

I have great respect for our Democratic friends, but I think this episode has to go down as a new high-water mark for the policy consequences of what some people call “Trump derangement syndrome.”

We are at a point where 42 Senate Democrats would decline to fund the U.S. Armed Forces essentially just to spite the occupant of the White House. If you ask me, that is one heck of a price to pay to put on a show for “the resistance.”

But yesterday’s vote is now a matter of record. It is in the past. I really am hopeful that we can get back on track with the kind of appropriations process my Democratic colleagues have already pledged they would support. They had already pledged to support it.

When the good work that takes place in committees is allowed to proceed without this top-down partisan maneuvering, it tends to yield pretty good results. I think we were all pleased with the bipartisan funding bill that Chairman SHELBY and Senator LEAHY produced together last year. I understand this morning’s appropriations markup is expected to be bipartisan as well.

For example, I am proud the Financial Services and General Government bill would include a bipartisan amendment providing another \$250 million for the administration and security of elections, to help States improve their defenses and shore up their voting systems.

I am proud to have helped develop this amendment and to cosponsor it in committee. That would bring our total allocation for election security to more than \$600 million since fiscal 2008.

It is a crucial issue. The Trump administration has made enormous strides to help States secure their elections without giving Washington new power to push the States around. That is how we continue the progress we saw in 2018, and that is exactly what we are doing.

This is exactly the kind of positive outcome that is possible when we stop posturing for the press and let Chairman SHELBY and Senator LEAHY conduct a bipartisan committee process.

As time grows shorter before the end of September, I hope the critical defense funding that Democrats blocked yesterday will soon earn the same kind of productive treatment, because I don’t think the American people will have much patience with the notion that Democrats’ first responsibility is irritating the White House and funding the Department of Defense coming second.

I hope we can reboot this process and move forward for the sake of our Senate process, for the sake of stable funding for our government, and for the sake of our Nation’s security.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Brian McGuire, of New York, to be a Deputy Under Secretary of the Treasury.

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

The PRESIDING OFFICER (Mrs. FISCHER). Without objection, it is so ordered.

#### THE JUDICIARY

Mr. THUNE. Madam President, last week, the Senate confirmed President Trump’s 150th judge. That is a significant milestone and one that has been harder to achieve than it normally would be thanks to the Democrats’ determination to delay judicial confirmations. Again and again, the Democrats have used the time-consuming cloture vote process to delay the confirmations of President Trump’s nominees—even of nominees they ultimately chose to vote for.

By this point in President Obama’s first term, the Republicans had required cloture votes on just three of President Obama’s judicial nominees—three. Compare that to today. As of September 12, the Democrats had required cloture votes on a staggering 71.7 percent of President Trump’s picks for the bench—71 percent. Basically, for more than two out of every three judges, the Democrats have required cloture votes. That simply means they have filibustered that particular nominee. The way you end the filibuster is by invoking cloture.

When the Republicans were in the minority when President Obama was in the White House, at this point in President Obama’s first term, the Democratic majority had invoked cloture just three times for three judges whom the Republicans had tried to block. As I said, right now, at the same point in President Trump’s first term, we are talking about almost 72 percent of all of the nominations combined having been filibustered. If you think about that and if you add it up totally, cumulatively, it is about 100 now compared to 3 during President Obama’s first term at the same time in office.

As I have said, many of these were nominees the Democrats ultimately

went on to vote to confirm. In other words, it was not that President Trump nominated scores of extreme nominees whom the Democrats felt they couldn’t support. Again and again, the Democrats have delayed a nominee, then turned around and voted in favor of him or her.

In one particularly memorable example, in January of 2018, the Democrats forced the Senate to spend more than a week considering four district court judges even though not one single Democrat voted against their confirmations—not one single Democrat. These judges could have been confirmed in a matter of minutes by voice votes. Instead, the Democrats forced the Senate to spend more than a week on their considerations—time that could have been spent on genuinely controversial nominees or on some of the many important issues that face our country.

So far this September, the Senate has confirmed six district court judges. The Democrats forced cloture votes on four of them despite the fact that all four were eventually confirmed by huge bipartisan margins. In fact, one was confirmed by a unanimous vote of 94 to 0.

If the Democrats had had a serious reason for their obstruction of the President’s judicial nominees, they would not have been repeatedly turning around and voting for them. Their obstruction isn’t based on principle; it is based on partisanship. They don’t like this President, so they are obstructing his nominees even when they agree they are well qualified for their positions. As a result, we are forced to spend hours upon hours of Senate floor time on uncontroversial nominations—time we could be using for other priorities.

Democratic delays are also not helping the judicial vacancy rate, which is still high despite the Republicans’ efforts to get judges confirmed. High numbers of vacancies result in there being long waits to get cases heard, which serves nobody.

While Democratic obstruction is bad enough, unfortunately, we have a lot more to worry about. In recent months, the Democrats have moved beyond obstruction and into directly threatening the independence of the judiciary. Court-packing—an idea that pretty much everybody thought had been consigned to the dustbin of history almost a century ago—is enjoying a revival among members of the Democratic Party.

For anyone who needs a refresher on this concept, the theory of court-packing is quite simple. If the Supreme Court is not deciding cases to your liking, add more judges to the Court until you start getting the decisions you want. It is not hard to see why this is a terrible idea, but that hasn’t stopped it from gaining traction in the Democratic Party. In fact, five prominent Democrats—including a Democratic Presidential candidate and the second-

ranking Democrat in the Senate—recently filed an amicus brief with the Supreme Court that threatened the Court if it failed to rule according to the Democrats' preference.

They wrote:

The Supreme Court is not well, and the people know it. Perhaps the Court can heal itself before the public demands it be restructured in order to reduce the influence of politics.

Translation: If you don't rule the way we want you to, you will not like the consequences.

Threatening members of the judiciary is within the domain of dictators and despots, not Members of the U.S. Congress, and it is deeply disturbing that prominent Democrats apparently now see nothing wrong with trying to intimidate the Supreme Court.

Unfortunately, it is becoming apparent that there are few lengths to which the Democrats will not go in their increasingly desperate partisanship. Just this week, we saw the Democrats leap on the opportunity to drag Justice Kavanaugh's name through the mud again based on yet another vague and unsubstantiated rumor.

More than one Democratic Presidential candidate instantly cried that he should be impeached. What was the basis for such a drastic suggestion? It was a New York Times article that was, as the leader pointed out, so short on reporting that it ran on the opinion page of the New York Times instead of in the news section, not to mention that after running this piece, the Times had to quickly issue a correction and note a glaring omission in the original story. What was the omission? It was the fact that the supposed victim of Justice Kavanaugh's supposed behavior declined to be interviewed and that her friends said she had no memory of the alleged incident.

It is not hard to see what is behind the Democrats' relentless campaign to smear Justice Kavanaugh's name. They are furious that it was a Republican and not a Democratic President who had the opportunity to choose a Justice to replace a perceived swing vote on the Supreme Court, and they are afraid that Justice Kavanaugh will not issue the rulings they want.

Here we get to the heart of the problem with the Democrats' increasingly unhinged leftism and attacks on the judiciary. The Democrats aren't looking for judges or a judiciary that will rule according to the law; they are looking for a judiciary that will rule in accordance with the Democrats' preferred policies whether they have anything to do with the law or not, and that is a very dangerous goal.

Sure, it might seem nice when an activist judge who shares your political opinions reaches outside the meaning of the statute and rules for your preferred outcome. Yet what happens when that same judge reaches beyond the law to your detriment? What protection do you have if the judge and not the law becomes the highest au-

thority? The only way to ensure the protection of individuals' rights is to ensure the rule of law, and that means having judges who will make decisions according to the law, not according to their personal preferences or the principles of a particular political party's.

In the wake of the Democrats' threat to the Supreme Court, all 53 Republican Senators sent a letter to the Justices that underscored our commitment to protecting the independence of the judiciary. We noted in the letter:

There is no greater example of the genius of our Constitution than its creation of an independent judiciary. . . . Time and again, our independent federal courts have protected the constitutional rights of Americans from government overreach even when that overreach was politically popular.

If we want our courts to continue protecting Americans' constitutional rights, then we need to ensure they remain independent.

The Democrats' interest in having judges who will rule according to their preferred outcomes is not new, but in the past, their interest has not led them to attempt to bully judges into voting their way. I hope the Democrats will think better of their repressive tactics before our independent judiciary becomes the victim of their political agenda.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

#### AUTHORIZATION FOR USE OF MILITARY FORCE

Ms. DUCKWORTH. Madam President, I could stay here all day, listening to the names of the brave men and women whom I was lucky enough to serve with in the military. I could stay here all night, telling stories about their heroism and courage. I could stay here all week, all month, talking about the troops who are serving overseas right now and about those who are on their eighth or ninth tours of duty or about those teenagers who weren't even alive when the Twin Towers fell, yet who are ready to ship off to Afghanistan at this very moment if that is what is asked of them. I could go on and on all year if I wanted, and I still wouldn't be able to convey the sacrifices they are making because they love this country and would do anything to defend her.

I will not stand idly by and let a single one of them shed blood in an avoidable conflict because Donald Trump has abdicated matters of war and peace to a despot who regularly flouts basic human rights and openly murders journalists. Yet, after tensions spiked between Saudi Arabia and Iran this past weekend, that is exactly what he seemed to be willing to do. He tweeted that the U.S. was "locked and loaded" and just waiting for the Crown Prince to tell him how to proceed. We can't let that slip by.

The President—the Commander in Chief of the greatest military of the greatest democracy on the face of the Earth—just suggested that he was outsourcing the powers of war to a foreign monarch—powers that aren't even his to hand over—and he did it in a tweet.

While Trump may have never read the Constitution, I have, so let me direct his attention to article I, which makes it clear that the President does not have the authority to declare war. Only Congress has that power. We are the ones tasked with deciding when and how Americans are sent into combat. We are the ones charged with that most solemn duty, not Donald Trump and certainly not Muhammad bin Salman. Yet Trump is acting as if article I simply doesn't exist, as if he could just usurp this power from the legislative branch and trade it to whomever he pleases, as if obeying the Constitution is optional even while he tweets that he is willing to obey a foreign prince.

This should not be a partisan issue. No matter if you are struggling to pay rent or if your name is plastered in gold on the front of a building on Fifth Avenue, no one can overrule the Constitution. Trump doesn't get to mire us in yet another Middle East conflict just because he has a bizarre tendency to bow down and kiss up to the world's cruelest tyrants.

Whether you ask constitutional scholars or high school students taking U.S. history classes, they will tell you the same thing—that on matters of military force, whether they are our allies or our adversaries, American Presidents do not get to choose to take orders from foreign leaders. They take direction from Congress—full stop.

I am here to say that we have not authorized him to ensnare us in another endless, senseless war.

We haven't debated and passed a new authorization for the use of military force in more than 15 years, and there is just no way that the AUMF passed to go after the perpetrators of 9/11 can justify military action against Iran nearly two decades later, sending troops overseas who may not have even been alive when that AUMF was voted on.

Listen, it is not just me who believes this. It is not just my fellow Democrats in the Senate either. During the confirmation hearing for now-Secretary of Defense Mark Esper, I asked Trump's own nominee point-blank whether the existing AUMF gives this administration the right to conduct a war with Iran. His answer? His answer was: No. No, they do not.

Even in decades past, when prior Presidents have gotten us entangled in bad wars based on bad intelligence, at the very least they made sure to loop in the United Nations, but Trump is acting as if he wouldn't even do that. He is too busy thumping his chest and catering to the whims of autocrats. He is too infatuated with maximum pressure to consider even minimum diplomacy, too distracted beating the drums of war to even think about how many troops he would be sending into harm's way.

For what? To protect the Saudi oil industry or the Crown Prince's personal profits?