

concern only about winding down the emergency lending facilities established in the CARES Act. If that is what he is genuinely concerned about, there is a path to compromise. But his proposal goes much further and includes prohibitions on the Treasury and the Fed's authority that would handicap our recovery efforts moving forward—not just during this crisis but any future crisis. We cannot agree to that, nor is it what the Senator from Pennsylvania says he cares about. What he is proposing is not about COVID or helping the American people; it is about tying the hands of the next Treasury Secretary and the next Fed Chairman in a true emergency. So I hope our Republican friends can agree to compromise here. Senator TOOMEY's legislation is the only significant hurdle to completing an agreement, and Republicans need to make a decision.

We are quickly approaching an all-or-nothing situation. Everybody needs to make a decision about whether we are going to pass this much needed relief or not and about eleventh hour demands and whether they are worth holding up the entire bill.

We made great strides and great progress over a few days. You can use whatever football analogy you want—we are on the 5-yard line or the 1-yard line or whatever. The truth is simple: We are close to an agreement, but we need to finalize it. We need to finalize it, and only the Toomey provision stands in the way.

We are ready to deliver a desperately needed extension to the historic unemployment benefits the Democrats secured in March; direct survival checks to millions of American families on the brink of financial collapse; crucial relief to our schools, our small businesses, and our healthcare system; and funding to support the production and distribution of a vaccine.

If we do our jobs, we will deliver the second largest Federal stimulus in our Nation's history, second only to the CARES Act earlier this year. It is still not as large or as comprehensive as the country needs or as our side wants, but it will be larger than even the Recovery Act, called ARRA, in the wake of the last financial crisis.

We have given ourselves already an extension to finish our work. Let's not ask for another one. It is time for a conclusion. We have 2 days to cross the t's, dot the i's, and come to an agreement. The country expects us to finish our work and deliver a result for the American people.

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

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

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

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

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

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 Thompson Michael Dietz, of New Jersey, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Mitch McConnell, Chuck Grassley, Mike Crapo, Shelley Moore Capito, John Cornyn, Cindy Hyde-Smith, Steve Daines, Mike Lee, Ron Johnson, Thom Tillis, Richard Burr, Pat Roberts, Cory Gardner, Tom Cotton, John Boozman, John Hoeven, Lindsey Graham.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Thompson Michael Dietz, of New Jersey, to be a Judge of the United States Court of Federal Claims for a term of fifteen years, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT), the Senator from North Carolina (Mr. BURR), the Senator from Texas (Mr. CRUZ), the Senator from Wyoming (Mr. ENZI), the Senator from Iowa (Ms. ERNST), the Senator from Nebraska (Mrs. FISCHER), the Senator from Georgia (Mrs. LOEFFLER), the Senator from Kentucky (Mr. PAUL), the Senator from Georgia (Mr. PERDUE), the Senator from Ohio (Mr. PORTMAN), the Senator from Idaho (Mr. RISCH), and the Senator from South Dakota (Mr. ROUNDS).

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS) is necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 37, as follows:

[Rollcall Vote No. 275 Ex.]

#### YEAS—50

Alexander	Graham	Menendez
Barrasso	Grassley	Moran
Blackburn	Hassan	Murkowski
Booker	Hawley	Roberts
Boozman	Hoeven	Romney
Braun	Hyde-Smith	Rosen
Capito	Inhofe	Rubio
Cassidy	Johnson	Sasse
Collins	Kelly	Scott (FL)
Cornyn	Kennedy	Scott (SC)
Cotton	King	Shelby
Cramer	Lankford	Sinema
Crapo	Lee	Sullivan
Daines	Manchin	Thune
Gardner	McConnell	

Tillis	Warner	Wicker
Toomey	Whitehouse	Young

#### NAYS—37

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

#### NOT VOTING—13

Blunt	Fischer	Portman
Burr	Harris	Risch
Cruz	Loeffler	Rounds
Enzi	Paul	
Ernst	Perdue	

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 37.

The motion is agreed to.

The Senator from Texas.

#### CORONAVIRUS

Mr. CORNYN. Mr. President, as we all know by now, yesterday brought even more great news on the vaccine front. The FDA has now issued an emergency approval for a second COVID-19 Vaccine. This one will be developed by the American biotech company Moderna and millions of doses will be distributed across the country. I should say millions more doses will be distributed across the country in the coming days.

As we know, the first vaccine approved, which was created by Pfizer and BioNTech, was approved just over a week ago, and already thousands of healthcare workers have been vaccinated. In my State, we expect a million people—a million Texans—to be vaccinated by the end of this month, which is a remarkable achievement and one we ought to celebrate.

Both of these vaccines will be extraordinarily effective, estimated to be 95 percent effective. If you think about the seasonal flu vaccine, for example, it is, generally speaking, no more than 60 percent effective and many times far less. So 95 percent represents an amazing accomplishment. So the American people have every reason to be optimistic about our ability to put this virus in the rearview mirror, once and for all.

As we now know, the first round of Pfizer vaccines were sent to major hospitals across the country, including more than 100 in my State. Unfortunately, rural areas were almost entirely excluded. This is largely because of the infrastructure required to use the Pfizer vaccine, which must be kept at a negative 94 degrees Fahrenheit, which is significantly colder than the average freezer. While you are likely to find these ultra-low-temperature freezers in major hospitals and major research labs, they are far less likely to be found in smaller, rural hospitals. So when the first round of Pfizer vaccines went out the door, they were only sent to hospitals with the necessary equipment and a large number of workers who needed the vaccine. As a result,

the healthcare heroes in rural areas, who have been fighting the same virus, often with fewer staff, fewer resources, and fewer treatments, were left waiting. But we have every reason to believe that this will change with the approval of the Moderna vaccine. This doesn't require the same low temperature storage and can be kept at around 40 degrees Fahrenheit for 30 days. This will make it easier to safely transport these vaccines from manufacturing sites to rural parts of Texas and the rest of the country and ensure that all of our healthcare heroes, our frontline workers, and, eventually, the general public will not be left behind.

There is no reason why rural healthcare workers in Texas or anywhere should be denied this lifesaving vaccine when their peers in larger urban areas are already receiving it. This is yet another reason to celebrate the approval of the second successful vaccine, and I am eager for the Moderna vaccine to arrive in healthcare facilities across Texas.

Mr. President, that brings me to the business that remains before the Senate today and, likely, for the next couple of days. After months of trying to come together on coronavirus legislation—months—the last several days have given the American people a lot of reason to hope. First of all, it seems like, for the first time in months, there is actually bipartisan interest in achieving an agreement. That wasn't the case in the runup to the election, where we had at least three or more cloture votes fail in the Senate.

So for months additional coronavirus relief was defeated by our Democratic colleagues who weren't even interested in the runup to the election on providing additional relief after the CARES Act passed last March. But, hopefully, that has all changed now after the election. Negotiators are working around the clock to reach an agreement that will gain the support of both parties and reach the President's desk before we gavel out for the holidays. But the days are dragging on, the clock is ticking, and the time is running out.

I want to mention two things—one about the process, and the other is about the substance included in whatever the package will look like.

First of all, given the way that this is being negotiated, basically there are four people who are negotiating this massive spending package on behalf of the 535 Members of Congress, and essentially, because this has been pushed off until these last days of the 116th session of Congress, the only thing most rank-and-file Members will be able to do is to vote up or down. In other words, there is no opportunity to amend it through regular order.

I just have to say, this is a terrible way to do business, and in the future, I hope we do better because this is almost the worst of all worlds when it comes to legislating. But we know our backs are against the wall because of

the politics leading up to the election, where we haven't been able to do more since March, and so we have to do what we have to do.

The second thing I want to mention, which is more about substance, is about the Paycheck Protection Program and the deductibility of ordinary business expenses. I believe the Paycheck Protection Program has been one of the most successful parts of our COVID-19 economic relief. The goal, of course, was to provide small businesses access to low-interest loans, which could be converted into grants based upon their willingness to maintain their payroll and keep their employees connected with the business.

The hope was that these businesses would survive and would rebound after we got the virus in the rearview mirror. We didn't know how long that was going to last, and, indeed, it has lasted longer than any of us would have wanted or had planned. But it is important that this Paycheck Protection Program be revived because time is running out.

In my State, roughly \$41 billion has been granted or—excuse me—loaned with potential for grants to about 417,000 businesses. This has been an essential part of our response to COVID-19 and the economic fallout associated with it. But when we passed the PPP program in March, we expected—the Congress expected that businesses that got the loans that were converted to grants would be able to deduct their ordinary business expenses in the year 2020.

Now, I know that may not be the best tax policy in the world, but we could choose one of two ways to get financial relief to the small businesses. We can shovel money in the front door, or we can allow them to deduct their ordinary business expenses even though they received a grant from the Federal Government.

The reason why I say I know this was part of the understanding in March when we passed the bill is because I have now—because of the Treasury Department's opposition to the deductibility of ordinary business expenses for the recipients of the PPP grant, because of the Treasury Department's position that those are not deductible, we have had to file legislation which will override the Treasury Department's guidance and allow for that deductibility.

Again, this is not an ideal way to write tax policy, but under the exigent circumstances here, I think it makes perfect sense. Again, you can either write more checks on the front end, or you can allow businesses financial relief by deducting their ordinary expenses on the back end.

What I fear will happen, because of the opposition of the Treasury Department, is that, come January, the businesses that have received this incredibly important PPP benefit will find themselves having to pick up—having a tax bill, which will reverse, if not ne-

gate, the benefit that we intended by developing the PPP program in the first place. This will happen as early as January when many businesses have to pay their estimated tax. There will be an incredible backlash, I believe, because I think the recipients of the PPP loans and grants have every reason to expect, as Congress intended, that they would be able to deduct their ordinary business expenses.

What is going to happen if we don't fix that in this underlying bill? Well, we are going to end up doing it next year, I promise you, because I think the backlash we are going to feel here from the businesses that have been suffering, have been hanging on by a thread—that all of a sudden, they have an unexpected tax bill of roughly, according to the Wall Street Journal, about \$120 billion worth.

We ultimately are going to have to fix that, so we might as well fix it on the front end rather than on the back end after our constituents who have been the recipients of the PPP grants rise up in outrage, really, that we haven't taken care of this now when we should. So I hope that in the negotiations on this COVID-19 relief bill, we include the deductibility of ordinary business expenses for recipients of PPP grants.

The funding we provided earlier this year for vaccine distribution has already been depleted, and States are dipping into other sources of funding to ensure they have the capabilities to carry out the widespread vaccination effort. That is another reason why we need to pass this COVID-19 relief bill as soon as possible.

Workers lost bolstered Federal unemployment benefits at the end of July, and they are set to lose additional benefits the day after Christmas.

Small businesses, as I said, are struggling to stay afloat, especially as the winter weather hampers outdoor dining and events. I saw the snow that hit New York, where many of the restaurants—because they have been shut down, indoor dining has been shut down. They tried to build up some infrastructure outside their restaurants, but now even those have been closed down because of the weather.

People are hurting and need help. Parents and teachers are wondering when their children will be able to return to in-person learning and how schools will be able to keep them safe when they do.

The list goes on and on.

Earlier this year, we made a \$3 trillion investment in our war against COVID-19, and that funding has been critical, not only to get us to where we are today in terms of therapeutics and vaccines but also to keep our economy from tanking entirely. But those funds are drying up, programs are expiring, and the American people are counting on us once again to provide the support they need.

There appear to be a few remaining sticking points in the negotiations, but

there is no reason why Congress shouldn't be able to reach an agreement. The steady drip of information from congressional leaders is encouraging, but progress doesn't pay the bills.

Enough time has been wasted this year on partisanship and political posturing. We have reached a make-it-or-break-it moment, and there is no room for inaction. The American people are looking to us to protect their health and their livelihoods, and we cannot let them down.

I yield the floor.

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. LEAHY. 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. LEAHY. Mr. President, I am going to be speaking just a few minutes on another matter, and I believe I will have time at 1 o'clock.

With nobody else seeking the floor at the moment, I would just add to what the distinguished Senator from Texas just said. I discussed this with him off the floor after he spoke.

There is a concern about what might be in the omnibus bill and in the COVID bill, and here on a Saturday and tomorrow, Sunday, or whatever, we are finished, and we are rushing it through. I would remind everybody that we were ready to bring up the appropriations bills that make up the omnibus in July. The House of Representatives had sent over—in June, it sent over their COVID bill. We could have brought it up then. We could have started having a series of votes. It might have taken us 2 or 3 weeks to have votes every day on different parts of their proposal—Democrats' proposals, Republicans' proposals, the Appropriations' proposals—and vote them up or down. I had urged that.

Republicans have the majority in the U.S. Senate. If they didn't like proposals the Democrats had, they could vote them down. But instead they seemed almost terrified to vote.

Ah, but there was a reason. We would have had to take 2 or 3 weeks to vote all of this up or down, but we had to take, instead, the time to put through lifetime judgeships of people who have been recommended by special interest groups. That is beneath the U.S. Senate.

But, unfortunately, while these people got lifetime jobs with high pay, hundreds of thousands and millions of Americans have lost their jobs, have lost their places to live, are unable to educate their children, and hundreds of thousands have lost their lives. This is not the U.S. Senate's finest hour.

We should have been doing our job and voting these things up or down. I know some may be afraid of what they had to vote, but so what? I have cast

over 16,000 votes. Not all of them were easy, but I never thought there was any question about whether I would vote.

(Mrs. HYDE-SMITH assumed the Chair.)

#### DEPARTMENT OF JUSTICE

Now, Madam President, the hour of 1 o'clock has arrived. I will claim my time, and I am going to speak about the Department of Justice and the Office of the Attorney General.

William Barr's second tenure as Attorney General is coming to an end. At this time, it is important for the Senate to reflect upon his legacy and upon the challenges now facing the Department of Justice.

As we all know, the Office of Attorney General fills a unique role within our system of government. It was created by the Judiciary Act of 1789, and in its creation, it was obvious the Attorney General is not a traditional member of the President's Cabinet.

Supreme Court Justice James Iredell observed in 1792 that the position "is not called the Attorney General of the President, but Attorney General of the United States." This is because an Attorney General's client is not the President; the Attorney General's client is the American people—all of us, all of us.

An Attorney General's duty is not to defend the President but to uphold the rule of law and do so with integrity and independence.

Now, we know that President Trump has a very different view. He views the Office of Attorney General as an extension of his political power to be wielded like a weapon to further his agenda. He believes it exists to benefit him personally, to target his opponents, and to protect him and his friends. His view stands in stark contrast to everything the Attorney General is supposed to represent.

It came as no surprise, then, that during his nomination hearing, Mr. Barr was questioned about which type of Attorney General he would be—the President's lawyer or an impartial pursuer of justice.

Mr. Barr was adamant in that hearing that while he may sympathize with the President's policy choices, his role as a policy advisor would be distinct from that of the Nation's chief law enforcement officer. If confirmed, he assured all of us, his job would not be to protect the President.

Thirty years ago, I voted for Mr. Barr to serve as Attorney General to then-President George H. W. Bush. I had my disagreements with him at that time—in fact, several. But I voted for him.

When I heard in late 2018 that President Trump intended to nominate him for a second tenure as Attorney General, frankly, I was hopeful. After the short, yet disastrous, tenure of a totally unqualified Acting Attorney General who eagerly bent to the will of President Trump, I was hopeful that Mr. Barr would restore some independence to the office.

But after careful consideration and listening to his testimony at his nomination hearing, I voted no on his confirmation.

Mr. Barr has long-held, expansive views of Executive power. And prior to his nomination—he shared those views with the President in a bizarre, 19-page memorandum, making the case that a President can obstruct a criminal investigation with near impunity. It was clear to me that Mr. Barr's views would be weaponized by President Trump—a man who derides any limits on his authority. The President, I said at that time, needs a much tighter leash.

By any measure, the last 2 years have been worse than I feared. Time and again, Attorney General Barr has acted in the best interests of Donald Trump, not in the best interests of the country. He has intervened and he has overruled career prosecutors only in cases to benefit the President and his friends. He has departed from Department norms. He has misrepresented the Department's work. He has eroded public trust in the Department as a result. I will speak to just a handful of examples.

In late 2019, a jury, with overwhelming evidence, convicted former Trump campaign adviser Roger Stone for obstructing a bipartisan congressional investigation and lying under oath and witness tampering. The evidence was overwhelming. The jury convicted him. So, consistent with sentencing guidelines that apply to everybody, prosecutors recommended a 7- to 9-year sentence.

President Trump immediately took to Twitter to criticize the prosecution, and just hours later—after he had tweeted his objections—Attorney General Barr intervened. He overruled the prosecutors. He disregarded the sentencing guidelines that are supposed to apply to anybody.

What happened next reminded me of something Judge Michael Mukasey said when he testified in support of Mr. Barr at his confirmation hearing. Judge Mukasey said if Mr. Barr ever failed to serve with independence, he would "find a mound of resignations on his desk." Well, in this instance, all four career prosecutors withdrew from the case. In fact, two resigned from the Justice Department altogether. And at sentencing, Judge Amy Berman Jackson took the rare step of defending both the career prosecutors and their sentencing recommendation. She stated that it was "true to the record" and "in accordance with law and [Department of Justice] policy."

Attorney General Barr's intervention left me with just one question: Could anyone, other than the President's close friend—a man who, according to Judge Jackson, broke the law and "was prosecuted for covering up for the President"—receive such leniency from the Attorney General? I think the answer is pretty obvious. If you are a