

He was born in Quiet Dell, WV, which is a little spot on the road, on a farm. But he told me that his mother had a really good friend, and his mother's really good friend would come over and help her deliver her 11 children, and then Woody's mother would go over and help her friend deliver her 7 or 8 children, or however many she had. So there was no official documentation.

I think he told me in the end—I have to make sure that I am telling this right to Tracy. He told me, in the end, that they had to drag his mother's friend down to the bureau in the county, when he wanted to sign up to join, to make sure that he was actually as old as he said he was.

So being the youngest of 11, he made a lot of sacrifices for his family. But his acts of heroism would eventually help the United States capture the pivotal island of Iwo Jima, a world away from that dairy farm in Quiet Dell, WV.

Many Americans recognize the iconic image of our marines raising the American flag atop Mount Suribachi. It evokes an enormous sense of pride for all of us of patriotism, of triumph. On that same day that the iconic photo was taken, February 23, 1945, a young Marine corporal by the name of Hershel "Woody" Williams was on that same island risking his life for our freedom.

That day was under constant fire, and every time I heard him tell the story, he mentioned the folks that had his back. And some of them didn't make it.

Woody, who was a member of the 21st Marines, 3rd Marine Division, alone stormed multiple enemy pillboxes with limited cover, neutralizing one after another, saving countless American lives behind him.

He went on to fight throughout the entire 5 week campaign on Iwo Jima until our forces finally took the Japanese stronghold, marking a key turning point for the Allied cause. His actions that day and throughout the war are the reason why, when West Virginians think of the "greatest generation," we think of Woody Williams.

But what would set Woody apart, I think, more than those acts of valor on the battlefield, was what he did after that, how he carried himself in the more than 75 years since the Second World War.

Through the Hershel "Woody" Williams Foundation he advocated for Gold Star families. I was able to attend a couple of the openings of the memorials with him, and it was quite moving. He worked to ensure that the memories of loved ones lost would go on forever.

Today, Woody and his foundation have installed 104 Gold Star Family Memorial Monuments across this country, with about 70 additional monuments underway in every State. Through public appearances and his seemingly unending energy and passion, Woody shared his story with the world.

And he was quite the speaker. I think Senator MANCHIN would agree with me: That guy could give a speech. It was always very captivating whenever Woody was on the program. His mission was to inspire those—especially younger—Americans, to answer the same call to service that he did as a teenage boy.

As he said years later, "the people need to remember, if we ever lose our freedom, we will never be able to regain it." He believed that to every core of his body. There is no doubt in my mind that because of Woody, there are more people who answered the call and chose to serve the United States in some way, shape, or form—what an incredible legacy to leave.

He also never forgot his fellow veterans, serving as a veterans' service rep for 33 years at the VA, and I am proud that legacy of care lives on forever in the Hershel "Woody" Williams VA Medical Center outside Huntington, WV. As a matter of fact, Senator MANCHIN told me that was one of Woody's requests: that we need another exit for that hospital.

Joe, could you arrange that?

But Woody did all this with the same trademark humility that we came to know and love about him. For instance, several years after President Truman awarded him the Medal of Honor, Woody says he remembers asking himself in that moment: "Why was I selected to receive our Nation's highest award when marines right beside me didn't make it home?"

And that just tells you everything you need to know. That shows you the kind of man that Woody Williams was—always for putting his country and comrades first and never concerned with who got the credit.

I count it among one of my life's lessons to have had that airline flight in close contact with him, but also through the years seeing him that I was able to learn from him and laugh with him.

I asked him: Why the Marines? Why not the Army?

Well, he said he was walking down the street—this was before he joined—and he saw a guy walking down the street, and, man, did he look great in that uniform. He said: That is what I want to be. I want to be a marine.

But one of his family members told me at the funeral over in West Virginia, several days ago, that you need to add on there that he thought it would attract more women at the same time. So he was thinking ahead. He was thinking ahead, and I have to agree with him: That Marine uniform is something quite special, and so are the Marines.

The last thing I would say, on a personal note, is that the many times that I saw Woody, being born in 1923, was a reflection of not just him. In his eyes and in the way he carried himself, I saw that whole "greatest generation"—from my dad, who was also born in 1923, who served in World War II, who left this country for a cause great-

er than themselves, who believed in protecting our freedoms, who went and fought for people they had never met, known, or seen. And when you think about it in the context of where we are today, you think how special that was for our Nation, for that "greatest generation."

So when I say good-bye to Woody tomorrow, when we have the ceremony tomorrow, we are saying good-bye and thank you to that "greatest generation" that my dad was a part of. It has a lot of nostalgia and remembrance in all of our hearts and admiration for their passion and love for our country.

So, tomorrow, as we honor a great man and tell his story, Woody will still be doing what he has always done, and that is inspire us. So here is to a well-lived life and a country well-served, even long after he wore the Marine uniform he loved so dearly. Hoorah. Woody, rest peacefully, and thank you.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. Madam President, I know that both of us want to thank Speaker NANCY PELOSI, Majority Leader CHUCK SCHUMER, and the ranking member of the Republican Party, MITCH MCCONNELL, and all the people who were so instrumental in making this happen.

There have only been 35 people lying in state in this Capitol—35 out of millions and millions and millions. And it is a tremendous tribute for us, coming from our wonderful, patriotic, beautiful State of West Virginia, to have the "greatest generation" being represented.

And as we have said, this is not him; it is for everybody and, I hope, for all the families and anybody who had anybody who served.

SHELLEY's dad was wounded in World War II and received a Purple Heart. He became our Governor three times and was a friend of mine. And my father and all of my family served in World War II.

But to have so many people, and Woody is doing that for them. Tomorrow is for every person who has sacrificed and given their all and the families who have sacrificed also.

So we want to thank them for making that happen. It was a great tribute and a great honor, I know, for the family and all of us. God bless you all and thank you for coming.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, before I turn to other business, let me just say how grateful I am to have had the chance to be here and to hear the West Virginia Senators discuss this distinguished gentleman and to join them in welcoming his family to the U.S. Senate. My father, too, was a World War II marine, and it is a sad thing as the tides of time sweep that generation through its dying years.

U.S. SUPREME COURT

Madam President, I rise today now for the 16th time to call out the dark

money scheme to capture and control our Supreme Court.

The last time I rose to shine a light on this scheme, I sounded a warning about a case then pending at the Supreme Court called *West Virginia v. EPA*. I discussed how the Court the dark money built was primed to smash through precedent and weaponize fringe legal theories to deliver for the scheme's big donors. I am sorry but not surprised to report that the Supreme Court's Federalist Society Six did exactly what the polluters asked. Not only did the Court deliver for polluters, it delivered big.

Before we dive into that, let's recap what we knew going into this case.

First, the case never should have made it this far in the first place. A handful of States, with fossil fuel-funded attorneys general and an armada of rightwing front groups that were propped up by dark money from the fossil fuel industry, asked the Supreme Court to strike down an EPA rule regulating greenhouse gas emissions from existing coal-fired powerplants. The problem was that the rule no longer existed. So there wasn't actually an operating EPA rule to challenge, meaning there was no constitutional case or controversy and no reason for a legitimate Court to entertain the industry's invitation.

But this is the Court that dark money built, and it wasn't going to let this constitutional guardrail stand in its way of pleasing the big donors who packed the Court.

Supreme Court precedent had repeatedly rejected the polluters' arguments outright. The polluters argued that Congress, not the EPA and the so-called administrative state, needed to do the regulating here. It is a matter of common sense that Congress delegates authorities to the EPA. It is also well known that polluters want to knock questions away from expert regulators and over to Congress, where their dark money political power—also a creature of the Court that dark money built—can be brought to bear to buy delay and obstruction. The power of Congress to legislate broadly and let Agency experts fill in the gaps has been upheld for decades against persistent attacks from regulated industries.

Well, no more. No matters of law or fact had changed since the last time similar questions were answered by the Court. The thing that changed is who is on the Court: a majority, selected by polluters, using hundreds of millions in dark money, which brings us to the decision itself. There is good news, and there is very, very bad news.

The good news is that the Court's ruling is actually very narrow as to the EPA's authority to regulate greenhouse gases in the power sector. It is limited to deliberate generation shifting. So there is lots left to work with, and the EPA needs to pull up its socks and get to work on regulating carbon emissions and other forms of air pollution. So far, in 18 months of the Biden

administration, the EPA has managed to produce one carbon emissions regulation and not a very strong one at that. The EPA needs to move now as fast as possible. There is not a second to waste. That is the good news.

The bad news, however, is grim. The Federalist Society's Justices loaded up their opinions with polluter talking points and hothouse-grown polluter legal doctrines, paving the way for polluters to block or delay regulations for years to come.

Start with the polluter talking points, rife throughout Justice Gorsuch's concurrence, which spends 20 pages decrying the dangers of government regulation. He calls regulators a "ruling class of largely unaccountable 'ministers.'" This is not even remotely true. If there is an unaccountable ruling class in America right now, it is the Court that dark money built and the dark money forces behind it.

Compare that to the EPA. The EPA's leadership is selected by the President, approved by the Senate, and can be fired at will should they deviate from the elected President's priorities. They are all directly accountable, and the White House's Office of Management and Budget reviews every EPA regulation to make sure it is consistent with the elected President's priorities.

Congress retains complete control over the EPA's funding and has entire committees dedicated to oversight. It is Congress that provided the EPA with its instructions through laws like the Clean Air Act and the Clean Water Acts. Congress also created the Administrative Procedure Act to assure that Agencies like the EPA carry out their duties fairly, according to the facts, under proper procedure, and under rigorous judicial supervision, and we passed the Congressional Review Act so Congress is able to swiftly undo any rules that it doesn't like.

In actuality, in the real world, there is direct accountability and oversight over the EPA by all three branches—by all three branches—over the supposedly unaccountable ruling class. By comparison, Justice Gorsuch and his colleagues wield their unaccountable power without even the bare minimum of an enforceable ethics code.

This argument by Justice Gorsuch may not be founded in fact, but it has a foundation. The idea that the biggest threat to freedom is an administrative state full of unaccountable bureaucrats is a longstanding talking point of the fossil fuel industry constantly trotted out by Republican politicians and fossil fuel front groups. Here is just a taste of what I mean.

Here is the Heritage Foundation—a key fossil fuel front group:

[T]he administrative state's functionaries are powerful. . . . They are unelected, unknown, and, for all practical purposes often unaccountable.

Sound familiar?

Here is the minority leader himself responding to a speech by a Republican Senator who is decrying unelected bu-

reaucrats. The minority leader called this the "single biggest problem confronting our country . . . the single biggest thing holding this country back from reaching its potential." And in the wake of this very decision, he went back to their go-to talking point: "unelected, unaccountable bureaucrats."

It just is not true. The foundation of Gorsuch's screed is not fact; it is political fossil fuel talking points, and we should not be surprised that those talking points made their way into an opinion by a Supreme Court Justice. That is exactly what the Court that dark money built was built for.

Aside from the talking points are legal doctrines hatched in polluter-funded hothouse doctrine factories, a web of phony think tanks, scheme-friendly scholars, and conservative conferences designed to cultivate and legitimize fringe legal theories—reverse engineered to produce the results the polluters want.

One of these is the so-called major questions doctrine, which—guess what—makes its maiden appearance in *West Virginia v. EPA*.

Let's look at how the major questions doctrine traveled from the doctrine factory into a Supreme Court decision.

The Trump administration, fully in tow to the fossil fuel industry, took this rare specimen of legal theory and pumped it up into a powerful weapon against the functioning of the Federal Government. From day one, Trump's top adviser, Steve Bannon, vowed that the Trump administration would carry out the "deconstruction of the administrative state." Trump's White House Counsel Don McGahn—the same Don McGahn who oversaw the confirmation of the scheme's hand-picked Justices—admitted that the "judicial selection and the deregulation effort are really the flip side of the same coin."

Think about that. In his own words, the Trump White House had a "larger plan" to wipe out government regulations by using judges.

For 4 years, the Trump lawyers argued in court for this major questions doctrine that had been previously unmentioned in any Supreme Court decision. The Trump team urged courts to deploy the doctrine to strike down Agency laws, including in this case, *West Virginia v. EPA*. Now, while the Court had never mentioned the doctrine, it had been mentioned. Brett Kavanaugh, on the DC Circuit, did while he was auditioning himself for a seat on the Supreme Court, to catch the eye of the scheme donors and to telegraph to them how eager he was to do their bidding. Kavanaugh wrote a dissent in a case about net neutrality—a case with many of the scheme's dark money front groups—Cato, Competitive Enterprise Institute, Pacific Legal Foundation—present as amici. They were the right audience for Kavanaugh's "major questions" audition tape, and he aimed to please.

Payday for scheme donors came in *West Virginia v. EPA*. At least 14 polluter front group amici showed up to push in chorus for their major questions doctrine—the usual suspects—funded by fossil fuel dark money, like Cato, the Koch flagship Americans for Prosperity, and the Competitive Enterprise Institute.

Justice Gorsuch's concurrence is rife with citations legitimizing doctrine factory "scholarship." He cites articles written by the founder and president of the Free State Foundation, a member of the dark money State Policy Network; by a member of the dark money Federalist Society's Administrative Law Group executive committee; and by the former president of the Koch-funded American Enterprise Institute.

The scheme is all about boosting corporate power and rolling back government regulations. It is not just about building a dark money Court; it is about front groups by the dozen which operate in coordinated flotillas; it is about faux scholarship—reverse-engineered in a parallel universe of faux academia—to give polluters power over government; and it is about more than a half a billion dollars in dark money spent to set up and run the whole sham enterprise.

The attack on regulation began with an effort to revive the so-called non-delegation doctrine discarded by the Supreme Court almost 100 years ago. Like the major questions doctrine, the nondelegation doctrine allowed courts to strike down Agency rules when Congress wasn't explicit enough in delegating power. Polluters loved it. Scheme front groups like the Cato Institute—propped up by the dark money from the fossil fuel billionaire Koch family and from companies like ExxonMobil—sponsored research that argued for reviving the nondelegation doctrine. They organized conferences and seminars, lobbied legislators, and funded law groups designed to spread the idea far and wide.

But "major questions" had one advantage. Years ago, on the DC Circuit Court of Appeals, Justice Breyer had used those two words once, in passing, in a lengthy law review article. They could seize that camouflage. And guess what. "Major questions" is just "non-delegation" in disguise. If you don't believe me, let's go back to Justice Gorsuch in a concurrence from another case earlier this year:

[T]he major questions doctrine is closely related to what is sometimes called the non-delegation doctrine. Indeed, for decades, courts have cited the nondelegation doctrine as a reason to apply the major questions doctrine. . . . Whichever the doctrine, the point is the same.

Indeed. The point is that a Court captured by polluter interests will find any way it can to import polluter doctrine—cooked up in polluter-funded doctrine factories—into the law of the land, and that is just what they just did in *West Virginia v. EPA*. For the polluters, mission accomplished.

The Court that dark money built had already wreaked havoc in our law. Even before they got to six, they had run up 80 5-to-4 partisan decisions benefiting big Republican donor interests—80 5-to-4 partisan decisions benefiting big Republican donor interests. Now with six Justices, they have set about destroying precedent left and right, taking away the constitutional right of women to control their own reproductive decisions, blocking efforts to reduce gun violence, and now adopting new theories to empower polluters against public health regulation.

The FedSoc Six's hatred for regulation isn't shared much outside the polluter-funded parallel universe. Most Americans appreciate regulations. They appreciate regulations that help make sure food and water are safe, that their air is clean to breathe, that medicines actually work, that markets operate honestly, that investors have real information, and that car seats protect you in a car wreck. The American people are right to sense that something is deeply amiss at the U.S. Supreme Court.

A captured Court presents an unprecedented challenge to the other branches of government, but we aren't helpless.

First, we need to start telling the truth about what is going on. The pattern is unmistakable, and people across the country need to understand this is not right; this is not normal. We can also pass laws like my DISCLOSE Act, which I hope will be coming up for a vote shortly, to shine light on the dark money donors who captured our Court in a long scheme.

We can require real ethics requirements for Supreme Court Justices, just like all other Federal judges already have. Remember the ongoing ethics investigations against Judge Kavanaugh? They were dropped, not because they were resolved, not because they ended, not because he was found not culpable; they were dropped against Judge Kavanaugh because he escaped to the Supreme Court, where ethics investigations don't exist, so they had to shut down the ongoing investigations. That is a terrible signal.

We can also require Justices to report gifts and hospitality, as all other judges do and all senior government officials do in the executive and legislative branches.

There are many ways to push back against the new "ruling class" of "unaccountable ministers" occupying the captured Court and to assure the American people that fairness and justice, and not the Court's deep-pocketed special interest friends, are what drives Court decisions.

There is a lot to be done, and we need to begin. To be continued.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

## LEGISLATIVE SESSION

### MORNING BUSINESS

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the Senate proceed to legislative session to be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

### AFGHANISTAN

Mr. HAWLEY. Madam President, following my submission yesterday, I ask unanimous consent to have printed in the RECORD the next part of an investigation directed by the U.S. Central Command concerning the Abbey Gate bombing in Afghanistan in August 2021.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### ACTS-SCK-DO

Subject: Findings and Recommendation—Attack Against U.S. Forces Conducting NEO at Hamid Karzai International Airport on 26 August 2021

(i) Throughout the NEO, USFOR-A FWD spent a significant amount of time coordinating special evacuation requests on behalf of the interagency, congressional representatives and senators, and the White House (exhibits 13, 15, 18, 20, 21, 22). The USFOR-A FWD staff estimated they received over 4000 such requests during the nine days ECPs were operating (exhibits 13, 20, 21, 22). (TEXT REDACTED) USFOR-A FWD Deputy Commanding General, referred to these evacuees as privileged personnel exhibit 21). USFOR-A FWD's (TEXT REDACTED) and Embassy (TEXT REDACTED) worked with subordinate staffs to action many of these requests. They would coordinate with the potential evacuees for challenge and password or other identification, visit gates, seek out the evacuees, physically pull them from the crowd, and get them processed through DoS and the Evacuation Control Center (ECC) (exhibits 17, 20, 22, 100, 108, 122).

(ii) (TEXT REDACTED) along with members of the JTF-CR staff, were primarily responsible for coordinating multi-national activities and requests through the Multi-National Coordination Cell (MNCC) (exhibits 15, 18, 20, 21, 22). The MNCC met daily, along with other Ambassador groups, to coordinate air and lift requirements for partner nations, and Afghans sponsored by those nations to depart (exhibits 20, 21, 22). Many of the other nations working out of HKIA and conducting NEO were completely dependent on the U.S. for airlift (exhibit 21). USFOR-A FWD, with JTF-CR, formed the International Coordination Cell (ICC), which was a broader forum for handling the extensive privileged persons' requests from partner nations (exhibit 21). (TEXT REDACTED) USSFOR-A FWD Chief of Staff, and Commander. 3/10 IBCT, was responsible for working these issues (exhibits 21, 126). The ICC also provided a forum to synchronize bulk movement and arrival of passport holders or cleared individuals from all nations through South Gate (exhibit 126). This included building and allocating movement tables and coordinating with Taliban commanders for passage of vehicles (exhibit 126). (TEXT REDACTED) coordinated with 1/82 IBCT's (TEXT REDACTED) to request TF Wild Boar support for receiving these coordinated arrivals at the various gates (exhibit 247). TF Polar Bear was a force on the ground