

[Jan. 8, 2019]

PEOPLE FOR THE AMERICAN WAY: CONSERVATIVES' DISHONEST USE OF 'RELIGIOUS BIGOTRY' TO DEFLECT ATTENTION FROM NOMINEE'S DISTURBING RECORDS

(By Rev. Leslie Watson Malachi)

Happy New Year! Well, for most of us it should be—unless you are fighting to protect our courts. New year, same old tactic by conservatives, who are hoping to insulate narrow-minded judicial nominees from scrutiny by smearing people who ask critical questions about their records and rhetoric.

This dishonest "religious bigotry" strategy has been around as long as the organized effort to shift the federal judiciary to conservatism and reverse decades of precedent that protect Americans' legal and constitutional rights. In the recent past, for example, these groups have charged some Catholic senators with wanting to keep Catholics off the federal bench.

The latest smear is being pushed by the notoriously right-wing editorial board of the Wall Street Journal, which has run an attack on Senators Kamala Harris and Mazie Hirono. The Journal's editorial is an over-the-top response to written questions submitted by Sens. Harris and Hirono to federal court nominee Brian Buescher about his commitment to upholding legal equality for LGBTQ Americans and American women's legal right to abortion.

In their questions, the senators noted Buescher's long-time membership in the Knights of Columbus, a Catholic fraternal organization that does much laudable charitable work, but which was also a top funder of anti-marriage-equality efforts and supports restrictions on federal family-planning funds. Before the 2016 election, the group's influential leader declared that Catholics cannot vote for candidates who support abortion rights.

Given these facts, the senators asked Buescher whether he could assure litigants that he would deal with these issues fairly and impartially as a federal judge. (Buescher's answer stated that while he had run for political office as a "pro-life candidate," as a judge he would "faithfully apply all United States Supreme Court and Eighth Circuit Court of Appeals precedent on all issues, including *Roe v. Wade*" and *Obergefell*.)

The Journal's editorial board responded to the senators' reasonable line of questioning with outrage and horror. By seeking to protect LGBTQ equality and reproductive rights, and asking questions about the Knights' public policy positions, the editorial implied, Sens. Harris and Hirono were resurrecting the kind of anti-Catholic bigotry directed at John F. Kennedy and earlier presidential candidate Al Smith. The editorial said the questions were part of a "distressing pattern" that seeks to "banish" religious people from public life—the kind of false charge Religious Right groups have often leveled to deflect criticism of their political agendas or tactics.

This is not only absurd, but an insult to American voters.

The Journal also gave space to conservative African American pastor Eugene Rivers to repeat the charge, saying that the senators' questions were "about silencing believers of any kind whose views differ from the progressive view on social issues." He unbelievably suggested that opponents of Buescher's confirmation would be voting to deny his chance to be a public servant based on his baptism in the Catholic Church.

These inflammatory charges are designed to create distraction. It is not only acceptable, but necessary for senators to explore whether a nominee for a powerful lifetime

job as a federal judge will uphold every Americans' rights. In the case of Buescher this is doubtful, given that as an unsuccessful candidate for attorney general of Nebraska, he said he did not believe LGBT Americans should be protected by anti-discrimination laws the way people are protected from racial or ethnic discrimination. It was also at this time that he declared that he supported the "complete reversal" of *Roe v. Wade*. Buescher has a long record as a partisan ideological warrior, an additional reason cited by the Leadership Conference on Civil Rights in opposing his confirmation.

Religious freedom is a core constitutional principle, and as the Constitution makes clear, there must be no religious test for public office. We rely on the federal courts to enforce all Americans' constitutional rights. That means judges, regardless of their religious or personal beliefs, must be counted on to uphold Americans' legal protections. Subsequently, a person's political positions or legal ideology grounded in their faith does not make those legal and political stances off-limits to questioning or criticism.

With Senate Republicans rubber-stamping even President Trump's most extreme and unqualified nominees, right-wing intimidation tactics must not prevent senators from fulfilling their constitutional obligation to ensure that lifetime federal judges are committed to protecting the rights of all Americans.

Thank you, Senators Harris and Hirono! It's a new year, and it's time to retire this old dishonest tactic of silencing and attempts to shame. Let the questions be asked and let them be answered.

[From the Honolulu Star-Advertiser, Jan. 6, 2019]

#### LETTER TO THE EDITOR

(By Gary Edwards)

With regard to Donna L. Ching's letter ("Leave religion out in vetting qualifications," *Star-Advertiser*, Dec. 27): While I agree that a person's religious affiliation, alone, should not be a means of exclusion for public office, I do not agree that religion should be "left out of the conversation."

One of the real concerns in vetting candidates for public office is how they will apply their personal beliefs, including their religion, to the role they seek to fill. And while freedom of religion is a vital right, so is freedom from religion.

Significant damage can be done to our society by those who would seek to impose their religious beliefs and values on others through the force of law. These beliefs and values do not always align with the principles of our Constitution, and laws based on them would deny others their freedom and fair treatment.

I'm glad U.S. Sens. Mazie Hirono and Kamala Harris are probing these issues.

Kaneohe.

[From the Wall Street Journal, Jan. 15, 2019]

#### SENATORS WERE RIGHT TO ASK THOSE QUESTIONS ON RELIGION

(By Michael Keegan)

Regarding your editorial "Kamala Harris's Dark Knights" (Jan. 3): Sens. Harris and Mazie Hirono's questions for Brian Buescher were focused on appropriate and important questions, namely whether the nominee could be counted on as a federal judge to recognize and protect the legal equality of LGBTQ Americans and the right of American women to have access to safe and legal abortion.

You charge that such questioning is about trying to "banish" people from public life for their religious beliefs and associations. In re-

ality, protecting the legal rights of all Americans of all faiths by ensuring that nominees for powerful lifetime seats on America's federal courts are committed to enforcing them is one of senators' most important responsibilities, one that the current Republican majority has abandoned in its rush to achieve ideological domination of the courts.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO KORI KELLER

• Mr. DAINES. Mr. President, this week I have the honor of recognizing Kori Keller of Yellowstone County for her impact on the Billings community, through her work at the Ramsey Keller Memorial.

Mrs. Keller, a Billings native, has dedicated her time to aiding parents who have undergone the hardship of losing a child too young. Mrs. Keller and her husband lost their precious daughter Ramsey soon after she was born.

As a way of honoring their daughter, Kori and her husband founded the Ramsey Keller Memorial. The Ramsey Keller Memorial is dedicated to helping families who have lost children under the age of 1 year old. The foundation raises money through both an annual race and a pink-tie affair to pay for the funerals of Montana infants that have passed away before their first birthday. Since then, Kori has been an advocate and provided comfort for numerous parents going through the same hardships she experienced.

I congratulate Kori on her growing role in the State of Montana. She has been a constant source of hope and aid to families going through similar hardships she has endured. I look forward to seeing the success of the Ramsey Keller Memorial, as it continues to pour into Montana family's lives.●

##### REMEMBERING EUCARIO BERMUDEZ

• Mr. RUBIO. Mr. President, I would like to honor the life and legacy of Colombian-American journalist and broadcaster, Eucario Bermudez. Bermudez, a beloved south Florida radio legend amongst the Hispanic community, died earlier this month after years of service to the Hispanic community in the State of Florida. Today I pay tribute to Eucario's life, with immense gratitude for his work and dedication.●

##### RECOGNIZING INDIAN PASS RAW BAR

• Mr. RUBIO. Mr. President, today I would like to highlight the hard work and unique entrepreneurial spirit that can be found across my home State of Florida. As chairman of the Senate Committee on Small Business and Entrepreneurship, each week I recognize a small business that exemplifies hard work and dedication toward the local

community. Today, it is my distinct privilege to honor Indian Pass Raw Bar from Port St. Joe in Gulf County, FL, as the Senate Small Business of the Week.

Indian Pass Raw Bar has deep historical ties to the Florida Panhandle along the coastline of the Gulf of Mexico, tracing its roots to a commissary store founded in 1903, for workers in the then-booming turpentine industry. It is located in the same building as the original Indian Pass Trading Post that opened in 1929, where Mrs. Gypsy McNeil established her talent with her delicious seafood gumbo.

In 1986, Hurricane Kate struck the Florida Panhandle and destroyed the Indian Pass Trading Post. The McNeil family showed resilience after the storm and recovered by converting the general store into an oyster bar, setting the stage for business to skyrocket.

Twenty-three miles from Apalachicola, FL, Indian Pass Raw Bar serves the panhandle's world-famous oysters and iconic seafood dishes, such as steamed shrimp and crab legs. Drinks are served on an honor system where customers keep their tabs to turn in at checkout, treating customers like trusted friends. It has become a renowned location for Floridians and tourists alike to enjoy time with family. Southern Living magazine once described Indian Pass Raw Bar as "quite possibly the best seafood shack in existence." It has also received praise from the Garden & Gun magazine as one of Florida's "Hidden Hotspots." Indian Pass Raw Bar's success continued with the opening of a second location in June 2017, in downtown Port St. Joe, FL.

In October 2018, category 5 Hurricane Michael devastated the Florida Panhandle, including Gulf County. The storm severely damaged Indian Pass Raw Bar, as high winds blew off the front door, forcefully removed the air-conditioning system, and threw its iconic street sign hundreds of yards away. However, just as they did after the 1986 storm, the McNeil family is rebuilding and looks forward to continuing to serve their world-famous oysters again this spring. Upon reopening, they will welcome visitors to the gulf coast of Florida for their 90th year in business.

The Indian Pass Raw Bar became what it is today partly because of Hurricane Kate in 1986. The McNeil family understands how devastating these storms truly are and the impact they can have on small business and working families. To help their community, the McNeil family enthusiastically opened their facilities as emergency supply distribution centers to their neighbors in need, despite having their own difficulties. Meredith McNeil said in October 2018: "This whole area, the whole Gulf, we've done this before. We're all resilient."

This is the kind of commitment to community that is unique to American

small business. During a catastrophe, the Indian Pass Raw Bar helped bring their fellow citizens together by offering emergency supplies in order to help their customers and to give back to the community that has supported their business. Indian Pass Raw Bar is an example of Florida's exceptional entrepreneurship, continuing a 90-year history, being resilient and innovative in its approach to challenges, and giving back to the community during a time of need. I would like to congratulate the McNeil family and all the employees at Indian Pass Raw Bar for being named the Senate Small Business of the Week for the week of January 14 to 18, 2019. I wish them continued success in their future endeavors.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

#### PRESIDENTIAL MESSAGE

#### REPORT RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS DECLARED IN EXECUTIVE ORDER 12947 OF JANUARY 23, 1995, WITH RESPECT TO TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS—PM 1

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, within 90 days before the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency declared in Executive Order 12947 of January 23, 1995, with respect to foreign terrorists who threaten to disrupt the Middle East peace

process, is to continue in effect beyond January 23, 2019.

The crisis with respect to grave acts of violence committed by foreign terrorists who threaten to disrupt the Middle East peace process that led to the declaration of a national emergency on January 23, 1995, has not been resolved. Terrorist groups continue to engage in activities that have the purpose or effect of threatening the Middle East peace process and that are hostile to United States interests in the region. Such actions continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. Therefore, I have determined that it is necessary to continue the national emergency declared in Executive Order 12947 with respect to foreign terrorists who threaten to disrupt the Middle East peace process and to maintain in force the sanctions against them to respond to this threat.

DONALD J. TRUMP.  
THE WHITE HOUSE, January 16, 2019.

#### MESSAGE FROM THE HOUSE

At 10:28 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 113. An act to require the purchase of domestically made flags of the United States of America for use by the Federal Government.

H.R. 135. An act to amend the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 to strengthen Federal antidiscrimination laws enforced by the Equal Employment Opportunity Commission and expand accountability within the Federal Government, and for other purposes.

H.R. 136. An act to amend title 5, United States Code, to protect unpaid interns in the Federal Government from workplace harassment and discrimination, and for other purposes.

H.R. 202. An act to amend the Inspector General Act of 1978 relative to the powers of the Department of Justice Inspector General.

H.R. 247. An act to amend chapter 36 of title 44, United States Code, to make certain changes relating to electronic Government services, and for other purposes.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 113. An act to require the purchase of domestically made flags of the United States of America for use by the Federal Government; to the Committee on Homeland Security and Governmental Affairs.

H.R. 135. An act to amend the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 to strengthen Federal antidiscrimination laws enforced by the Equal Employment Opportunity Commission and expand accountability within the Federal Government, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 136. An act to amend title 5, United States Code, to protect unpaid interns in the