the first female agriculture commissioner of Texas, and later served as the Texas comptroller of public accounts.

When she was nominated to be the Department of the Interior's Assistant Secretary for Policy, Management and Budget, I was thrilled, and I was happy to introduce her before her committee hearing. Less than a month after she was nominated, Susan was unanimously approved by the Senate Energy and Natural Resources Committee. Again, I was hopeful that her nomination would sail through since it, clearly, was not a controversial nomination. Unfortunately, that was not the case.

Here we are, 631 days later, and Susan Combs has still not been confirmed. Again, it is not because she is not qualified for the job or that she is a controversial nominee. Just the opposite is true. This is simply the way our Democratic colleagues have sought

to deal with nominees from this President.

If Senate Democrats were delaying well-qualified nominees like Susan to make sure they had adequate opportunity to debate their nominations, we wouldn't have any disagreement with that, but we know, by their actions, that they will stop at nothing to bring the work of this body to a screeching halt, particularly during the time of the Trump administration.

Over the last 2 years, our colleagues on the other side of the aisle have forced votes on nominees who in previous years would have sailed through the Senate. During President Trump's first 2 years, we held more than five times the number of cloture votes on nominees as we did during the same time for the last six Presidents combined. So to call this unprecedented is not an exaggeration, and the long list of vacancies is growing.

Our government is suffering, and the services that we provide to the American people are being obstructed as well. The Senate's duty of advice and consent is important, but it is not our only job. We have a lot of other things we are supposed to do here, and they are falling by the wayside while we try to work through these, largely, non-controversial judicial and executive branch nominees.

Unfortunately, our Democratic colleagues' delay tactics have brought us to the point at which we really don't have many other options. We have tried negotiations. We have been told they will be happy to limit postcloture debate time but that, oh, by the way, they will not agree to that unless it starts in the year 2021. This is hardly a principled position. This is simply about resisting President Trump, his administration, and this administration's ability to do the job the President was elected to do.

What we have proposed is something that will not make nominations easier to be confirmed. The process will be largely the same, and the vote threshold will remain the same. It will simply keep us from wasting valuable time that we should be spending on debating and voting on other important policies, not widely supported nominees.

This certainly isn't as radical a change as many of our Democratic colleagues are presenting it to be. In January of 2013, current Majority Leader SCHUMER and then Majority Leader Harry Reid led the charge to make similar changes in order to process President Obama's nominees.

At that time, Republicans were in the minority. What did we do then? Well, we weren't exactly fans of President Obama's, but he had just been elected to his second term, and suffice it to say that while we were hoping for a different outcome, we weren't about to obstruct his ability to populate and staff the various Departments in the Federal Government. We didn't obstruct nominees. We didn't sulk. We didn't try to prevent the President