

Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 21, Rachel Bloomekatz, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

Charles E. Schumer, Richard J. Durbin, Richard Blumenthal, Christopher A. Coons, Benjamin L. Cardin, Tina Smith, Christopher Murphy, Mazie Hirono, Tammy Baldwin, Margaret Wood Hassan, John W. Hickenlooper, Sheldon Whitehouse, Catherine Cortez Masto, Brian Schatz, Gary C. Peters, Alex Padilla, Michael F. Bennet.

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 Rachel Bloomekatz, of Ohio, to be United States Circuit Judge for the Sixth Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Tennessee (Mrs. BLACKBURN), the Senator from Louisiana (Mr. CASSIDY), the Senator from Missouri (Mr. HAWLEY), the Senator from South Carolina (Mr. SCOTT), and the Senator from Ohio (Mr. VANCE).

Further, if present and voting: the Senator from Ohio (Mr. VANCE) would have voted "nay," and the Senator from Missouri (Mr. HAWLEY) would have voted "nay."

The yeas and nays resulted—yeas 50, nays 45, as follows:

[Rollcall Vote No. 186 Ex.]

YEAS—50

|              |              |            |
|--------------|--------------|------------|
| Baldwin      | Heinrich     | Rosen      |
| Bennet       | Hickenlooper | Sanders    |
| Blumenthal   | Hirono       | Schatz     |
| Booker       | Kaine        | Schumer    |
| Brown        | Kelly        | Shaheen    |
| Cantwell     | King         | Sinema     |
| Cardin       | Klobuchar    | Smith      |
| Carper       | Luján        | Stabenow   |
| Casey        | Markey       | Tester     |
| Coons        | Menendez     | Van Hollen |
| Cortez Masto | Merkley      | Warner     |
| Duckworth    | Murphy       | Warnock    |
| Durbin       | Murray       | Warren     |
| Feinstein    | Ossoff       | Welch      |
| Fetterman    | Padilla      | Whitehouse |
| Gillibrand   | Peters       | Wyden      |
| Hassan       | Reed         |            |

NAYS—45

|          |            |            |
|----------|------------|------------|
| Barrasso | Graham     | Murkowski  |
| Boozman  | Grassley   | Paul       |
| Braun    | Hagerty    | Ricketts   |
| Britt    | Hoeven     | Risch      |
| Budd     | Hyde-Smith | Romney     |
| Capito   | Johnson    | Rounds     |
| Collins  | Kennedy    | Rubio      |
| Cornyn   | Lankford   | Schmitt    |
| Cotton   | Lee        | Scott (FL) |
| Cramer   | Lummis     | Sullivan   |
| Crapo    | Manchin    | Thune      |
| Cruz     | Marshall   | Tillis     |
| Daines   | McConnell  | Tuberville |
| Ernst    | Moran      | Wicker     |
| Fischer  | Mullin     | Young      |

NOT VOTING—5

|           |            |       |
|-----------|------------|-------|
| Blackburn | Hawley     | Vance |
| Cassidy   | Scott (SC) |       |

The PRESIDING OFFICER (Mr. BOOKER). The yeas are 50. The nays are 45.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Rachel Bloomekatz, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

Thereupon, the Senate proceeded to consider the nomination.

The PRESIDING OFFICER. The senior Senator from Texas.

SOUTHERN BORDER

Mr. CORNYN. Mr. President, under President Biden's leadership, the United States has shattered virtually every record in the book when it comes to uncontrolled illegal migration flows across the border. We have seen new records in border crossings in a single month, a single year, and in a single day, all on President Biden's watch.

The busiest day on record came 2 months ago, just before title 42, the public health title that was imposed as a result of the pandemic—the busiest day came just 2 months ago, just before that title was lifted or expired, when Border Patrol apprehended 10,300 migrants a day.

The pace of migration exceeded anything we have ever experienced under previous Presidents, and of course law enforcement, not knowing exactly what would happen once title 42 expired, braced for the worst.

Federal officials and immigration experts predicted an increase in border crossings when it was lifted. At one point, even the President's Department of Homeland Security said we could expect up to 18,000 migrants a day. Just to remind you, at its height, it was 10,300, but even President Biden's Department of Homeland Security said that could go to 18,000 now that title 42 went away.

It is not as if the President and Homeland Security don't have the tools necessary to control illegal immigration, but they simply lack the will to do so.

Fortunately, that surge that could have happened didn't happen, and we are left with a lot of opinions and guesses as to why that is true. One possibility is the drop could be seasonal. It is really hot in Texas and along that border triple-digit numbers and traveling across the open range of South Texas can be downright dangerous. If you have gone to the border crossing or Border Patrol in Falfurrias in Brooks County, which is just about 70 miles from the border, where the coyotes—the smugglers—will tell the migrants to get out of the vehicle, give them a jug of water and maybe a PowerBar, and they will say: You can walk around the border checkpoint, and we will catch you on the north side.

Unfortunately, as the cemetery in Brooks County will attest, many of those migrants don't make it because they simply die from exposure to the elements, particularly after experiencing a long trek from their homes.

So we don't know, due to the hot weather, whether in the fall and in the

spring these numbers will jack back up again. So the lull could be temporary. Migrants may be waiting to see how some of the cases are handled under President Biden's new border policies now that title 42 is gone.

Plus, we have to recall that we are dealing with very shrewd and smart operators in the criminal cartels. They understand that a massive flood of migrants may well finally trigger some reaction from the administration and authorities, and they may be just metering the flow of migrants across the border so as to not attract undue attention.

Well, it could be that this lull in numbers is just gimmicky accounting. The administration has set up what it calls new legal pathways in order to reduce the number of illegal migrants it encounters. In other words, it has quit counting some of the migrants who come across the border.

For example, the Biden administration, as part of this program, said: We are going to allow up to 30,000 migrants from Central America to come into the United States, give them a work permit, and we will make this for the next 2 years. The problem is, there is never anything temporary about temporary status, and in fact this is part of the gimmicky accounting. You simply subtract 360,000 migrants admitted under this new program over the course of a year, and it makes your numbers look a whole lot better than they really are. It remains to be seen whether this program is legal at all.

I can't imagine Congress, which has been given the main authority to deal with immigration law matters—whether this could be considered within the President's authority or power, but that remains to be decided perhaps in a court of law.

But I suspect that this drop in encounters is a result of a culmination of factors. My own personal opinion, living in Texas and having spent a lot of time at the border and talking to a lot of experts who serve there, like the Border Patrol—my own view is this is not likely to last long, this lull, but it is long enough for some of the mainstream media to accept what the administration is selling, which is that their new border policy is solving the problem.

I will go back and say what I said earlier, which is, even at 3,360 a day, that is more than three times what Jeh Johnson, the former Secretary of Homeland Security under Barack Obama, said was a real problem. Back in that day, he said if there were 1,000 people encountered at the border, that would be a serious problem. But the Biden administration, apparently, has no problem with more than three times the number of migrants currently being encountered at the border, even if it is temporary.

Well, you can see the administration trying to spike the football. Last May, the Department of Homeland Security said the drop in numbers is proof—

proof—that the administration’s plan is working as intended. They boasted that the number of unlawful entries between the ports of entry had declined more than 70 percent since title 42 ended. Well, that may be true, but it is tough to brag when the starting point is an alltime record that happened on this administration’s watch.

In other words, the argument of the administration seems to be: Well, it has been as high as 10,000 a day. Now that it is down to only 3,400 a day, it is not as bad as it could be so let’s pat ourselves on the back and say: Job well done.

Well, 4 years ago, in July of 2019, Customs and Border Protection apprehended an average of 2,600 migrants a day. The July prior, we saw fewer than 1,300 a day, and the July before that, only about 800 migrants were apprehended per day. So, in other words, the argument the administration is making and the celebratory popping of the champagne cork that all of a sudden their new policies have solved the problem is, I think, an illusion. We have gone from 800 migrants a day in 2017 to 3,300 a day in 2023.

The Biden administration wants to argue that this is a good thing. They are supposed to applaud—stand up and applaud the Biden administration’s failed efforts to deal with uncontrolled immigration and the flow of drugs across the border.

As I said, former Secretary of Homeland Security Jeh Johnson once said that even 1,000 a day overwhelms the system, and we are currently operating at more than 3,000 a day.

Even Attorney General Merrick Garland acknowledged that flooding the border with migrants, as we have seen—obviously, that is a big money-maker for the cartels that smuggle these people from their country of origin, across the border, into the United States—that overwhelming the Border Patrol and requiring then some of the Border Patrol—in my experience, as many as 40 percent of the online Border Patrol officers then have to go off the frontline to take care of the migrants, to transport them, to feed them, to house them, to clothe them, to take care of the unaccompanied children who are coming across the border, which means they are not on the frontlines when the drug smugglers bring the drugs through.

This is a pretty shrewd business model, and the Biden administration is accepting it hook, line, and sinker.

When migration levels are as high as they are, it impacts all of our missions at the southern border, even those that have nothing to do with migration. Since President Biden took office, Customs and Border Protection has seized more than 1.6 million pounds of illicit drugs, including more than 41,000 pounds of fentanyl.

Now, we talked about this in Judiciary Committee today, the scourge of fentanyl and the fact that last year alone it took 71,000 American lives. Un-

fortunately, many of those lives were the age of some of our pages—high school students who thought they were taking something relatively innocuous only to find out it was a counterfeit drug laced with fentanyl which took their lives tragically and prematurely.

Some would point to the seizures of drugs and say: We are successful. We are being successful. We are stopping the drugs from coming across, which I submit is looking at this the wrong way. We ought to look at the volume of drugs seized and recognize that there is a whole lot more that has gotten through.

Just during the Biden administration there have been what the Border Patrol calls 1.5 million “got-aways.” These are people who are not turning themselves in, claiming asylum. These are people who are fleeing from law enforcement who are being picked up on cameras and other sensors but then simply evading detention and detection by the Border Patrol.

I can’t possibly buy the argument that these people are up to good. I think they are up to no good. They are either people convicted with criminal records—or other law enforcement problems—or simply drug mules carrying more of this poison across the border.

I am grateful to our hard-working officers and agents who interdict these drugs, but we know these data points do not tell the full story. These are only the drugs that they were able to identify and to stop. Given the fact that countless agents were taken off the frontlines in order to care for the flood of humanity—what President Obama said even under much smaller numbers, he called it a humanitarian crisis—there is no question that more drugs have slipped through the cracks. While the agents are busy processing and transporting migrants, it clears a highway across the border to smuggle fentanyl, heroin, and heaven knows what else across the border.

So there is no way to know what we don’t know. The fact that we are losing more than 108,000 Americans a year to drug overdoses is proof that we are not being successful in interdicting the drugs that come across the border. That seems obvious.

One of the many victims of fentanyl poisoning was a 17-year-old from Texas named Kevin McConville. Last fall, just 2 weeks before the start of the school year, his senior year, Kevin took a pill he thought would help him fall asleep. Little did he know that it was laced with a deadly dose of fentanyl, and he didn’t wake up the next morning. His mom Shannon found him the next morning. It was too late.

Like many parents and family members who have lost a loved one to fentanyl, Shannon and her husband Darren are on a mission to end the fentanyl epidemic.

As a matter of fact, in Farmers Branch, TX, a father who lost a young daughter gave me this bracelet, which

says, among other things, “One pill can kill.” That is part of the public education efforts that many of our school districts and others and public health officials are undertaking to make sure our children understand that there is no such thing as an innocuous or a safe illicit drug.

When I spoke with Shannon and Darren in February, Shannon was adamant about the need to do more to stop fentanyl from entering our country in the first place. The most critical place to do that is where it crosses our southern border, from Mexico, where it comes from. The vast majority of the fentanyl comes to the United States from Mexico, made from chemical precursors imported from China. If we are going to have a shot at ending the fentanyl epidemic, we have to go to the source rather than just deal with the symptoms.

This morning, as the Presiding Officer knows, in the Judiciary Committee, we talked about people selling drugs by using social media platforms. Certainly, that is something we all abhor, and we ought to do what we can to stop it, and we will be debating that more. Yet, as important a step as that is, it is only one brick in the wall. It is only a baby step in terms of dealing with the fentanyl crisis because we have to stop it at the source, not deal with it once it has made its way into our country. Until that happens, law enforcement and drug treatment facilities across this Nation will be fighting a losing battle.

Shannon told me that when it comes to the border, the Biden administration is failing, and I agree with her. President Biden has completely abdicated his border security responsibilities for more than 2½ years, with its leading to catastrophic and deadly consequences: 5.4 million border crossings; in addition to that, another 1.5 million “got-aways” of the almost 7 million migrants transiting our southern border; 108,000 drug overdoses last year; 85,000 migrant children lost—lost—after having been placed with sponsors in the interior of the United States by the Biden administration.

When officials tried to contact those sponsors to check on the welfare of those children, there was no answer, and there was also no followup by the Biden administration. We don’t know whether these kids are going to school, whether they are getting the healthcare they need, whether they are being forced into involuntary servitude, whether they are being sexually abused or neglected. We just don’t know, and the Biden administration cannot tell you.

That is completely unacceptable. If any official did that to an American citizen child, they would be prosecuted and, I believe, convicted of child endangerment, human trafficking, and other sorts of offenses, but because these are migrant children, the Biden administration says: Hey, we have done our job. We put them with sponsors.

Now it is somebody else's responsibility.

Well, there is nobody else to deal with that. The child protective services in New Jersey, in Texas, and elsewhere are already overwhelmed. So to say to the States "now it is your job to protect these children" once we have allowed 300,000 of them into the United States and placed them with sponsors because of misguided border policies is a complete abdication of responsibility.

Well, 2½ years of failed border policies cannot be erased by a couple of months of reduced migration. It is premature, to say the least, to declare victory, to spike the ball, to pop a cork. The fact that we are not currently experiencing recordbreaking migration levels is, admittedly, a step in the right direction, but it is not a victory. There is still a crisis occurring. The number of border crossings is still historically high. Law enforcement remains under tremendous strain, and the southern border is far from secure. If the administration were to spend half as much time trying to solve the problem as it does trying to spin it, we would be in a much better place.

I have to say that there are those of us here—the Presiding Officer included—who would like to be part of the solution. We have asked the administration. We have asked the chairman of the Judiciary Committee, Senator DURBIN, to bring legislation to the Judiciary Committee, which has jurisdiction over these matters. Give Senators on the Republican side and the Democratic side a chance to debate it and amend it and pass a bill out of the Judiciary Committee that would address this crisis. We have asked the majority leader, Senator SCHUMER, to encourage the chairman of the Judiciary Committee to take a bill out of committee and bring it to the floor.

Let us do our job. There is nobody else to fix this problem other than us—those of us who have the enormous privilege of serving our constituents here in the Nation's greatest deliberative body—the U.S. Senate—or in the House of Representatives, but all we get are crickets.

I keep asking myself: What will it take? What will it take to get the President's attention? What will it take to get the attention of our Democratic colleagues who are in leadership positions and who are able to put this on the agenda and do something about it?

Obviously, 6.9 million migrants coming across the border for the last 2½ years isn't enough to get their attention. Obviously, 108,000 dead Americans is not enough to get their attention. Also, 300,000 unaccompanied children who have been lost to an administration that can't tell you where they are or what is happening to them has so far not gotten their attention. But it should get our attention. We are in a position of responsibility in our being given the privilege of serving in this

body and in the U.S. Congress, and we ought to do something about it.

So if it doesn't start at the White House, if it doesn't start with the leadership here in the U.S. Senate, rank-and-file Members of the Senate can do something about it. We can force the leadership—the White House and the Congress—to accept their responsibilities and do something about the devastation and death that is occurring as a result of these uncontrolled borders. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—S. 1672

Mr. HAGERTY. Mr. President, just last week, a Federal judge ruled that the First Amendment prohibits the Biden administration from colluding with Big Tech to censor Americans' speech. So the court ordered Biden administration officials and Agencies not to coordinate with Big Tech platforms in order to suppress American speakers and Americans' viewpoints that they disagree with.

This seems obvious. The First Amendment would mean little if government simply used Big Tech to get around it. Who disagrees with this basic principle that government-directed censorship is un-American and unconstitutional? Well, I can tell you who disagrees with that. The Biden administration disagrees with it. The Justice Department, almost immediately, asked the court of appeals to stay this ruling to allow it to continue to censor Americans while it appeals.

In recent years, increasing evidence has emerged regarding a disturbing alliance in which Big Government and Big Tech work together to censor speech that they don't want Americans to see nor to hear. Published emails among Twitter executives reveal the extent to which the company worked to prevent Americans from seeing a New York Post news story just weeks before the 2020 election. The extent of the suppression was breathtaking. Indeed, the Twitter executives locked the Twitter account of the White House Press Secretary simply for mentioning this New York Post story.

Facebook admits that it, likewise, limited the spread of the story based on a general warning from the FBI about it being propaganda. This is even though the FBI had verified the authenticity of the laptop in question.

This censorship activity has carried over into the Biden administration. In 2021, then-Press Secretary Jen Psaki stated that the government is "in regular touch with social media platforms" and "flagging" problematic posts for Facebook that spread what she called "disinformation."

Meta, the parent company of Facebook and Instagram, disclosed that it had communicated with more than 30 Federal officials about content moderation on its platform, including senior employees at the FDA, the U.S. Election Assistance Commission, and, of course, the White House. YouTube, which is owned by Google, disclosed that it had such communications with 11 Federal officials.

The disturbing truth is that when Biden administration officials don't like what Americans are saying, they simply reach out to their allies at Big Tech to silence it. Government using its power to coerce censorship of disfavored information is what the Chinese Communist Party or the North Korean regime would do. It is not only fundamentally un-American; most often, it is unconstitutional.

The other day, a Federal court confirmed that the government cannot use Big Tech as a tool to end-run the First Amendment. The judge wrote that the case "arguably involves the most massive attack against free speech in United States' history."

Americans deserve to know when their government and Big Tech platforms are trying to manipulate what they can say or what they can read. I introduced legislation last Congress and again this past May to require this transparency. The Disclose Government Censorship Act would require that government officials publicly disclose communications with Big Tech regarding actions to restrict speech. The act contains appropriate exceptions to protect legitimate law enforcement or national security activity.

Our Nation was founded on the idea that protecting citizens' speech from government censorship under the First Amendment would protect the people's right to govern themselves by preventing government from controlling information and ideas. Americans deserve to know when their government is covertly trying to accomplish what the First Amendment prohibits.

Mr. President, as if in legislative session, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of S. 1672 and the Senate proceed to its immediate consideration. I further ask 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.

The PRESIDING OFFICER. Is there objection?

The Senator from Michigan.

Mr. PETERS. Mr. President, reserving the right to object, I certainly appreciate Senator HAGERTY's concerns. The freedom of speech, freedom of association, and freedom of the press are all very foundations of our Nation.

But I am also concerned about the power of large tech companies, which we must—must—hold accountable. The Homeland Security Committee, which I chair, has held a series of bipartisan