

Montana way of life. I stand with Montanans in strongly opposing this dangerous power-grab proposal. With Judge Barrett on the Supreme Court, the age of activist Justices rewriting the laws to accomplish their own policy agendas will be gone.

She is a mother of seven children—five biologically and two adopted Haitian children. We will have a Supreme Court Justice whom we can also call a minivan mom. Judge Barrett is an inspiration to professional women, to working moms, and to school-aged girls across Montana who can feel certain there is no American dream that women cannot achieve.

Just last week, I met with several northwest Montana businesswomen leaders in Kalispell to talk about their support for Judge Barrett's confirmation. These Montana businesswomen shared their views of Judge Barrett as a mentor, a role model, a wife, a mother, a brilliant jurist, and a great leader.

I would also like to take a moment to congratulate and thank President Trump for nominating such outstanding and well-qualified individuals to the U.S. Supreme Court. With Judge Barrett's confirmation, we will take another major step toward restoring the Founding Fathers' vision for the Supreme Court and the separation of powers they brilliantly created.

As a U.S. Senator from Montana, supporting Judge Barrett's confirmation to the Supreme Court is an easy call. She is someone whom Montanans can be proud of and whom Montanans can look up to on the Court.

I urge all of my colleagues on both sides of the aisle to support Judge Amy Coney Barrett's confirmation to the U.S. Supreme Court.

UNANIMOUS CONSENT REQUEST—S. RES. 758

Mr. President, I rise today to speak about an effort that, frankly, I never envisioned I would have to, something that is so beyond radical, and that is packing the U.S. Supreme Court.

This plan, hatched by a Democratic President in 1937, was so radical then that it was soundly defeated here in the U.S. Senate—a Senate, I might add, in which 76 of the 96 Members were Democrats.

This was a plan that was so hostile to institutional principles that the Senate Judiciary Committee in 1937 said that it was “a measure which should be so emphatically rejected that its parallel will never again be presented to the free representatives of the free people of America.”

In fact, as recently as 2019, the brilliant late Justice Ruth Bader Ginsburg stated: “I think it was a bad idea when President Franklin Roosevelt tried to pack the court . . . and if anything would make the court look partisan, it would be that.”

Well, today we find ourselves in the same spot, and the reason why is simple: The Democratic Party still does not accept the legitimacy of President Trump or his highly qualified judicial nominees.

Don't forget it was just earlier this year that the Democratic leader, Senator SCHUMER, stood in front of the Supreme Court and openly threatened President Trump's two Supreme Court picks if they didn't vote the way he wanted by saying, “I want to tell you, Gorsuch, I want to tell you, Kavanaugh: You have released the whirlwind and you will pay the price. You won't know what hit you if you go forward with these awful decisions.” That is disturbing—disturbing, indeed.

Let's be clear. This is nothing more than an attempt at a partisan power grab by Democrats. You see, packing the Supreme Court by moving from the current 9 Justices to 11 or 13 would essentially eliminate the Supreme Court from being a check and a balance on Congress and the executive branch, paving the way for a radical, far-left agenda put forth by CHUCK SCHUMER and the Democrats if they get the majority.

Packing the Supreme Court is a direct attack on our Montana way of life. Packing the Supreme Court with activist, liberal Justices will help the far-left radicals strip away our Second Amendment rights, destroy good-paying energy and natural resource jobs, and cripple the Montana and American economy by blocking forest management and energy projects.

For us in Montana, we know exactly what it means to have an activist, liberal judge on the bench. Look no further than Judge Brian Morris of Montana. Judge Morris has done everything in his power to try to kill Montana's energy jobs. In fact, he specifically blocked the Keystone XL Pipeline. This project would create thousands of jobs and generate tens of millions of tax dollars every year for Montana schools and Montana communities.

Packing the Supreme Court will also erode a major principle of our Constitution; that is, the separation of powers into three coequal branches of government. Packing the Supreme Court would simply make the Court an extension of the legislative branch. It is the independence of the judiciary that is essential to check and balance both the executive and legislative branches. Packing the Court would simply turn the U.S. Supreme Court into an extension of whatever political party happens to control the White House and the Senate.

Here is how it would work: Whichever President is in power, if they have the same party in power in the Senate, they could keep escalating the number of Justices. It would go from 11 to 13 to 15 to 17. It would absolutely spin out of control, and our Founding Fathers would be rolling over in their graves. The packed Court would simply turn the Supreme Court into an extension of whichever political party happens to control the White House and the Senate.

So I am here today to call out the shameful partisan attack on our judiciary,

and I hope the rest of my colleagues will join me in passing this resolution that calls for the Supreme Court to simply remain as it has been for 151 years at nine Justices. That is all it says—we are going to keep the Supreme Court at nine Justices.

As if in legislative session, I ask unanimous consent that the Senate proceed to consideration of S. Res. 758, submitted earlier today. Further, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

THE PRESIDING OFFICER. Is there objection?

Mr. WHITEHOUSE. Mr. President, reserving the right to object.

THE PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Reserving the right to object, I would open with the observation that—well, let me start by saying that in one of the great plays in our language, the opening began with the observation that “something is rotten in the state of Denmark.”

There is increasing evidence that something is rotten across that lawn and across First Street at the U.S. Supreme Court. What is the evidence of that? Well, the first thing I would suggest is the amount of anonymous dark money influencers swirling around the Court.

I have spent a good deal of my professional life around appellate courts. I have never seen—nor does the history of the Supreme Court evidence—anything like what is taking place right now with dark money influencers swirling like eels around that Court.

How do they do it? Well, they are involved in the selection process through a group called the Federalist Society, which takes large, anonymous, dark-money contributions and controls the selection of judges. How do we know it controls the selection of judges? Donald Trump has said so.

The Wall Street Journal has said this was a subcontracting operation—a subcontracting operation—and it worked. It is not a good thing when the selection of our Supreme Court is subcontracted out to a private group that then takes multimillion-dollar anonymous donations. It shouldn't be hard for Members to understand that is a dangerous set of facts.

Then you go on to the campaigns for those selected nominees, and you see more anonymous donors writing checks for as much as \$17 million. I can't write a check for \$17 million. I don't know anybody here who can. The number of donors who can write a check for \$17 million is very small, and the number who would want to is even smaller. That is another avenue of influence.

Last, you have law groups appearing before the U.S. Supreme Court, also anonymously funded. Some have gone out to find a plaintiff of convenience to

bring strategic litigation before the Court. Some appear as what they call amici curiae, friends of the Court. Some swap back and forth in the same series of cases; they exchange positions as the litigant group and a friend of the Court. But what they share is that they are funded by the same groups, and they don't disclose that to the Court in their filings. So it raises the proposition that this isn't just dark-money eels swirling around the Court, but these are, in fact, tentacles of a common operation.

It is particularly surprising that the Senator from Montana would not have concern about this because the State of Montana has been so strongly concerned about dark-money influence for so long. Indeed, it was a State of Montana case that went to the Supreme Court under, I guess, Attorney General Bullock at the time, where Senator McCain and I wrote a bipartisan brief warning of the dangers of all of this money.

So that is the first thing—dark-money influencers swirling around the Court in a way that is unprecedented, in my view, in judicial history.

The second is a pattern of decisions that has emerged out of that Court. Under Chief Justice Roberts, there have been 80 decisions that had these characteristics: One, they were decided 5 to 4—a bare majority. Courts usually strive to build stronger majorities because that strengthens the institution. Eighty cases, bare 5-to-4 majorities—by the way, bare partisan 5-to-4 majorities—and in every case, an identifiable Republican donor interest at stake that won—a pattern of 80 to 0.

Last, you have the behavior taking place politically around these nominations and how peculiar that behavior is.

Here is Senator DAINES talking about the effort to appoint Judge Garland to the Supreme Court. He said, "I don't think it's right." The Senator put it in terms of right and wrong. And he said, "I don't think it's right to bring a nominee forward in an election year." He said, "The American people have already begun voting . . . and their voice should be reflected in what we do going forward."

The very next occasion, the very next election in which the same set of circumstances presented itself, he and virtually everyone on the Republican side completely reversed their position about what is right in this matter. When you see reversals of position like that, that is a signal to me that there is something more going on.

So whether it is all the dark money, whether it is the peculiar pattern of decisions, or whether it is the unexplainable behavior of Members, it sends a pretty strong signal that something is, in fact, rotten in and around that Court.

I believe that every one of us should agree that we are entitled as Americans to a court that is not a pantomime court that goes through the rou-

time, the ritual of adjudication, while making sure that a small group of special interests actually wins the case at the end of the day. Nobody should be interested in a court that operates that way.

We don't know how bad the situation is because it is dark money, because it is still hidden, and until we figure it out, under the rule that it is premature to rule out remedies until you have a complete diagnosis, I will object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Montana.

Mr. DAINES. I appreciate the Senator from Rhode Island bringing up dark money spent in our elections.

We all agree that dark-money spending has gotten out of control; however, the Senator from Rhode Island gives me an opportunity to point out the blatant hypocrisy from those in the Democratic Party on this very issue.

I know I speak for probably every Montanan, if not most, when I say that we are tired of being bombarded with never-ending television, digital, radio, mail pieces, and most of it is from dark-money organizations. And where do you think much of this dark money is coming from? It is from groups aligned with the minority leader and the Democrats. In fact, according to a September 2020 report by OpenSecrets, which tracks political spending, two dark-money groups aligned with the Democratic Senate leadership have spent more than \$44 million on political TV ads—more than any other outside group on television ads during the 2020 election cycle.

Let me say that again. These are two dark money groups aligned with Democratic Senate leadership that have spent more than any other outside group on television ads during the 2020 election cycle. Yet neither group has reported any spending to the FEC at all—zero.

You may ask yourself why the minority leader and his dark money allies are dumping so much money into races across our country, including Montana. The reason for that is the minority leader wants to be the majority leader and take control of the U.S. Senate. He wants to change the rules, destroy 151 years of precedent, and pack the Supreme Court with activist, liberal judges who will strip away our rights and our freedom.

Packing the Court is a direct attack on our Montana way of life. That is why, more than ever, my Court packing resolution is so important. It just says: Let's keep it at nine.

It is not that complicated. We cannot let this Court packing occur.

So while the Democrats continue to decry dark money—until it benefits their campaigns, of course—we must all take a stand in ensuring that our Montana way of life is protected.

For those reasons, I object.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. I just want to make sure that the record of the Sen-

ate is clear here. Democrats don't just decry dark money spending; Democrats have, over and over again, sought to end it. I know this because I was the floor leader on the DISCLOSE Act when we brought it right here in the Senate, and we came within one vote of getting rid of dark money. Every Democrat voted for that measure. Every Democrat voted to get rid of this scourge of dark money. Every Republican voted to protect it.

So, yes, do Democrats use dark money? We are playing by your rules. We are playing by Republican rules. We could have brought up the DISCLOSE Act again because it was the first order of business the House passed in H.R. 1, but the Senate majority leader didn't want that bill to get a vote.

So it is a little bit rich to hear a litany of woes about dark money from the party that is responsible for dark money happening. We could have gotten rid of it if we had passed my DISCLOSE Act. We could have gotten rid of it if we had passed H.R. 1. We did none of the above.

So if I may, I would like to ask that a resolution be passed.

UNANIMOUS CONSENT REQUEST—S. RES. 59

Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 59, submitted earlier today; further, that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

If I may, just briefly, before the Presiding Officer calls for objections, just describe the resolution, which expresses the sense of the Senate that dark money undermines the integrity of the judicial system and damages the perception that all people receive equal justice under law; that dark money organizations funded by anonymous donors are now playing an outsized role in the selection of judges and Justices of the Supreme Court of the United States and have spent millions of anonymous dollars on advertising campaigns supporting those selections; that the people of the United States have no idea who is funding these campaigns and what business those funders might have before the Court; that the Federalist Society and the Judicial Crisis Network and other groups have been a part of this and they are heavily dark money funded in this role; that then-Candidate Trump said of his judicial selections that they would "be hand-picked by the Federalist Society"; that his White House counsel boasted that the Federalist Society had been "in-sourced"; that the Washington Post reported that Leonard Leo, then of the Federalist Society, helped raise \$250 million from mostly anonymous donors into this effort—and I will leave the rest of the details to interested readers who want to pursue it.

But I would say to Senator DAINES' umbrage about dark money in Montana campaigns, if there is anything worse