

fidelity to his country and to his home State. I, along with others here, am honored to have served with him in this body. For me it was 3½ years. To be in his presence, to listen to him, to learn from him is a great gift. We mourn his passing. I do not think any of us will believe there will ever be a Senator quite like him in the 50 years he served in this body, in addition to serving the people of West Virginia in the House of Representatives, as well as in the legislature in West Virginia.

We say farewell and God bless and Godspeed to ROBERT BYRD and his memory. We are praying for and thinking this day and I know many future days about his legacy and his family.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

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

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

TRIBUTE TO JOE FRANK NEIKIRK

Mr. MCCONNELL. Madam President, I rise to pay tribute to Joe Frank Neikirk and the business success he has helped build. Mr. Neikirk is the president and general manager of Paul's Discount in Somerset, KY. Paul's Discount has become a local institution in the region, and this month celebrated its 50th anniversary of operations.

The land that Paul's Discount now sits upon was purchased by Joe's ancestor, Franklin Neikirk, and his spouse for 500 cords of wood in 1856. Joe's parents, Paul E. and Frances R. Neikirk, opened the first discount store in south-central Kentucky on that land 104 years later in the early spring of 1960.

Founder Paul Neikirk passed away in 1974. Today Joe runs the store with his wife Jamie. The original store occupied only about 1,800 square feet and had three employees. Today, Paul's Discount boasts more than 20,000 square feet of selling space, plus three warehouses.

They offer sporting goods, hardware, automotive goods, clothing and crafts.

Joe's glad he's still in the same original location, saying, "You can't duplicate the atmosphere of this building." Judging by the crowd that turned out for the 50th anniversary, he must certainly be right.

The Commonwealth Journal recently published an excellent article about Paul's Discount, the Neikirk family's legacy and the 50th anniversary celebration that I would like to share with my colleagues. I ask unanimous consent that the full article be printed in the RECORD.

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

[From the Somerset Commonwealth Journal, June 13, 2010]

50 YEARS OF SERVICE—"UNIQUE" PAUL'S DISCOUNT—A PULASKI GEM

(By Tricia Neal, CJ Staff Writer)

Paul's Discount has always had a steady stream of customers, but yesterday, the customers came in droves—packing the parking lot and spilling out onto Ky. 2227 to help president and general manager Joe Frank Neikirk and his employees celebrate 50 years in business. Paul's Discount, opened in 1960 by Joe's parents, Paul and Frances Neikirk, is described by Joe as a "unique" store—offering sporting goods, hardware, automotive goods, clothing, and crafts.

What started as an Army surplus store with three employees has evolved into a sprawling, multi-department retail store with 30 employees, all of whom Joe says help make Paul's what it is. "God has blessed us with good employees at every level, from department managers to cashiers," he said.

Some of Paul's Discount's employees have worked in the store for nearly 30 years. Joe himself worked in his parents' store while he was in high school and college—and even earlier, he recalled, passing out baby chickens to customers at Easter.

"Customer service is the big thing about Paul's," Joe said. "You actually get somebody to ask you if you need help." That kind of friendly service is what brings customers from Pulaski and surrounding counties—and even, Joe says, from northern Kentucky, southern Ohio, and from other points east and west.

Paul Neikirk opened Paul's Surplus on his ancestors' land north of Somerset in 1960. In the beginning, the shop—the first discount store in south central Kentucky—occupied only about 1,800 square feet of space. Paul passed away in late 1974. At that time, his brother, Lyle Neikirk, took over management of the business. Lyle retired about 14 years later, leaving the shop in the hands of Paul's sons, Joe and Randy Neikirk.

Joe continues to manage the store, which now offers more than 20,000 square feet of selling space plus three warehouses, but he says his job has been made easy by those who surround him. "Today, my wife, Jamie, and I run the store. She does human resources, the employees do most everything else, and I handle whatever is left," he said.

"Our employees are almost self-sufficient." While the merchandise available at Paul's is constantly changing, Joe hopes the store's quality customer service and its atmosphere will keep customers loyal.

"We could never open another Paul's," Joe said. "You can't duplicate the atmosphere of

this building." Joe adds that his employees help create the atmosphere there.

While many things have remained the same at Paul's throughout the years, the current management is making sure the business keeps current. Paul Neikirk never would have imagined that his little shop would eventually be accessible to millions on the Internet. Now, the business can be found at www.paulsdiscount.com and on Facebook. "That's part of it nowadays," Joe said. But he still believes customers appreciate a good, old fashioned brick and mortar shopping experience.

"People still like to come to a store and look at what they're buying," he said. Paul's Discount is located on Ky. 2227, just north of Somers Splash water park. Ky. 2227 is part of the former North U.S. 27, and was once the most highly traveled road in the county. The store is now a little more out-of-the-way than it once was, but Joe says the change in traffic patterns hasn't hurt his business.

"Many local people were lost for a while," Joe recalled. "We were really dead for a couple of weeks. But people find their way. . . . It was an incredible risk (to stay in the same location). I thought it would affect us a lot more than it has." Store hours are 8 a.m. to 8 p.m., Mondays through Saturdays.

NOMINATION OF ELENA KAGAN

Mr. LEAHY. Madam President, this morning, the Supreme Court concluded its work for the term and, accordingly, it was Justice John Paul Stevens' last day on the Court. This afternoon, the Senate Judiciary Committee began the hearing on the nomination of Elena Kagan to succeed Justice Stevens on the Supreme Court of the United States.

Solicitor General Kagan appropriately included a tribute to Justice Stevens in her opening remarks. The Nation is indebted to Justice Stevens for his decades of service to this country, from his days as a Navy intelligence officer during World War II for which he was awarded a Bronze Star, to his contributions as a circuit judge, to his 35 years on our highest Court and his leadership there.

When I visited with Justice Stevens earlier this year he shared with me the note President Ford had written a year before his death in which the President said: "I am prepared to allow history's judgment of my term in office to rest (if necessary, exclusively) on my nomination 30 years ago of John Paul Stevens to the U.S. Supreme Court." President Ford was justifiably proud of his nomination. Despite those on the far right who have ranted against Justice Stevens' refusal to be bound by narrow, conservative ideology and who have criticized his good judgment—just as they have Justice Sandra Day O'Connor and Justice David Souter—his was principled jurisprudence founded on adherence to the rule of law and

an appreciation for the effects of decisions.

His was the first Supreme Court nomination on which I have been privileged to vote. I have never regretted supporting his confirmation. Just as I reached across the political aisle to vote for Justice Stevens, Justice O'Connor, and Justice Souter, who were nominated by Republican Presidents, I have urged Senate Republicans to fairly consider President Obama's nominations.

Justice Stevens has written important decisions upholding the power of Congress to pass legislation to protect hard-working Americans. He brought to his opinions a keen understanding of the distinct roles set forth in our Constitution for courts and for our democratically elected Congress, and a respect for both. In *Gonzales v. Raich* and in *Tennessee v. Lane*, Justice Stevens authored the Supreme Court's opinions upholding Congress' actions. I suspect these precedents will be even more important as the Supreme Court continues to examine laws passed by Congress to protect Americans from discriminatory health insurance policies and fraudulent Wall Street practices.

A decade ago, the Supreme Court overreached and unnecessarily waded into the political thicket to award the presidency in a close election to George W. Bush. In his dissent, Justice Stevens lamented that the decision would damage the Court's reputation and it did. He noted: "Although we may never know with complete certainty the identity of the winner of this year's Presidential election, the identity of the loser is perfectly clear. It is the Nation's confidence in the judge as an impartial guardian of the rule of law."

While the public's memory of that partisan decision was receding, it came rushing back when the Supreme Court issued another election-related decision in the *Citizens United* case. In *Citizens United*, five conservative, activist Justices overturned a century of law to empower corporations to overwhelm and distort the democratic process by using corporate funds to influence elections. Those five Justices substituted their own preferences for the judgment of Congress that had built on decades of legal development to pass bipartisan campaign finance reform legislation. In order to reach its divisive decision granting corporations, banks, and insurance companies new rights to the detriment of the voices of individual Americans, the Court overstepped the proper judicial role, and rejected not just the conclusions of the elected branches, but also its own recent precedent upholding the very law it chose to overturn. In one of his most powerful dissents, Justice Stevens noted that: "[The] Court's ruling threatens to undermine the integrity of elected institutions across the nation. The path it has taken to reach its outcome will, I fear, do damage to this institution." He was right, again.

I share Justice Stevens' concern for the Court's reputation. Two of the three branches of government are involved in campaigns and elections. When the American people see the third branch reaching out to influence those elections—as they did most recently in Arizona—they rightly get suspicious of its impartiality. I hope that Elena Kagan will show the judgment and forthrightness of Justice Stevens and share our concern about the public's confidence in our judicial system. Based on her Oxford thesis almost 20 years ago, before she had even attended law school, I expect that she will. I hope that she will honor Justice Stevens' extraordinary legacy and that of the Justice for whom she clerked, Justice Thurgood Marshall, by so doing.

The country needs and deserves a Supreme Court that bases its decisions on the law and the Constitution, not politics or an ideological agenda. A recent pattern of Supreme Court decisions has emerged by a conservative, activist majority. These opinions have twisted both the Constitution and the law to favor big corporations over the interests of hard-working Americans.

The most recent example of this conservative activism came just last week in a case called *Rent-a-Center v. Jackson* when they distorted their own precedent the clear congressional intent in passing the Federal Arbitration Act, FAA. Congress did not intend the FAA to apply to employment cases and certainly did not intend involuntary and unconscionable provisions requiring binding mandatory arbitration to override civil rights protections against racial discrimination and retaliation, as was allowed in that case. The five Justices distorted the law to forbid almost all court challenges to arbitration. In doing so, the court stripped quintessential civil rights protections that Congress has passed over the last several decades for hundreds of thousands of Americans who work under mandatory arbitration agreements. It is artifice and activism to the detriment of hard-working Americans who deserve their day in court.

The law is not a game. The law is intended to serve the people—protecting the freedom of individuals from the tyranny of government or the mob, and helping to organize our society for the good of all. No Justice should substitute his or her personal preferences and overrule congressional efforts passed into law to protect hard-working Americans pursuant to our constitutional role. Judges must approach every case with an open mind and a commitment to fairness and the rule of law. I was encouraged to hear Solicitor General Kagan voice similar views in her eloquent opening statement today. I hope Americans took the opportunity to see and hear from the nominee herself. If they did, I suspect that they will be supportive.

Tomorrow each Senator on the Judiciary Committee, whether Republican

and Democrat, will have 30 minutes to question her. I urge Senators to listen to Solicitor General Kagan's responses and to approach the hearing with the same openmindedness and impartiality that we expect from Supreme Court Justices.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS BARRY DANIEL SMITH

Mrs. SHAHEEN. Madam President, today I rise to express my deepest sympathies to the family of Army PFC Barry Daniel Smith, who died on May 7 while stationed at Fort Hood, TX. He enlisted in the Army in October of 2009 and completed basic training and Multiple Launch Rocket System training before joining the 2nd Battalion, 20th Field Artillery, MLRS, 41st Fires Brigade. The American people will forever be grateful to Private First Class Smith for his willingness to serve.

A longtime New Hampshire resident, Barry was a graduate of Littleton High School and Hesser College in Manchester, where he earned a degree in criminal justice. He was a lover of the great outdoors, of hunting and camping with family and friends. With his friendly nature and wonderful laugh, Barry made friends easily and had many.

Private Smith exemplified the best in America's long tradition of service to this country. He was extremely proud to serve in the U.S. Army. Our Nation can never adequately thank Private Smith for his willingness to make the ultimate sacrifice in the defense of the American people, nor can words diminish the pain of losing this young soldier. It is now up to us to honor his memory by supporting our veterans and their families and ensuring America's continued security.

Private Barry Smith is survived by his parents Dan and Shelly Smith of Auburn, ME, and Linda and Jonathan Larrivee of Littleton, NH. He is also survived by numerous siblings, grandparents, aunts, uncles and cousins. This young patriot will be dearly missed by all.

I ask my colleagues and all Americans to join me in honoring the life of Army PFC Barry Daniel Smith.

TAX EXTENDERS BILL

Mr. GRASSLEY. Madam President, I was surprised to see the Senate majority leader on Friday morning, in some of the harshest possible language, make the misleading assertion that Senate Republicans oppose the underlying policy in the tax extenders bill. His statement conveniently ignored the basic reason nearly every Republican for opposing the Democratic leadership's substitute. It was opposed to because it perpetuated the large deficit spending that has become the modus operandi of the Democratic leadership.

The way to a bipartisan agreement is to follow the path set 1 week ago