

known—was passed, it included a provision for the Prevention and Public Health Fund. This, again, was part of the Affordable Care Act. The purpose that was stated in the legislation was “to provide for expanded and sustained national investment in prevention and public health programs.” In other words, it could have been tailor-made to deal with this potential Zika crisis.

What I would propose is that we deal with the problem without delay. We appropriate the right amount of money, which both Democrats and Republicans—at least in the Appropriations Committee—have agreed is \$1.1 billion, but that we take available funds and funds that will be available under the Prevention and Public Health Fund, and we pay for it.

You wouldn't think that would be particularly revolutionary or novel around here, but unfortunately I think too often what we do is we act in an emergency or to avert an emergency and we don't follow through and do it in a fiscally responsible sort of way.

The fact of the matter is we do need to address the Zika virus. There is no doubt about that. There is no difference among us in this Chamber or in Congress about the need to deal with that. As a matter of fact, the House of Representatives has proposed a version of their response today, I believe. But we need to do this responsibly.

There is no reason why we have to put our country deeper in debt to protect ourselves against this virus. We don't have an endless supply of money. The Federal Treasury can't just keep printing money, and we can't just keep imposing on our children and grandchildren the responsibilities to pay the money back that we continue to borrow, particularly when we have a fund available to offset this expenditure.

As the Presiding Officer well knows, our growing debt in and of itself is a threat to our country's future and our way of life. The Presiding Officer and I have listened to the Senator from Georgia, Mr. PERDUE, talk about what impact our debt has on our ability not only to withstand another financial crisis, such as we had in 2008, but simply to fund such essential functions of the Federal Government like national defense.

Particularly, as the interest rates are going up, more and more money is going to be paid to our bond holders, such as China and others, instead of paying for essential functions of the government, like national defense or safety net programs that we all agree are worthwhile.

If we can deal with this potential crisis and do so in a fiscally responsible way without growing the debt, then we ought to be able to do that. This should be a no-brainer.

We should take this opportunity tomorrow to give our public health officials and local officials back home the resources they need to protect our constituents—the American people—against the spread of the Zika virus,

but we ought to do so without adding to our mounting debt.

Fortunately, this legislation also includes a provision that would waive provisions of the Clean Water Act—I have referred to those a little earlier—and permit State and local officials to spray to protect against mosquitoes year around. Unfortunately, this particular legislation, the Clean Water Act, has provisions in it that essentially tie the hands of public health officials when it comes to mosquito eradication, which is one of the essential components of a strategy to defeat this potential crisis.

We all agree that the Zika virus is a real threat with real public health consequences. It has already impacted a generation in Brazil and other Latin American countries. We are told it is apparently rampant in Puerto Rico and Haiti, and there is no question it is coming our way. With the summer months ahead of us, the potential for this virus to spread to the United States is a major concern that we ought to address with dispatch. We have to give those on the ground the tools and support they need to address this threat, but we have to do so in a responsible way.

I urge our colleagues on both sides of the aisle to support the legislation which funds the Zika prevention program at \$1.1 billion but pays for it out of the Prevention and Public Health Fund, as apparently this fund was created to do—to “provide for expanded and sustained national investment in prevention and public health programs.”

I urge my colleagues on both sides to support this legislation when we have a chance to vote tomorrow. The time to act is now.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. FISCHER). Without objection, it is so ordered.

---

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

---

#### EXECUTIVE SESSION

---

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Paula Xinis, of Maryland, to be United States District Judge for the District of Maryland.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes for debate only on the nomination, with the time equally divided in the usual form.

The Senator from Ohio.

#### ZIKA VIRUS

Mr. PORTMAN. Madam President, I rise today to talk about the Zika virus. We will have a vote on this tomorrow.

Tonight I wish to speak about the need for us to move forward with emergency funding with regard to this virus. We need to combat it. It is spreading. It poses a threat to the safety of women, children, and the elderly. It is particularly important that we keep it from spreading because there is no known Zika vaccine or treatment.

A lot of my constituents have asked me about this back home. This is a virus that has spread from Africa, to Asia, to Latin America, and now it is coming into our own country. It is spreading so quickly because it is insidious. It is difficult to test for it because it is usually confused with other viruses, like dengue. It can only be detected in a few days after you get it in the blood. Many of its symptoms in older adults are similar to other viruses, such as influenza, so it is tough to know whether you have it. It is typically contracted simply by being bitten by a mosquito, and two kinds of mosquitoes—both of which are in the United States—are the problem. We now know that it can also be transmitted by sexual activity. We are told that men may be able to sexually transmit the virus for months after the initial infection based on some experiences.

So, again, this is a difficult issue. Some people may not even know they have it; yet they might be spreading it. The spread of the virus is accelerating. It took 60 years for Zika to make it out of Africa to the Pacific. Just 8 years after that, it reached the Western Hemisphere in Latin America.

Today it has infected people in 62 countries, including the United States and 34 other countries in the Americas, so pretty much every country in the Americas is now infected with it. Hundreds of Americans have been infected. We know of nearly 500, including 48 pregnant women and 12 people in my home State of Ohio, in fact. Thus far, it looks as though all of the Americans who have become infected did so by traveling overseas, being infected by the mosquito or by sexual contact with someone who had Zika.

The World Health Organization calls it “a threat of alarming proportions” because it is spreading so quickly and because it has serious consequences for the most vulnerable in our society, particularly the elderly—an older gentleman in Puerto Rico recently died of Zika—children, babies in the womb, which we will talk about in a second, and pregnant women.

As Zika has spread, health officials have reported an increased incidence of babies born with a horrible birth defect

where a baby's head and brain are abnormally small. The consequences of this birth defect are absolutely tragic. These kids have seizures, slow development, intellectual disabilities, and often loss of hearing and vision. The consequences last a lifetime. There is no known cure for this disease. We don't want any child to have to suffer through that. It is in all of our interests to protect more babies from this syndrome.

In Brazil, there have been more than 900 confirmed cases since Zika arrived, with another 4,000 suspected cases. These are conservative estimates, and they are rising. That is up from around an average of 150 each year—a 600-percent increase from year to year.

Officials also tell us that Zika can cause what is called Guillain-Barre syndrome, which causes the body's immune system to attack its own nerves. It is a cruel syndrome, and in bad cases it can cause total paralysis and loss of sensation. This can happen to anyone, not just newborns but adults as well. These are just two of the neurological side effects that can result, and, like Zika, they are thought to be incurable.

For most adults, Zika is not fatal, but to the most vulnerable, like the elderly and the unborn, it could be a lifetime of suffering, disability, or even death. I mentioned the man in Puerto Rico who died last week after being infected by Zika, a fellow American. His immune system began to attack the platelets in his blood, so they couldn't clot, and that was the effect for him.

As Zika spreads, it becomes clearer than ever that our response has to be very aggressive, both domestically and internationally. It has to be aggressive, and therefore it has to be funded. That is why I think it is important that we deal with emergency funding before it is truly an emergency.

I thank my colleagues for the steps they have already taken to improve our response. In March, this body passed and President Obama signed into law bipartisan legislation which I cosponsored with my friend Senator FRANKEN that will give accelerated priority review at the Food and Drug Administration for new drugs and vaccines to treat Zika. This is very important, and I applaud the Senate for moving quickly and the administration for moving on that. It is a critical step. Right now, there is no cure and no treatment. President Obama has signed it into law.

I am also grateful to the administration for redirecting more than \$500 million of residual Ebola funds that were originally appropriated by Congress to deal with Ebola and were not necessary. They stopped using those funds for Ebola and shipped those funds over to Zika to stop it from spreading. I applaud them for that as well.

Again, we have more work to do, and it is my view that we ought to move forward with emergency funding. There was a proposal—I believe it was finalized just last week, Thursday or Fri-

day—from Senator BLUNT and Senator MURRAY that goes a long way toward dealing with this issue.

The majority of the funding is right here in the United States, while the rest will go to international immigration purposes so we can keep Zika from crossing our borders again. A lot of this funding goes to the Centers for Disease Control and Prevention—the majority of it—to enhance mosquito control programs, improve infrastructure for testing for Zika, and expand the pregnancy risk assessment monitoring system, all of which are important. This is emergency funding, and I think it is necessary. Some funding also helps provide health services for pregnant women in Puerto Rico and invests in scientific research for a treatment or a vaccine. This is perhaps the most important thing we can do. These are critical priorities.

I would also note that I am pleased that we have maintained the Hyde protections in this proposal, and I believe this is consistent with the goal of protecting innocent life, protecting these innocent babies from birth defects. We want this funding to be used to help preserve life and to help the vulnerable.

We need to ensure adequate funding. We have to recognize the tools already at our disposal and use them. I have remained in contact with the Secretary of the Air Force as this virus has spread to make clear that in Ohio we have reservists at Youngstown Air Reserve Station who are ready to help. This Air Reserve Station in Youngstown, OH, is the home of the 910th Airlift Wing, which is the only fixed-wing aerial spray unit in the United States. It has been used by the military all over the United States. They have played key roles in other public health emergencies, including spraying millions of acres in Louisiana and Texas for mosquito abatement after Hurricane Katrina. I believe they could play that same role now. They are ready to do it, but frankly they need an upgrade in their equipment to be able to do it.

As RADM Stephen Redd of the CDC told me in the Homeland Security and Governmental Affairs Committee, “there could be a role for that airwing in locations that do not have [finely honed mosquito control enterprises].” He said that a lot of counties in this country do not have that. He said: “One of the things that we think is really important that the Zika virus outbreak is pointing out is the need to really revitalize those mosquito control efforts.” I couldn't agree with him more.

We need to revitalize these efforts to be sure we have them and use the tools that are at our disposal right now. If Zika were to spread around the country, it is incredibly important that we have this control effort.

I hope we move forward on this in the next couple of days, send this legislation to the President for his signature, and get moving on dealing with the

Zika emergency we have before us. People all over Ohio ask me about it because they are worried. We need to keep our constituents safe, and we need to give them peace of mind.

Adopting the amendment I think we are going to have before us in the next couple of days is the best action we can take right now to achieve these goals, and I urge my colleagues on both sides of the aisle to strongly support emergency funding for this purpose.

Thank you.

I yield back my time.

THE PRESIDING OFFICER (Mr. COATS). The Senator from Vermont.

Mr. LEAHY. Mr. President, it has been 5 weeks since the Senate last confirmed a judicial nominee. In that time, judicial vacancies have continued to increase. Unfortunately, the Republican leadership has repeatedly objected to unanimous consent motions made to overcome the obstruction of 20 judicial nominees. These are nominees who were voted out unanimously by committee and are awaiting a confirmation vote.

The majority leader claims that President Obama's nominees have been treated fairly, but anyone paying attention to the Senate over the past 7 years knows that is not the case. It has been almost 2 months since Chief Judge Merrick Garland was nominated by President Obama to fill a vacancy on the Supreme Court. Chief Judge Garland is widely respected, and prior to his nomination, he had repeatedly received praise from the very Republicans who now refuse to allow him to appear for a confirmation hearing. These same Republicans refuse to do their jobs as Senators while outside groups pour millions of dollars into television ads that seek to discredit Chief Judge Garland's record. Before there was even a Supreme Court nominee, one Republican aide promised conservatives were “going to light this person up.” Sadly, it appears they are making good on their threat while simultaneously refusing to allow him a public hearing where he could respond.

Meanwhile, lower court nominees have stalled. Paula Xinis, whom we will vote on today, was nominated more than a year ago to fill an emergency vacancy—not just a regular vacancy but an emergency vacancy in Maryland. Since 2011, she has practiced as a criminal defense attorney at a law firm. Prior to that, she served in the Federal Public Defender's Office for the District of Maryland for 13 years, from 1998 to 2011. Ms. Xinis has extensive trial experience, representing hundreds of clients as a public defender and trying 16 cases to completion over the course of her career. The ABA Standing Committee on the Federal Judiciary unanimously rated Ms. Xinis “well qualified” to serve in the district court. They gave Paula Xinis their highest rating. She is strongly supported by both Senators from Maryland, and her nomination was unanimously approved by the Judiciary

Committee by voice vote 8 months ago. All the Republicans on the Judiciary Committee approved her nomination from the Committee by unanimous voice vote.

Senator SESSIONS came to the floor today to oppose Ms. Xinis's nomination based on her experience as an examiner of complaints against police officers in the District of Columbia. From 1995 to 2011, Ms. Xinis served as a complaint examiner in six cases where she made determinations on complaints brought against Metropolitan Police Department officers. At her Senate Judiciary Committee hearing, Senator SESSIONS questioned Ms. Xinis about her experience and expressed concern that, in the six cases Ms. Xinis served as a complaint examiner, she sustained rulings against police officers in all of them. Senator SESSIONS questions Ms. Xinis's fairness to police officers based on her determinations in these six cases.

However, as Senator SESSIONS said on the floor today, he does not question her personal qualifications or her integrity to be a Federal judge. And he also did not question her testimony before the Judiciary Committee in which she committed to being a fair and impartial judge, should she be confirmed. Furthermore, Ms. Xinis's record as a complaint examiner shows that each one of her six determinations was sustained by the chief of police; none of them was overturned. Her decisions could have been appealed and overturned if they were incorrect, but they were not.

Paula Xinis has earned the express support of law enforcement and has defended police officers as an attorney on a number of occasions. For instance, in one case, she provided legal counsel to a Baltimore police officer unfairly accused of criminal wrongdoing. That officer wrote a letter of support for Ms. Xinis, where he said: "Throughout the entire ordeal, I spent countless hours with Paula and her team. They worked diligently seeking the evidence needed to exonerate me. Although it was an extremely dark time for me, she always made me feel confident that she 'had my back' and that she was dedicated to seeing that I was vindicated. Thankfully, as a result of her tireless efforts on my behalf, all of the charges brought against me were dismissed earlier this year." This does not sound like a person who holds any biases against law enforcement. In addition to this officer, several other members of the law enforcement community have written in support of Ms. Xinis's nomination.

After we actually vote on Paula Xinis's nomination today, there will still be 19 judicial nominees pending on the Executive Calendar waiting for a confirmation vote. Every single one of these nominees was voted out of the Judiciary Committee by unanimous voice vote. Instead of allowing a vote on these nominees on a regular basis, the Republican leadership objects to the Senate being able to do our jobs.

After today's vote, the next in line for consideration is a district court nominee from New Jersey and then a district court nominee from Nebraska. I know the Senators from New Jersey are pushing for a vote on the nominee to serve in their State. I hope the Republican Senators from Nebraska are urging their leadership to schedule the confirmation of Robert Rossiter, who was approved by unanimous voice vote in committee. That vacancy has been pending for over a year and a half. There is no good reason for votes on these nominees to be further delayed.

Senator GRASSLEY has indicated that Republicans will shut down the judicial nominations process in July, even though vacancies have risen from 43 to 81 since Republicans took over the majority. They have allowed vacancies to rise dramatically and now want to shut it down even though the judicial nominees pending are not controversial and we have numerous vacancies that need to be filled. This is wrong. Contrast this to the last 2 years of George W. Bush's administration, when Democrats were in control. At this same point in the Bush Presidency, Democrats had reduced vacancies to just 46.

Because of Republican obstruction, our independent judiciary is struggling to perform its role under the Constitution. The Marshall Project recently interviewed several sitting judges to examine the impact judicial vacancies are having on our courts. Chief Judge Ron Clark of the Eastern District of Texas, which currently has three judicial emergency vacancies, said: "We're managing the best we can—but if they don't get us another judge soon, you could start to see some more draconian kinds of delays." There is a nominee to this court pending in the Judiciary Committee, but the Texas Senators, who both are members of the committee, have not returned their blue slips to allow that nominee to even receive a hearing. I hope the Texas Senators heed the call of Chief Judge Clark and get moving on their nominee.

And I hope the Senate majority allows this body to return to regular order when it comes to processing judicial nominees. We have a constitutional responsibility to provide advice and consent on the President's nominees. The Constitution has not changed, but once President Obama took office, this body's normal practice for treating nominees turned for the worse. Deference to home State Senators was no longer the norm, and procedural delay after procedural delay quickly became the standard practice of the Republican caucus, whether they were in the minority or now in the majority. In a New York Times op-ed a week ago, former Judge Shira Sheindlin of the Southern District of New York warned that the Republicans' obstruction to district court nominees "undermines public trust in the impartiality and legitimacy of the judiciary."

I was heartened to hear the majority leader last week make the point that

an election year is "not an excuse not to do our work." I could not agree more. That is why in the last 2 years of the George W. Bush administration, when I served as chairman of the Judiciary Committee, we confirmed 68 of President Bush's judicial nominees. That is compared to a handful of President Obama's nominees that the Republicans have allowed. We confirmed 68 of President Bush's judicial nominees, and we confirmed right up to the time we went out for the elections in September, not in June or July or May.

We have also confirmed more than a dozen Supreme Court Justices in Presidential election years, and many in this Senate served at the time. The last one we had, of course, was during President Reagan's final year in office. We did so because we knew the Supreme Court should not be held hostage to election-year politics; yet we are being held hostage to election-year politics because we are not doing our jobs. And the Supreme Court issued a couple more 4-to-4 opinions today.

I urge the majority leader to heed his own advice and to schedule a confirmation vote for the pending lower court nominees, and I urge the chairman of the Judiciary Committee to follow suit by scheduling confirmation hearings for Chief Judge Garland so that we can do our jobs.

Mr. President, I ask unanimous consent that Judge Sheindlin's op-ed and the Marshall Project review be printed in the RECORD.

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

[From the Marshall Project, April 26, 2016]  
WHAT HAPPENS WHEN THERE AREN'T ENOUGH JUDGES TO GO AROUND?

(By Eli Hager)

The ninth seat on the Supreme Court has been vacant for two months.

But Antonin Scalia's chair is not the only empty one in the vast federal judiciary, where several judgeships have remained unfilled for 30 months or more. Around the country, there are 84 of these vacancies, largely as a result of the Senate's historically low rate of confirming President Barack Obama's nominees. And since the beginning of last year, the number of unfilled seats and pending nominations have been steadily rising.

Down in the gears of the justice system, all those absent judges have taken a toll.

Because courts are obligated to find ways to meet speedy-trial rules, at least in criminal cases, the vacancies have not caused across-the-board delays. But by all accounts, the unconfirmed nominees—combined with what advocates say is an insufficient number of judgeships overall—have forced the system to find sometimes extraordinary ways to make do with the few judges available.

Some judges, for example, are having to drive hundreds of miles to cover the empty seats. Less-qualified magistrate judges, senior judges who are supposed to be entering retirement, and visiting judges who fly in from other states, have all had to pitch in. And many of the remaining judges say that it's hard, with such a lack of personnel, to give every case the attention it deserves.

In the worst-hit districts, including all four districts of Texas, some areas of Florida

and California, Middle Alabama, and elsewhere, the situation is now considered an “emergency.”

Ron Clark, chief judge of the Eastern District of Texas, which has three judicial emergencies out of only eight total judgeships, says that “we’re managing the best we can—but if they don’t get us another judge soon, you could start to see some more draconian kinds of delays.”

#### JUDICIAL VACANCIES IN THE FEDERAL COURTS

In the past year, unfilled federal judgeships have been rising dramatically. Similarly, the number of seats on the bench considered “emergencies”—vacant for many months with a large caseload per judge—and the number of White House nominations awaiting Senate confirmation have climbed.

A 2014 study by the Brennan Center for Justice found that the vacancies led to a host of negative consequences. Among them were unresolved motions, habeas corpus petitions waiting years to be heard (or being handled by law clerks instead of judges), judges spending less time on each case, and defendants pleading guilty because they believed a trial would not get the timely attention it deserved.

And in civil proceedings, where the Speedy Trial Act does not apply, longer wait times for trial are becoming more common.

Morrison C. England Jr., chief judge of the Eastern District of California, says that “cases that aren’t the priority are going to get pushed back for years, literally.”

In Middle Alabama, Ricky Martin, a pastor, had been allowing registered sex-offenders to stay in mobile homes surrounding his church—until the state legislature made it illegal for him to do so. Martin filed suit in August of 2014, and the local D.A. responded with a “motion to dismiss” a few months later. But a judge didn’t get around to weighing in—in Martin’s favor—until this April, and the case may not actually be resolved for two more years or longer.

The process would have taken only three to four months if there were more judges available, says Randall Marshall, legal director of the ACLU of Alabama.

But sometimes, the effect is the opposite: the proceedings get rushed.

Brian McGiverin, a civil-rights lawyer in Austin, Texas, says that because there are so few judges, the remaining ones are all overbooked. As a result, they often “give you a cramped amount of time for trial, regardless of how many witnesses you’d like to call.”

McGiverin recently assisted in the case of a woman named Abieyuwa Ikhinmwini, who claimed that she was racially profiled, handled with excessive force, and wrongfully arrested by police in San Antonio.

He says the court tried to “fast-track” her lawsuit, threatening to dismiss it within 21 days unless she paid a fee and submitted additional information—which would not have happened when there were enough judges.

Clark, chief judge in the nearby Eastern District of Texas, says that “with so few of us, it’s definitely harder to have the flexibility that a defense lawyer might want us to. So the answer sometimes has to be, ‘No, sorry, we can’t offer that time in court.’”

Meanwhile, the consequences of too few judges are worsened in the most geographically expansive districts.

“When there’s a missing judge in a state like ours,” Clark says, “it’s not like we can walk down the hall and take care of a trial for him—the trip from Beaumont to Plano is five and a half hours, and that’s if the traffic is good.”

He and the other judges in his district waste about two days a week on the road.

“We’re one traffic accident away from the wheels falling off,” he says.

As an additional stop-gap measure, the worst-hit districts are relying on pinch hitters.

In Middle Alabama, less-experienced magistrate judges (who are appointed directly by the district judges, rather than nominated by the president and confirmed by the Senate) have for several years been doing work once reserved for the district judges, from taking guilty pleas to overseeing evidentiary hearings. The district is also getting last-minute help from visiting judges, who have traveled from Iowa and Florida to pitch in.

“When there are judges who come in from elsewhere,” says Christine Freeman, executive director of the federal defender’s office in Montgomery, Ala., “they are strangers to us, to the prosecutor, to court officials, to the probation officers, to every single person involved in a case.”

“That makes it very hard to predict outcomes for your client,” Freeman adds.

But the lack of judges has perhaps fallen hardest on senior judges, who, because they are typically over 70 or 80 years old, usually take on 50 percent or less of a full caseload.

Instead, in Middle Alabama and elsewhere, their caseloads have been 150 or even 200 percent of normal.

“I’m 73, and I’d like to be able to say, ‘Look, I’m done, I want to spend more time with my family,’” says Michael Schneider, one of the senior judges in Eastern Texas. “I’m encouraged that the president has nominated someone, but I can’t actually cut back until a nominee is approved.”

“I’m going to be at this for awhile,” Schneider adds. “It’s frustrating.”

England, the chief judge in Eastern California, says that senior judges are the only reason why vacancies haven’t become more of a crisis.

“We are living and dying with our senior judges,” England says. “They’re taking on cases they shouldn’t have to, but that’s what’s saving us.”

Of course, federal courts being overburdened is the symptom of more than simply a lack of nominations and confirmations.

Since 1990, Congress has not passed major legislation creating new judgeships, even as the war on drugs, and now the surge in prosecution of undocumented immigrants, have jammed up the system with exponentially more cases.

As a result, by 2013, there was a 39 percent uptick in the number of overall filings, while only 4 percent more judges were added to handle all that extra work.

Throw in the higher-than-normal number of vacancies, and it’s a recipe for an overburdened judiciary. After a three-year wait, for instance, the Eastern District of California finally got a vacancy filled last October. But Chief Judge England says the crushing burden of too few judges hasn’t lessened.

“One way or the other, Congress would need to give this district more judges,” he says. “We need help—we have too many trials. I’m booked for 2016 and 2017 already.”

[From the New York Times, May 6, 2016]

#### AMERICA’S TRIAL COURT JUDGES: OUR FRONT LINE FOR JUSTICE

(By Shira A. Scheindlin)

The outcry over the Senate’s failure to hold hearings on Judge Merrick Garland’s nomination to the Supreme Court is fully justified. But that isn’t the only judiciary scandal on Capitol Hill. Even as the spotlight shines on the high court, the Senate has refused to confirm dozens of uncontroversial nominees to fill vacancies in the federal trial courts.

Such obstructionism has become an everyday occurrence. Just last week, Senate Republicans refused to vote on 11 federal dis-

trict court nominees whom the Judiciary Committee had already approved—even those who were supported by Republicans in their home states. During President George W. Bush’s last two years in office, the Democratic-controlled Senate confirmed about 57 district court judges. Since Republicans took power in 2014, the Senate has confirmed only 15 of President Obama’s trial court nominees.

This is an even bigger problem than Judge Garland’s stalled nomination. Trial court judges do the bulk of the work in the federal court system: Last year nearly 375,000 new cases were filed, while the Supreme Court justices issued just under 75 opinions. And because most trial court decisions are never appealed, they become the final word in significant disputes that affect millions of Americans.

I know this firsthand. I served as a trial judge for over 21 years, and stepped down from the bench last week. As I walked out of a federal courthouse in Lower Manhattan on one of my last days, an African-American United States marshal asked me if he could have a word.

He explained that he had grown up in New York City’s public housing, and thanked me for my 2013 decision in the “stop and frisk” case. (I ruled that the New York Police Department’s practice in which police officers stopped hundreds of thousands of New Yorkers without reasonable suspicion, a vast majority of whom were innocent African-Americans and Latinos, was unconstitutional.)

“You just can’t know what a difference this has made to so many people in my community,” he said. “You can’t even imagine.”

But I think I can. At the policy’s peak in 2011, officers stopped nearly 700,000 people. That number dropped to about 23,000 last year, and the policy change was not accompanied by a rise in serious crime, despite dire predictions to the contrary. As a result of my rulings and community outcry, the Police Department agreed to reforms, which include better record keeping, the use of police body cameras and the abandonment of racial profiling.

Other examples abound. In 1974, Judge Jack Weinstein of the Eastern District of New York found the de facto segregation in a Coney Island public school to be unconstitutional, a ruling affirmed on appeal. The school was ultimately integrated under his supervision, and without the “white flight” that politicians had feared would result.

And in one of the highest-profile civil rights cases ever in a trial court, Leonard about a decade later that both the housing and schools in Yonkers were intentionally segregated, and ordered construction of integrated housing in the city. An appeals court upheld this ruling, which, despite years of public protest, immensely improved the living conditions for thousands of Yonkers residents.

The influence of district judges has likewise had an effect on national security. In the mid-2000s, Judge Alvin Hellerstein, also from the Southern District of New York, ordered the government to disclose photographs under the Freedom of Information Act that depict the abuse of Abu Ghraib detainees, which was affirmed by the appellate court. Judge Hellerstein also effectively forced the government to turn over the Department of Justice’s infamous “torture memos,” which incited a national conversation about whether torture is ever appropriate.

Not every decision by district court judges benefits the public: Last week Judge Thomas Schroeder of North Carolina’s Middle District upheld myriad legislative changes to the state’s voting rules that will result in reduced voting opportunities for minorities, unless reversed.

Whether Judge Garland should be confirmed or not, there can be no denying that Supreme Court nominations are inherently political. So it's no surprise that they are drawn out for ideological or partisan reasons. But district court nominations are different. Ideology is not the issue: Experience and competence are the only criteria.

And yet the Senate majority's policy of delaying qualified district-court nominations on purely political grounds undermines public trust in the impartiality and legitimacy of the judiciary. This is especially worrisome because the public's understanding of how justice is administered is most likely based on its access to and experience with lower court proceedings.

Presidential debates have focused on the Islamic State, trade pacts and immigration policy; meanwhile, the next president will most likely appoint 130 trial judges over the next four years. The public needs to know what's at stake. Trial judges must spot the issues, decide the outcomes and fashion the remedies in all kinds of disputes. I cannot force this Congress to do its job. But I urge voters not to forget the White House's power to appoint all judges when they choose the next president.

Mr. LEAHY. Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

I rise this evening in support of the nomination of Paula Xinis to serve on the District Court of Maryland. I know Senator CARDIN will be coming to the floor shortly to also comment on Ms. Xinis's nomination. Senator CARDIN and I recommended Ms. Xinis to President Obama with the utmost confidence in her abilities, talent, and competence for the job. She is a brilliant litigator and a dedicated public servant. The Judiciary Committee agreed with us, because they also voted her out of the committee unanimously.

I thank Senator MCCONNELL, the majority leader, for scheduling this vote; Senator GRASSLEY for moving this nomination; and I also thank my very good and dear friend Senator LEAHY, the vice chairman of the committee, who has been a strong advocate not only for this nomination but for moving all nominations forward, as voted out by the committee in a prompt way.

As I talk about Ms. Xinis, I want the Presiding Officer to know that I have recommended several judicial nominees for district and appellate courts, and I take my advise and consent responsibility very seriously. When I recommend to the President a position on the district court, I have four criteria: absolute integrity, judicial competence and temperament, a commitment to core constitutional principles, and a history of civic engagement in Maryland.

Ms. Xinis exceeds these expectations over and beyond. She has dedicated her career to the rule of law, achieving equal justice under the law and also being an advocate for the underdog. She is truly an outstanding nominee with a long history of public service—14 years as a Federal public defender,

handling everything from the most simple misdemeanors to very complex white-collar crimes. She has also taken on extra duties, training staff and being an attorney supervisor of research and writing, proving time and time again how committed and dedicated she is.

She worked as a clerk for the distinguished and esteemed Judge Diana Gribbon Motz, a well-respected judge on the Fourth Circuit. She also has been a member of the private sector as a senior trial partner in a private law firm in Baltimore, taking on complex civil litigation and protecting those who have been harmed by lead paint or carbon monoxide poisoning.

Judge Motz, in recommending Ms. Xinis to me, said she is so intelligent and generous in terms of working very hard, in terms of knowing the law and practicing the law, but she also commented on her work ethic, praising her skill in the courtroom and her service to the community.

She has mentored children, provided legal advice to at-need communities in Baltimore, and served on numerous bar associations. She has deep appreciation for the law and everything that it means. I do believe she will be an outstanding judge.

There have been criticisms raised of Ms. Xinis, and the criticisms have centered around her support within the law enforcement community. Flashing yellow lights were raised by one of our colleagues on the other side of the aisle, asking whether she had an impartial attitude toward police officers. I have four letters here from retired police officers in Baltimore City all attesting to that.

Mr. President, I ask unanimous consent to have these letters printed in the RECORD.

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

CITY OF CHARLOTTESVILLE,  
POLICE DEPARTMENT,  
Charlottesville, VA, August 30, 2015.

Re Letter in Support of Paula Xinis, for the position of United States District Judge for the District of Maryland.

Hon. CHARLES GRASSLEY,  
Chairman, U.S. Senate Committee on the Judiciary, Washington, DC.

Hon. PATRICK LEAHY,  
Ranking Member, U.S. Senate Committee on the Judiciary, Washington, DC.

DEAR HONORABLE SENATORS GRASSLEY AND LEAHY: My name is Timothy Longo and I currently serve as the Chief of Police in the City of Charlottesville, Virginia. I am a career law enforcement officer having previously served as a Colonel with the Baltimore City Police Department, retiring in March of 2000. In addition, to my professional training and experience, I am proud to have received my law degree from the University of Baltimore and was admitted to the Maryland Bar in December of 1993.

For the past 25 years, I have had the honor of instructing thousands of law enforcement officers and administrators on matters of policy, law, and generally accepted policing practices. In addition to my sworn duties and responsibilities, I have served on many occasions as a police practices expert assist-

ing both plaintiff and defense counsel in civil rights claims resulting from the actions of law enforcement officers, and the policies and practices related to those actions. It is in this capacity that I have come to know and respect Paula Xinis. I have come to learn that the Senate Judiciary Committee is presently considering Paula's candidacy and I respectfully write in support of her appointment.

Paula and I met several years ago when I was asked to assist her in the evaluation of a civil rights claim that she had filed on behalf of a client related to the actions of a municipal law enforcement officer and the agency and municipality that employed that officer. The claim arose out of a use of force incident which resulted in serious and permanent injury. I firmly believe that cases such as this requires not only a thorough understanding of Section 1983 litigation and that of municipal liability, but an equally thorough understanding of police training, policy, and practice.

For more than a year, I worked closely with Paula as she sought to better understand how a police officer is trained, the policies, principles, and practices that guide their work, as well as the manner in which police departments investigate incidents that result in force. What I discovered from the onset, and frankly what continued to impress me as I worked with Paula on this important matter, is the thoughtful and objective manner in which she approached both the facts and the theory of her client's case.

Although the complaint she had advanced on behalf of her client depicted a series of facts that one may find was clearly contrary to generally accepted policing practices on the face of her client's complaint, she consistently endeavored to examine that complaint and the facts in the support of it through the lenses of a career law enforcement officer who had not only worked the streets of a large metropolitan city, instructed thousands in policing, but also served as a policy maker as to the training of police officers and practices that guide that work. She and I spoke countless times, and at great length, about not only that particular case but the way that police officers go about their work and the decisions that they make quickly and oftentimes without much deliberation.

Paula was amazingly careful to reserve her own judgment and opinion as to the appropriateness of the officer's conduct and that of the agency's policy maker and listened carefully to my assessment of her claim and my opinion as to its propriety in light of my specialized training and experience.

America's law enforcement officers are facing incredibly difficult challenges as we closely evaluate the manner in which we go about our work, carefully consider re-shaping and reforming our practices, and endeavor to strengthen the necessary relationships we have with those whom we serve. Undoubtedly, law enforcement officers, policy makers, and municipalities will more frequently find themselves being scrutinized by our trial and appellate courts, and ultimately the court of public opinion. The nature of our work and recent police-citizen interactions that have ended tragically makes this reality most certain. Thus, it has never been more critical to connect the right people to this important work; not just on the front line but throughout the criminal justice continuum.

It is with a tremendous amount of pride and the utmost confidence that I respectfully ask the Senate of the United States to confirm the appointment of Paula Xinis to the United States District Court for the District of Maryland. I have absolutely no doubt that Paula will bring the competence and objectivity that is necessary to discharge the

duties of such an important position. She has my confidence, respect, and unfettered support.

If I can be of further assistance, please don't hesitate to call upon me.

Meanwhile, I thank you for your time and thoughtful consideration.

Respectfully Submitted,

TIMOTHY JOHN LONGO, Sr.,  
Chief of Police,  
City of Charlottesville, Virginia.

POLICE DEPARTMENT,  
BALTIMORE, MARYLAND,  
4 September 2015.

To: Senator Patrick Leahy.

From: Sgt Brian Atwood.

Subject: Recommendation for Paula Xinis to U.S. District Judge for Md.

SIR: My name is Sgt Brian Atwood; I am a twenty year veteran with the Baltimore Police Department, I started my career in May of 1995 in the Western District. During my career I have received three Bronze Stars for Valor, two Life Saving awards and have received numerous unit citations of. I have held several positions of authority include: Field Training Officer, Officer in Charge, Sergeant and Sergeant in Charge. I have been assigned to follow district units: Patrol, Flex Units, Drug Unit, and Firearm Instructor. I'm currently assigned to the departments, Special Operation Section. I have held tactical positions as both an officer and sergeant within the elite Emergency Service Unit. My current assignment is supervising sergeant of the K-9 unit.

I am also a passed board member of Maryland's largest FOP with over 5000 active and retired members. As a member of FOP Lodge #3, I have held numerous positions within our lodge to include. Grievance Rep, Grievance Chairman, P.A.C funds Chairman, Legal Advisory Board, Contract Team Chairman, and was elected to the position of Vice President for our Lodge.

It is my understanding that the Senate Judiciary Committee will be considering Ms. Paula Xinis for United States District Judge. I would proudly recommend Ms Xinis to the position of U.S District Judge for Maryland. Ms Xinis is a person of honor, integrity, fairness and would be outstanding in that position.

In closing as a 20 year member of the law enforcement community, I know first hand the need to have judges that are well balanced, fair and great listeners. It is equally important that our judges take the rule of law and always apply it equally, with understanding and compassion in there decision. That is why I proudly recommend Ms. Paula Xinis to the position of U.S. District Judge.

Respectfully,

Sgt. BRIAN ATWOOD.

ABINGDON, MD, AUGUST 31, 2015.

Re Letter in Support of Judicial Nomination of Paula Xinis for the United States District Court for the District of Maryland.

Hon. CHARLES GRASSLEY,  
Chairman, U.S. Senate Committee on the Judiciary,  
Washington, DC.

Hon. PATRICK LEAHY,  
Ranking Member, U.S. Senate Committee on the Judiciary,  
Washington, DC.

DEAR SENATORS GRASSLEY AND LEAHY: Please accept this letter as support for the nomination of Paula Xinis as a United States District Judge for the District of Maryland. I was employed as a Police Officer with the Baltimore Police Department from 1987 until the time of my retirement in September 2014. While assigned to the Patrol Division, I handled calls for service related to violations of Maryland's handgun and narcotics laws. I also actively participated in

shooting investigations. I also spent thirteen years assigned to the Tactical Unit/Quick Response Team. During my tenure with the Tactical Unit, one of the Unit's primary focus was serving high risk warrants for the Homicide and Robbery Units. When we weren't training, serving warrants and/or responding to barricade/hostage situations, we were utilized as suppression unit for illegal handguns and narcotics violations. For five straight years, my partner and I maintained the highest number of gun seizures/arrests and the largest narcotics cases within the Baltimore City Police Tactical Section. We received numerous commendations for our handgun arrests. Throughout the course of my career, I was called upon to testify in both the District and Circuit Courts in Baltimore City and County, as well as the United States District Court for the District of Maryland in Baltimore.

Unfortunately, my successful career in law enforcement was derailed in 2014 when I encountered difficulties in connection with a call for service. I was improperly and unfairly accuse of wrongdoing which led to criminal charges. This was a new experience for me as I had never even been disciplined during my career. I felt vulnerable and betrayed. It was clear to me and my wife that we needed legal representation that would aggressively fight to vindicate me.

My wife, whose practice is primarily the defense of civil cases, had been involved in a case in Baltimore City where Ms. Xinis represented the plaintiffs several years prior. During the course of that case, she would often remark that Ms. Xinis was a worthy advocate, yet fair and open-minded. Because of her experience with Ms. Xinis, my wife contacted her on a weekend to seek legal counsel and advice. From that point forward, Ms. Xinis made herself available to us, even if it was to simply reassure us that we were in good hands. Throughout the entire ordeal, I spent countless hours with Paula and her team. They worked diligently seeking the evidence needed to exonerate me. Although it was an extremely dark time for me, she always made me feel confident that she "had my back" and that she was dedicated to seeing that I was vindicated. Thankfully, as a result of her tireless efforts on my behalf, all of the charges brought against me were dismissed earlier this year.

I can personally attest to Ms. Xinis' legal acumen and her commitment to seeking justice, regardless of who the defendant may be. I observed her demonstrate the ability to forcefully argue her position to the court while being respectful to the court and other counsel. She can be a fierce advocate while maintaining a reassuring demeanor. My exposure to the judicial process throughout the course of my law enforcement career and as an officer who was wrongfully accused, has provided me with insight as to what is required to be an effective, fair and open-minded jurist. I can state without a doubt that Ms. Xinis possesses all of the necessary traits to be an asset to the federal bench in Maryland. The Committee could not find a more qualified candidate to fill the vacancy in Maryland.

Sincerely,

THOMAS J. SCHMIDT, Sr.

SEPTEMBER 1, 2015.

Re Support of Paula Xinis, for United States District Judge for the District of Maryland.

DEAR SENATOR PATRICK LEAHY (RANKING MEMBER) UNITED STATES SENATE COMMITTEE ON THE JUDICIARY: My name is Gregory Eads, Jr. I am a retired Baltimore City Police Officer. I served 22 years on the Baltimore City Police Department and retired in November

2014. I was currently assigned to the Bomb Squad and Emergency Services Unit where primarily I responded to suspicious package calls, bomb sweeps for visiting V.I.P's and stadium events. In my tenure as a police officer with the department I've acquired several skills and with worked in numerous specialized units. I have worked in Patrol, Bike(flex) squad, Drug enforcement unit, SWAT, Organized Crime Unit, Firearms Apprehension Strike Team. I am highly decorated officer that was awarded several unit citations, accommodations, and bronze star for valor.

I've come to learn the senate Judiciary Committee is considering Paula for a United States District Judge. I want to extend my support for Paula as a candidate. Paula and I met at her law firm as she was preparing to defend a co-worker in criminal case. She was interviewing me as a character witness. During this exchange we discussed my family, experiences and my background being a second generation Police Officer in Baltimore City. We share some similarities on life and making a difference in the world. Paula has a young child, demanding career and is very well known among her peers.

I was most impressed with her attention to detail, due diligence and preparation of the case. She is hardworking, open minded, and fair. I believe she would be an asset as she exemplifies the firm qualities that a United States District Court Judge possesses. As a police officer we need Judges that are fair, impartial and firm on the bench. With Paula being confirmed by the Senate Committee you will have that Judge I am referring to. I am grateful that I had the pleasure of meeting and working with Paula.

Sincerely,

GREGORY EADS JR.,  
(Retired) BPD.

Ms. MIKULSKI. One letter is from someone who is a 20-year veteran, working in the Western District. The Western District is where they filmed "The Wire." It is rough, tough, and hardscrabble. This former police sergeant said:

In closing, as a 20-year member of the law enforcement community, I know firsthand the need to have judges that are well balanced, fair and great listeners. . . . That is why I proudly recommend Ms. Paula Xinis to the position of U.S. District Judge.

I won't go through every letter—the RECORD will speak for itself—but when you have retired police officers, those who are not on duty now but who worked with her hands-on and who know the way she works with law enforcement, the way she engages with them when she was a public defender and so on—I think these letters speak for themselves.

In closing, let me say this: The job of a U.S. Senator to recommend someone to be a judge is indeed a great honor, but it is an enormous responsibility. I take it very seriously, and I would only recommend somebody who was truly qualified to render impartial justice and bring the competency and the temperament to do that. I believe Ms. Xinis possesses competency, the judicial temperament, and a real commitment to equal justice under the law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I join Senator MIKULSKI, as the two Senators from Maryland, in strongly recommending the favorable consideration of Paula Xinis for the district court judgeship of Maryland.

I first want to acknowledge the leadership of our senior Senator from Maryland in developing a process in which we screen the very most talented people for opportunities to serve on our Federal bench. This is a professional process that we have gone forward with under Senator MIKULSKI's leadership in order to try to get the very best on our courts.

It is not a partisan issue at all. It is strictly looking for those who have the judicial temperament and experience to be able to be an outstanding member of the bench. We have done that on previous nominations that have been considered on this floor, and Paula Xinis follows in that tradition. I thank Senator MIKULSKI for the process that we went forward on in making this recommendation to President Obama.

I might tell you, President Obama then forwarded the nomination to the Senate in March of last year—in March of 2015. It took 6 months for the Judiciary Committee to make its recommendations to the full floor in September of 2015. It was not a controversial nomination in the committee. The committee reviewed all of Ms. Xinis's background, record, everything that she has done, and on a very strong voice vote brought her forward to the full floor.

So this is not a controversial nomination. Because of the delay, originally to fill the vacancy of Deborah Chasanow, who took senior status, it is now a judicial emergency. People of Maryland are in a desperate situation to have an adequate number of judges to handle the workload in our district. It is critical we move forward in the confirmation of this nominee. Senator MIKULSKI has pointed out how qualified this person is.

I can tell you, over the last several months, I have been stopped on numerous occasions by attorneys and non-attorneys in Maryland saying: Why isn't Paula Xinis confirmed by now? She is a wonderful person. We have had experience with her.

I have heard glowing comments about her dedication to our community, her professional competency, and her qualifications to serve on the U.S. district court. It is for that reason the ABA gave her the highest ratings in their review of her qualifications. She has been in the private practice of law at Murphy, Falcon & Murphy. After just 2 years, she was made a partner in that firm. She has been an assistant Federal public defender, showing her compassion to represent some of the most difficult cases in our criminal justice system.

She was a law clerk for Judge Motz on the Fourth Circuit Court of Appeals. She has devoted her life to understanding our legal system but also to

carrying out its major charge to make sure we have equal access to justice under the law. She got her JD from Yale Law School, her BA from the University of Virginia.

What I really appreciated, in getting to know Paula Xinis better during this confirmation process, was getting to know her family background; that is, to represent the American story. Her father was an immigrant from Greece, came over with very little resources. They were able to take advantage of the opportunities in this country as an immigrant family. Now Paula Xinis has been nominated by President Obama to serve on the district court for Maryland.

Quite a success story, but Paula Xinis has never forgotten her background. She has always been giving back to our community. She is known for her pro bono work for her church members in the church she belongs to, but as Senator MIKULSKI pointed out, in working with the House of Ruth in a mentoring program, she has taken on some of the most difficult challenges to affect the lives of people who are less fortunate. She has an 11-year-old who is like her second son whom she has mentored and given a real opportunity in our community.

She has the whole package. She will make a great district judge. Senator MIKULSKI mentioned the comments that were made on the floor in regard to her support for law enforcement for police officers. I hope, if anyone has any questions about that, read the letters Senator MIKULSKI put into the RECORD. I know of some of these cases. I know of the case of Timothy John Longo, who served with the Baltimore City Police Department and is now the chief of police for Charlottesville, VA.

He said:

I have absolutely no doubt that Paula will bring the competency and objectivity that is necessary to discharge the duty of such an important position. She has my confidence, respect and unfettered support.

Then there is Thomas Schmidt, who Ms. Xinis represented when he was accused of wrongdoing as a police officer. She represented him in the most difficult challenge. Mr. Schmidt said:

Throughout the entire ordeal, I spent countless hours with Paula and her team. They worked diligently seeking the evidence needed to exonerate me. Although it was an extremely dark time for me, she always made me feel confident that she had my back, and that she was dedicated to seeing that I was vindicated. Thankfully, as a result of her tireless efforts on my behalf, all the charges brought against me were dismissed earlier this year.

She has been in the forefront of defending those who were defending us as first responders. There are other letters that have been written by police officers indicating that Paula Xinis contains exactly what they want to see in a judge: someone who is fair and impartial and who will carry out the rule of law in an objective manner. So for all of those reasons, we bring you a nominee who is eminently qualified

and deserves the support of this body. We would urge our colleagues to support this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Today the Senate will vote on the nomination of Paula Xinis to be a judge for the District of Maryland. I will support that nomination.

Mr. President, I come to the floor at this time to also talk about judges generally. I have been hearing the usual complaints from Members of the minority party regarding the pace of judicial nominations. I would urge my colleagues to step back and look at the bigger picture. The relevant number to consider is the number of confirmations during an entire Presidency. At this point in his Presidency, President George W. Bush had 303 judicial nominees confirmed. After tonight's vote, so far in his Presidency, President Obama will have 325 confirmed. Those are 22 more nominees than Bush had.

So as we continue to hear complaints about how many judges are being confirmed, we should put these complaints in context. The simple fact is, President Obama has had quite a few more nominees confirmed than President Bush did.

Further, I would note that as chairman, after this Wednesday, I will have held hearings for the same number of nominees this Congress has had as the last chairman of the committee did to this point during the last 2 years of President Bush's Presidency. At this point in the 2008 Congress—that would be the 110th Congress—the former chairman held hearings on 43 nominees. At the end of May of this year, we will have held hearings on 43 nominees thus far in the 114th Congress.

I yield back all remaining time.

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

All time is yielded back.

The question is, Will the Senate advise and consent to the Xinis nomination?

Mr. GRASSLEY. Mr. President, 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. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. COTTON), the Senator from Texas (Mr. CRUZ), the Senator from Wyoming (Mr. ENZI), the Senator from Arizona (Mr. FLAKE), the Senator from Wisconsin (Mr. JOHNSON), the Senator from Kansas (Mr. MORAN), the Senator from Kansas (Mr. ROBERTS), the Senator from Alaska (Mr. SULLIVAN), the Senator from Pennsylvania (Mr. TOOMEY), and the Senator from Louisiana (Mr. VITTER).

Mr. DURBIN. I announce that the Senator from Maine (Mr. KING), the Senator from Vermont (Mr. SANDERS),

and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

The PRESIDING OFFICER (Mr. LANKFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 34, as follows:

[Rollcall Vote No. 72 Ex.]

YEAS—53

Alexander	Gillibrand	Murphy
Baldwin	Graham	Murray
Bennet	Grassley	Nelson
Blumenthal	Hatch	Peters
Booker	Heinrich	Portman
Boxer	Heitkamp	Reed
Brown	Hirono	Reid
Cantwell	Kaine	Rubio
Cardin	Kirk	Schatz
Carper	Klobuchar	Schumer
Casey	Leahy	Shaheen
Coats	Manchin	Stabenow
Collins	Markey	Tester
Coons	McCaskill	Udall
Donnelly	McConnell	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Mikulski	

NAYS—34

Ayotte	Ernst	Perdue
Barrasso	Fischer	Risch
Blunt	Gardner	Rounds
Boozman	Heller	Sasse
Burr	Hoeven	Scott
Capito	Inhofe	Sessions
Cassidy	Isakson	Shelby
Cochran	Lankford	Thune
Corker	Lee	Tillis
Cornyn	McCain	Wicker
Crapo	Murkowski	
Daines	Paul	

NOT VOTING—13

Cotton	King	Toomey
Cruz	Moran	Vitter
Enzi	Roberts	Wyden
Flake	Sanders	
Johnson	Sullivan	

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.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Iowa.

INCOME INEQUALITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a newspaper article at the conclusion of my remarks.

Income inequality has been a hot topic this campaign season. It has become the rallying cry of the left to support their economic agenda. Whether it is taxing the rich, raising the minimum wage, combating global warming, or any other number of policies. If you listen to Secretary Clinton and Senator SANDERS on the campaign trail, you would get the impression that income inequality is the fault of Republicans. They contend that their preferred policies will close the gap between the rich and the poor. However, the inconvenient fact is that inequality rose considerably more under President

Clinton than it did under President Reagan. Further, it has increased more under President Obama than it did under President Bush.

For any of my colleagues wondering how this could be the case, I would encourage them to read Lawrence Lindsey's op-ed that ran in the Wall Street Journal in March.

Mr. Lindsey's article title "How Progressives Drive Income Inequality" details how liberal policies have not only failed to reduce income inequality, but may in fact be contributing to it.

For instance, my colleagues on the left all too frequently look to ever richer and more expansive transfer payment programs as the solution. However, too often our existing transfer programs meant to help the less fortunate act as an anchor preventing Americans from climbing up the income ladder.

This risks creating a permanent underclass of citizens that are dependent on the state for their basic needs. That may be the dream of European-style Social Democrats, but it is most certainly not the American Dream.

The Congressional Budget Office looks at this effect in terms of marginal effective tax rates on low and moderate income workers. This refers to how much extra tax or reduction in government benefits is imposed on an American worker when he or she earns an additional dollar of income.

CBO estimates that in 2016 those under 450% of the federal poverty level will face an average effective tax rate of about 41%. Keep in mind that this is just the average. CBO demonstrates how a substantial number of workers could experience marginal effective rates exceeding 50, 60, or even 80%, which is far higher than the top statutory rate of 39.6% paid by the wealthiest Americans.

The end result is a worker facing these rates may just decide it doesn't make much sense to take on extra hours or put in the effort to learn extra skills to increase their earnings potential. Historically, this has impacted married women in the workforce most of all as they are more likely than men to drop out of the workforce completely as a result.

Discouraging individuals from entering the labor force, taking on more work hours, gaining extra experience, or learning new skills, is a recipe for stagnate incomes and increased income disparity. But, far from seeking to address these work disincentive effects, President Obama has made it worse for millions of workers. Take the premium tax credit enacted as part of the Affordable Care Act for instance. CBO estimates it will raise marginal tax rates by an estimated 12 percentage points for recipients.

Secretary Clinton and Senator SANDERS also have provided no indication they would reverse this trend. In fact, they appear to only be interested in exacerbating this problem through richer transfer programs, increased costs on employers, and increased payroll taxes.

The scapegoat of the income inequality debate on the left has, of course, been the much-hyped top 1 percent. Here we are told that if we just tax the rich, we can solve all of our problems and address income inequality in one fell swoop.

But, if increased taxes on the wealthy is a solution to income inequality, why—as I pointed out at the start of this speech—did income inequality grow faster under President Clinton than under President Reagan? And why has income inequality grown faster under President Obama than under President Bush?

The fact of the matter is that taxing the wealthy to reduce income inequality at best is a fool's errand and at worst could be a blow to our economy—potentially harming individuals at all income levels.

A recent research paper by the liberal Brookings Institution looked directly into the question of whether substantially increasing taxes on the wealthy would reduce income inequality. To quote their findings, "An increase in the top tax rate leads to an almost imperceptible reduction in overall income inequality, even if the additional revenue is explicitly redistributed." Raising taxes might be successful at generating revenue to fund greater wealth transfer payments. But it does nothing to rectify the "opportunity gap."

Soak the rich policies do not create greater opportunity for low-income individuals. In fact, wealth transfer policies often have the perverse effect of trapping their intended beneficiaries in soul-crushing government dependency. Moreover, because of their negative effects on economic growth and capital formation, they can reduce opportunity for all Americans. You do not have to take my word for the anti-growth effects of increasing taxes. Research by Christina Romer, President Obama's former chief economist, found that a tax increase of 1% of GDP reduces economic growth by as much as 3%.

According to this study, tax increases have such a substantial effect on economic growth because of the "powerful negative effect of tax increases on investment."

In effect, what those who pursue wealth-destroying redistributionist policies are really saying—to quote Margaret Thatcher—is that they "would rather that the poor were poorer, provided that the rich were less rich." That may result in less differences in wealth between Americans, but the expense of making us all worse off. Our goal must be to create wealth and opportunity for ALL Americans.

We should reject the notion that in order to improve the lot of one individual, someone else must be made worse off. The leadership of other side has become fixated on redistributing the existing economic pie. The better policy is to increase the size of the pie. When this occurs, no one is made better off at the expense of anyone else.