principle lasting purpose, and he did it with power and grace.

On December 23, 1783, in a solemn ceremony at the statehouse in Annapolis, George Washington voluntarily surrendered his commission, as well as his military power, to civilian authority, the President of the Continental Congress. The scene is memorialized in a dramatic John Trumbull painting that is displayed in the Rotunda not far from here. All of my colleagues go through that part of this Capitol every day and probably don't pay a lot of attention to it, but it is an important description of our basic constitutional principles.

We know there are other ways of doing these things in other countries. We know that dictators rule their nations with an iron fist because they control the sword. Washington selflessly laid down that sword to ensure America's destiny for generations to come. He chose to disband the Army and return to private life at Mount Vernon.

One scholar explained it this way:

> The Virginian . . . went home to plow.

By this noble act, Washington cemented a crown jewel of self-rule: civilian control of the military. Five years later, as Washington was elected President, this bedrock principle was enshrined in our Constitution.

While this governing rule is essential to the preservation of democracy, it has been challenged with grave consequences. The Truman-MacArthur dispute over conducting the Korean war is a case in point. President Truman wanted to limit the war. General MacArthur disagreed. General MacArthur defied orders, and General MacArthur criticized his Commander in Chief's—Truman's—decision, and he did that publicly, so Truman fired him for insubordination.

Now I want to get to the main purpose of coming to the floor. Recently, several books, including a book entitled ''Peril'' by Bob Woodward and Robert Costa, suggest that the Chairman of the Joint Chiefs of Staff, General Milley, may have trampled on this principle. The book ''Peril'' provides an alarming account of his words and deeds.

Milley told the authors he ''was certain'' that the Commander in Chief was ''in serious mental decline . . . and could go rogue and order military action or the use of nuclear weapons. Milley felt no absolute certainty the military could control or trust the President.''

So Milley, in his words, ''took any and all necessary precautions.''

''His job,'' he said, was ''to think the unthinkable'' and, in his words, ''pull a Schlesinger.'' To ''contain Trump,'' he had to ''inject a second opinion.'' His opinion was then injected into the command structure.

In doing so, he may have stepped out of his lane as the President's principal military adviser and into the statutory chain of command where law doesn't allow him to go because, by law, the Chairman of the Joint Chiefs of Staff has no command authority.

When President Nixon faced a crisis over impeachment and resignation, Secretary of Defense Schlesinger feared that he might order an unprovoked nuclear strike. So he, Schlesinger, reportedly took extra legal steps to prevent it. That is the same Schlesinger that Milley referred to as he was being interviewed for this book.

It happens that ''pulling a Milley'' as opposed to a ''Schlesinger'' is a very different kettle of fish. A four-star general can't ''pull a Schlesinger.'' Schlesinger was at the top of the chain of command, just below the President. He kept the President's constitutional command authority firmly in civilian hands as the Constitution requires. Milley allegedly placed military hands—his hands—on controls that belong exclusively to the President.

According to ''Peril,'' the book I am referring to, he summoned senior operations officers in the Military Command Center to his office. He had them take ''an oath'' not to ''act'' on the President's orders without checking with him first.

These brazen words and actions, if accurate, strike at the heart of our democracy: civilian control of the military. They turn this guiding rule upside down and show utter contempt for the Commander in Chief. Coming from the Nation's top general, they are dangerous and contrary to military code 10 U.S.C. 888.

After describing Milley's actions, the book's authors rightly ask this question: ''Was he subverting the President?'' Had he ''overstepped his authority and taken extraordinary power for himself?''

Milley assured this Senator in a letter to this Senator that his actions were on the up and up. The book, however, seems to imply a different story. I had a hearing where the general was. Senator BLACKBURN asked him about the mismatch. He replied: ''I haven't read any of the books, so I don't know.''

She said to him: ''Read them and report back to us.''

He said: ''Absolutely,'' he agreed. ''Happy to do that.''

Nine months later, he is still dodging the question with the same lame excuse.

To crank up the pressure, I joined Senators Paul and Blackburn a few months ago in a letter pushing for a straight answer. When none came, I began sending handwritten notes to the general. I soon received a 10-page letter from General Milley that ignored the question. My second note sparked an email. It claimed that our letter did not raise ''a direct question'' and asserted ''General Milley answered the specific questions.''

I think I can legitimately ask: Is that Pentagon baloney or what is it?

After my third note, General Milley responded with the same old smoke-and-mirrors routine: ''I have never read the books.''

Years of oversight have taught me this lesson: Evasive answers usually offer revealing clues about the truth. I think General Milley knows better. He knows the score. If those books and all attendant press coverage of those books contained gross misrepresentations, we would have heard about it a long time ago. He would have hammered the authors and corrected the record. However, to date, not a peep from the general. His silence speaks volumes.

Something doesn't smell right. As the Pentagon watchdog, when I get a whiff of wrongdoing, I sink in my teeth and don't let go.

So Congressman JIM BANKS, a member of the House Armed Services Committee, and I upped the ante on April 11. With 12 pointed questions, we gave General Milley a second bite of the apple to clear the air. Now, 2½ months later, we still have no response.

General Milley, you said you were going to answer Senator BLACKBURN's question. Honor your word. Answer the question. Come clean with the American people. We are all ears.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

FREEDOM TO TRAVEL FOR HEALTH CARE ACT

Mr. KAINE. Mr. President, I rise to offer my own thoughts on the Dobbs decision that the Supreme Court rendered a couple of weeks back right after we went into a July Fourth recess.

My colleagues were on the floor earlier advocating for a bill that would go after the pernicious practice of States in trying to penalize women from traveling to seek reproductive healthcare. I am a strong supporter of that legislation. I understand it will be proposed for floor action later today.

I wanted to focus on two particular elements of the Dobbs decision that, as a former civil rights lawyer, struck me very, very deeply. Never in my life—I am 64 years old—has the Supreme Court taken away constitutional rights that had been counted on by generations of Americans. The Court has narrowed rights, redefined rights, articulated new standards for judging rights, but they have not taken rights away.

In this instance, the Supreme Court took away rights that had been established in both Roe v. Wade and Planned Parenthood v. Casey. They took away those rights for women to make reproductive healthcare decisions and ruled that the 14th Amendment to the Constitution—which protects citizens' ability to enjoy privileges and immunities of other States and persons' abilities to be treated equally under the law and not have life, liberty, or property—be taken from them without due process.

The Court ruled that the 14th Amendment, the Constitution, had nothing to do with women's reproductive rights. In my view, that is a horrible

misreading of the history of the 14th Amendment.

Further, the Court went on to say, in sort of a sunny way, but no worries. You can now rely on State legislatures to solve these issues.

What I want to do is address how wrong the Court is about the 14th Amendment and how their belief that reliance on State legislatures is somehow a substitute for constitutional protection is so fundamentally wrongheaded.

What is the 14th Amendment? Before the 14th Amendment was passed—this is hard to believe—the Constitution had no definition of what it was to be a U.S. citizen, none. And the pre-14th Amendment Constitution also established a system of laws in this country where you were primarily subject to the laws of your State. The 50 States could have very different laws. A person from Virginia visiting Maine, for example, could be treated by Maine laws in a harsh and punitive way just because they happen to live in Virginia.

That was the way the Nation used to be. We were more citizens of States than citizens of the United States of America. The pre-14th Amendment Constitution led to one of the seminal decisions in the history of the Court: Dred Scott v. Sandford, in 1856, where the Court ruled that no person of African descent, even a free person, could be considered a U.S. citizen. Even if their families had been in the country for more than 200 years, they could not be a citizen.

In the aftermath of the Civil War, this Congress, this Senate, the States of this Nation banded together to pass three very critical amendments, the first, the 13th Amendment banned slavery. The 15th Amendment banned States from blocking people from voting based on the color of their skin.

But what the 14th Amendment did, finally, after 90 years from the beginning of the Nation, the Declaration of Independence, what the 14th Amendment did was define what it is to be a citizen of the United States.

There was a definition, for the first time, if you were born here or naturalized, you are a citizen of the United States. And citizens of the country were given rights to not be discriminated against because of moving into other States, privileges and immunities accorded to all citizens.

No person shall be deprived of equal protection of the law. No person shall be deprived of life, liberty, or property without due process. For the first time in the Constitution, we began to not just be a collection of people living in 50 States but actually have a definition of what it is to be an American.

I don't have enough time to go over the whole history of the 14th Amendment, but where it really begins is in World War I.

In World War I, many States, including the State of Nebraska, made it illegal for parents to teach their children German. Some even made it illegal to learn other languages. We were in the midst of the First World War, and so States made it a criminal offense for teachers and parents to teach their children German.

The case of Meyer v. Nebraska came to the Supreme Court in the early 1920s, a family and an instructor challenging this State law. And under the 14th Amendment due process clause, the Court unanimously, in an opinion by Justice McReynolds, said: Wait a minute. What is it to be an American?

Well, the 14th Amendment doesn't say anything about language instruction. It doesn't say anything about education, but the 14th Amendment created a national identity, and clearly being an American must involve the ability of a family to decide if they want to teach the children their native language or practice an occupation, elicit a whole series of things that were naturally connected with what it was to be an American citizen.

That was the first use of the 14th Amendment, to basically say: Clearly, if you live in this country, you get a zone of protection to make decisions that the criminal law of States and the Federal Government cannot intrude upon.

A few years later, hard to believe, during massive Ku Klux Klan activities the State of Oregon made it a criminal offense to send your children to parochial schools. There was anti-Catholic sentiment that was being drummed up by the Klan in Oregon and elsewhere, and so now the criminal law of Oregon was marshaled against parents who wanted to send their kids to Catholic schools.

And, once again, a unanimous Supreme Court said: Hold on a second. The 14th Amendment says nothing about education, but this is a deprivation of liberty in such an extreme way. To be a citizen of this country means you should have the ability to make decisions about the education of your children and no State can use the criminal law to deprive a parent or child of that liberty.

And just as in Meyer v. Nebraska, when the 14th Amendment was used to strike down prohibition on foreign language instruction, Pierce v. Society of Sisters, the 14th Amendment was used to strike down a bar on attending parochial schools.

Fifteen or 20 years later, the State of Oklahoma had a statute that said if you get convicted of a crime three times, you will be sterilized. Passing a check, making a false statement on a loan application—habitual criminal law, you would be sterilized. That was the law that was passed. And it was a law that was pretty common in other States. In Virginia, for years, people were sterilized if the State judged that they were ''feebleminded.''

In Skinner v. Oklahoma, the Court said: Under the 14th Amendment, it says nothing about procreation and nothing about sterilization, but could there be a deprivation of liberty more severe than being sterilized so that you can't have children for life if you were in prison for an offense that might be just an offense that would have you there for a few years?

And so even though the 14th Amendment didn't specifically discuss sterilization, the Court's rule was this comes with being an American that you have some zone where you are protected to make decisions in your own life without the long arm of the criminal law putting you in prison or, even worse, maiming your body and making you unable to have descendants forever.

An important case in Virginia, 1966, Loving v. Virginia, Virginia like many States made it illegal by the criminal law to marry someone whose skin color was different. Richard and Mildred Loving got married in Caroline County, and the police broke into their bedroom hoping to find them having sex. They pointed to their marriage certificate on the wall.

They were arrested and jailed. The judge said that your only path out of jail is to move out of Virginia. They moved to DC, but they couldn't come back and visit their families, their mothers and fathers and sisters and brothers. And eventually, they challenged the Virginia law, and it went up to the Supreme Court. And under the 14th Amendment, the Supreme Court said, Well, yes, the 14th Amendment doesn't say anything about marriage, but there is something about being an American that gives you the right to marry whom you choose without the long arm of the criminal law forcing you to leave the State of your birth and exile yourself from your own family.

And so in Loving v. Virginia, the Supreme Court struck down anti miscegenation bans, which still existed in Virginia and many other States.

A few years later, Griswold v. Connecticut, the State made it a criminal offense to use contraception. The Supreme Court: Well, there is nothing in the 14th Amendment about contraception, but clearly, there is this zone where Americans can make decisions without the long arm of the government throwing them in jail, and contraception is one of those areas.

Roe v. Wade, a few years later, the State of Texas criminalizing women and providers for seeking an abortion. The Court used the same rationale. Well, the 14th Amendment, the word ''abortion'' isn't in it, we will grant you that, but all the way back to the passage of the 14th Amendment and certainly back to the Meyer v. Nebraska case, we have said that being a citizen of this country gives you some rights that the government can't, by criminal law, take away from you.

Since Roe, there has been Casey reaffirming that right. Since Roe, there has been Lawrence v. Texas saying a State can't make it a crime to have sex with a same sex partner when they

don't make it a crime to have sex with a partner of an opposite sex.

Again, the 14th Amendment says zero about intimacy or sexual relations or reproduction, but there is a zone of decisions we are entitled to make as citizens of this country that the criminal law cannot intrude upon.

Obergefell, you can marry someone of the same sex, same rationale.

So when the Supreme Court said: Well, there is nothing about abortion in the 14th Amendment, well, they are right. The word ''abortion'' is not in the 14th Amendment. But it has been clear now for more than 100 years, and it was really clear when the 14th Amendment was added to the Constitution that we are no longer just citizens of 50 States; we are citizens of a country that believes individuals have decision making power and autonomy, and the criminal law of this country can't reach in and throw you in jail for making decisions about how you operate the most intimate areas of your life.

That is why the Supreme Court's decision in Dobbs is so destructive. It is as if they do not understand the history of this country before the 14th Amendment, when there was no definition of citizenship, and it is as if they do not understand what the 14th Amendment was designed to do.

I will conclude by making one other comment. The Court sort of sunnily suggests that, well, no worries; abortion now gets no constitutional protection, but this can be resolved by State legislatures.

It was State legislatures that were the problem that the 14th Amendment was designed to address. It was State legislatures that passed the laws about slavery. It was State legislatures that prohibited women in the State of Illinois from taking the bar exam. It was State legislatures that imposed all kinds of restrictions upon the right to vote.

So the notion that, OK, there is no constitutional protection for privacy anymore, but State legislatures will take care of it is a fundamental misunderstanding.

And why weren't State legislatures sufficient? It was because slaves weren't represented in State legislatures, and women, at the time, weren't represented in State legislatures. And so we needed a zone of protection for decision making because people who have traditionally not been represented in State legislatures or this Congress can hardly look with confidence on the ability of a majority that does not include them to protect their interests.

One example, Congress today, the U.S. Congress today is about 26 percent women. That is our North Star in our history. That is the best we have ever been.

Guess what. That ranks us in the world, if you look at national parliamentary bodies that ranks us about 75th, below the global average, below nations like Mexico, below Iraq and Afghanistan, far below leading nations like Rwanda, where more than 50 percent of the legislature is women.

To say to the women of this country: We are taking away rights you have relied upon for more than 50 years but no worry, no worry; you can go to the State legislature, where you are dramatically underrepresented, which is the case in most of our State legislative houses, you can go there, and they will give you a fair shake, is to put on blinders instead of looking at reality.

The 14th Amendment was put in the Constitution for a reason. It was to give a right for individual decision making to every citizen in this country, no matter whether they were politically powerful or not, no matter whether there was anybody in the legislative body who looked like them or not, and to say that being an American gave you those rights and those rights couldn't be taken away couldn't be taken away by the long arm of the criminal law in statutes that were elected, enacted by State legislatures where you were not represented, that is why this ruling is so destructive.

And that is why my colleagues and I must work so hard to make sure that we don't devolve back to a pre-14th Amendment society, where your ability to exercise fundamental decisions depends upon the ZIP Code you were born or live in, but that instead we accord the right to make fundamental personal decisions equally to everyone who is an American.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let me thank my colleague from Virginia. Every Member of the U.S. Senate should have heard his words and, if not, read his words to understand the gravity of the decisions by the Supreme Court and the threats that have been made by Justice Thomas to venture into even more areas, depriving us of our basic constitutional rights in the name of States' rights.

I want to thank the Senator from Virginia. He gave a big part of his life to civil rights litigation. And if you are a lawyer and heard his presentation today, you would not want to be on the other side of the courtroom. He is convincing; he is well-prepared; and he explains with clarity why this is a moment in history which we should not ignore.

LEGISLATIVE SESSION

Mr. DURBIN. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, I move to proceed to executive session to consider Calendar No. 1035.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Nina Nin-Yuen Wang, of Colorado, to be United States District Judge for the District of Colorado.

CLOTURE MOTION

Mr. DURBIN. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 1035, Nina Nin-Yuen Wang, of Colorado, to be United States District Judge for the District of Colorado.

Richard J. Durbin, Robert P. Casey, Jr., Sherrod Brown, Tammy Baldwin, Tina Smith, Jeanne Shaheen, Chris Van Hollen, Elizabeth Warren, Catherine Cortez Masto, Tim Kaine, Benjamin L. Cardin, Christopher Murphy, Maria Cantwell, Christopher A. Coons, Jack Reed, Gary C. Peters, Tammy Duckworth.

LEGISLATIVE SESSION

Mr. DURBIN. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, I move to proceed to executive session to consider Calendar No. 988.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Nancy L. Maldonado, of Illinois, to be United States District Judge for the Northern District of Illinois.

CLOTURE MOTION

Mr. DURBIN. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 988, Nancy L. Maldonado, of Illinois, to be United States District Judge for the Northern District of Illinois.