

Time is of the essence for allies to increase production of critical munitions and to send longer range, more sophisticated, and more lethal systems to the frontlines. In this regard, I welcome President Biden's decision to provide Ukraine cluster munitions to improve its defense against Russian invaders.

However overdue, these munitions will both improve Ukraine's capability to strike Russian forces and compensate for shortfalls in standard artillery rounds. Despite vocal opposition from his own party, the President ultimately made the right call.

The fact of the matter is, Russia has been using cluster munitions for months in Ukraine. American cluster munitions have a substantially lower failure rate than the Russian munitions. And while the risk of unexploded ordnance is not zero, it is fantasy to believe that wars can be fought without risk.

Here is the bottom line: It should be up to Ukraine whether to employ these effective weapons on its own soil.

Plenty of liberals have criticized President Biden for this decision. The New York Times editorial board suggested that helping Ukraine match capabilities its aggressors are already using amounts to "a clear escalation of the conflict." The senior Senator from Vermont suggested yesterday that the President should be concerned about what "the rest of the world feels" about these weapons. Never mind that providing these capabilities to Ukraine will save lives by facilitating a counteroffensive designed to stop Russia's conscious efforts to kill civilians.

If liberals are truly concerned about civilian casualties in Ukraine, they should support giving our friends the capabilities they need to end Russia's brutal war.

The stakes are simply too high for leaders in Washington to let their own naivete and virtue signaling get in the way of reality. Ukraine's war will not be won with yard signs or hollow promises to hold Putin accountable; it will be won with weapons.

The same rules apply to future conflicts we hope to deter. Unity is important, but hard power will be decisive. On this front, NATO is making progress toward rebuilding the hard power many allies allowed to atrophy. Every member of the alliance now spends at least 20 percent of its defense budget on actual capabilities. Our allies are making progress toward spending 2 percent of GDP on defense, and more than half of the alliance should hit that goal by the end of next year. But we should agree that 2 percent is a floor, not a ceiling, for our commitments to collective defense. Our allies should invest in critical capabilities and modern systems that add to NATO's combat power, and they should revive defense industrial bases that have languished since the Cold War.

Certainly, another clear way to strengthen NATO is to welcome Sweden to the alliance. Like Finland, Swe-

den is a high-tech economy with a strong industrial base. Its leaders are committed to contributing to the alliance and are investing even more significantly in an already capable military.

I am encouraged that President Erdogan and Prime Minister Orban have agreed to support Sweden's accession, and I look forward to rapid action by the Turkish and Hungarian Parliaments.

For America's part, it is past time for the Senate to consider the National Defense Authorization Act. We have an obligation to ensure the U.S. military remains the world's preeminent fighting force, capable of deterring and defeating enemy aggression.

The Senate will have an opportunity to lead our allies by example as soon as the Democratic leader brings the NDAA to the floor.

U.S. SUPREME COURT

Mr. President, now on an entirely different matter, as I explained yesterday, an ideologically independent Supreme Court concluded its most recent term with a series of landmark rulings reaffirming fundamental constitutional principle. I would like to speak briefly today about one such example—the Court's 6-to-3 decisions striking down race-based preference in higher education admissions.

For decades, colleges and universities discriminated against bright, young applicants on the basis of the color of their skin. The practice is not just wrong but wildly unpopular with a majority of Americans.

Unfortunately, a series of misguided and increasingly confused Supreme Court precedents have allowed universities to continue this indefensible practice. Last month, that all changed. As the Chief Justice wrote for the majority, "Our constitutional history does not tolerate" the choice of race over merit.

Most Americans already knew this to be true. More than half of our Nation's history has been a steady march toward more fully ensuring the promise of the 14th Amendment: equal protection under the law. Along the way, millions of hard-working and ambitious students have hoped for a fair shake on their academic qualifications, not the color of their skin.

So last month's ruling marked an overdue and historic step. Racial discrimination has no place in college admissions. And thanks to the Court's action, more bright, young Americans will get a shot at writing their American dreams.

I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Republican whip.

Mr. THUNE. Mr. President, the Supreme Court finished up its term recently by releasing several decisions that did not result in the Democrats' preferred outcomes. The hysteria was instant and, unfortunately, predictable.

"Disappointing and cruel," the Senate Democratic leader chastised one decision.

"Unacceptable and indefensible" said another Democratic Senator.

"Horrrifying" was another response from a Democratic Senator.

Then there was the President of the United States who said:

This is not a normal court.

Not a normal court—never mind the fact that this Court, like others before it, is composed of nine Justices duly nominated and confirmed in accordance with the Constitution, sitting and interpreting the law. Apparently, the fact that this Court has issued decisions Democrats disagree with makes this "not a normal court."

Well, here is the list of thoroughly unradical decisions that have so horrified members of the Democratic party: The Court ruled that universities cannot make admissions decisions based upon the color of someone's skin. The Court ruled that the President does not have the right to create a massive student loan forgiveness program without clear authority from Congress. The Court ruled that the First Amendment does actually protect Americans from being forced by the Government to speak messages with which they disagree.

These are the rulings that Members of the Democratic party consider "cruel and indefensible."

Continuing with the theme of Democratic hysteria, the Democratic leader said on Sunday that the Supreme Court had achieved "dangerous" and "regressive" policies "completely at odds with what the vast majority of Americans want."

Now, I am not sure he has that quite right. I know the recent decisions are at odds with what the Democratic party wants, but the vast majority of Americans do not seem to be at odds with the Court's decisions. Take the Court's decision in favor of the First Amendment. It turns out that more Americans support that decision than oppose it. The same goes for the Court's student loan decision.

Public opinion is decidedly in favor of the Court's decision ruling that the Constitution does not allow universities to make admissions decisions on the basis of race. One poll found that 52 percent of the American people approve—approve—of the Court's decision, while just 32 percent disapprove. Another poll found that 59 percent of Americans approve of the Court's decision, while just 27 percent disapprove.

It seems that the Court is a lot more in line with Americans than the Democratic party would like to think.

Let me offer a few more statistics about this supposedly abnormal court.

Let's put things in context here for just a moment.

Nearly half of the cases decided by the Supreme Court in this term were decided unanimously—almost half. That means that all of those “extreme” Republican-nominated Justices and all of the Court's Democrat-nominated Justices were in unanimous agreement almost half the time.

That is not all. At least one of the Court's so-called liberal Justices was in the majority in more than 80 percent of cases. That means that more than 80 percent of the time, at least one liberal Justice agreed with the Court's conservatives. It kind of makes the Supreme Court seem not very extreme. Eighty percent of the decisions had Justices from so-called both sides—conservative and liberal sides.

Yes, there have been a handful of decisions where all of the liberal Justices have disagreed with the majority opinion. But that is hardly unprecedented. There have been plenty of cases in previous years where most or all of the so-called conservative Justices have disagreed with the majority opinion, and I don't remember Democrats having any problems with the legitimacy of those outcomes.

Democrats' utter hysteria in the face of some pretty mainstream Supreme Court decisions could almost be amusing, but it is not, because Democrats' rhetoric and proposed response to a Supreme Court that issues decisions they disagree with has crossed a line.

Now, I completely respect Democrats' right to be upset at and disagree with Supreme Court decisions. I disagreed with quite a few myself. But there is disagreement, and then there is attempting to undermine a branch of our government. And Democrats are engaged in the latter.

Over and over, Democrats' responses go beyond disagreement or outrage at the Court's decisions and cross the line into attacking the Court's legitimacy.

A number of Democrats have gone even further, directly or indirectly calling for expanding the Court or otherwise altering it to create a Court that will rule in line with where Democrats think it should be.

It is difficult to overstate just how dangerous Democrats' rhetoric is. Democrats are not only fostering a sense of distrust about a Court that is completely legitimate in every way—save for the fact the Democrats don't like some of its decisions—that they are proposing so-called solutions that would permanently and completely destroy faith in the Supreme Court as an impartial interpreter of the law.

Do Democrats seriously imagine that their proposal to “restore faith” in the courts would do anything but further divide the American public and encourage one half of the population to regard the Court as an arm of the Democratic Party?

Do Democrats seriously think they could pack the Court with their preferred Justices and not set off a perma-

nent battle in which the party in power adds or subtracts Justices to achieve what it decides is balance?

If Democrats have their way, we will be looking at a future in which the Supreme Court is nothing but an arm of the party in power in the other two branches, with the number of Justices constantly changing to achieve the governing party's preferred outcomes.

There are names for systems of government in which the party in power controls the outcome in the courts. They are names like “dictatorship” and “despotism.” Not getting your way at the Supreme Court is a pretty poor reason to undermine our system of government. But I am starting to wonder just how well Democrats understand our system of government, given their apparent belief that the outcome should always be in their favor. That is not the way it works in our democratic Republic.

In our system of government, you win sometimes and you lose sometimes. When you lose, you fight hard to gain ground and persuade others of the rightness of your position. You do not—you do not—attempt to rig the system so the outcome will always be in your favor. Hopefully—hopefully—you do not set out to undermine faith in the system by suggesting that any outcome that you don't like is not just incorrect but illegitimate.

It is deeply disturbing that so many Democrats and Democratic leaders are participating in this campaign to attack the legitimacy of the Supreme Court. I hope—I truly hope—that cooler heads will prevail before they do permanent damage to our system of government.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

BORDER SECURITY

Mr. CORNYN. Mr. President, I would like to talk for a few minutes about what is happening at the southern border.

Coming from Texas, we have a 1,200-mile common border with Mexico. That is 1,200 out of 2,000 miles of a border with Mexico, most of which has been in the midst of a humanitarian and public safety crisis for—well, for many years. But nowhere at no time has it been worse than it has been during the Biden administration.

You will recall during the COVID crisis, title 42 was issued, which is a public health order which allowed the Border Patrol to expel individuals coming across the border in certain categories—mainly adult males. Family units and children were handled differently under court orders. But title 42 went away this last spring, 2 months ago. For 3 years prior, it had allowed the Border Patrol to quickly expel migrants who had illegally crossed the southern border. With detention facilities and shelters bursting at the seams, title 42 was the only tool the Biden administration was willing to use to prevent even more chaos from unfolding.

In the weeks and months leading up to its end last spring, there was widespread fear that a post-title 42 border would look even worse than it did at the time, which was a historically bad time. Would the newly set records for illegal immigration be replaced? Would we see up to 18,000 migrants a day as the Department of Homeland Security officials once predicted? Would more law enforcement officers be removed from the frontlines in order to process and care for migrants under the flawed policies of the Biden administration?

The migration levels over the last 2 months haven't been as bad as some had expected, but they certainly have not been good either. Last week, the New York Times reported that since May 12, the average number of illegal crossings has been around 3,360. Well, that is an improvement from where we were a few months ago, but it is hardly reason to pop a champagne cork and celebrate. For one, the drop is likely seasonal, temporary. Officials and immigration experts believe many migrants are in a wait-and-see mode. They are paying close attention to the legal challenges and other migrants' journeys in order to determine their best courses of action.

That is also true of the criminal cartels that control the flow of migrants across the U.S.-Mexico border. This is a business proposition for them. They are continuing to get rich in moving people and drugs across the border, and they are taking a wait-and-see attitude to see: OK, what is public opinion going to look like? Are we going to create a backlash and even a more dramatic response by the U.S. Government or can we just sort of go slowly, and they won't notice as we gradually ramp up the numbers of migrants and drugs coming across the border?

It is also likely that many migrants are holding out for a highly sought after appointment with Customs and Border Protection through the CBP One app, as it is called. It is an app for your phone. As that wait grows longer and frustration grows higher, the decision of many to wait and to use that app in order to schedule a time to meet with Customs and Border Protection officials means that their decision to wait is likely to change. Some areas, indeed, along the border are already seeing an increase, including the Tucson sector. During the week that ended June 2, agents apprehended roughly 4,300 migrants, while 4 weeks later they apprehended 7,000—an increase of nearly 65 percent. So we can see the way this trend is headed.

We don't know what the coming weeks and months will bring, but we do know that more than 3,300 migrants are being apprehended at the border every day, which is still a very high and unacceptable number.

Back in 2019, Secretary of Homeland Security Jeh Johnson, who served under the Obama administration, reflected on his time in leading the Department of Homeland Security. He