

The cases that come before Federal courts are too important to tolerate incompetence, inexperience, or bias in the Federal judiciary.

Why does this matter both in terms of the process and the substance? The President has put forward nominees who, in my view, would take us backward on civil rights and voting rights, on women's access to healthcare, on laws that protect consumers and workers, and on the environment. Their decisions impact every American. Equally concerning is that Trump's nominees don't reflect the diversity of our Nation. We want litigants to go into a court and be able to have their day in court and be confident that the judge before them represents the breadth and range of America.

So far, of the 55 circuit court nominees confirmed, only 11 have been women, and they have been even less racially diverse. Of all of President Trump's nominees, 87 percent are White and 78 percent are men. I think the judiciary should reflect the diversity of the American people and have strong records and a wealth of experience. Sadly, that is not the case for several we have considered, and let me briefly speak to two.

President Trump's nominee to serve on the Ninth Circuit Court of Appeals, who was recently confirmed, Lawrence VanDyke, raised serious concerns about his work ethic and his temperament. He was rated "not qualified" by the ABA based on concerns about his lack of knowledge of basic procedural rules and his commitment to being truthful. Six retired justices of the Montana Supreme Court questioned his fitness when he ran for the Supreme Court in Montana and expressed concerns about his partisanship and the possibility of corporate influence. He is opposed to basic civil rights and civil liberties for the LGBTQ community and made a range of statements that I think would be disqualifying under any circumstance.

Sarah Pitlyk, who this Senate just confirmed this week to a lifetime seat on the U.S. District Court for the Eastern District of Missouri, has never tried a case, either criminal or civil, has never taken a deposition, has never examined a witness, and has never argued a motion in Federal or State court. The ABA unanimously rated her as "unqualified" for a lifetime seat in the Federal judiciary.

We can and we should do better than this. Of the entire bar of the State of Missouri, I am certain there are qualified, capable, and seasoned conservatives who could have been nominated for that seat in the entire Ninth Circuit. In particular, the State for which Mr. VanDyke was nominated, there are certainly abundant opportunities to choose qualified nominees. We can and we should do better than this.

In my State of Delaware, my senior Senator, TOM CARPER, and I worked together to help form a bipartisan judicial nominating committee to fill two

vacancies on our district court. We felt strongly we had to reach out to the White House and work with them to identify consensus nominees who would be the best candidates we could best support and whom the President could nominate. Ultimately, we had a very productive process, and the President nominated Maryellen Noreika and Colm Connolly, whom we both returned positive blue slips for. They ultimately have been confirmed by this Senate, seated, and now serve in our district court. This is how the process should work.

We should be able to consult back and forth between the executive and legislative until we find competent, capable, and qualified judges of whom we can all be proud of. The Senate should not be a rubberstamp for this administration, regardless of the quality of nominees that get sent forward.

I will continue to oppose President Trump's nominees who are undeserving of a seat on the Federal bench and unqualified to serve. It is, in my view, our responsibility to guard against the politicization of the Federal judiciary, and we should work together, not to tear down and destroy the traditions and rules of this Senate but to find ways to strengthen and sustain them. That is how we will move qualified and consensus nominees forward and protect the independent judiciary on which our very democracy rests.

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

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

TRIBUTE TO JOHNNY ISAKSON

Mr. WHITEHOUSE. Mr. President, I come to the floor today because I missed an important occasion in the Senate. We had a celebration recently of one of our more beloved Members, Senator JOHNNY ISAKSON of Georgia.

There wasn't much that could keep me away from that, but there was no Senator going to Madrid to the conference of the parties to consider the Paris Climate Agreement. Speaker PELOSI asked me to come on her House delegation so that it was bicameral. As I think most people in this body know, I am pretty animated on that subject and couldn't say no. There are not many other things that could have kept me away.

I want to come now and make up a little bit for being absent that day and express my gratitude for JOHNNY's friendship to me over the years. I had the pleasure of going with him to the D-day anniversary on a codol that he led with his usual graciousness and patriotism. He was kind enough to join quite early on the bipartisan Senate Oceans Caucus I started and has been a very helpful part of that endeavor.

We have worked together on ways to improve healthcare planning for people who are in the late stage of illness to make sure that they get the care that they want and don't get a lot of care that they don't want and so that they have a chance to have their dignity and desire to be at home respected.

We have long been adherent of a biennial budget, and I am delighted that the bipartisan bill that Senator ENZI and I have put together will create a biennial budget. I am not sure we will be able to get that done before Senator ISAKSON leaves, but one way or the other, his interest in biennial budgeting will live on, I hope, successfully when we pass that.

We had a parity question about children's mental health hospitals that weren't getting counted and, therefore, weren't getting access to funding for the medical interns who come, and JOHNNY helped me fix that. It helped, I am sure, hospitals in Georgia, but it was particularly helpful to me for our Children's Hospital in Rhode Island.

We have a lot of Rhode Islanders who were killed in the Lebanon Marine barracks bombing, and there has been litigation against Iran for its responsibility for those deaths. It is not easy to collect a judgment on a foreign government, and JOHNNY has been very helpful to me in our joint efforts on Iran terror victims' judgments, helping us let the lawyers collect against assets of the Government of Iran.

Then, we regularly have done National Mentoring Month resolutions together.

But for all the things we have done together, that is not what I am going to miss about Senator JOHNNY ISAKSON. He is just one of the most decent, kind, good people who I have come across anywhere in my life and, certainly, one of the most decent and kind Members of the Senate.

With my very sincere apologies, JOHNNY, for missing the correct day, I hope you will understand how much it mattered to me to be elsewhere and why I had to be there. I come to the floor now, belatedly, to wish you all my very best with great affection and great respect.

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

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

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the vote on the soon-to-be-pending nomination be called up.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Duncan nomination?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON), the Senator from Kansas (Mr. MORAN), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Kentucky (Mr. PAUL), the Senator from Georgia (Mr. PERDUE), and the Senator from South Dakota (Mr. ROUNDS).

Further, if present and voting, the Senator from Kansas (Mr. MORAN) would have voted "yea."

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

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 385 Ex.]

YEAS—89

Alexander	Feinstein	Portman
Baldwin	Fischer	Reed
Barrasso	Gardner	Risch
Bennet	Gillibrand	Roberts
Blackburn	Graham	Romney
Blumenthal	Grassley	Rosen
Blunt	Hassan	Rubio
Boozman	Hawley	Sasse
Braun	Heinrich	Schatz
Brown	Hirono	Schumer
Burr	Hoehn	Scott (FL)
Cantwell	Hyde-Smith	Scott (SC)
Capito	Inhofe	Shaheen
Cardin	Johnson	Shelby
Carper	Jones	Sinema
Casey	Kaine	Smith
Cassidy	Kennedy	Stabenow
Collins	King	Sullivan
Coons	Lankford	Tester
Cornyn	Leahy	Thune
Cortez Masto	Lee	Tillis
Cotton	Manchin	Toomey
Cramer	Markey	Udall
Crapo	McConnell	Van Hollen
Cruz	McSally	Warner
Daines	Menendez	Whitehouse
Duckworth	Merkley	Wicker
Durbin	Murphy	Wyden
Enzi	Murray	Young
Ernst	Peters	

NOT VOTING—11

Booker	Moran	Rounds
Harris	Murkowski	Sanders
Isakson	Paul	Warren
Klobuchar	Perdue	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The PRESIDING OFFICER. The majority leader.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 533.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The clerk will report the nomination. The PRESIDING OFFICER. The bill clerk read the nomination of Patrick J. Bumatay, of California, to be United States Circuit Judge for the Ninth Circuit.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Patrick J. Bumatay, of California, to be United States Circuit Judge for the Ninth Circuit.

Mitch McConnell, Tom Cotton, John Boozman, Mike Crapo, Thom Tillis, Chuck Grassley, Jerry Moran, Kevin Cramer, John Barrasso, Mike Braun, Joni Ernst, Pat Roberts, John Cornyn, Roy Blunt, John Thune, Lindsey Graham, Roger F. Wicker.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 534.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Lawrence VanDyke, of Nevada, to be United States Circuit Judge for the Ninth Circuit.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Lawrence VanDyke, of Nevada, to be United States Circuit Judge for the Ninth Circuit.

Mitch McConnell, Tom Cotton, John Boozman, Mike Crapo, Thom Tillis, Chuck Grassley, Jerry Moran, Kevin Cramer, John Barrasso, Mike Braun, Joni Ernst, Pat Roberts, John Cornyn, Roy Blunt, John Thune, Lindsey Graham, Roger F. Wicker.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 530.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of John Joseph Sullivan, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russian Federation.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of John Joseph Sullivan, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russian Federation.

Mitch McConnell, Thom Tillis, Richard Burr, Pat Roberts, John Cornyn, John Hoeven, Cindy Hyde-Smith, Roger F. Wicker, Marco Rubio, John Boozman, James E. Risch, John Barrasso, John Thune, Roy Blunt, Lamar Alexander, Mike Braun, Shelley Moore Capito.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 543.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.