which interprets the laws. Pretty simple, right? Civics 101. Too often, however, our colleagues on the left look to the judiciary to usurp the role of the legislative branch. They look for activist judges who will not just interpret the law but who will go beyond the law to deliver the policy outcomes that liberals are interested in, whether that is an aggressive abortion agenda, restraint of the free exercise of religion, or liberals' preferred approach to immigration.

President Biden, for example, specifically noted that he would only appoint judges who could be relied on to rule in favor of Roe v. Wade and a right to abortion. Well, that is a big problem because delivering specific political outcomes is not the job of the judicial branch. In our system of government, policy decisions are vested in the legislative branch and are made there by the people's democratically elected representatives. Judges have discretion in applying the laws, but their discretion is to be guided by the plain text of the law and by the intention of the people's representatives in drafting the statute. Otherwise, we end up not with government of the people but with government by an unelected, unaccountable group of judges.

President Biden has unfortunately placed himself squarely in the camp of those who would like to see the judiciary take an active role in making policy. ''The people that I would appoint to the Court,'' President Biden said during his campaign for President, ''are people who have a view of the Constitution as a living document, not as a staid document.''

Well, let me just talk about that for a minute. What is a Constitution if not a staid document? If there is no fixed meaning to the Constitution, if it can be stretched and adjusted and expanded by judges at their discretion, then why have a Constitution? The whole point of the Constitution—of written law in general, I would argue—is that it is fixed, ''staid,'' to quote the President. The rule of law, equal justice under the law—these concepts rely on the idea that the law has a fixed meaning, that there is one law that applies equally to everyone.

If the Constitution does not have a fixed meaning, it cannot be the supreme law of the land. It cannot be a guide to which we can all appeal. A living Constitution is a meaningless one. Of course that doesn't mean that the Constitution will always stay exactly the same. There is a process, as we all know, for amending the Constitution so that needed changes can be made. But these changes have to be made through the amendment process, with the concurrence of three-fourths of the States.

That is not what the President is talking about. When the President talks about a living Constitution, he is not talking about periodically amending the Constitution via the process laid out within the Constitution itself; what he is talking about is nominating judges who will take it upon themselves to amend the Constitution through their rulings by finding new rights and authorities as needed to advance a particular political agenda. That is deeply concerning, particularly when we are talking about a lifetime appointment to the highest Court in the land.

Unfortunately, after watching last week's Judiciary Committee hearing and examining Judge Jackson's record, I am concerned that her jurisprudence reflects President Biden's belief in an activist judiciary.

As has become clear, Judge Jackson has a strong point of view when it comes to sentencing guidelines in certain cases. That is not in and of itself a problem, of course. Judges can and do have strong opinions about any number of issues that come up in the law. What is a problem is it seems that Judge Jackson has allowed her personal opinions to shape her judicial decisions.

For example, as a Federal trial judge, she repeatedly chose to reject sentencing guidelines and the recommendations of prosecutors in favor of lenient sentences for those who possess and distribute child pornography. It appears that she had a record of advocating for leniency with respect to these types of crimes during her time at the U.S. Sentencing Commission and that she then applied those opinions to her sentencing practices when she became a Federal judge.

For this reason and more, I am deeply concerned that her record suggests that she would allow her personal opinions on issues like sentencing to shape her decisions on the Supreme Court. A Supreme Court Justice's allegiance must be to the plain words of the law and the Constitution, not to any personal political opinion, and I am not convinced that Judge Jackson meets that standard.

My concern has only been heightened by Judge Jackson's inability or refusal to define her judicial philosophy. It should not be difficult for a nominee to the Supreme Court to lay out her theory of constitutional interpretation. Given how often her strong personal opinions have appeared to influence her decisions as a judge and absent a clearly expressed judicial philosophy that rejects personal opinion in favor of the plain meaning of the law and the Constitution, I am concerned that her judicial approach would follow the ''living Constitution'' model that President Biden embraces.

Finally, I was deeply concerned by Judge Jackson's refusal to reject Court packing. Court packing, of course, is a long-discredited idea that has been revived by members of the far left and increasingly embraced by the Democratic Party. The idea behind it is simple. If the Supreme Court isn't delivering the decisions you want, expand the number of Justices until you can be pretty sure you will get your preferred outcomes.

The problems with this approach are obvious, starting with the question, where does it end? It is easy to envision a Democrat-led Congress packing the Court with additional Democrat-selected Justices and then a Republican-led Congress coming in and matching those new Justices with additional Republican-appointed Justices and on and on and on. Pretty soon, the size of the Supreme Court would be approaching the size of the U.S. Senate. I can think of no approach more guaranteed to bring about a complete delegitimization of the Supreme Court.

Do Democrats seriously think that there is any—any—American who would regard the Supreme Court as a nonpartisan institution after it had been packed full of Democrat Justices or, if it were Republicans who were advancing this Court-packing plan, with Republican Justices? Court packing would instantly turn the Supreme Court into nothing more than a partisan extension of the legislative branch, which is why it is so concerning that Judge Jackson has repeatedly—repeatedly—declined to oppose it.

Both Justice Ginsburg and Justice Breyer spoke out against Court packing during their time on the Supreme Court, so this is a subject on which Judge Jackson can and should have felt free to speak. That she did not do so only underscored my concern that she is too open to allowing politics to shape the judiciary.

I enjoyed meeting with Judge Jackson, and I respect her achievements, but I cannot in good conscience vote for a Supreme Court Justice whose record indicates that she will allow her personal political opinions to shape her judicial decisions.

The rule of law depends upon having Justices who decide cases based on the plain meaning of the law and the Constitution, not on personal beliefs or political considerations.

I can only vote to confirm a Justice who I believe will respect the separation of powers and the limited role of a Justice and refuse to allow her personal opinions to influence her decisions on the Bench.

For these reasons, I cannot support Judge Jackson's confirmation to the Supreme Court.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF LISA DENELL COOK

Mr. TOOMEY. Mr. President, I rise today to speak on the nomination of Professor Lisa Cook to serve as a Governor of the Federal Reserve Board.

At stake with Professor Cook's nomination is really how the Fed will respond to one of the most pressing challenges facing Pennsylvania and the Nation.

Earlier this month, we learned that inflation hit a four-decade high of almost 8 percent. Prices are skyrocketing for just about everything: gasoline, food, rent. The amount of money Americans have to pay for basic goods and services that they need every week are going up, and they are going up much faster than their wages. That means working Americans are falling further and further behind.

Under the guise of fighting this inflation, my colleagues across the aisle on the Senate Banking Committee have urged the swift confirmation of President Biden's slate of nominees to the Federal Reserve Board. The chairman of the committee said that President Biden's nominees are ''ready to get to work fighting inflation.'' And yet we could have confirmed nominees many weeks ago.

We still haven't voted on two of the nominees who have unanimous Republican support and near-unanimous Democratic support, which makes you wonder about our colleagues' commitment to this urgency. Maybe it is because our Democratic colleagues know that even if we don't confirm these nominees, the Fed has 9 out of 12 voting members on the FOMC in place. That is more than enough to raise rates if they decide they should raise rates to fight inflation.

How do we know for sure that that is more than enough? Well, at their last meeting just 2 weeks ago, the Fed did, in fact, raise interest rates. So it was never the case that the Fed is somehow unable to fight inflation until the nominees are confirmed.

What we really should be asking ourselves is, Are these nominees going to be the inflation fighters that we need that the White House claims they are? In my view, one of these nominees in particular, Professor Lisa Cook, dramatically fails this test.

First of all, Professor Cook has nearly zero experience in monetary policy. Now, she does have a Ph.D. in economics, but not a single one of her publications concerns monetary economics.

The White House cites as her main qualification on U.S. monetary policy her appointment as a Chicago Fed director. That appointment was made in January of this year, 2 weeks before President Biden announced Professor Cook's nomination to be a Fed Governor.

And Professor Cook made very clear in her conversation with me that she had not participated in any policy or decisionmaking so far in her term at the Chicago Fed. In fact, she described her role as limited to ''filling out paperwork''—that is her quote—for her new position, which is understandable. She had been there for 2 weeks before she was nominated to the Fed governorship. So that appointment to the regional Fed certainly doesn't count as a qualification to serve as a main Fed Governor.

Professor Cook herself has acknowledged that her academic work on monetary issues is, let's say, sparse. When asked to list her top few works on monetary policy for the Banking Committee, she provided only one, and that was a book chapter about Nigerian bank reforms in 2005.

What is even more troubling is that in addition to having no monetary policy experience, Professor Cook also appears to have no opinion at all on how the Fed should address inflation.

Professor Cook repeatedly refused to endorse the Fed's decision to pull back its ultraeasy monetary policy and only did begrudgingly say that she agreed with the ''Fed's path right now as we are speaking''—that is a quote—at her nomination hearing in February. Prior to that, she couldn't bring herself to acknowledge that maybe it was time for the Fed to change the policy that had contributed to the worst inflation that we have seen in 40 years.

Professor Cook's answers to basic questions about what tools the Fed should use and how should the Fed consider using them in order to get inflation under control, her answer was nothing more than an incomprehensible word salad.

Professor Cook has continued to insist that she would need to be confirmed to the Fed before she can have a view on inflation because, in her own words, ''We don't have access to all the data that the Fed has,'' and also, ''We don't have access to . . . the deliberations at the time they are being made.''

These statements are bewildering coming from someone who has been nominated to address the most pressing inflationary threat in nearly two generations. To be clear, the Fed has no secret data, as Professor Cook seems to believe. In fact, monetary policy, including the recent 41-percent increase in the money supply, is extremely transparent. And if Professor Cook is counting on Fed economists to guide her in making a prediction about inflation, then, first of all, they have been wrong on inflation consistently, very wrong; and, secondly, what is she going to do on the Fed and what is her role there if all she is going to do is take instruction from the Fed staff?

Look, just about every economist in the country has an opinion about inflation right now because the data is all readily apparent and extremely disturbing. Every other nominee to the Federal Reserve has an opinion about inflation, and certainly, every Pennsylvanian I talk to has strongly held views about inflation.

Professor Cook's claim made at her nomination hearing just last month that ''We have to be patient with the data''—and the data she was referring to was rising consumer prices—that certainly suggests, what is to me, an unacceptable toleration for the inflation that is ravaging American consumers.

That brings me to my second point, and that is Professor Cook's history of extreme leftwing political advocacy and hostility to opposing viewpoints, the combination which I think makes her unfit to serve on the Fed. As I have said many times, it is extremely important that we keep politics out of the money supply. The Fed is supposed to be independent. The Fed is supposed to be apolitical so that it can focus on its job. But unfortunately, we have seen the encroachment of politics at the historically independent Federal Reserve, and we have seen that the Fed is not doing such a great job.

There are people on the left, including in the Biden administration, who openly advocate that the Fed use its regulatory powers to address complex political issues, including things like what to do about global warming, social justice, even education policy. Look, these are all very, very important issues—very important issues—but they are completely unrelated to the Fed's limited statutory mandate and expertise.

Professor Cook's record indicates that these are the topics that interest her the most, and she is likely to inject further political bias into the Fed's work at a time, exactly the time, when we need the Fed to be hyperfocused on getting inflation back under control.

We discovered that Professor Cook sent out, in recent years, over 30,000 public tweets and retweets—30,000. Included among them, she supports race-based reparations; she has promoted conspiracies about Georgia voting laws; she sought to cancel those who disagree with her views, such as she publicly called for a colleague of hers to be fired because he dared to tweet that he was opposed to defunding the police of Chicago.

After Banking Committee Republican staff highlighted these tweets and brought them to public attention, Professor Cook blocked the Banking Committee Republican Twitter account 1 day before her nomination hearing.

Apparently, Professor Cook not only realizes how inflammatory her own tweets are but also has pretty little regard for the Senate's constitutional responsibility to vet her public statements.

See, the Fed is already suffering from a credibility problem because of its involvement in politics, its departure from its statutorily prescribed limited role, and, frankly, the not-very-good job it has done in keeping inflation under control.

I am concerned that Professor Cook will further politicize an institution that must get back to being apolitical, so I urge my colleagues to vote against the motion to discharge Professor Cook.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Mr. President, I ask unanimous consent that prior to the

vote at 11:45, I be permitted to speak for 15 minutes and Senator SHERROD BROWN be permitted to speak for 2 minutes.

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

NOMINATION OF KETANJI BROWN JACKSON

Mr. DURBIN. Mr. President, last week, the Senate Judiciary Committee was busy. We met for over 30 hours to consider the nomination of Judge Ketanji Brown Jackson to fill a vacancy on the Supreme Court.

During the meeting of the committee, hundreds of questions were posed to Judge Jackson. She spoke thoughtfully and at length about her years in public service, and, most importantly, she really imparted to the committee—and to America that has watched—what she thought about this great Nation, her pride in being an American, the opportunities which were given to her, and opportunities which she used to make this a better place for many.

I was one of the millions who came away from last week's hearing deeply impressed with Judge Jackson. It proved to me during the course of her testimony that the words over the steps of the Supreme Court, ''Equal Justice Under Law,'' are a personal challenge and an invitation to a person just like Judge Jackson.

But it appears some of our Republican colleagues are more reluctant to support her at this moment. She is still making the rounds. Over 50 Senators have received personal visits, and even more will during the course of this week. They have reservations, and I have spoken to some of them and listened to their statements. They say that they don't have any question about her qualifications or experience. Well, thank goodness. She has a stellar resume. Anyone who is a lawyer in this Nation would look at her with envy to think what she has achieved against the odds in her life.

Unfortunately, some of the members of the committee misrepresented her record on several issues. I would like to try to set it straight at this moment.

There seems to be this passion amongst some Republicans to get this nominee to state in a word or two her judicial philosophy. I find that interesting. If a person came up to one of my colleagues and said, ''What is your political philosophy?'' there are a number of things a person might say. They might say, for example, ''I am a fiscal conservative.''

You might then ask, ''Well, then why did you vote for the Trump tax cuts that gave tax breaks to the wealthiest Americans and added almost $2 trillion to the national debt? And if you are a fiscal conservative, why is it that you only preach for a balanced budget amendment when there is a Democrat in the White House and never when there is a Republican?''

Basically what you are saying is, ''I can hear you and your declaration, but I want to know what you have done.''

When it comes to Judge Jackson, those who seek her judicial philosophy and want a simple label one way or the other just haven't done their homework. She has almost 600 published opinions. This woman, this jurist, has not held back in explaining, in case after case, how she views the law. It is there for the reading. Every Member of the Senate and the public has access to that information to get the true measure of a judicial philosophy.

What she said over and over again at the hearing was, I believe in judicial restraint. I think that is exactly what we need in a judge, personally. That is exactly what you will find when you review the hundreds of opinions she has written to date.

Then there is this litmus test question that meant so much to Senator MCCONNELL, the Republican leader in the Senate, that he led off his opposition to Judge Jackson on the issue. And the issue, quite simply, is whether or not Judge Jackson is willing to say what her position is on increasing the number of Justices serving on the Supreme Court—interesting question.

Most Americans think it has been nine for all time, but that is not true. I believe it was in 1869 that that number was established. Before then, it was a fewer number of Justices. It hasn't been changed since. There is speculation among some political quarters that people are thinking about changing it in the future.

So when it came to Senator MCCONNELL's opposition to Judge Jackson because she said it is a policy matter to be decided by Congress, not to be decided by the Court, as to the composition and number on the Supreme Court, Senator MCCONNELL went on to say that that disqualified her; that was the leading disqualification.

Well, you might ask Senator MCCONNELL: How did the previous nominee, Amy Coney Barrett—you went to great lengths in maintaining a vacancy on the Court so that a Republican judge could fill the vacancy—how did she answer this probing threshold question when it came to the future composition of the Supreme Court?

She said virtually exactly what Judge Jackson said: It is a matter for Congress to decide, not for the courts. That was an acceptable answer with Amy Coney Barrett, but for Senator MCCONNELL, it is an unacceptable answer when it comes to Judge Jackson.

The other questions that were raised were about her legal representation. Those of us who have practiced law understand that you don't necessarily agree with the legal position of every client who walks in the office, and sometimes you have no choice. If the court appoints you as a defender or as an attorney to represent someone who is an indigent client, you often have a client before you—not necessarily a savory character—who might have some questionable background. Your job is to be a zealous advocate for that client but never to lie to the court, stick with the truth, do your best, and represent them in the course of litigation.

That is what Judge Jackson has done in her private practice and her years working for the Federal public defender. Most attorneys get it. Most of them understand that the client you are representing is not necessarily espousing your point of view, nor, really, boasting a lifestyle that you admire, but you have a professional obligation to do your best as a lawyer to represent them before the court of law.

Some of them were opposed to Judge Jackson because she represented detainees at Guantanamo Bay. That is curious because these same lawmakers once claimed that judicial nominees should not be held accountable for the views and actions of their clients.

It was the junior Senator from Missouri who not that long ago argued that litigators ''do not necessarily share the views of the people [they represent]'' but must ''represent them effectively and fairly.'' He was right then, and he ought to remember it now.

Consider the words of the junior Senator from Texas, who told us in September of 2019:

> Saying that the views of your clients or the positions of your clients are necessarily your own personal views is no more accurate than saying a criminal defense lawyer who represents capital defendants is advancing the cause of murder.

That is the quote from the junior Senator from Texas.

Finally, some of our Republican colleagues have accused Judge Jackson of being soft on crime. We had an interesting panel the last day when we considered the judge, and on that panel was a gentleman who is the president of the Black law enforcement organization known as NOBLE.

I asked him point blank: We know the Fraternal Order of Police has endorsed Judge Jackson's aspiration to the Court. We know that the International Association of Chiefs of Police also endorsed her. You, NOBLE, representing Black law enforcement agents across the Nation, have endorsed her. Would you or any of these organizations have even considered the endorsement if you thought she was soft on crime or wanted to defund the police? He was unequivocal. No, he wouldn't have considered her. But her critics ignore that reality.

I want to make it clear that any Senator considering her nomination has the right to make their own choice in this process. They can also look beyond the fact that she comes from a law enforcement family to her actual decisionmaking and sentencing. But to claim, as a few have—only a few—that somehow Judge Jackson was soft when it came to child predators or endangering children is just inaccurate and, frankly, insulting.

Look at the facts. Judge Jackson is well within the judicial mainstream of 70 to 80 percent of sentences by Federal judges when it comes to child pornography offenders—not out of the mainstream, in it—and she has put many