

Several of us wrote to the Commission to point out the scheme's telltale footprints. The Commission even received testimony about another pernicious issue: the Court's reliance on fake facts supplied by dark money amici curiae, especially in politically important cases for the rightwing donors like Shelby County and Citizens United. Somehow, none of this made it into the Commission's discussion.

Ducking all these facts was no small feat. As the Presiding Officer knows, one of the first exercises that law professors give their first-year law students is called issue spotting. You get a case, and you are asked to go through it and list all the potential issues it raises, spot the issues. Well, these issues all sat in plain view before the Commission. Yet the Commission flunked the rudimentary law school test of issue spotting.

Now, part of the problem was conflict of interest. Many members of this Commission argue before the Court and need its good will for their bread and butter. Others are law professors eager to plant their students in prestigious Supreme Court clerkships. For many members, rocking the boat could have unhappy consequences.

Clearly, though, some Commission members tried and failed to get these issues considered. Two members—retired Federal Judge Nancy Gertner from the Presiding Officer's home State and Harvard Law School's Laurence Tribe—had an op-ed ready for print the day the report was released. They called for a serious overhaul of the Court due to what they called “the dubious legitimacy of the way some Justices were appointed,” due to that stench of bipartisanship Justice Sotomayor has observed, and due to what they called the “anti-egalitarian direction” of the Court's political decisions on voting rights and dark money.”

Judge Gertner and Professor Tribe wrote:

Though fellow commissioners and others have voiced concern about the impact that a report implicitly criticizing the Supreme Court might have on judicial independence and thus judicial legitimacy, we do not share that concern. Far worse are the dangers that flow from ignoring the court's real problems—of pretending conditions have not changed; of insisting improper efforts to manipulate the court's membership have not taken place; of looking the other way when the court seeks to undo decades of precedent relied on by half the population to shape their lives just because, given the new majority, it has the votes.

Judge Gertner and Professor Tribe rightly warned that we can't afford more decisions like Shelby County and Citizens United, which would put the Court on what they called a “one-way trip from a defective but still hopeful democracy toward a system in which the few corruptly govern the many, something between autocracy and oligarchy.”

Think about that. People distinguished enough to be appointed to this

Commission by the President feel that this Court is on a one-way trip from America being a defective but still hopeful democracy toward a system in which the few corruptly govern the many.

They concluded by saying this:

Instead of serving as a guardrail against going over that cliff, our Supreme Court has become an all-too-willing accomplice—

Accomplice—

in that disaster.

All of that was kept out of the report.

The fact is evident that dark money political forces had a controlling and anonymous role in the makeup of the present Court. You can't dispute that. It is not surprising that the donor interests who accomplished that should want their due. As I said, you don't spend \$400 million on this scheme for nothing.

Just a few days before the Commission unveiled the final draft of its report and right after oral arguments in the big abortion cases that are pending before the Court, there was a telling incident. FOX News host Laura Ingraham lost her cool, and she said on plain television the quiet part out loud. Here is what she said:

We have six Republican appointees on this court, after all the money that has been raised, the Federalist Society, all these big fat cat dinners—I'm sorry, I'm pissed about this—

Excuse me for that language, but it is a direct quote—

if this court with six justices cannot do the right thing here . . . then I think it's time to do what Robert Bork said we should do, which is to circumscribe the jurisdiction of this court and if they want to blow it up, then that's the way to change things finally.

Let's deconstruct that little outburst for a second.

First, it basically admits to the scheme: “all the money that has been raised”—that is the \$400 million I talked about; “the Federalist Society”—that is the big donor-controlled turnstile for rightwing advancement to the Supreme Court; and “all these big fat cat dinners”—wow. I would love to know more about that. We do know that Justices have taken undisclosed vacations in the company of people with interests before the Court, so what is a little “big fat cat dinner” among friends, huh?

Second, that little outburst is a flat-out threat to the Court: Decide the big abortion cases the way we want, the six of you, or we “circumscribe the jurisdiction of this court”; “blow it up”; “change things finally.”

There is a particularly thin-skinned Federalist Society Justice who has been giving speeches condemning an imaginary threat I supposedly made to “bully” the Court in a brief maybe read by a couple of hundred people. It didn't actually happen that way, but never mind. Like I said, he is particularly thin-skinned.

But now here comes this plain threat: “circumscribe the jurisdiction

of this court”; “blow it up”; “change things finally” if we don't get the outcome we deserve after all of our money spent through the Federalist Society.

So I am waiting to see what reaction from this Justice there is when this real threat comes, but from the rightwing FOX News channel. The FOX News outburst was particularly rash and indiscreet, but the Republican Justices get marching orders like this all the time at the fat-cat dinners, on junkets with the rightwing donor class, and from the orchestrated flotillas of dark money amici curiae that encircle the Court for big cases launched by the big donors.

The Justices are constantly reminded of who propelled them to the Court and what they are supposed to deliver. And the truth is, the record reveals, the statistics make plain the Republican Justices do deliver over and over and over again—more than 80 partisan wins for scheme donors in those 5-to-4—and now we can expect 6-to-3—partisan decisions.

So the Biden Court Commission missed its moment. It ducked all of this. So on we must go through the stench of partisan capture of the Court, and on I will go exposing the scheme that did it.

To be continued.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PETERS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FILIBUSTER

Ms. MURKOWSKI. Mr. President, there has been a lot of discussion on the floor, certainly today and the days leading up to this, as we talk about the importance of protecting minority rights here in the Senate and the consequences of weakening the legislative filibuster to a 50-vote, majority-serving threshold. There is a lot to say, and there has been a lot said already.

I was here listening to the comments from my friend from Utah and have had an opportunity to hear much of what has been said throughout the course of the day. But I am here perhaps as the sole Senate Republican who will vote to begin debate on the John Lewis Voting Rights Advancement Act because I happen to believe that it is important that we focus on improving our election laws, but I also believe very, very strongly that the way to do that is through the regular order process. It might sound kind of boring, but that is actually how you get the good work, the enduring legislation done.

I am also here, I guess, as a senior Member of the Chamber now. I have been around for almost 20 years. I have spent time in both the majority and the minority. But I am also here because I care—I really care—about legislating. I understand what it takes to

work across the aisle to bring good policy into law.

One of the things that I can tell you from firsthand experience is, it is hard. It is hard work. It is hard work to bring people together, particularly on some of these challenging and difficult issues that we have.

When the problems are hard, that means usually the solutions are equally hard. But that is our job as legislators—to bring sides together, to find that common ground.

That is what legislating is all about. And so with all of that in mind, I tell you I believe that weakening the current 60-vote threshold would be a major mistake, a damaging mistake, especially in light of the already deep division that we have within our country today and within the divisions that we have represented in this body today.

So the nuclear option is reportedly coming our way to change the threshold for cloture on legislation—on legislation to 50 votes and to do this with just 50 votes. But I would suggest to you that this will do nothing to cure what actually ails the Senate, and, therefore, we should reject it.

I mentioned that the job that we have as legislators is to come together to knit the good ideas from one side to the other, to really build that consensus that will allow for enduring policy and enduring laws. Gutting the filibuster is not going to do anything to bring both sides together. It will not help bring the parties together. It will, unfortunately, just serve to push them further apart, split us further apart. It would not lead to better or consensus legislation.

It effectively allows the majority to do what it wants to do, when it wants to do it, how it wants to do it without the minority. It effectively allows you to ignore the views from the minority. This rule change would not restore us as the world's greatest deliberative body.

I know that there are those who would suggest that we are far, far from that, but I would suggest that if we do this, it really obliterates that reputation forever.

There has been a lot of talk about the differences between the House and the Senate. We are different. We were designed different. The Framers designed the Senate as an institution where the rights of individual Senators as well as minority groups of Senators are protected. They are highly protected. That is what our rules reflect.

And that is why—why we can hold forth, why an individual—one person—can register objections, why we can place holds and offer motions and filibuster legislation when we deem it necessary. And I know we don't like it when it is being used against us—we don't—because it slows things down. It is frustrating. But it is part of what has been built into our institution.

And some may say, well, it is obviously not working, it is obviously not functioning because I can't get my pri-

ority through. Perhaps we need to focus on how we are bringing people together to advance that priority.

This body, the Senate, was never meant to be the House of Representatives. Senator Robert Byrd, who served both as the majority and the minority leader—so I think he had pretty good perspective on things—he also reminded us about the saucer and the role that the House plays—excuse me, that the Senate plays.

The Senate is the proverbial saucer intended to cool the cup of coffee from the House. Nobody likes it, particularly the guys in the House. They don't like it when they say: Oh, you are so slow over here. But we were meant to be deliberative.

The more we become like the House, the less relevant, in my view, we are as an institution and the further we will have strayed from that balance, that careful balance that the Constitution envisions for our branch of government.

So we have been here before. As I was walking over, I was thinking this is like *deja vu* all over again. How many times have we had these battles over the filibuster? Should we exercise the nuclear option? Should we pull this trigger?

Well, back in 2017, I signed a letter, along with 60 other Members of this Chamber. There were 28 Republicans, 32 Democrats, 1 Independent. We came together as a pretty representative group of lawmakers, and we urged both Republican and Democratic leaders to preserve the 60-vote threshold for legislation—for legislation—because we knew where we had come from. The Republicans had used the nuclear option to eliminate the filibuster for Supreme Court nominees after the Democrats used it in 2013 for eliminating the filibuster for confirmation of the lower court and executive branch.

So it is kind of one of these where they did it, so it is OK for us to do it. Far be it for me to suggest that sometimes the analogies are like what we have when we have got the kids in the back of the car and somebody says: Well, he started it. And the other one says: No, well, then I get to do it. And my response is: Knock it off both of you.

Maybe we just need to have a detente here on whether or not we blow up the filibuster. Maybe we need to just step back from this and realize what it means to all of us because those of us who are in the minority today will one day be in the majority, and those who are in the majority today will one day be in the minority.

And so making sure that there is a balance, that it works, that minority rights are respected—this is why we are here today. I know that there are several Senators who signed that letter back in 2017 who are now seeing their words repeated against them. That has got to feel pretty uncomfortable. I don't want to be one of those who feels like I have to eat my words; that what

was good for me when I was in the minority is no longer good for me when I am in the majority or vice versa. It has to work both ways.

So when as Republicans in the majority we were urged mightily by former President Trump to get rid of the filibuster, I was one of those who said: No. No. We should not do that. And that is why my advice today to the majority is be careful, be careful what you wish for because you may look at this and say this may help advance the immediate legislative agenda—what they are talking about now is voting rights. You may be able to advance the immediate legislative agenda there, but the long-term effects might look pretty different.

And I think we have seen a little bit of a suggestion of what that could look like when you don't have the protections in order for the minority. So I think it is good for us to be having this open discussion. I think it is important that we be thinking about the practical effects of weakening the filibuster.

What will happen if it no longer protects the minority and instead only serves to benefit the majority? A 50-vote threshold would allow the majority to push through, to rush through legislation without consideration of the minority views. And keep in mind that we may be in the minority now, a 50-50 minority—pretty skinny minority—but a minority that is elected with support from major portions of the country.

Removing the filibuster would reduce the need for the parties to work together to reach the broad consensus on policy, again, that can endure across elections. And I think that is important for us to just stop and take account of because when you don't have legislation that is enduring, when you move legislation that is wholly partisan, what happens when the tables are turned? The new majority spends all of its time trying to undo what the old majority got passed on a wholly partisan basis.

Now we are not giving certainty to the Nation. We are not helping the economy move along. It is a whipsaw. It is policy whiplash. Who is going to be investing in policies if they just think that what was just passed into law is going to be undone in the next Congress?

We owe it to our constituents, we owe it to the country to give them some certainty with policy, and that comes about when you are working to build consensus.

Eliminating the filibuster would make primary elections into fealty tests, even more, even more than they already are, as each party sets its sights on candidates who are probably unlikely to act independently once in office. I mean, why bother? But, again, it would whipsaw—whipsaw—the country on policy. And as I think about the state of our economy right now, where we need to be investing in—we have got a great infrastructure bill that we are

all poised to try to advance, lots of good things coming for that—we don't want to be undermining investment in our ability to address major challenges if we are looking at a situation where, again, the new majority coming in, they just work to reverse the work of their predecessors.

These aren't good outcomes for a divided nation, and they only take us further from what should be our goal. We have got to be focused. We have got to be focused on finding more ways to work together. And we have got good examples. We had an energy bill that we advanced in 2020, a good bill. We had been working on that for a long time, but it was a very bipartisan product.

I mentioned our bipartisan infrastructure bill. We have the CARES Act as another example. So many measures have shown us that this is absolutely possible.

As part of that, when we consider changing the rules, we need to focus on incentivizing bipartisanship, pushing Members to reach across the aisle, not making it less of a priority. Let's think about how we do that in a positive sense, how we are pushing one another to work to build things rather than dividing one another and just throwing things at one another.

I will vote against any motion to weaken the filibuster or create carve-outs within it. Legislation and legislating in and of itself, as I mentioned at the outset, it is not supposed to be easy. We don't have that red "easy" button on our desk here. It is deliberately hard.

But as I learned from somebody a couple weeks ago, I don't want to come to talk about the problems without offering up some solutions at the same time. I do have some suggestions for how we could perhaps move forward on voting rights legislation, potential changes to our rules. So for voting rights, the Senate doesn't need to change its rules here; the majority needs to change its approach.

You have me—basically me alone at this point—willing to debate one of the measures that was written. It was written on a partisan basis, but I did my homework. I looked at it. I weighed in. I worked with colleagues on the other side of the aisle and made some good, solid suggestions. I think we have had some good dialogue there. I think it is important. I want to reach a compromise on it. I think that that would be important, but I have acknowledged that there needs to be some changes that would need to be made to that, and I have worked to suggest it.

But what that does for right here right now is it makes it abundantly clear that we don't have agreement right now on voting rights legislation, so it is no wonder that the legislation is being blocked.

Partisan bills don't suddenly become bipartisan just because they have hit the floor. So instead of looking for ways around consensus, we have got to go back; we have got to actually start building it.

So let's take this back. Let's take it to the committee process. Let's look for areas of agreement, like some suggestion has been out in the past couple weeks here, reforming the Electoral Count Act. I don't know how far that can take us, but when something like this is put on the table, let's take a look at this.

Let's work through some of these proposals rather than just summarily dismissing it out of hand. Let's take that time, put in the effort, build a product that can pass and hopefully by more than just the smallest of margins. We did that before with Voting Rights Act historically. We have demonstrated that it can be done.

As far as rule changes, I agree we should be having the debate. But how we do the debate, I think, is also important. We want to have a thoughtful discussion. Both sides need to be involved. Any Member who wants to participate should be doing so.

But these discussions need to focus on the problem, and the problem is that there is not enough consensus building across parties. That is what we need to be focusing on, rather than focusing on eliminating the need for it altogether.

So instead of targeting the filibuster, one of the things that I have suggested to several folks is the development of a consensus calendar. Now, I am not saying it is going to solve everything, but if you have strong, bipartisan bills that have made it through the process, they have demonstrated that good, strong show of support, there ought to be a way that we can move things through on an expedited process, an expedited consideration.

There has also been a lot of talk about eliminating the filibuster on the motion to proceed.

So these are areas where, again, I think you have had thoughtful people willing to sit down and say: Can we reform our processes around here? Can we be more efficient? Can we still be that cooling saucer, that deliberative body, but be more efficient?

I would argue that no rules changes should take effect this year. Whatever we can agree to, let's set the effective date of January of 2023. Make these decisions based on what any majority in any year should have to govern.

We need to make sure that if we are changing the rules, we do it for the right reason. We do it because it is the right thing to do for the Senate, no matter who is in charge. And I think that is just a matter of fairness there.

We all know that filibusters can be so very, very frustrating, and those in the majority feel it directly. I know of which I speak. I have been there. It can be agonizing. It is like you are up against a brick wall.

As I mentioned, when we were advancing my energy bill several years back, I can't tell you how many times I felt like I had the rug pulled out from underneath us. But it was a good legislative product, and so we didn't give

up. We kept working at it. And, in fairness, I think we actually worked to improve the legislation.

As difficult as it might have been, it was through that process that we were able to come to some terms on HFCs, probably as significant an effort that we have made when it comes to reducing emissions, and that came about as a result of that very deliberative process that you wanted to pull your hair out over, but it actually worked to advance that legislation.

But I think what happens is this forces us, as Members, to work together and to remember we can overcome these. And in these partisan times, they prevent the majority from simply running over the minority, which only serves to worsen our political divide.

The 60-vote threshold for legislation requires consensus to be part of the legislative strategy. Changing it to 50 votes to serve the narrowest possible majority will lose that essential benefit; it will have lasting consequences for the Senate and for the people that we serve.

So I absolutely think that we can do better than this, better approaches for both voting rights legislation and rules changes. They are available to us. We just have to work. Neither side is going to get everything that it wants out of them, but I absolutely believe that we will be better served, our country will be better served if we have a bipartisan path working together.

With that, I yield the floor.

THE PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I come to the floor to congratulate and commend the remarks by the senior Senator from Alaska. She certainly knows from whence she speaks.

I remember so well the discussion that she just mentioned with regard to the energy bill and HRCs and the effort for a cleaner environment, and it was through the process that we were able to come up with legislation that we believe—all believe—was a better result for the Nation and for the environment.

It took longer than any of us wish it would have taken, but it was through that process. And had we been in a situation without the ability to filibuster, we would have never gotten to such a good result because a 50-50 Senate is—basically it is a mandate to move to the middle.

So I commend the senior Senator from Alaska. She knows from whence she speaks. She is very high up in seniority in the institution. She has institutional memory, more than many, many Members of this body, and when she says what goes around comes around and the shoe is, at another time, on the opposite foot, she knows what the implications of those are and why what the Democrats are proposing now is in the wrong direction for the country.

So I believe it is misguided, and I concur with her comments.

NORD STREAM 2

Mr. President, I come to the floor today on another matter, and that is to support sanctions on Vladimir Putin and his Nord Stream 2 pipeline.

This body will be voting on that very issue in the next day or so, and I am urging my colleagues to support S. 3436, which is known as Protecting Europe's Energy Security Implementation Act.

Let me just explain why this is so important. And it is important because right now, Vladimir Putin has mobilized close to 100,000 troops near the border with Ukraine. They are nearly encircling the country of Ukraine. Our intelligence community has warned of a potential Russian invasion of Ukraine in the next month or so.

So why is this happening? Well, Vladimir Putin has always wanted to control and dominate Ukraine. This is nothing new. He invaded in 2014. He illegally annexed Crimea and continues to occupy Crimea today. Now, he wants more, and he is now also flush with cash. With Joe Biden in the White House and the Democrat energy policies, Vladimir Putin has hit the energy financial jackpot.

You don't have to take my word for it; take it from the Biden administration. Joe Biden's Under Secretary of State for Political Affairs is one of his top Russia experts for our own State Department. She has spent her entire career working on issues related to Russia, Ukraine, and Europe.

Well, in December, she testified before the Foreign Relations Committee. She testified about increasing Russian aggression on the Ukraine border. She said, "Energy is the cash cow that enables these kinds of military deployments."

She said Vladimir Putin "needs the energy to flow as much as the consumers need" it to flow.

But why is that? Well, it is because of Russian energy that Putin is able to pursue these dangerous military ambitions.

The late Senator John McCain, with whom I have traveled on several occasions to Ukraine, used to say, "Russia is a Mafia-run gas company disguised as a country."

Energy is the only successful sector of the Russian economy. Natural gas is what is propping up the Russian military and the entire Putin regime. Vladimir Putin uses energy as a geopolitical weapon, and he knows how to use it.

He uses energy to coerce and to manipulate our allies and our partners in Europe. If they don't do something that Putin wants or they do something that he doesn't like, he can turn off the power and turn off the heat. We just saw an example of this in November, when Russia threatened to cut off gas flows to the small and neighboring country of Moldova. Moldova had to declare a state of emergency.

Well, under Joe Biden's energy policies, Europe will soon be in a state of

energy emergency as well. It is because Europe already gets almost half of its gas imports from Russia. With the Nord Stream 2 pipeline from Russia to Germany, the imports will only need to go up, and they will go up.

Under Secretary Victoria Nuland told the Senate Foreign Relations Committee, "We have been counseling Europe for almost a decade now to reduce its dependence on Russian energy."

A decade. A decade includes the administrations of both President Trump and President Obama. Yet Joe Biden has done everything he can to cripple American energy production.

What happens with that? Well, it makes our allies more dependent on Russia for energy. It gives more power to Putin.

Under Joe Biden, American energy production hasn't really recovered yet to the 2019 levels. This is a direct result of the anti-American energy policies of this White House.

On his first day in office, Joe Biden killed the Keystone XL pipeline. He then blocked new oil and gas leases on Federal lands. We are now producing 1.4 million fewer barrels of oil each day than we were before the pandemic.

We are, in the U.S., now, using more oil imported from Russia than we are using oil from our own home State of Alaska. It is a national disgrace to be dependent more upon Russia for oil than we are from our neighboring State of Alaska.

Joe Biden's National Security Advisor even pleaded with Russia to produce more oil—hard to believe, hard to believe that the National Security Advisor for Joe Biden in the White House would plead with Russia to produce more oil.

Well, the administration actually put the Russian energy request on the White House website. Joe Biden would rather have America buy energy from our enemies than sell energy to our friends.

Joe Biden would rather have European nations dependent on Russian energy than increase American energy production and exports from home here to our allies. It is completely backwards.

Under Joe Biden, American energy production is down and energy prices, as any consumer knows, is way up. American families are caught paying the price for these policies of the Democrats and the Biden administration.

In November, we saw the biggest energy price increase in 10 years. CNBC reports that one in five American families can't afford to pay an energy bill this year. Roughly the same percentage have kept their home at an unhealthy low temperature because they can't afford the cost to heat their home. People who traveled for Christmas just faced some of the highest Christmas Day gasoline prices in history. American families are getting squeezed, and Putin is getting rich.

Joe Biden is against American pipelines, but in May, he gave a green light to Vladimir Putin's pipeline between Russia and Germany. This is a betrayal of American energy workers. It is a betrayal of America's allies in Europe.

If the Nord Stream 2 pipeline is completed, it will double the amount of Russian natural gas flowing into Germany. Putin will be able to manipulate the price and the availability of energy to European nations in the middle of winter. He will be able to hold half of Europe hostage.

Stopping this pipeline should be an area of bipartisan agreement in this body. In fact, it was an area of bipartisan agreement until Joe Biden became President. Even Joe Biden said that he was against the pipeline—well, until he was for it.

Many Democrats voted for the sanctions against the pipeline on more than one occasion, but when Joe Biden flipped, so did they.

Senate Democrats now are running interference for Joe Biden. But Democrats just spent 4 years talking about Russia, Russia, Russia—obsessed with Russia. They spent 4 years going on TV, spreading conspiracy theories, all of which were false.

Yet now, the Democrat caucus is attempting to protect the Kremlin's greatest geopolitical weapon.

For the Democratic Party, this is a return to tradition. Democrats were soft on Russia during the Cold War, soft on Russia under the Obama administration. Hillary Clinton gave the Russians a great big reset button. President Obama was caught in a hot-microphone moment telling the Russian President at the time that he would have more flexibility: Tell Vladimir I will have more flexibility after I am re-elected.

Democrats talk tough—they did under the last administration, that is. But now we are back to the old Democratic playbook. This is the kind of Washington, DC, partisanship the American people hate—the same thing Democrats did with Iran when Barack Obama was in the White House.

An American President must always negotiate from a position of strength. Democrats tend to think if you give Putin or the Ayatollah something they demand, that they will then play nice. That is not how the real world works. Vladimir Putin is cunning, he is opportunistic, and he is aggressive. He sees an opportunity, and he takes it. He can smell weakness. He respects strength, not statements.

The Nord Stream 2 Pipeline from Russia to Germany will be an enormous transfer of wealth from our allies to our enemy. It will make our allies weaker, and, of course, it will make Vladimir Putin stronger. When Putin gets stronger, he gets even more aggressive.

History should not be kind to those who gifted Putin a pipeline, pointed like a gun into the heart of Europe.

This vote to support sanctions on the Nord Stream 2 Pipeline is our chance