

It is rare to find an issue that is so clearly a win-win for everyone involved. From the University of Nebraska to the Association of Equipment Manufacturers, the Nebraska Farm Bureau, and the American Conservation Coalition, support is growing for making precision agriculture more accessible.

Another bill I introduced with Senator KLOBUCHAR in April, which would help farmers connect precision ag technologies to each other through the internet of things, has been met with a similar outpouring of support. That is because precision agriculture—those technologies—really have no drawbacks. It is better for ag producers, rural communities, consumers, and the environment, all at the same time.

The biggest obstacle is the cost, and that burden falls mostly on the smaller farms that can't afford to take the risks. Well, my bill will give smaller operations the backing that they need to manage those risks.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### IMMIGRATION

Mr. DURBIN. Madam President, I understand Senator WHITEHOUSE has reserved time on the floor, and I will yield to him when he does arrive, but I would like to say a few words.

I would like to talk about the state of the coronavirus epidemic in our country. But before I do I want to respond to the Senate Parliamentarian's ruling last night on immigration reform.

While I am disappointed by this decision, I am not giving up on this fight. There are too many lives at stake. Over the past 18 months, thousands of DACA recipients and other immigrants have saved American lives as doctors, intensive care nurses, paramedics, respiratory therapists. They have risked their own lives for us, for our friends and loved ones. The least we can do to honor their sacrifice is give them a path to legal status in America.

In the coming days, Senate Democrats will present an alternative proposal to the Senate Parliamentarian. But the fact is, we already know how essential immigrants are to America and our economic future.

During the pandemic, undocumented immigrants have not only been saving lives in our Nation's hospitals. They have been toiling in extreme heat on farms across the country to secure the food that we eat every day in America. They have defended our national security as members of the military. They have been working as home health aides, helping care for our parents and

family members with disabilities. And they have been caring for our children as teachers and childcare workers.

They are Americans in every way except for their official legal status. It is far past time to fix that, and that is exactly what Senate Democrats intend to do through budget reconciliation.

This is an issue which is not new to the Senate. It is certainly not new to me. It was 20 years ago that I introduced the DREAM Act—20 years.

Of course, many people have said: DURBIN, if you are such a great legislator, what are you waiting for?

And a lot of these Dreamers and DACA-protected people have said the same.

I will tell them that, on at least five separate occasions, we have brought the DREAM Act to the floor of the Senate only to be stopped by the filibuster—five times during the course of 20 years.

The one time that it was passed during comprehensive immigration reform, the Republican leadership in the House refused to consider the measure, and it was left in the current state.

I recall the previous President, Donald Trump, assuring me that he was going to take care of those kids—in his own words. Well, he certainly did. He tried to abolish DACA and to remove the protection which 780,000 of these young people have.

You see, these are young people who came to the United States as infants, toddlers, and little babies. They were brought here by their parents, and they grew up in America and did everything you were supposed to do—went to school, had the odd jobs, worked around the house, believed in the future of this country. But when they showed up in the classrooms every day, they lifted their hands and pledged allegiance to that flag. They believed it was their flag. And it wasn't until later in life that their parents leveled with them, told them that wasn't the case at all; they were undocumented—technically illegal, in the words of some.

I can't imagine having that hanging over your head, knowing that any day there might be a knock on the door, that someone in your family might be removed, or your whole family deported, for that matter. They lived under that shadow their entire lives, and they still did remarkable, courageous things.

I have come to the floor of the Senate 125 times to tell their stories individually with color photographs, to let my colleagues know that there are people behind these numbers—real people, amazing people. And over the years that I have told their stories, more and more of my colleagues on both sides of the aisle have come up afterward and said: What can we do?

Well, what we can do is we can pass legislation to give these young people a chance, to give many others a chance too.

These farm workers, for goodness sakes—half of the farm workers toiling

in America today are undocumented. We don't think twice about whether we are going to eat the fruit that they pick or the vegetables they deliver to the market. We take it for granted that it will be there. Many of these people have spent a lifetime working for dirt wages in miserable jobs that many Americans wouldn't consider.

To give them a chance to become legal in America is a reflection on who we are.

I know my critics will say: Aren't you paying any attention to the southern border?

I am. There is a lot to be done. Right now, we are dealing in Del Rio, TX, with thousands of Haitians who were lured by some of these smugglers and others to come to that port in the hope of being able to enter the United States. That is not happening in most cases. Many of them are even being returned to Haiti.

It doesn't solve the individual family problem but addresses the reality of immigration in America today. There are certain fundamentals we need in any immigration system. We won't get those fundamentals with the current laws.

What are they? Basically, we need border security. In an age of terrorism and drugs, we need to know who is coming into this country and whether they are bringing anything with them that will hurt anyone. Secondly, we should never knowingly allow a dangerous person to come in the United States or to stay in an undocumented status, period. And number three, America cannot absorb, at any given time, everyone who wants to come and live here. We have to have an orderly process, one that reflects our values, particularly for those who are seeking asylee and refugee status.

The refugee issue was brought home to us a few days ago in Afghanistan, where families in that country, who had helped American soldiers in every way that they could and risked their own lives, asked for refuge in the United States. The outpouring of support for those refugees outweighed the numbers of critics and cynics, and I am glad because I think that reflects who we really are.

In the next few hours and days, we will be preparing an alternative approach to the Parliamentarian in the hopes that it can be included in reconciliation and not be stopped again by the filibuster, which has held it in the past.

I see my colleague, Senator WHITEHOUSE, has arrived.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

#### U.S. SUPREME COURT

Mr. WHITEHOUSE. Madam President, I return to the Senate floor to again discuss the scheme to capture our Supreme Court; in this case, it will be through the lens of how recent Justices got on the Court. And I will choose Brett Kavanaugh.

I think we all remember the famous list—the Federalist Society list—that Donald Trump promised to follow in Supreme Court appointments. The first interesting thing about Brett Kavanaugh is that he was not on the list of candidates that Donald Trump had offered up—this list that bought peace between house of Trump and house of Koch. Trump had promised he would appoint off that scheme-approved Federalist Society list. He didn't, and yet no one complained. That is a telltale right there.

There was no complaining because Brett Kavanaugh knew this terrain. He knew the central operative at the heart of this scheme, Leonard Leo. He had worked on judicial nominations in the Bush White House with Leonard Leo, who coordinated big donors' support for judicial nominees.

I have described before a judge who bemoaned to me what he called his colleagues auditioning—auditioning for higher office, auditioning for the Supreme Court. "Auditioning" was a telltale word that stuck with me. You don't audition without someone to audition to. Well, Kavanaugh knew the guy at the center of the scheme, and he knew that the donor turnstile to the Supreme Court was run out of the Federalist Society.

So Kavanaugh not only auditioned with Leo; he auditioned at the Federalist Society. And no one auditioned harder than Brett Kavanaugh. As a circuit judge, he campaigned through 27 Federalist Society events. I think he set the record for auditioning at Federalist Society events. He knew who, and he knew where. And he also knew what the big donors wanted. So he made sure his circuit-court opinions signaled his chops.

On abortion, *Garza v. Hargan*, OK to force a teenager to wait indefinitely for an abortion as the clock ran; check.

On guns, *Heller v. District of Columbia*, a dissent in the follow-up case to the Supreme Court *Heller* decision—in his case, one even more extreme than *Scalia*; check.

For polluters, *PHH v. CFPB*, waving the Federalist Society's unitary executive banner, even saying that regulatory agencies are a significant threat—I am quoting him here, regulatory agencies, the things that protect us from pollution and cheaters, are a "significant threat to individual liberty," if you are a polluter; check.

And most important to this dark money scheme, *EMILY's List v. FEC*, where he said the front groups "are constitutionally entitled to raise and spend unlimited money in support of candidates for elected office" because it is "implausible that contributions to independent expenditure political committees are corrupting." Yeah, how could that possibly be corrupting? Check.

So this is behavior. In nature, when you see behavior, you can draw conclusions. When you see, for instance, a vulture wheeling, you can expect some-

thing dead below. It is not always true; the vulture may just be wheeling in an updraft eddy. But when you get a number of vultures wheeling, it is pretty reliable that there is something dead below. And when so many judges start auditioning for advancement that their behavior acquires a name from other judges, you can be pretty sure there is an audience for their auditioning.

And Kavanaugh knew that audience. His relationship with Leonard Leo, his hustling of Federalist Society events, his insider knowledge of the Republican selection process and the big donors, and his ardent display of his wares in all the ways big donors would want, was a winning combination.

So Leonard Leo hand-walked him around the Trump Federalist Society list and straight to the top of the judicial selection pile, and no one with a hand in the Trump-Koch deal that spawned the Federalist Society list voiced an objection.

Kavanaugh had auditioned his way around the list, and the scheme could not have been happier with the outcome. All of that behavior is telling. There is a scheme, and Kavanaugh knew how to play it.

Now that the scheme had its man, they would fight for him. They did not know how hard the fight would be, until Dr. Christine Blasey Ford came forward with a tale of youthful sexual assault by Kavanaugh and a drunken buddy.

But even before that, there were telltales of the pressure to get Kavanaugh onto the Court. Thousands of pages of records from his White House days were withheld; blank pages stamped "Constitutional Privilege" were presented to us on the committee. They couldn't even bring themselves to call it "executive privilege," the claim was so far-fetched. "Constitutional Privilege" was an invented phrase, but they knew no Republican would object.

The pressure was on. The play had been signaled. The money behind the scheme was the money behind the Republican Party, so Democrats could complain, but the Republican wall would hold. All our objections and requests would be overruled.

Another example of signaling from nature, you can tell a lot about the wind by looking at the water, as sailors know. You don't have to feel it; you can understand the wind by looking at the water. Little wavelets show where gusts of wind can be found on a still day. The water darkens where there are stronger puffs on windy days. As the wind grows, the waves grow bigger, and then whitecaps form. And as the wind strengthens more, wind lines appear—Langmuir circulation, the scientists call it—aligned with the wind's direction. And in a full gale, spindrift, foam from the tops of the waves—spindrift blows off the wave tops.

In the same way that you can tell a lot about the pressure of the wind by looking at the behavior of the water, you can tell a lot about the pressure of

the scheme by looking at the behavior of the Republicans—particularly in the gale-force controversy over Dr. Blasey Ford's testimony. By all rights, in any normal world, Kavanaugh would have been withdrawn. The fact that he wasn't is a telling signal of pressures afoot.

Allegations of sexual violence motivate domestic violence and victims groups, groups which Senators do not ordinarily choose to cross.

Is one judge worth that? Why not just pick another?

Yet they went forward—another telling signal of the pressure.

Senators usually prize their chance to question Supreme Court nominees, yet Republicans gave that up to a female prosecutor sent to disarm Dr. Blasey Ford's testimony—yet another signal.

Of course that didn't work. The witness's testimony was clear and credible. The female prosecutor was sent packing. Republican Senators were left in the touchy position of having to disbelieve Dr. Blasey Ford without any basis for disbelieving her.

Yet only one Republican Senator buckled—another signal. Senator Flake demanded some investigation, and here, the gale force pressure kicked in. This could not go on. Kavanaugh was too great a prize. The FBI was pressured to do a fake investigation. That is a fire alarm of a signal.

We saw many signs of things awry. For a while, early on, the FBI became impervious to information. To put it mildly, that is not the FBI's customary disposition. An FBI that suddenly becomes impervious to information is quite a signal. The FBI was told which few witnesses could be interviewed. The interviews were cursory and terse.

Other witnesses who came forward were ignored or turned away. Even when Dr. Blasey Ford and other witnesses were trolled by the "flying monkeys" of the far right so venomously that Dr. Blasey Ford had to stop teaching, had to leave her home, had to hide herself under the protection of a security detail, witnesses still tried to come forward. So ultimately, under pressure, the FBI announced a tip line for witnesses to contact, but the tip line was a fake.

The FBI has procedures for things, and it has tip line procedures. The FBI did not follow its tip line procedures. It appears the FBI did not follow up on any of the tips that came in on the Kavanaugh tip line. Instead, the FBI routed the Kavanaugh-related tips to the White House Counsel's Office for a decent burial.

We on the committee were ultimately allowed, in a classified setting—classified setting—2 hours of what you could call speed dating with documents to look through pile after pile of documents—no notes allowed, no photos allowed, no copies allowed. One of those piles, though, was tip line results, so we know that tips came in.

The FBI admits thousands of tips came in. None were followed up.

FBI statements at the time said they were following standard procedure. What they meant by that, which they later admitted, is that in background investigations, they are agents of the White House and under White House political direction, so their regular procedures did not apply. The standard procedure they said they were following was the procedure of not following the standard procedures, if you can get around that verbal somersault.

What the FBI did not say is that, aside from standard investigative procedures they did not follow, there are also standard FBI procedures for background investigations. The FBI is a procedure-bound institution. We are still digging and we are going to keep digging, but it looks like they didn't follow those background investigation procedures either.

For apparently the first and only time in a background investigation, I believe an FBI "investigation" was put under the operational control of the White House so that the White House could craft, with the FBI, the appearance of an FBI investigation without any real investigating. The kind of pressure it takes to do that is intense. That is gale force. That is the spindrift flying. It takes a gale of pressure to have the FBI violate so many of its own procedures, to meekly go along with the White House's abuse of the FBI's longstanding reputation for thoroughness and integrity. That is the kind of gale-force pressure the scheme can mount. The scheme had to have its prize.

Republicans even turned their guns on polite, honorable, bipartisan DIANNE FEINSTEIN. She was accused of a corrupt plot to sandbag Kavanaugh. Senator FEINSTEIN is not capable of such a thing, and everyone knows it, so this attack on her was yet another signal.

There was a new narrative to impose. Kavanaugh becomes the victim, wicked Democrats become the wrongdoers, Dr. Blasey Ford and her testimony get swept aside, and, in a well-whipped stampede of partisan tribal anger and grievance, Kavanaugh sweeps onto the Court.

Another signal that I am still seeing now is the effort of rightwing media to cover this all up. After Senator COONS and I pressed the FBI on this bogus investigation, the National Review and other rightwing outlets immediately published articles to tidy things up. Their main source seems to be a former Republican Judiciary staffer who tweeted and then deleted "Unfazed and determined. We will confirm Judge Kavanaugh" just a few days after the Blasey Ford investigation came to light, before this so-called investigation was concluded.

The coverup article suggests three things: First, hey, we had a chance to read all of the over 4,500 tips the FBI received; second, there was a 400- or a 600—it varies depending on the arti-

cle—page FBI report assessing the tips and exonerating Kavanaugh that was circulated to all Senators, and all we had to do was read it; and third, that had there been anything wrongful or incriminating or derogatory that was found, it could have been referred for further investigation.

Let's look at those three claims.

First, this "open access" to those documents was the 2-hour window I was talking about where we could go in and speed-date with raw FBI documents in piles and interview reports—again, no notes, no copies, no pictures; just piles of documents in a room we had to walk through and clear out of—and if we wanted, we could return to review the documents when votes on cloture and confirmation were ongoing. I am not making that up.

The supposed report, this 400- or 600- or whatever page report, is actually a 28-page document compiled by Republican Senate Judiciary Committee staff, not the FBI, with hundreds of pages of attachments to thicken it up. Those 28 pages are pure political whitewash that cast aside the credible claims offered to the FBI for further investigation but altogether ignored. Saying that this Republican committee report—so-called—was available to Senate Democrats is like saying we should have turned on FOX News for the lowdown on these tips—not actually.

As to the idea that we could have referred anything suspicious for further examination, I really don't know what these rightwing outlets are talking about. If they meant the FBI, that is not true. The FBI and the White House had agreed that the investigation was over as far as they were concerned. If they mean the Senate Judiciary Committee, that is as laughable as the 28-page whitewash.

One last signal here. The FBI continues to dodge questions about this investigation. It was over 2 years ago that Senator COONS and I asked simple, direct questions about the tip line. Only this summer did we receive the first smidgeon of a response. The response deflected us to an MOU between the White House and the FBI, which, when we dug around and found it, which we had to do ourselves, proved not to substantiate what we were being told. So we repeated our questions and repeated our questions, and last week, Director Wray appeared in Senate Judiciary and promised answers in 2 weeks. We will see.

As a prosecutor, I know those cases where you can't go forward, for a victim, with charges. There could be innumerable reasons, but sometimes you just can't. In those unfortunate cases, it can matter a great deal to the victim that she at least got an honest and thorough investigation of her claim. Dr. Blasey Ford was denied even that. The FBI sacrificed her to the gale-force political pressure applied by the scheme to get this well-auditioned nominee into place.

And let's get real. You don't apply gale-force political pressure for judges who are just going to call balls and strikes. Four hundred million dollars—\$400 million—has been spent in dark money on this Court-capture scheme. For \$400 million, you don't want balls and strikes. You want judges who will throw the game for you. You want what you paid for—a captured Court. And if you look at its track record, that is this Court. It is the Court that dark money built, and it is delivering.

To be continued.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

REMEMBERING JOHN KENNEDY BAILEY

Mr. MANCHIN. Madam President, I rise today to honor the life and legacy of a diligent public servant and proud West Virginian who was recently taken from us far, far too soon. His name was John Kennedy Bailey. Gayle and I extend our deepest condolences to the members of John's beloved family.

I have known John since he was a child. He grew up in Fairmont, my home area, with an absolutely loving family. I have been so proud to watch him grow into such a hard-working, compassionate person who raised his own loving family. My heart aches for his whole family but especially his wife Holly and their children, Jack, Brooks, and Lisette, whose lives have been changed in a tragic instant.

It is in these sorrowful moments that we see how much a person meant to so many. Since we lost him, John's friends have stepped forward with stories of his compassion, his kindness, and of his public service. I know that all of us who are grieving him find comfort that his last measure was giving himself through organ donation, sharing the gift of life for someone who needed it most.

When I think of John, I think of a man who all of us aspire to be—a man who lives life to his fullest, makes the most of every day by giving back to those around him. I think of the words of Dylan Thomas, a Welsh poet, who described such a man as:

Good men, the last wave by, crying how  
bright  
Their frail deeds might have danced in a  
green bay,  
Rage, rage against the dying of the light.  
Wild men who caught and sang the sun in  
flight,  
And learn, too late, they grieved it on its  
way,  
Do not go gentle into that good night.

John lived every day by catching the Sun in flight, and that is one of the many reasons that so many people loved him. It is my hope that his friends and family have found peace, strength, and support in one another and in the support of our entire home State as we mourn our shared loss of this wonderful, wonderful person. That is why it is befitting that his life is forever memorialized in this CONGRESSIONAL RECORD through this speech on the U.S. Senate floor today.