

I urge my colleagues to oppose the nomination of Mr. Wolf.

NOMINATION OF STEVEN J. MENASHI

Mr. President, on the subject of nominations, last week every Republican member of the Senate Judiciary Committee voted to report out the nomination of Steven Menashi for a lifetime judgeship on the Second Circuit. Every Democratic Member voted the other way, and for good reason.

Steven Menashi lacks even the most basic courtroom experience. He has never argued in court, conducted a deposition, or tried a case. He has written dozens of incendiary editorials and articles in which he showed a lack of judgment and judicial temperament.

Let me give you a couple of examples. He said that “charges of racism are typically overblown.” He went on to say that gun control legislation is “pointless and self-defeating because guns reduce crime.” Then he said, “The animal rights crowd is, by and large, a contemptible bunch.”

Mr. Menashi currently works in the White House. He works with Stephen Miller. There is a name that may be familiar. He is pushing Stephen Miller’s anti-immigrant agenda.

He spent several years advising the Secretary of Education, Betsy DeVos, on some of the most anti-student measures that Department has ever undertaken.

Mr. Menashi’s hearing before the Senate Judiciary Committee was an embarrassment. He refused to answer basic questions from either Democrats or Republicans, basically saying to the Judiciary Committee: My experience—what I have done, what I believe—is none of your business.

It was a deeply troubling nomination, to the point where even Republican colleagues on the committee were chiding him to answer a question if he wanted a lifetime appointment to the second highest court in the land. He continued to refuse, but he still won all of their votes when his nomination came up last week.

Apparently, Mr. Menashi is hoping that in this busy week, we are going to hold this floor vote, and nobody will notice. Well, a lot of Americans will notice, especially the tens of thousands of Americans who have been the victims of the for-profit college scams. Do you remember those schools? You have heard a lot about them, haven’t you? All these schools that said they were colleges and universities—they were in it for a buck. Many of them turned out to be frauds. They weren’t really colleges and universities.

Nine percent of high school students in the United States go to for-profit colleges and universities—9 percent—and one-third, 33 percent of all the student loan defaults are students at for-profit colleges and universities. Why? They overcharge the students; they undereducate them; and they leave them with a mountain of debt. When these schools go out of business, we have an opportunity to say to the stu-

dents: We are sorry you were defrauded, but it shouldn’t ruin your life. We are going to make sure your student loan at this bogus institution is forgiven.

Months ago, we learned that the DeVos Department of Education misused private Social Security Administration data to deny student loan relief to thousands of students cheated by the failed for-profit school, Corinthian Colleges. Last week, we learned that Mr. Menashi, the nominee we will consider this week, was the architect of this plan to deny these students full and fair relief. He gave legal advice to Secretary DeVos on how to carry it out.

It was certainly bad advice. A Federal court ruled that the Menashi plan illegally violated student privacy and ordered the Department to stop putting Corinthian borrowers into collection while they waited for relief. This man, who wants a lifetime appointment to opine and rule and judge on laws and statutes and the Constitution, gave advice to the Secretary of Education that turned out to be found in violation of the law. In the months that followed, the Department failed to comply with the order of the court, resulting in the judge’s holding Secretary DeVos in contempt of court and forcing her to pay a fine because of Menashi’s advice. What a debacle. Yet my Republican colleagues believe that the appropriate response to this debacle by Mr. Menashi is to promote him to a lifetime appointment to a court that is one step below the U.S. Supreme Court.

While Mr. Menashi is looking forward to his lifetime job, the victims of Corinthian Colleges’ fraud and Menashi’s illegal scheme continue to suffer without the relief they deserve—victims like a man named Sheldon, one of my constituents from Bloomington, IL. He took out student loans to enroll in an online criminal justice course from one of the Corinthian schools, called Everest College.

Corinthian may have gone bankrupt in 2016 after it was revealed that it had defrauded students into signing up, but former students like Sheldon have had no relief from the Department of Education for their student loan debt from this bankrupt school that defrauded them. The collection agencies still keep calling Sheldon’s home. He wrote to my office and told me how he had his wages garnished because he owes \$13,000 in student loans for enrolling in this bogus Corinthian College program. He said: “My checks have been taken away from me for the past 3 years.”

Mr. Menashi should be embarrassed by the advice he gave to Secretary DeVos to deny full and fair relief to students like Sheldon and thousands of others who were tricked and cheated by for-profit colleges. He is not. Mr. Menashi told me in writing after his hearing: “I am proud of my work at the Department of Education and of the legal advice that I provided.”

The Second Circuit is one of our most important appellate courts. It hears appeals coming out of the Southern District of New York, where there are multiple investigations underway of national note.

The Senate should have grave reservations about advancing a nominee to the Second Circuit who currently works in the White House but would not disclose under oath what he does, who has minimal courtroom experience, who has a record of giving troubling legal advice, and who has a history of expressing views which were entirely out of the mainstream.

I want to commend one Republican colleague, Senator SUSAN COLLINS of Maine, who said she is personally going to oppose the Menashi nomination because in her words—I couldn’t say it more clearly—“I do not believe he is well-suited to serve on the federal bench.” Wouldn’t it be great if a few more Senate Republicans felt the same way?

I urge a “no” vote on the Menashi nomination.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise today in opposition to the nomination of Steven Menashi to the United States Court of Appeals for the Second Circuit.

From 2017 to 2018, Mr. Menashi served as the Acting General Counsel of the Department of Education under Secretary Betsy DeVos. Mr. Menashi has stated that, in this role, he was “responsible for providing legal advice related to all aspects of the Department’s operations, including litigation, rule-making, regulation, and enforcement.”

Before Mr. Menashi joined the Department of Education, the Department had found that thousands of students had been defrauded by for-profit colleges. The for-profit schools had lied to students about job prospects, graduation rates, and steered them into mountains of debt. The Department had concluded that these students were entitled to relief from their student loan debt.

But when Mr. Menashi arrived at the Department, he took a different view. He wrote a memo, which has since been obtained by the New York Times, arguing against full debt relief for the students.

Many of these students found themselves unable to work in the fields that they had pursued at the for-profit colleges because the colleges had either suddenly closed or the degrees had proven to be worthless. Nonetheless, Mr. Menashi’s idea, which the Department adopted, was to use the private Social Security earnings data of the defrauded students as a basis for limiting their relief. Even if you put aside the unfairness of Mr. Menashi’s plan, there was another problem: It was illegal.

Six months after Mr. Menashi’s plan was implemented, and while Mr. Menashi was still at the Department, a

Federal court ruled that using students' private Social Security data violated the Federal Privacy Act. The court ordered the Department to stop using the students' private information and to stop collecting on their student loans.

Even after this Federal court ruling, the Department failed to comply. The Department continued to illegally collect on the student loans of at least 16,000 defrauded students. The Department garnished wages, seized tax refunds, and wiped out some students' credit ratings.

Less than 3 weeks ago, a Federal court held Secretary Betsy DeVos in contempt of court and fined the Department \$100,000. The Federal magistrate judge who issued the contempt order said, "[T]here have to be some consequences for the violation of my order 16,000 times."

Mr. Menashi should not be rewarded for providing such bad legal advice with a lifetime appointment to the Federal bench.

While at the Department, Mr. Menashi also helped push new rules on campus sexual assault that the administration's own analysis concluded would dramatically reduce the number of sexual assault investigations. Under these new rules, a student who is the survivor of sexual assault would be subject to cross-examination by their attacker's representative at a live hearing.

In 2018, Mr. Menashi joined the White House Counsel's Office, where he has been a member of Stephen Miller's White House Immigration Strategic Working Group. This working group has helped push a number of extreme anti-immigrant policies, including the White House's policy of separating children from their families, a problem that still has not been fully remedied, despite a court order to do so.

At his hearing, Mr. Menashi refused to answer numerous basic questions about his work, including about his role in the administration's family separation policy. He also refused to answer written questions about whether he has worked or advised on matters relating to the whistleblower complaint and President Trump's call with Ukraine's President. Importantly, none of these questions asked Mr. Menashi about the substance of his advice. These questions simply sought to understand what matters he has worked on. His refusal to answer makes it difficult for us to fulfill our constitutional duty to advise and consent.

Mr. Menashi's earlier career is equally troubling. He criticized "Take Back the Night marches," which aim to stop campus sexual assault. He also wrote that the Supreme Court's decision in *Roe v. Wade* had codified the "radical abortion rights advocated by campus feminists." He wrote that gun control legislation is "pointless [and] self-defeating, because guns reduce crime," and he claimed that a major LGBT-rights organization had "incessantly

exploited the slaying of Matthew Shepard for both financial and political benefit." Mr. Menashi wrote that "charges of racism are typically overblown," and he compared affirmative action in college admissions to Nazi Germany's Nuremberg laws.

I want to close with a quote from a letter of opposition submitted by the Congressional Black Caucus. The CBC rarely takes a position on judicial nominees, but in this instance, felt compelled to do so. The CBC writes: "Menashi's writings show a willingness to discriminate against minorities, women and the LGBTQ community. Menashi, who has consistently spoken against diversity and inclusiveness, does not deserve a lifetime position on one of the most important appellate courts in this country."

In light of Mr. Menashi's record, it is hardly surprising that there is bipartisan opposition to his nomination.

I will vote no on Mr. Menashi's nomination, and I urge my colleagues on both sides of the aisle to do the same.

NOMINATION OF CHAD F. WOLF

Mr. VAN HOLLEN. Mr. President, I rise to object to the nomination of Chad Wolf to serve as DHS Undersecretary of the Office of Strategy, Policy, and Plans.

This nomination is yet another example of the Trump administration's chaotic and inhumane approach to immigration issues. DHS is the third largest Federal agency, and under the Trump administration, it has had four directors in less than 3 years. It has been widely reported that Republicans are rushing to confirm Mr. Wolf so that President Trump can then appoint him Acting DHS Secretary. He will be the fifth DHS Secretary and the third Acting. Rather than go through the normal channels of selecting a nominee and allowing Senators to properly vet and question the nominee, Republicans are going along with Trump's plan to circumvent Federal law.

When asked directly by my colleague, Senator ROSEN, about his role in formulating the family separation policy, Mr. Wolf denied any direct knowledge of that policy. Leaked emails later revealed that, as Secretary Nielsen's chief of staff, he presented her with a memo with options to deter migrants coming to the border. Separating parents from their children was the second option on that list. The family separation policy is repugnant to our country's values.

The timing of this nomination is especially concerning in light of the Supreme Court oral arguments this week on DACA. The Trump administration ended DACA and then rejected compromise legislation, written by a bipartisan group of Senators, that would have given over 700,000 Dreamers who have grown up here stability and, ultimately, a path to citizenship. When those Senators were negotiating an immigration deal, in an unprecedented

action, DHS Secretary Nielsen sent a letter lambasting the negotiations and accused them of undermining U.S. security.

The Trump administration has weaponized and poorly managed DHS, and I cannot support this nominee.

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

The PRESIDING OFFICER (Mr. SASSE). Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, all postcloture time is expired.

The question is, Will the Senate advise and consent to the Wolf nomination?

Mr. CRAMER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senator is necessarily absent: the Senator from South Dakota (Mr. ROUNDS).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 354 Ex.]

YEAS—54

Alexander	Fischer	Paul
Barrasso	Gardner	Perdue
Blackburn	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hawley	Roberts
Braun	Hoeben	Romney
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Isakson	Scott (FL)
Collins	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sinema
Cramer	Lee	Sullivan
Crapo	Manchin	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Murkowski	Young

NAYS—41

Baldwin	Hassan	Reed
Bennet	Heinrich	Rosen
Blumenthal	Hirono	Schatz
Brown	Jones	Schumer
Cantwell	Kaine	Shaheen
Cardin	King	Smith
Carper	Klobuchar	Stabenow
Casey	Leahy	Tester
Coons	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden
Gillibrand	Peters	

NOT VOTING—5

Booker	Rounds	Warren
Harris	Sanders	

The nomination was confirmed.