

Let me repeat that. Nine times in the last 4½ years, there has been this exercise to hold our military hostage for some other political priority by denying them funding—nine times.

I checked, and since I have been here, there has been no bill—no bill—filibustered more by my colleagues on the other side of the aisle than the bill that would fund our military.

Think about that. Think about that for a minute. This is the bill, when they want to leverage some other issue that has nothing to do with national security, that they pick out and they filibuster—nine times in the last 4 years.

I think it is shameful. It is politics pure and simple, certainly driven by the extreme left of their party, many of whom have not focused on the national security of our country and supporting our troops. They are trying to leverage funding for our troops to gain political concessions on other issues.

Here is the bottom line: The men and women who serve in the military don't deserve this. I wish the press would write about it. Don't hold your breath on that.

For my part, I am going to continue to come down here, as I have done before on this very issue, and say: Look, if there is one thing we should be focused on, it is supporting our military and funding them and their families to make them ready, to make them lethal, to enable them to protect our country.

If there is one bill in the Congress that we shouldn't have filibustered nine times in the last 4 years, it is this one. But that is what just happened.

I hope more Americans see this. Call your Senators who voted no today and tell them you don't agree with that vote. You do not agree with that vote. I guarantee you, the men and women who serve our country don't either, and they would appreciate if you would weigh in on their behalf.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

REMEMBERING KAY HAGAN

Ms. STABENOW. Mr. President, I rise today to pay tribute to a woman who was more than just our colleague. She was our friend, and I am missing my friend today.

When I think about Senator Kay Hagan, I remember a lot of things. First was her deep dedication to public service. From the moment she woke up until the sun set behind her beloved Blue Ridge Mountains, Kay was focused on serving the people of North Carolina and the State she loved so much.

It was such an honor working with her, especially on behalf of North Carolina's farmers, small towns, and rural communities that she loved so much. She was passionate about the health of the land and the people who live and work on it.

Second, Kay was a fighter. We all knew that. Growing up between two brothers probably contributed to that. I have two brothers myself, and I can attest to the fact that it toughens you up.

We saw that spark every day on the floor of the U.S. Senate. Kay had a deep and abiding sense of justice, and she stood up for North Carolina families every single day, even when it wasn't easy and even when she paid a political price for it.

She stood up for expanding healthcare and protecting the rights of North Carolina women and families. That same fighting spirit kept her going through her own grueling health challenges.

I had the chance to visit with her a couple of years ago when she was receiving treatment at a rehabilitation hospital in Georgia. She was working so hard to recover her ability to move and to talk, but one thing hadn't changed—that spark in her eyes.

I know I speak for all of us when I say that Kay's grace and endurance over the past 3 years were incredibly inspiring.

Finally, when I think of Kay, I think of kindness. In a city full of sharp words and even sharper elbows, Kay was unfailingly optimistic and an absolute joy to work with.

I know that even my Republican colleagues would agree with me and join in our sorrow over her loss.

Kay and I happened to have daughters who were getting married around the same time, and as many of you know, mothers of brides love to talk about wedding plans and to share photos about the big day, and we shared a lot of photos.

I will never forget the way her face would always light up whenever she talked about her family. She was so proud of each and every one of them, and they were proud of her too.

In her final floor speech, Kay shared one of her guiding principles, a paraphrase of Luke 12:48: To whom much is given, much is expected.

This Chamber and this country are better for having known Senator Kay Hagan. She lived by that principle. She gave us so much, and she gave it with her whole heart.

Knowing Kay was a gift, and I feel so fortunate to have been able to call her my friend. My deepest condolences are with her husband Chip and their children and their extended family and many, many friends and her beloved State of North Carolina.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

NOMINATION OF LAWRENCE VANDYKE

Ms. CORTEZ MASTO. Madam President, I rise today in opposition to the nomination of Lawrence VanDyke to serve on the U.S. Court of Appeals for the Ninth Circuit.

Mr. VanDyke fits neatly into this administration's pattern of picking Federal judges for our circuit courts of appeal without meaningful input from home State Senators. The President continues to select ideologically extreme nominees like Mr. VanDyke, and the White House is putting forward people without enough experience for the momentous roles they have been chosen to serve.

Mr. VanDyke has been nominated to fill a Nevada seat on the Ninth Circuit even though he is not a Nevadan. He didn't grow up in my State. He doesn't appear to own property there. He doesn't seem to have family ties. And he was an active member of the Nevada State bar for only 2 years.

Senator ROSEN and I engaged with the White House to put forward highly respected Nevadans with bipartisan support, but our suggestions were summarily ignored because the White House was laser-focused on Mr. VanDyke.

I want to be clear. The administration did not meaningfully consult about this nomination with Nevada Senators, and the result is a poor nominee.

First and foremost, I am extremely concerned about the effect that Lawrence VanDyke's lifetime appointment would have on women's reproductive rights in America. As Montana's solicitor general, Mr. VanDyke supported an Arizona abortion ban. In an amicus brief in *Horne v. Isaacson*, he contended that the constitutional right to choose should be revisited. He also defended a Montana law that made it harder for young women in that State to seek an abortion, and he advocated for letting corporations sidestep their obligations to provide insurance coverage for contraception.

Based on this record, I fear that, as a Federal judge, Mr. VanDyke would limit women's health choices in Nevada and throughout the country, including their access to birth control.

His record on LGBTQ rights is also dismal. Mr. VanDyke has ties to two ideologically extreme, anti-LGBTQ groups that the Southern Poverty Law Center has designated as hate groups. Those are the Alliance Defending Freedom and the Family Research Council. These ties are hardly surprising given that Mr. VanDyke has opposed gay rights since law school, when he wrote an article for the *Harvard Law Record*. This is that article: "One student's response to 'A Response to Glendon.'" It is dated March 11, 2004, by Lawrence VanDyke. In this article, he promotes the truth that same-sex marriage would hurt families, children, and society. This is that article, and this is his quote—clearly not only his writing but

his intent and thoughts behind what we have fought for in this country for LGBTQ rights in America for the last 10 years. What he says is, "What is quite settled, however, is that children on average fare best in stable, two parent families. This, combined with the correlative evidence of the decline in the family unit in Scandinavia, where de facto same-sex marriage has been around for about a decade, does provide ample reason for concern that same-sex marriage will hurt families and consequently children and society." Those are his own words.

As solicitor general of Montana, he also strongly criticized LGBTQ anti-discrimination laws and worked to carve out religious exemptions to them. When signing Montana on to an amicus brief arguing that a photography company could refuse to photograph a same-sex wedding, Mr. VanDyke described the case, which is *Elaine Photography v. Willock*, as important because it would establish that "gay rights cannot always trump religious liberty."

What you have here is an email, while he was a solicitor general in Montana, talking about why this case was important and why it was important that they sign on to the amicus brief. These are his arguments, his statements in an email. He said: "This is an important case because there is a fairly obvious collision course between religious freedom and gay rights, and this case (because it is an extreme case) could be very important in establishing that gay rights cannot always trump religious liberty." These are his own words in an email from Montana when he was solicitor general.

Throughout his career, he has weakened environmental protections and standards, as well. Mr. VanDyke has argued in favor of fossil fuel drilling and supported reviving the Keystone Pipeline, ignoring the voices of conservationists and Native communities.

His actions do not protect our air and water, nor do they recognize the impacts of climate change or safeguard endangered species, including the iconic sage-grouse. In fact, as solicitor general of Nevada, Mr. VanDyke challenged the Republican Governor he served. He actively worked against Governor Brian Sandoval's bipartisan agreement to protect my State's native species. Mr. VanDyke's opposition to land use restrictions to protect sage-grouse was so extreme that Governor Sandoval said publicly that Mr. VanDyke's position "did not represent the State of Nevada, the governor, or any state agencies."

With that background, clearly he should not sit on a court with jurisdiction over the West—home to nearly 75 percent of public lands in the Nation.

In the areas of reproductive rights, LGBTQ protections, and the environment, Mr. VanDyke's nomination is so troubling because it is clear that he puts his ideology above the law. This vacancy should be filled with a judge

who will apply the law to the facts in an unbiased way—something Mr. VanDyke has proved unwilling to do.

Finally, Mr. VanDyke's professional qualifications are simply insufficient. He has very little trial and litigation experience. When he served as Montana solicitor general, his colleagues raised serious concerns about his work ethic and legal skills. When he ran for the Montana Supreme Court, six retired judges of that court described him as "unqualified."

As you heard at the confirmation hearings yesterday, the American Bar Association, which provides ratings for judicial nominees, gave him a rating of "not qualified." That is worth repeating. The ABA—the American Bar Association—spoke with 60 lawyers and judges across 4 States and concluded that he wasn't suitable for a position as a judge on the court of appeals. The people with the objections are his former colleagues.

As far as records show, not a single Federal judicial nominee has been appointed to the Federal bench who was lacking both a "qualified" or "well qualified" ABA rating and the approval of the nominee's home state Senators. If confirmed, Mr. VanDyke would be the very first Federal judge who was judged not qualified and whose blue slips were not returned by their home State Senators. I don't think that is a precedent this Chamber should be proud of.

The Ninth Circuit Court of Appeals is the last stop for cases that affect Nevada before they reach the Supreme Court. It is vital that Ninth Circuit nominees know the State of Nevada and its issues.

This nominee lived in the Silver State for a total of 4 years before moving to Washington to work at the Department of Justice, where he is currently. In Nevada, we welcome newcomers, but usually they stay in our communities. Mr. VanDyke didn't. Rather than continue to serve Nevadans, he left for a plum job in Washington and is now lobbying for a lifetime appointment on the Federal bench. This isn't someone who serves the needs of Nevadans. This isn't someone who knows Nevada or its issues. This is a career political operative who is looking for a guaranteed paycheck.

For all of these reasons, I do not believe Lawrence VanDyke deserves a lifetime appointment to one of the highest courts in the land, which handles 70,000 critical cases each year. He is not the right person in whose hands to leave Americans' reproductive freedom, their fundamental civil rights, and their claim to a free and healthy environment.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Nevada.

Ms. ROSEN. Mr. President, I rise today to join my friend and colleague Senator CORTEZ MASTO in opposing the nomination of Lawrence VanDyke to the Ninth Circuit Court of Appeals in Nevada.

Our Federal courts make decisions every day that affect consumers, immigrants, small businesses, not to mention our right to equal treatment, education, and healthcare. As such, our Federal judges must be serious, fair-minded, and nonpartisan. We want women and men on the Federal bench who will look at the facts of a case, apply the law, and work hard to reach a just result regardless of who the parties are in front of them. The Federal bench must reflect our country in all its diversity of experience and background.

Even though the Constitution gives the President the power to nominate Federal judges, it also requires the advice and consent of the Senate, and historically the President consults with home state Senators when there is a vacancy. As the representatives to our States, we are better equipped to identify qualified lawyers and judges to serve on the Federal bench who have done good work and who have good reputations in our home communities.

We have numerous qualified, nonpartisan individuals working in the Nevada legal community who would make excellent additions to the Ninth Circuit. There are a number of amazing Nevada lawyers whom Senator CORTEZ MASTO and I would have gladly considered supporting for a seat on this prestigious court. We have litigators, magistrate judges, law professors, prosecutors, public defenders, and existing district court judges with stellar reputations from the State, lawyers and judges from Nevada. They know our State, and they have respected nonpartisan records. But the White House didn't nominate any of these individuals for the Ninth Circuit. Instead, the President nominated Lawrence VanDyke, a Washington, DC, lawyer. He wasn't born in Nevada. He didn't grow up in Nevada. He didn't go to school in Nevada. He doesn't live in Nevada now.

Mr. VanDyke, a Montana native who ran for office there and also worked in Texas, came to Nevada for a job a few years ago, in 2015. When the person he worked for lost a political race in 2018, Mr. VanDyke quickly sold the house he briefly owned in Nevada and moved to Virginia to work in Washington, DC, and as of last week, by his own admission, he hasn't even been back to Nevada since then.

He is a DC lawyer and a failed political candidate from Montana who shares this White House's extreme political views. They are imposing him on Nevada despite the fact that we have so many qualified people in our own State who enjoy broad support across the political spectrum.

Nevada has a vibrant community, and we take pride in knowing each other, respecting each other, and most importantly, putting partisan politics aside when it comes to working together for the betterment of our State. So if someone is a good judge or lawyer, if they are honest and they have a good reputation professionally, if they

are civil in court and have a respectful demeanor, you will usually hear the same things about that person from everyone.

These are the types of people who should be Federal judges: people who treat everyone fairly and with respect, who are smart, who are fair, and who follow the facts to get a just result.

After reviewing Mr. VanDyke's record and meeting with him privately and watching his testimony before the Judiciary Committee yesterday, I have arrived at the determination that Mr. VanDyke does not fit that mold.

Mr. VanDyke spent a lot of time in our meeting talking about how the role of a Federal judge is simply to apply the law and not to try to change it. His record clearly shows otherwise.

How do we know this? Because before coming to Nevada, Mr. VanDyke worked for the Montana attorney general. Many of his emails from that time are public. They show he used that government office, where his job was to defend the laws of Montana—instead, what he chose to do is advance his own personal ideological agenda, even when it was against his State's interests. At least in one instance, he signed the State of Montana onto a brief without even bothering to read it.

Among the briefs Mr. VanDyke signed in his home State of Montana during his tenure as solicitor general was one asking the Supreme Court to strike down *Roe v. Wade* and all of the reproductive cases that followed *Roe*. When it comes to a woman's right to make her decisions about her own body, Mr. VanDyke's views and actions are far outside the mainstream, and they are far out of step with the views of the people of Nevada.

I am also concerned about the comments Mr. VanDyke has made about LGBTQ Americans. In 2004, Mr. VanDyke wrote that there is "ample reason for concern that same-sex marriage will hurt families, and consequentially children and society."

The LGBTQ community is at a critical point in its fight for equality. This term, the Supreme Court is considering whether employers in the United States can fire an individual merely for being gay or transgender. When the next case on LGBTQ rights comes up for judicial consideration, it could come before Lawrence VanDyke.

If that isn't enough, here is one more thing to consider. The American Bar Association has, by a substantial majority, rated Mr. VanDyke as unqualified. For a lifetime appointment, we should always strive for a candidate who is very qualified. No, they gave us Lawrence VanDyke, who was rated "not qualified."

Why did the ABA make this determination? Well, I will let the ABA's words speak for themselves. Based on interviews with 60 individuals who have worked with Mr. VanDyke over the years, including more than 40 lawyers and over a dozen judges, this is what the ABA said.

Mr. VanDyke's past work is offset by the assessments of interviewees that Mr. VanDyke is . . . lazy, an ideologue, and lacking in knowledge of the day-to-day practice including procedural rules. There was a theme that the nominee lacks humility, has an "entitlement" temperament, does not have an open mind, and does not always have a commitment to being candid and truthful.

Surely you agree, no matter who is in the White House or who controls the Senate, you would want the Federal judges in your States to come from and reflect your communities. You would want to trust these judges to be fair to your constituents and not use cases to advance their own ideological agenda, and you would want your judges to be, at a minimum, qualified to serve on the bench.

I oppose the nomination of Mr. VanDyke, and if it is withdrawn or voted down, I will be ready that day to work with this White House on finding nominees from Nevada who are qualified and fair and nonpartisan. The people of my home State of Nevada, particularly today, on Nevada Day, deserve nothing less.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

LEGISLATION

Mr. CORNYN. Mr. President, the end of the fiscal year for the U.S. Government came and went without a new funding bill in place. It was a big disappointment because this summer I thought we had reached an agreement on a 2-year budget package designed to make the appropriations process much simpler and eliminate the uncertainty that comes from continuing resolutions and stop-start funding for government agencies.

We agreed to topline funding for defense and nondefense spending. It was a big deal. There was also a promise not to derail the process with poison pill policy riders, and we got it done with plenty of time to spare.

I remember at the time thinking, hey, maybe we can help restore some regular order and put the function back in Congress rather than the dysfunction. But, unfortunately, politics got in the way. When the time came last month to make good on the promises that were made during that 2-year budget cap deal, Senate Democrats blocked a bill to fund our national defense. You heard me right. Senate Democrats blocked the appropriations for our national defense.

If there is one thing we should make a priority here in Washington, DC, it is protecting our country, keeping our men and women in uniform adequately trained with the equipment and the resources they need in order to fight and win the Nation's wars, and, even better, to prevent a war from being fought in the first place.

But our Democratic colleagues simply blocked it. It wasn't a disagreement over the amount. No, it was something they had already agreed to

last summer. They blocked the bill because, frankly, they don't want President Trump to have any sort of wins here, even when it undermines our national security.

It was a remarkable show of priorities. Their animosity toward the President exceeded their desire to see funding flow to the men and women in uniform and to defend the Nation. We could have provided our troops with the largest pay raise in a decade. We could have sent vital funding to our military as they battle looming threats around the world. We could have put the appropriations process back on track and restored the basic functioning of Congress. But, no, our Democratic colleagues chose to put politics ahead of any of that.

With our only options being a government shutdown or a short-term funding bill, we chose the lesser of two evils. But it is still evil in the sense that it is much less than we should be doing to serve the Nation and serve our constituents. We pushed the deadline, and we kicked the can down the road to November 21. We hoped our colleagues on the other side of the aisle would have a change of heart, but now they have proved us wrong.

Democrats have blocked money for the military again and again. This is beginning to feel like "Groundhog Day." They continue choosing to put their ongoing feud with the President before our most important responsibility as a Congress: to provide for the common defense.

As if we needed to be reminded of the importance of our strong military, earlier this week, our highly skilled Special Forces troops took out the leader of ISIS, one of the most feared and dangerous terrorist leaders in the world. That terrorist is no longer a threat, thanks to the men and women of our military—Special Forces, in particular.

It was a tremendous victory for the United States and for our allies and underscored the need for us to continue to support our troops by funding the Defense bill. For our forces to continue fighting and risking death and injury itself while defeating evil in every corner of the world, they need our support, and there is no more tangible way to demonstrate that support than for Congress to pass this funding bill.

We also know, because of the need to plan, they need stability. They need a long-term funding bill and not just to stop-start, kick the can down the road a few weeks, and then come back and refight the same fights over and over and over again. That is really a pathetic response to our duty to help support our men and women in uniform. They need the unwavering support of every man and woman in this Chamber.

But, right now, our Democratic colleagues seem content just to say no, to get in the way, and to block this funding. Will they pay any price for doing that? I don't know. They don't seem to really particularly care.

I have no doubt that this obstruction is tied to the obsession that the House