modifications to the legislation itself and the legislation that it might be paired with in order to help offset those objections.

But, nonetheless, I will keep working to pass bipartisan bills that have unanimous support. I hope and expect and respectfully request that my colleagues across the aisle would take into account these dissimilarities. If they want to add others that meet similar characteristics, let's have that conversation. If they want to get to the point where we can pass Senator MURRAY's bill, I am sure there is a way that could be considered and we could possibly get there.

But we can't assume that you can pair something that is that dissimilar; that is, by its very nature and according to the legislative record, it is the very definition of partisan and not the kind of thing that one can expect. We would be crazy to assume that something that resulted in a party line committee vote last year would suddenly get to the floor and not draw a single Republican objection.

I would also hope that next time, when we add pairings to the floor—Democrat and Republican bills—I would love to see those hotlined on the other side of the aisle in the same format of which they were hotlined on our side. My understanding is they were not; and they should be. There should be an apples-to-apples comparison. If they are given the opportunity, I can't imagine that many, if any, of my Democratic colleagues would object to any of these bills in isolation. If they wouldn't object to them in isolation based on their substantive policy merits and if they were given that in a hotline request, I think this would have turned out differently.

I do think it is important we should pass bills expeditiously and in the light of day. These bills have gone through public examination in the light of day, and they have been found not wanting for bipartisanship. They have been found richly blessed with bipartisanship through a proven, undisputed track record.

So, look, I think it is a big mistake to hold noncontroversial bills put forward by Senators in good faith—to hold those hostage in order to perpetuate a broken and sometimes corrupting process from a bygone era, one in which bills were prevented from passing, not because they were controversial but because they were popular and being used as bait in order to bring about the passage of other bills that were controversial. That makes no sense.

What makes the Senate work best are those moments when we can identify things as to which we do not disagree. This, Mr. President, is one of those things. This, Mr. President, is where we can do better; and do better we must.

I am not going away. I will be back. I will be back soon—hopefully, successful next time—and we will do what we have to do in order to move the legislative process.

I humbly implore my friends and colleagues on both sides of the aisle: Let's not take these moments where we do agree for granted. Let's not assume that just because anytime—by definition, anytime you come up with a list of four bills offered at once, that necessarily excludes the thousands of others that may be submitted during the course of any particular Congress in that legislative Chamber.

You can't get everything all at once. Why not take the things that we know can pass and have passed in the past? Let's get that done.

The PRESIDING OFFICER. The Senator from Rhode Island.

NOMINATION OF EMIL J. BOVE III

Mr. WHITEHOUSE. Mr. President, it is probably too late to do anything about the upcoming vote. I know a little bit about how this place works, and at this point, the proverbial die is likely cast.

But what we are about to do is so wrong, so unusual, that even if these remarks will have no effect whatsoever, I feel obliged to come to the floor.

We are about to vote into high judicial office an individual who managed to engage in three separate significant episodes of prosecutorial misconduct in 6 months. That is undoubtedly a Department of Justice world record.

These were not minor episodes of prosecutorial misconduct. These were not a file missing from a Brady disclosure. These were not an inopportune word dropped in an oral argument. This was planned, deliberate, serious prosecutorial misconduct.

I will briefly describe the three episodes. The first had to do with the political desire to freeze funds that Congress had already appropriated and obligated and that even had been disbursed out to a bank as the fiscal agent for the appropriated program. But because it involved clean energy, the Trump administration wanted to claw that money back.

The time for Presidential veto had long, long, long gone. There was no Federal hold on the money. It was in a private bank. So, really, that cow had left the barn. But they were so insistent because they hate clean energy so much, they had to get this money back. The White House was demanding it, presumably.

So here is the plan that they cooked up. Emil Bove and the acting U.S. attorney for the District of Columbia, they would create a fake criminal investigation. And on the basis of that fake criminal investigation, they would go to a judge and try to get an order to freeze the funds that they were so irritated about. Remember what I just said: a fake criminal investigation. It is kind of prosecutor 101 that you don't pursue fake criminal investigations. There is prosecutor language for how you go about starting a criminal investigation. You have to have something called predication, some reason to believe that there is a crime.

But they needed a criminal investigation in order to find a way to seize the money, so they started a fake one—or at least they tried to. How did that work out? Not that well, actually, because the Chief of the Criminal Division, a career, experienced attorney said: Boss, there is no crime here. We can't do a criminal investigation if there is no evidence whatsoever of any crime.

For her pains, she was driven out of the office, forced to resign. So then they shopped it around the office: Is there anybody else willing to sign this plead in; any career attorney in the very big U.S. Attorney's Office for the District of Columbia? None. No one would sign it because it was a fake criminal investigation.

So the U.S. attorney went in on his own—that almost never happens—to try to get the order from the fake criminal investigation. And the magistrate shot him down, said: No, no chance. And that almost never happens, because U.S. attorneys don't go into court unprepared and they want to enjoy the credibility of the local bench.

So they go through all sorts of hoops, every conceivable effort to make sure that a request for a judicial order or warrant is well-supported. Not this time. It was too important. The fake criminal investigation is completely outside of what is appropriate for a prosecutor's responsibilities.

It gets—actually, if you can believe it—worse because they had a client in this, the rather corrupt individual who now runs the Environmental Protection Agency. And they let their client run all around in the media, on the news, publicly disparaging the recipients of those funds, which included groups as ominous and dangerous as Habitat for Humanity. But to whip up an atmosphere of criminality, accusations were made about crimes—false accusations were made about crimes.

Well, it is also prosecutor 101 that you don't disparage the subject of your investigation or the subject of your prosecution. Prosecutors have all the tools in the world to make cases, to take away people's property, to take away people's liberty. Where there is a death penalty, you can take away people's lives. You play within bounds. You let your pleadings do the talking. You don't go out on talk shows and talk about the supposed subjects of a criminal investigation—even a real one—in disparaging terms. You just don't do it. It is beneath most prosecutors. Not these characters.

That was episode 1.

Episode 2 was to stop an ongoing criminal case involving an elected official so that they could dangle that case over the head of the elected official as part of a deal to get that elected official to follow administration policy on immigration enforcement. You don't do that. Again, if you are not a prosecutor, it might not seem like this is

obvious, but it is obvious. It is prosecutor 101. If you have the case, you make it. If you don't, you don't. A criminal case against an elected official is not an opportunity for ''let's make a deal.'' That is way out of bounds, but that is what they did.

A judge ended up shooting it down and saying: Look, if you are going to dismiss this thing temporarily so you can hang this thing over this guy's head, no. You have to dismiss it with prejudice—done, over, finished.

But it took a judge to step in to break that scheme of prosecutorial misconduct.

Episode 3, Trump is trying to illegally deport lots of people. He is trying to do it in the dead of night. He is trying to do it around American constitutional due process, and somebody has gone to a judge to say: Whoa. This isn't right.

So lawyers have gotten involved, and now lawyers are in court, where you are supposed to tell the truth. The lawyers for the Department of Justice—in court, supposed to tell the truth—were being lied to by Trump administration officials, denied information they needed for court by Trump administration officials.

The crowning—the crowning—blow being told by this Trump administration official—the one whom we are about to put on the bench—is that they should be ready to tell courts ''f you'' if they try to interfere with illegal deportations—and it wasn't just an ''f'' in the transcript.

These are three separate, significant episodes of prosecutorial misconduct in just 6 months. Nothing like this has ever been seen at the Department of Justice. And it is so well corroborated, it is so well documented, there is no denying it. There is no question of, is this real or not?

In the first case, that criminal chief who got run out wrote it down. She sent a letter laying out everything that had happened. She was a live witness to that episode whom the Judiciary Committee could have called to hear from to help get to the bottom of this.

If there was any doubt on the question of the false allegations of fraud and crime, the Department of Justice's own lawyers, in a later civil proceeding, conceded to the court: Yep, we are not alleging fraud here. There is nothing we are saying here about any actual fraud. Never mind all those allegations of criminality that have been made on behalf of the government by the client in this case.

So that episode was very, very well corroborated.

In the next episode, the one involving the elected mayor, you had a similar letter from the acting U.S. attorney, who resigned rather than go along with this corrupt bargain; you had Trump's own border czar, who went on television to confirm that this was, in fact, an agreement, that they had, in fact, done ''let's make a deal'' with an elected official over a pending criminal case. Your own client at that point is confirming it on live TV. A whistleblower came forward, so you had a whistleblower as well. You had triple-decker confirmation of that second episode of prosecutorial misconduct.

As to the deportations and telling prosecutors to get ready to tell courts ''f you,'' there were multiple whistleblowers and lots of corroboration from actual emails and texts at the time. You had prosecutors texting each other about that ''f you'' comment. If it had not occurred, those text exchanges would have made no sense. The first response would have been: What are you talking about? But, instead, everybody knew what was being said in the text chain because they had been in the room, they had heard him say it, and now two whistleblowers have come forward on that.

So you have multiple whistleblowers, lots of written evidence from career prosecutors, and statements by Trump officials corroborating these schemes. And what have we got? Monkey see no evil. Monkey hear no evil. Shove this guy onto the court because Trump wants it. Oh, did I mention he was Trump's criminal lawyer in the cases in which Trump was convicted of crimes?

The hearing was a shocking disgrace. I guess it turns out that nowadays, in order to get through a judicial confirmation hearing in the Senate Judiciary Committee, all you need to do is to remember to say ''I don't recall,'' ''That would not be appropriate for me to answer,'' or ''That information isn't public.'' You learn three answers, and you get through the hearing because the majority will never force the witness to answer an actual question.

It actually gets a little bit worse with respect to the deportation matter because there was another line of corroboration that could have been developed to prove this character's involvement in this scheme to fool the judge and ultimately to simply refuse to obey a court order. That was that, after all this nonsense went down in front of the judge—judges aren't stupid; he knew he was being had—he found probable cause of contempt of court, opening the prospect of a hearing, with evidence, into contempt of court, where witnesses would have testified, where the full email and text chains would have come into the record, where there would have been an indisputable judicial record of what took place.

Well, what became of that? It got stopped by two Trump appointees who stopped the contempt proceedings through a device called an administrative stay over the dissent and objection of the third judge, the one who was not a Trump appointee. So two Trump appointees stop a hearing into contempt of court by the Trump DOJ.

An administrative stay is supposed to last hours or days. Not too long ago, Justice Barrett chided the circuit court of appeals for an administrative stay that had lasted 2 weeks. This administrative stay that stopped the development of the evidence of this individual's misconduct has been in place for 3 months without explanation, but it was just enough time for the Trump operatives in the DOJ to shove this individual through the confirmation process, where real questions and real answers never appeared, while the place that would have gotten this with cross-examination, under oath, with consequences of perjury, was stalled by two other Trump judges. This smells like a play, like a maneuver, and we are going to continue to look into it.

I will say to my colleagues: This is not going to go away. It took me 6 years to ultimately prove that the FBI had been instructed in the Kavanaugh supplemental background investigation to do only what the White House told them, no more; that they had no rules, no practical guidelines—only what the White House Counsel told them. And what the White House Counsel told them is, you may not seek or find corroborating evidence.

Then, of course, all of our colleagues on the Republican side stood up and said: Oh, look, there is no corroborating evidence.

They didn't bother to share that it had been the White House's instruction to the FBI to avoid any corroborating evidence.

It took us 6 years to dig that out. So I can be persistent, and I will tell you, this is an episode that requires persistence.

First of all, there is a bar complaint against this guy for his misconduct that the New York bar referred to the Office of Professional Responsibility at the Department of Justice. Well, as soon as we confirm him, he is out of the Department of Justice, and the OPR has no jurisdiction any longer. So I see no reason not to go back to that bar complaint and get somebody to take a look into this since a MAGA OPR is not about to look into a MAGA Department of Justice employee.

Second, there is contempt here. At some point, that administrative stay is going to be lifted, and then there will be testimony. Then there will be evidence. Then people will be subjected to cross-examination. Then the truth will come out, and I strongly suspect it is going to be highly, highly embarrassing.

Perhaps to prevent that, the Department of Justice just filed a new complaint against the judge who will hold that contempt hearing. Presumably, their argument is going to be, ah, we have now filed a complaint against that judge; therefore, he is conflicted out, and that hearing can't go forward.

This is the Department of Justice—the MAGA Department of Justice filing a complaint, perhaps even in bad faith, against a U.S. district judge to try to conflict him out from a hearing that would show contempt of court by that very Department of Justice. What a tangled web we weave.

Last, there are going to be questions asked about those two Trump judges and why the administrative stay and why for 3 months and why the amazing coincidence that those 3 months of administrative stay was the period that it took to pick up this character, shove him through the nominations process, shove him through the Republican-controlled Judiciary Committee, and stuff him onto the bench without that hearing taking place. That is too much coincidence for this lawyer.

So this is not over. I strongly suspect that my colleagues will come to regret and lament their vote for this character. Bad nature is hard to make disappear.

I will end where I began the first time I came to the floor to discuss the nomination of Emil Bove to the Third Circuit, and that is the story about the snake by the side of a path, injured and broken, who was picked up by the lady who was walking along and taken to her home, where the snake was fed and cared for until he healed. Then she took him back to where she had found him, back to his home. She set him down beside the path, and he bit her.

As she was dying from the snake's venom, she said to the snake: Why did you bite me—the one who picked you up, the one who cared for you, the one who fed you, the one who brought you back here to your home area?

The snake said: You knew when you picked me up that I was a snake. This is my nature.

This man's nature will out.

I yield the floor.

The PRESIDING OFFICER (Ms. LUMMIS). The Senator from Utah.

VOTE ON BROWN NOMINATION

Mr. CURTIS. I know of no further debate on the Brown nomination.

The PRESIDING OFFICER. Is there further debate?

If not, the question is, Will the Senate advise and consent to the Brown nomination?

Mr. WHITEHOUSE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. BARRASSO. The following Senator is necessarily absent: the Senator from Tennessee (Mr. HAGERTY).

Further, if present and voting: the Senator from Tennessee (Mr. HAGERTY) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Delaware (Mr. COONS) is necessarily absent.

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 447 Ex.]

YEAS—54

Banks	Capito	Cramer
Barrasso	Cassidy	Crapo
Blackburn	Collins	Cruz
Boozman	Cornyn	Curtis
Britt	Cortez Masto	Daines
Budd	Cotton	Ernst
Fischer	Lummis	Rosen
Graham	Marshall	Rounds
Grassley	McConnell	Schmitt
Hawley	McCormick	Scott (FL)
Hoeven	Moody	Scott (SC)
Husted	Moran	Sheehy
Hyde-Smith	Moreno	Sullivan
Johnson	Mullin	Thune
Justice	Murkowski	Tillis
Kennedy	Paul	Tuberville
Lankford	Ricketts	Wicker
Lee	Risch	Young

NAYS—44

Alsobrooks	Hirono	Sanders
Baldwin	Kaine	Schatz
Bennet	Kelly	Schiff
Blumenthal	Kim	Schumer
Blunt Rochester	King	Shaheen
Booker	Klobuchar	Slotkin
Cantwell	Luján	Smith
Duckworth	Markey	Van Hollen
Durbin	Merkley	Warner
Fetterman	Murphy	Warnock
Gallego	Murray	Warren
Gillibrand	Ossoff	Welch
Hassan	Padilla	Whitehouse
Heinrich	Peters	Wyden
Hickenlooper	Reed	

NOT VOTING—2

Coons Hagerty

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The majority leader.

EXECUTIVE CALENDAR

Mr. THUNE. Madam President, I ask that the Senate execute the order of July 23 with respect to the Bove nomination.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Emil J. Bove III, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

VOTE ON BOVE NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Bove nomination?

Mr. SCHUMER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. BARRASSO. The following Senator is necessarily absent: the Senator from Tennessee (Mr. HAGERTY).

Further, if present and voting: the Senator from Tennessee (Mr. HAGERTY) would have voted ''yea.''

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 448 Ex.]

YEAS—50

Banks	Cassidy	Daines
Barrasso	Cornyn	Ernst
Blackburn	Cotton	Fischer
Boozman	Cramer	Graham
Britt	Crapo	Grassley
Budd	Cruz	Hawley
Capito	Curtis	Hoeven
Husted	McCormick	Scott (FL)
Hyde-Smith	Moody	Scott (SC)
Johnson	Moran	Sheehy
Justice	Moreno	Sullivan
Kennedy	Mullin	Thune
Lankford	Paul	Tillis
Lee	Ricketts	Tuberville
Lummis	Risch	Wicker
Marshall	Rounds	Young
McConnell	Schmitt	

NAYS—49

Alsobrooks	Hickenlooper	Rosen
Baldwin	Hirono	Sanders
Bennet	Kaine	Schatz
Blumenthal	Kelly	Schiff
Blunt Rochester	Kim	Schumer
Booker	King	Shaheen
Cantwell	Klobuchar	Slotkin
Collins	Luján	Smith
Coons	Markey	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murkowski	Warnock
Durbin	Murphy	Warren
Fetterman	Murray	Welch
Gallego	Ossoff	Whitehouse
Gillibrand	Padilla	Wyden
Hassan	Peters	
Heinrich	Reed	

NOT VOTING—1

Hagerty

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The Democratic leader.

Mr. SCHUMER. Madam President, I want to be very clear about what Senate Republicans are doing.

Tonight, Senate Republicans vote to put Emil Bove—a January 6 sympathizer—on one of the highest courts in the country. They reward a man—credibly accused of wanting to lie to judges—with a black robe and a gavel of his own. And they are confirming him for one reason only: Mr. Bove is loyal to Donald Trump. Therefore, Donald Trump wants him on the bench. The calculus is as simple as that—as simple as that.

It is unfathomable that, just over 4 years after the insurrection at the Capitol—when rioters smashed windows, ransacked offices, and desecrated this Chamber—Senate Republicans are willingly putting someone on the bench who shielded these rioters from facing justice, who said their prosecution was a grave national injustice.

To my colleagues who were here on January 6 and who are now putting him on the bench, shame on you. To confirm Mr. Bove is a sacrilegious act against our democracy, a deep violation against the spirit of our oaths of office.

But this is not just about January 6. Mr. Bove has been accused by multiple whistleblowers of telling DOJ lawyers to intentionally mislead judges about the administration's policy. Mr. Bove denied these claims, but we have text messages, emails, and other documents saying otherwise. Recently, another whistleblower has come forward, sharing evidence with Senators, suggesting Mr. Bove misled the Judiciary Committee during his sworn testimony.

Since it seems very likely Mr. Bove lied to Senators, he never should become a Federal judge, but Republicans