The opposite of Ginsburg and Breyer's sentiment. The most radical pro-court-packing fringe groups badly wanted this nominee for this vacancy. Judge Jackson was the court-packer's pick, and she testified like it.

Second, for decades, activist judges have hurt the country by trying to make policy from the bench. This has made judicial philosophy a key qualification that Senators must consider.

President Biden stated he would only appoint a Supreme Court Justice with a specific approach that is neither textualist nor originalist. That is the President's litmus test: No strict constructionists need apply. And that President picked Judge Jackson.

If the nominee had a paper trail on constitutional issues, perhaps it could reassure us, but she doesn't. When Justice Gorsuch was nominated to the Supreme Court, he had written more than 200 circuit court opinions that Senators could actually study. Justice Kavanaugh had written more than 300. Justice Barrett outpaced them both. She wrote almost 100 appellate opinions in just 3 years, plus years of scholarship as a star professor that Senators could actually examine.

Judge Jackson has been on the DC Circuit for less than a year. She has published only two opinions. Beforehand, Judge Jackson served as a trial judge on the district court. She testified on Tuesday that that role did not provide many opportunities to think about constitutional interpretation.

Yet when Senators tried to dig in on judicial philosophy, the judge deflected and pointed back to the same record she acknowledged would not shed much light. One Senator simply asked the judge to summarize—summarize—well-known differences between the approaches of some current Justices. The nominee replied that 2 weeks' notice had not been enough time to prepare an answer.

President Biden said he would only nominate a judicial activist. Unfortunately, we saw no reason to suspect that he accidentally did the opposite.

Third, and relatedly, we are in the midst of a national violent crime wave and exploding illegal immigration. Unbelievably, the Biden administration has nevertheless launched a national campaign to make the Federal bench systemically softer on crime. The New York Times calls this a ''sea change.''

Is it more likely the administration chose a Supreme Court nominee who would push against their big campaign or somebody who would be its crowning jewel?

This is one area where Judge Jackson's trial court records provide a wealth of information, and it is troubling, indeed.

The judge regularly gave certain terrible kinds of criminals light sentences that were beneath the sentencing guidelines and beneath the prosecutor's request.

The judge herself, this week, used the phrase ''policy disagreement'' to describe this subject. The issue isn't just the sentences. It is also the judge's rhetoric and trial transcript and the creative ways she actually bent the law.

In one instance, Judge Jackson used COVID as a pretext to essentially rewrite—rewrite—a criminal justice reform law from the bench and make it retroactive, which Congress, of course, had declined to do. She did so to cut the sentence of a fentanyl trafficker while Americans died in huge numbers from overdoses.

Judge Jackson declined to walk Senators through the merits of her reasoning in specific cases. She just kept repeating that it was her discretion and if Congress didn't like it, it was our fault for giving her the discretion. That is hardly an explanation as to why she uses her discretion the way she does.

It was not reassuring to hear Judge Jackson essentially say that if Senators want her to be tough on crime, we need to change the law, take away her discretion, and force her to do it.

That response seems to confirm that deeply held personal policy views seep into her jurisprudence, and that is exactly what the record suggests.

I will conclude with this. Late on Tuesday, after hours of questioning, I believe we may have witnessed a telling moment. Under questioning about judicial activism, Judge Jackson bluntly said this:

> Well, any time the Supreme Court has five votes, then they have a majority for whatever opinion they determine.

That isn't just a factual observation. It is a clear echo of a famous quotation from perhaps the most famous judicial activist of all time, the archliberal William Brennan.

The late Justice Brennan told people the most important rule in constitutional law was ''the Rule of Five.'' With five votes, a majority can do whatever it wants.

That is a perfect summary of judicial activism. It is a recipe for courts to wander into policymaking and prevent healthy democratic compromise.

This is the misunderstanding of the separation of powers that I have spent my entire career fighting against. But President Biden made that misunderstanding his litmus test.

And nothing we saw this week convinced me that either President Biden or Judge Jackson's deeply invested, far-left fan club have misjudged her.

I will vote against this nominee on the Senate floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

NOMINATION OF KETANJI BROWN JACKSON

Mr. DURBIN. Mr. President, I was disappointed but not surprised that Senator MCCONNELL came to the floor and announced that he would not support the nomination of Ketanji Brown Jackson, by President Biden, to fill the vacancy of Stephen Breyer on the U.S. Supreme Court.

Just this morning, or early afternoon, we wrapped up the 4-day process in the Senate Judiciary Committee to consider her nomination, and that is why some of the statements which the Senator made in justifying his opposition, I believe, need to be addressed. I will be brief in doing so, but I wanted to make a record of it quickly.

It seems that he is concerned, as many Republicans are, with the notion of packing of the Court. The notion behind that is that the Democrats are inspired to appoint some number of new Justices to that Court—maybe four—and, thereby, tip the balance back toward the Democratic side.

The question, obviously, before us is, Where does that idea come from?

I will be honest with you, even as chairman of the committee, I don't know. I suppose there are some academics and theorists and researchers who believe that is well worthy of conversation, but let's be honest about this issue which seems to consume the Republicans in the Senate.

There is only one U.S. Senator who has had a direct impact on the composition of the U.S. Supreme Court in modern memory. Who was that Senator? It was Senator MITCH MCCONNELL, of Kentucky, because he decided to keep the Court at eight Justices for almost a year after the death of Antonin Scalia. He refused to give President Obama his constitutional and legal option of filling the vacancy from the Scalia departure on the Court, and for a year, MITCH MCCONNELL, for his own political purposes, kept the Court's composition at eight. So, when it comes to moving the numbers of Justices, he has retired the trophy in modern times because he was the one who did it.

When he starts speculating about the possibility of, ''Well, maybe they will add one, two, three, or four more Justices if the Democrats get an opportunity,'' I happen to know—and the Presiding Officer does as well—that nothing is going to happen in changing the composition of the Court unless it passes the U.S. Senate, which, under current rules, requires 60 votes. There are currently 50 Democrats and 50 Republicans. So the likelihood of ''packing the Court'' is very unlikely in the near future unless some decision is made by the electorate that dramatically changes that.

In the meantime, we are in a situation wherein we have a vacancy on the Court which we are trying to fill with a very competent person, and this notion of packing the Court being the No. 1 issue in deciding is beyond me. There

is no sinister conspiracy that I am even aware of that suggests that this is an agenda item for the Democrats. Of course, we would like to see the Court be more sympathetic to our point of view, but there is no grand plan for this to happen.

Incidentally, the Constitution of the United States—I usually keep a copy in my desk here—does not mandate the number of Supreme Court Justices. We have had various numbers over the years, and we arrived at the number of nine in 1869. I believe that was the year. So it has been a tradition on the Court since that time.

The answer by Ketanji Brown Jackson—a Federal judge, a DC Circuit judge—was the obvious answer when asked about whether she wanted to pack the Court. She said: Senator, that is not my job. I would be a judge. You are a legislator, and you would have the power, if you wished, to change the composition of the Court. I, as a judge, don't have that authority.

So to make that the No. 1 reason you can't support her nomination is less than compelling.

The second thing he raised was one we heard over and over again. Judge Jackson, what is your philosophy? Tell us your philosophy when it comes to the Court. What is your judicial philosophy? We want to make sure we know.

Well, there are different schools of thought when it comes to the Constitution. Antonin Scalia was a so-called originalist, and Supreme Court Justice Kavanaugh is a textualist, I believe, and there may be many other schools of thought.

The bottom line is, she has said: I have published 578 written opinions. If you want to know what I think about the law, here is my body of work—take a look at it—on almost every topic under the Sun.

So, if you want to know how she rules and what she thinks, she can represent whatever she wishes, but her words already speak for themselves. She has been very open and has provided 12,000 pages from her time on the Sentencing Commission that also reflect her views on very important topics.

There is also the old saw. We knew it was coming. The Republicans are testing their messages for the November election, and I will bet you have heard some of them.

One of them is that Democrats are soft on crime. They said that about Judge Jackson, but they have got a problem. Judge Jackson has been endorsed by the Fraternal Order of Police, the International Association of Chiefs of Police, and NOBLE, the National Organization of Black Law Enforcement Executives, in addition to other law enforcement leaders.

She has a history in her family of brothers and other members, uncles, who have been in law enforcement, risking their lives for the safety of their communities over and over. One of her uncles is the chief of police of Miami, FL.

This woman is no stranger to law enforcement. It is part of her family; it is part of what she grew up in. To argue that she is ''soft on crime'' ignores the obvious. She has got it in her blood. She is going to be fair, I am sure, when she is on the Supreme Court, but she has no prejudice against police groups. It is part of her family history.

There is also the question about giving light sentences. We spent more time on this than one can imagine.

Three or four Republican Senators were dwelling on her sentencing in a handful of cases and wouldn't let go of it, day after day for 2 straight days. They refused to acknowledge—and the reality is—that her choice of sentencing guidelines was within the same limits and boundaries of 70 percent of current Federal judges; in some regions, 80 percent. She was not out of the mainstream; she was directly in the mainstream when it came to sentencing. You would think the opposite was true.

When you look at these facts and realize that here is our opportunity to put the first African-American woman on the U.S. Supreme Court and that these are the best arguments they could come up with against her, it really troubles me.

I sincerely hope—I really hope and not just because I want to make sure she is on the Court—that we will have bipartisan support for her nomination. If this turns out to be a strictly partisan vote with this historic opportunity, it will be sad, sad for our country and sad as a commentary on where the parties are today.

I am hoping—I am still hoping—that several Republicans and, I hope, many more will step forward and support her nomination. I am disappointed in Senator MCCONNELL's decision, but I am not surprised.

MEASURES READ THE FIRST TIME EN BLOC—H.R. 6968 and H.R. 7108

Mr. DURBIN. Mr. President, I understand that there are two bills at the desk, and I ask for their first reading.

The PRESIDING OFFICER. The clerk will read the bills by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 6968) to prohibit the importation of energy products of the Russian Federation, and for other purposes.

A bill (H.R. 7108) to suspend normal trade relations treatment for the Russian Federation and the Republic of Belarus, and for other purposes.

Mr. DURBIN. I now ask for a second reading, and in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bills will receive their second reading on the next legislative day.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Senate Committee on Environment and Public Works be discharged from further consideration of PN1696, Chris Saunders, of Vermont, to be Federal Cochairperson of the Northern Border Regional Commission, and that the Senate consider the following nominations en bloc: PN1696 and Calendar Nos. 793, 731, 462, 760, 788, 812, 813 and all nominations on the Secretary's desk in the Coast Guard and Foreign Service; that the Senate vote on the nominations en bloc without intervening action or debate; that the motions to reconsider be considered made and laid upon the table; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate resume legislative session.

There being no objection, the committee was discharged, and the Senate proceeded to consider the nominations en bloc.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nominations en bloc of Chris Saunders, of Vermont, to be Federal Cochairperson of the Northern Border Regional Commission; Stacey Michelle Brandenburg, of Maryland, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2025; Terrence Keith Wright, of Delaware, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring May 29, 2025; Julieta Valls Noyes, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State (Population, Refugees, and Migration); Jodi Beth Herman, of Maryland, to be an Assistant Administrator of the United States Agency for International Development; Erin Elizabeth McKee, of California, to be an Assistant Administrator of the United States Agency for International Development; Douglas T. Hickey, of Idaho, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland; Alina L. Romanowski, of Illinois, a Career Member of the Senior Executive Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iraq; and all nominations on the Secretary's desk in the Coast Guard and Foreign Service, as follows: PN1827 COAST GUARD nomination of Min H. Kim, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of March 7, 2022; PN1828 COAST GUARD nomination of Michael A. Cintron, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of March 7, 2022; PN1810