

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. CASSIDY. Mr. President, I regret that my colleague has objected to this bill, but I reject the characterization that this would do anything to promote abortion.

But it is probably not important what I think. I will quote the U.S. Conference of Catholic Bishops. Last night, they said—and this is the Catholic bishops:

We believe that [this] version of the bill, read in light of existing liberty protections, helps advance the [U.S. Conference of Catholic Bishops'] goal of ensuring that no woman ever feels forced to choose between her future and the life of her child while protecting the conscience rights and religious freedoms of employers.

This is the U.S. Conference of Catholic Bishops last night.

And I think as a physician, I can now speak. As a physician, I will say that there are times when a woman, if she wishes to continue in the workforce, needs an accommodation.

The Louisville police officer who was quoted in a Cincinnati paper spoke about her need for light accommodation; but those who were ultimately her boss would not give it to her because she was not "injured." So they have a policy in which if you need it and on a doctor's order you should, unless it was a doctor's order because of pregnancy. And she was told that if she sought to use that, she would lose her insurance. At 5 months pregnant, she is going to lose her insurance.

I would argue the pro-life position is to make an accommodation for that woman who has those needs so she can safely carry the baby to term.

Now, by the way, it is also good for business. Others are endorsing this from the business sector. I will just give one: the U.S. Chamber of Commerce. They clearly see that this is something that is a reasonable accommodation not forced by unnamed bureaucrats in Washington, DC, or important people who are employing others across the Nation. The U.S. Chamber of Commerce has made this a top priority.

With regard to pro-life issues, let me also point out that the March of Dimes, who are so vitally concerned about the health of children, likewise supports it.

My colleague has mentioned that it passed out of the HELP Committee 19 to 2, strongly bipartisan, and then passed the House with 315 bipartisan votes.

Now, we have experience with these laws nationwide; 30 States have laws such as this already. But that leaves millions of American women uncovered, and our goal was to address it with this bill.

Now, let me just go back once more, because, apparently, this is a sticking point.

Is it possible that this law would permit someone to impose their will upon a pastor, upon a church, upon a syna-

gogue, if they have religious exemptions? The answer is, absolutely no. This is what the U.S. Conference of Catholic Bishops was referring to. The title VII exemption, which is in Federal law, remains in place. It allows employers to make employment decisions based on firmly held religious beliefs. This bill does not change this.

There is an exemption in title VI related to pastors and ministers and Rabbis who conduct their business. All of that remains in place, which is why the U.S. Conference of Catholic Bishops last night once again endorsed the bill.

Now, I think even those who oppose would agree that we need to have a safe environment for pregnant women and their unborn children in the workplace. They deserve our attention. I would say that this bill is pro-family, pro-mother, pro-baby, pro-employer, and pro-economy.

I hope at a later point we can pass it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Just by way of conclusion, I hope we can continue to work with our colleagues to get this bill passed.

I want to say for the record, however, that under the act, under the Pregnant Workers Fairness Act, the Equal Opportunity Employment Commission, the EEOC, could not—could not—issue any regulation that requires abortion leave, nor does the act permit the EEOC to require employers to provide abortions in violation of State law.

The EEOC understands that what is reasonable is specific to each workplace. For example, if the accommodation conflicts with a generally accepted work rule, like a seniority system, that is generally not reasonable.

So for these and other reasons, we want to get this bill passed and not have to start all over again to delay the passage of the Pregnant Workers Fairness Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, I ask unanimous consent that I, Senator KLOBUCHAR, Senator COTTON, and Senator PAUL be permitted to complete their remarks prior to the scheduled rollover vote.

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

UNANIMOUS CONSENT AGREEMENT REQUEST—  
H.R. 3843

Mr. LEE. Mr. President, I rise in strong support of H.R. 3843. This bipartisan package of commonsense antitrust reforms would bring a whole lot of much-needed improvements to the administration of our Federal antitrust laws.

First, it would update our merger filing fees to reduce the financial burden on the vast majority of filers. Second, it would implement the State Antitrust Enforcement Venue Act to allow State attorneys general to benefit from the same protection as Federal anti-

trust enforcers so that their enforcement actions cannot just be transferred out of their State to more defendant-friendly jurisdictions. And, third, this legislation would require companies that submit premerger filings with the FTC and Department of Justice to notify the Agencies of any subsidies or support that they receive from foreign countries of concern such as China, Russia, and Iran. This will allow our antitrust enforcers to ensure that American markets are not being manipulated by hostile States.

Finally, in addition to simply being good policy, these reforms are the product of bipartisan cooperation, exemplifying the model for future bipartisan cooperation on antitrust legislation.

I, therefore, stand in strong support of this legislation and in support of this request.

I would like to yield my time to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I thank my colleagues, Senator LEE and Senator COTTON.

We are united on this, as is Senator GRASSLEY, the ranking member of the Judiciary Committee, as is Senator DURBIN, the chair of the Judiciary Committee. These proposals got through our committee unanimously. We were able to pass them in different forms through this Senate on parts of different bills. And now this combined grouping of bills that the three of us have led have now passed the House of Representatives.

If you look at what is going on in our country right now, we have a competition problem in over 75 percent of our industries, ranging from ag to pharma to tech. A small number of large companies, more and more, are controlling more of the business than they did decades ago. Look at what just happened with Ticketmaster. The lack of competition is estimated to cost the median American household \$5,000 per year.

We all believe—we agree on some things, and we disagree on some things—but we all agree that we need to update our laws in some way. One of the ways you do this is to make sure that our enforcers can take on the cases against the biggest companies the world has ever known. The Agencies are now shells of their former selves. In 1980, when the Antitrust Division was working to break up AT&T, it had 453 lawyers. As of April of 2021, that number had fallen to 299. The FTC had 1,719 employees in 1980. Now it is down to 1,100. We cannot take on the biggest companies the world has ever known or put fair rules of the road in place if we expect the enforcers to use bandaids and duct tape. Not only that, they bring in money when they bring these cases.

So I am proud of the work Senator LEE and I have done together. I would note the leaders of both parties support

these concepts, including the former Assistant Attorney General in charge of Antitrust, Makan Delrahim, as well as the current administration, including the former Republican FTC Chair, Joe Simons, in addition to the current leadership in this administration.

Capitalism is built on the foundation of competition and open markets. To quote Adam Smith, the so-called godfather of our capitalist system, the invisible hand of competitive entrepreneurship is key, but he also said that we must watch out for the overgrown standing army of monopolies.

There is an old cartoon with a bunch of monopolies, sitting up there where our guests are, looking down. It used to be railroads. It used to be all kinds of other trusts. Now there are new guys in town, and it is equally as dangerous to capitalism.

I appreciate the work of Senator LEE and Senator COTTON.

I yield to Senator COTTON.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. COTTON. Mr. President, part of China's strategy to defeat the United States includes unfairly helping corporations buy out American companies. We can prevent these propped-up companies from gobbling up American businesses, but we don't always know which companies China subsidizes or by how much.

A bill I introduced with Congressman FITZGERALD, the Foreign Merger Subsidy Disclosure Act, would require companies to disclose any subsidies they receive from foreign adversaries before a merger. If a company has received subsidies from a nation like Russia or China, U.S. antitrust regulators can use that information to determine whether or not the merger is fair. This bill has support from Republicans and Democrats, the administration, and the House of Representatives.

We should pass this package of bills today to protect American businesses and consumers and to stop China's economic war against the United States.

I yield to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3843, which was received from the House and is at the desk; further, that the bill be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. PAUL. Mr. President, in reserving the right to object, the proponents of antitrust laws are famously zealous in their desire to eradicate the curse of bigness. To them, big is always bad except, of course, when it comes to the size and scope of government. The same people who supposedly fear the

concentration of power in the marketplace celebrate the concentration of power in the State—a State that asserts itself into and nullifies private contracts, breaks up companies it deems too large, and inflicts punishment on those who succeed in the competition for customers. In short, antitrust seeks to cap the amount of success any company or business can enjoy and the benefits reaped by customers.

As economist Yale Brozen wrote, antitrust law seems to say that firms should compete but should not win; firms should be efficient enough to survive but should not share the fruits of greater efficiency with their customers.

And that is the fatal defect of antitrust policy.

Antitrust fails to accept the lessons of economic history that voluntary exchange is a win-win proposition and that consumers are incredibly powerful in a free market system. A company that continues to reward its customers with superior products and innovations will, in turn, be rewarded with greater market share—with more—and will do better than their competitors and they will grow in size. Size is not necessarily a bad thing. The size of a business reflects its ability to please its consumers.

But no company can achieve a strong position in the market and rest on its laurels. Consumers are too demanding, and competitors will arise to steal customers away from any firm that ceases to treat its clients well. Unlike players in the marketplace who must take note of consumer trends to survive, antitrust enforcers often fail to see what it is that is right in front of their faces.

Just take the issue of video services. In 2005, when Netflix was already several years old and growing in popularity, the FTC—believe it or not—busied itself in blocking a merger between Blockbuster and Hollywood Video. So this is the inside of government. Netflix is beginning to take off, and the antitrust busters—the trust busters—are breaking up VCR companies and DVD companies. They are going after Blockbuster. This is the incompetence of government, and we should not encourage this. Blockbuster and Hollywood Video no longer exist. Even now, Netflix is one they are worried about. So Netflix was the competitor that put Blockbuster out of business. They wanted to get Blockbuster in order to forbid them from merging. It makes no sense at all.

No such fear exists today, though, that Netflix will be a monopoly since they are competing with Hulu, Peacock, Amazon Prime Video, Disney+, HBO Max, Apple TV, Paramount+, and others, but 5 or 6 years ago, you might have thought: Netflix is going to take over the world, that we have got to break them up. No. If companies please their consumers, let them get bigger. Bigger means they are giving their customers something they want.

We didn't need government to break up Netflix. We didn't need government to interfere to ensure competition and innovation. All we needed to do was to let the marketplace work, but standing in the way of the benefits of the market are the antitrust zealots. The U.S. Chamber of Commerce has pointed out that enacting this bill would stymie legitimate business transactions between sectors and industries, create needless new bureaucracy, and spur unwarranted litigation.

The package is even more nefarious than that. It will take money out of the productive sector—the private sector—and give it to bureaucrats in Washington. As Americans for Tax Reform correctly points out, this legislation would give the Biden administration hundreds of millions of dollars in new funds to pursue a progressive social agenda. They are talking about critical race theory and all of this craziness and injecting this into whether a company can merge or not. This is not something we need to give them more money to do; we need to give them less money.

The package of bills here is just the first step to reinvigorating antitrust law. There is no lack of bills designed to empower government control over the marketplace. Take just one bill called the Competition and Antitrust Law Enforcement Reform Act, which would presume that any merger of a certain size violates the law and shifts the burden of proof to the merging parties. The government doesn't have to prove that your merging and becoming bigger is bad; you have to prove that your merging is somehow a benefit. People merge—they get bigger—to provide a lower cost and gain market share to gain profit for the consumers. That is what capitalism is based on. That is what ADAM SMITH really wrote about.

According to Robert Bork, Jr., the antitrust bill would enact so many potential ways to prosecute, abuse, and torment companies that government would, in essence, become the real board of directors, and every major company would be ruled by the Federal Government.

That is what is coming. That is what they are proposing. This bill today is a small step in that direction, but what they have in the pipeline is more government control of business. The package today is a mere precursor to designating the Department of Justice and the FTC as the central planners of the American economy. This bill seeks to take the power out of the hands of the consumers and hand it to the antitrust bureaucrats.

Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEE. Mr. President, it is unfortunate that an objection has been lodged. I think I disagree with every single assertion in there. It is not what this bill does, not in the slightest. This bill does not take the position that big is bad. I

am well familiar with the “big is bad” theory. That is not what this is. The merger fees are being reduced for, like, 85 percent of all filers. This simply allows them to do what they need to do and nothing more. It is unfortunate.

I am thankful to my cosponsor, Senator KLOBUCHAR, who is the lead sponsor of this bill, for the bipartisan effort in which she has managed this.

## CLOTURE VOTE

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 1146, Dana M. Douglas, of Louisiana, to be United States Circuit Judge for the Fifth Circuit.

Charles E. Schumer, Richard J. Durbin, Jeff Merkley, Tina Smith, Sheldon Whitehouse, Benjamin L. Cardin, Maria Cantwell, Amy Klobuchar, Jon Ossoff, Mark Kelly, Jacky Rosen, Brian Schatz, Mazie Hirono, Angus S. King, Jr., Thomas R. Carper, Sherrod Brown, Tim Kaine.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Dana M. Douglas, of Louisiana, to be United States Circuit Judge for the Fifth Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Ms. DUCKWORTH) and the Senator from Colorado (Mr. HICKENLOOPER) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from West Virginia (Mrs. CAPITO), the Senator from Texas (Mr. CRUZ), and the Senator from Kansas (Mr. MORAN).

The yeas and nays resulted—yeas 63, nays 31, as follows:

[Rollcall Vote No. 386 Ex.]

## YEAS—63

Baldwin	Heinrich	Romney
Bennet	Hirono	Rosen
Blumenthal	Kaine	Rounds
Blunt	Kelly	Sanders
Booker	Kennedy	Schatz
Brown	King	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Leahy	Sinema
Carper	Luján	Smith
Casey	Manchin	Stabenow
Cassidy	Markey	Tester
Collins	Menendez	Tillis
Coons	Merkley	Toomey
Cornyn	Murkowski	Van Hollen
Cortez Masto	Murphy	Warner
Durbin	Murray	Warnock
Feinstein	Ossoff	Warren
Gillibrand	Padilla	Whitehouse
Graham	Peters	Wicker
Grassley	Portman	Wyden
Hassan	Reed	Young

## NAYS—31

Barrasso	Hawley	Risch
Blackburn	Hoeben	Rubio
Boozman	Hyde-Smith	Sasse
Braun	Inhofe	Scott (FL)
Cotton	Johnson	Scott (SC)
Cramer	Lankford	Shelby
Crapo	Lee	Sullivan
Daines	Lummis	Thune
Ernst	Marshall	Tuberville
Fischer	McConnell	
Hagerty	Paul	

## NOT VOTING—6

Burr	Cruz	Hickenlooper
Capito	Duckworth	Moran

The PRESIDING OFFICER (Mr. VAN HOLLEN). On this vote, the yeas are 63, the nays are 31.

The motion is agreed to.

## EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Dana M. Douglas, of Louisiana, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. The Senator from Ohio.

## FAREWELL TO THE SENATE

Mr. PORTMAN. Mr. President, 12 years ago, I stood on this Senate floor for my maiden speech. I was new to the Senate, but I had a sense of what I thought was possible to achieve for my constituents in Ohio, having served in the House for 12 years and in two Cabinet-level jobs in the Bush 43 administration. In that speech, I talked about my interest in solving problems and working across the aisle to tackle big issues facing our country. That is what we have tried to do. We have had some successes and some disappointments, but through it all, I have always considered it a great honor to have been given the chance to represent my neighbors, the people of Ohio.

My team and I have viewed it as a sacred trust to do all we could while we had this temporary privilege. Our commitment was to move the ball forward wherever possible for our great country and for the families we represented. Through our legislative and oversight results, I believe we have honored that pledge. It has been a team effort.

I have been blessed with an awesome staff—sitting behind me today—some amazing Senate colleagues on both sides of the aisle, willing to find common ground, friends in every corner of Ohio whose input helped me to represent our diverse State, and most importantly, an understanding family and a partner in all things in Jane Portman.

All of us get asked what inspired us to get into public service in the first place. In my family, my mom Joan taught by her example that serving others was our duty. We had no choice. And through their own volunteer work, my brother and my sister have helped change lives, and I respect that and respect all the caring and giving Ohioans who do that. I chose to serve in a different way, which involved the rough

and tumble of politics—not for everybody but also a way to help others.

Another impetus for getting involved in politics was actually my father, Bill Portman, even though, as a small business guy, he thought I was absolutely crazy to get into this line of business. When I was a kid, he gave up his safe job as a forklift truck salesman for a bigger company to live out his own American dream and start his own business. He took a big risk, gave up healthcare, gave up a retirement plan, and five people—my mom was the bookkeeper—started Portman Equipment Company, with lots of debt. They actually lost money the first few years. But he never gave up on his dream and eventually, through hard work and integrity, found his niche. My brother, my sister, and I all worked at Portman Equipment Company in high school and in college. By the time my dad retired and my brother took over the company, there were almost 300 people working there.

Keeping that American dream alive and creating the conditions to allow that next Bill Portman to take that risk, to build his or her dream and in doing so help so many other families and help so many communities, has really been my North Star. That is what has guided me.

Dad also played a special role in my decision to run for the U.S. Senate. As you will recall, in the couple years before 2010, we had the Great Recession. Our country went through some tough times. I had stepped away from public service at that time. I was back in the private sector, thinking I would probably not ever run again. Then my friend and mentor Senator George Voinovich surprised all of you here in the Senate, as well as his constituents in Ohio, with his decision to retire, and Jane and I began thinking about it and traveling around, talking to people. Across Ohio, people told me about the real-world ramifications of the policy decisions being made here in Washington and how it affected them.

I remember in early 2009 asking my dad if he would do it again. Would he take that risk and start a business from scratch? His answer was troubling. He said, you know, he just wasn't sure. He listed higher taxes that were being talked about, more healthcare costs, more regulations. He said: I just don't know if it would be worth it. That conversation with my dad was part of what drove me to run for the Senate. I believed that the country needed leadership to drive policy in the direction of more economic growth and more opportunity, to help more people achieve their American dream.

Not many people these days would say politics is an honorable profession. A recent poll suggested only 20 percent of Americans approve of the job Congress is doing. And I guess we all give people reasons to be skeptical, especially when we seem too political and partisan gridlock keeps us from solving