

The PRESIDING OFFICER (Mr. BANKS). The Senator from Oklahoma.

PROTECTING WOMEN AND GIRLS IN SPORTS

Mr. LANKFORD. Mr. President, this body knows from just my conversations in the hallways that I am a proud dad of two amazing daughters. They are remarkable young ladies that I am terribly proud of.

I was also one of those dads that was up way before dawn when they were in middle school and high school because they were cross-country runners. Cross-country runners in high school have a long-term saying that their sport is other sports' punishment.

They are there at 6 a.m., stretching out and running a mile so they then can prepare to go run 5 or 6 more just to be able to get ready for cross-country meets in the fall. They were remarkable athletes in high school and enjoyed that.

They ran with guys and ladies when they were training, in all of their time in the training time, because the team was a team of guys and girls. But when they actually got to the competition day, my daughters competed against other girls in that competition because what we all know to be a fact, to be true, is that boys in cross-country that are training for cross-country and girls that are training in cross-country—both great athletes—have different times to the finish line. That is just a reality. It is not one negative on another. It is not diminishing one to another. It is a reality.

In the last Summer Olympics, the woman who was a remarkable athlete that won the women's marathon as the greatest runner of our time, when she came in as the Gold Medal winner, her time would have been beaten by 67 of the men who ran in the Olympics in the same sport, same distance, same track—gold medalist for the women. The top 67 men running in the marathon would have beaten her.

Where am I going with this? This is common sense that we all know and that we have all seen in our own families and in communities. It is the reason that we have protected women's sports for years to be able to make sure that women and girls have the ability to be able to have great competition, to enjoy the joy of sports and all the lessons that you learn from sports, and to be able to have equal competition levels.

But in the past few years—really, very, very recently in our country—there is a movement to be able to say if a biological male, transgender individual, wants to be able to compete in the women's sports area, they should be allowed to do that.

The question is, Whom is that fair to? Is that fair to this transgender individual or is that fair to the other female athletes? Because culturally, there seems to be a push to say I don't care if it is unfair to the female athletes. I picked this one transgender individual, and I want to be fair to them.

I look at a whole team of other folks to say: Whom is this fair to? This

seems like basic common sense that 15 years ago wouldn't even have been a dialogue in our country. Fifty years ago, it wouldn't even have been in discussion in our country, but now we are having this dialogue. This is not about disrespect for any individual or the rights of individuals to be able to make choices in their own life. It is about respecting the rights of women and girls in their sport to be able to compete on a level playing field to make sure they are able to thrive in their sport the same as men are able to thrive in their sport and to enjoy the thrill of competition without the intimidation of someone crossing over into their sport to be able to take it away from them. It doesn't seem reasonable.

For some reason, in this room, contrary to the rest of the country, this is some kind of irrational conversation. It is not. It is basically common sense. But in this room, we just had a vote this week to be able to say women should compete in women's sports, and men should compete in men's sports.

In that vote, just to begin the debate on the bill to say let's open it up for amendment, let's talk about this as a concept, every single Republican for just that simple of a bill said: Let's start debate on this and figure out where we are going to go.

Every single Democrat said: I don't want to even debate this. This is not up for discussion.

Well, it is up for discussion, but where it is up for discussion is in homes and families and communities all over the country because in homes and families and communities all over the country, there are lots of dads like me of amazing daughters that are saying: I don't want my daughter to compete against a biological male because there are inherent advantages in some sports and in some speeds just based on bone density and muscle structure.

Again, it is not negative toward female or male on that. It is reality and basic biology.

Families across the country are talking about this, and for some reason this room is allergic to talk about it. Well, we are going to continue to be able to bring this up because Americans have an expectation that this is going to be resolved. I am grateful to President Trump that he has rescinded the Biden administration's Executive order allowing transgender individuals to compete in girls' sports. That is a good thing. That sets ladies across the country at ease to say: Let's go play soccer; let's go run in cross-country; let's go do the sports we want to be able to do and not have to worry about somebody hitting me in the face at high speed in a volleyball game but to go compete on a level playing field.

That is a good thing. But it is an Executive order. That means it doesn't last from President to President to President. I don't know what the next President is going to do, but I think I know where Americans are still going to be.

They are going to want to say: Let's compete. We may all train together; we may be all friends together; we may all hang out with each other at school, but when the competition comes, give me a fair, level playing field for competition and watch people compete and enjoy the sport. That is what sports have been about, at least that is what they used to be about. Now, they seem to be about political messaging instead.

So we are going to continue to be able to bring this up. I am grateful to Coach TUBERVILLE for the work he has done on this and grateful to President Trump for the work he has done on it. But it is unfinished business at this point, to the great frustration of a lot of families around the country, including in my own State of Oklahoma.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

UNANIMOUS CONSENT REQUEST—S. RES. 108

Mr. DURBIN. Mr. President, in recent weeks, several Federal judges have issued orders blocking unlawful actions taken by the Trump administration. In response, the administration's officials and allies have made worrisome statements criticizing Federal judges and the process of judicial review. Elon Musk, an unelected bureaucrat who is assisting this administration, has repeatedly called for the impeachment of Federal judges and questioned the lifetime appointment of Federal judges that is enshrined in article III of the Constitution.

President Trump's choice of Deputy Director of the FBI, Dan Bongino, suggested on a podcast that the President set up a fake courtroom in the White House where "he can just start making judicial decisions." Mr. Bongino added:

If the judge is the executive, why can't the executive be the judge? Ask your stupid liberal friends that.

As a reminder, Mr. Bongino is second-in-command at the FBI, the most powerful investigative Agency in the world. If he sounds like a political animal out of his element, you would not be wrong.

But Mr. Bongino is not alone. Last week, a nominee to a senior position at the Department of Justice testified before the Senate Judiciary Committee:

There is no hard and fast rule about whether, in every instance, a public official is bound by a court decision.

Let that sink in for a moment. This is a person who wants a senior position at the Department of Justice testifying under oath and saying:

There is no hard and fast rule about whether, in every instance, a public official is bound by a court decision.

In a social media post, Vice President VANCE falsely asserted that "judges aren't allowed to control the executive's legitimate power." This is merely the latest in a long line of claims by the Vice President that a President can defy court orders.

President Trump himself recently posted:

He who saves his Country does not violate any Law.

That is a line that echoes others who believed they were above the law, a rationalization more common to leaders of a political coup in a banana republic.

Let me repeat that quote from President Trump:

He who saves his Country does not violate any Law.

These efforts to intimidate judges and undermine the rule of law do not stop with these statements. The Speaker of the House said he agrees with Vice President VANCE and urged the courts to “take a step back.” Three Members of the House of Representatives have introduced Articles of Impeachment against Federal judges simply because they ruled against the Trump administration.

These remarks that I have quoted are not only wrong, they are constitutionally dangerous, and they pose a serious threat to our constitutional order and the separation of powers.

Since the Supreme Court’s landmark *Marbury v. Madison* decision in 1803, there has been a broad bipartisan consensus throughout our history that, in the words of Chief Justice Marshall, and I quote:

It is emphatically the province and duty of the judicial department to say what the law is.

When it comes to interpreting and applying the law, the courts have the last word, and that responsibility takes on an outsized importance when the executive branch shows little regard for the limits of its constitutional power, as this administration already has.

Under article II of the Constitution, the executive branch is charged with “taking care that the laws be faithfully executed,” but President Trump and his administration have ignored that responsibility. Let me give you one clear-cut, unequivocal example. President Trump summarily fired 18 inspectors general weeks into his Presidency. He wanted these investigative officials out of the picture. He did this despite the law that requires him as President to inform the Congress of the decision to dismiss or transfer an inspector general and provide a detailed explanation for doing so—that is what the law requires—at least 30 days before taking any action against them.

When the executive branch blatantly violates the law, it is essential that the other branches of government fulfill their constitutional role and responsibilities.

Thankfully, in the first weeks of the new Trump administration, the judicial branch has lived up to its responsibility. Judges have carefully considered the cases before them and, where appropriate, provided a check on the administration when it oversteps.

Now, the fact that a court has made a decision does not mean you have to agree with it.

JOHN KENNEDY, a Republican Senator from Louisiana, recently admonished

two Trump nominees who suggested the executive branch can ignore a court order. Here is what my colleague Senator KENNEDY said:

Don’t ever, ever take the position that you’re not going to follow the order of a federal court. Ever. Now, you can disagree with it. Within the bounds of legal ethics, you can criticize it. You can appeal it, or you can resign.

Now, I have disagreed with judicial decisions, including decisions of the Supreme Court. When that happens, I explain why I disagree. But I have never advocated ignoring or defying a court order. I never will.

More than 60 years ago, President John Kennedy spoke about the importance of the rule of law in a speech at Vanderbilt University. As President Kennedy put it, “for one man to defy a law or court order he does not like is to invite others to defy those which they do not like, leading to a breakdown of all justice and all order.”

We cannot allow any administration to defy a court order, period, and we cannot stand idly by as the President and his allies undermine the judiciary by attacking judges.

That is why I introduced the resolution we are considering today. I want to thank my colleagues who cosponsored it and are joining me on the floor in this block of time.

Our resolution simply affirms that the Constitution vests the judicial power in the Federal courts and affirms that both the Constitution and established precedent require the executive branch to comply with all Federal court rulings.

These are not partisan talking points; they are basic principles of constitutional law, so fundamental and so essential to our constitutional order that they should go without saying. But in light of recent comments and actions by President Trump, Vice President VANCE, and his administration and allies, some things must be said. So I ask my colleagues to say with one clear voice: The U.S. Senate supports the Constitution, the judicial branch, and the rule of law.

Every Member of this body has sworn an oath to support and defend the Constitution of the United States. I urge my colleagues to fulfill their oaths today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I want to thank our chairman for bringing us together on the Senate floor today to reaffirm a proposition that really ought not to be in any doubt, and that is the proposition that when a court has ruled on a matter, the executive and legislative branches are bound to follow the law.

As the chairman said, you may choose to appeal or you may choose to obey or, if you have a hugely principled objection, you may choose to resign, but you don’t get to simply disobey court orders that you don’t like.

Now, thankfully, a number of our Republican colleagues are on record supporting that simple proposition. The majority leader, Senator THUNE, said:

The courts obviously are . . . the branch of our government that calls balls and strikes and referees and I think that they’ve got an important role to play. I mean we have three branches of our government in this country, coequal and independent branches, and the judiciary is the one that resolves some of the differences that often occur between executive and legislative branches.

Chairman GRASSLEY, the chairman of the Senate Judiciary Committee, added:

We’ve got a system of checks and balances, and that’s what I see working. I learned in eighth grade civics about checks and balances, and I just expect the process to work its way out.

Senator HAWLEY said:

You may think that’s not the right ruling, but you know, they’re still the law.

And Senator KENNEDY said:

I don’t agree with all the rulings. It’s often the case that I’ll disagree with an opinion that a court issues, but I don’t attack. I don’t attack, and I don’t intend to attack the legitimacy of the Federal judiciary.

He, as the chairman said, advised the witnesses before: Don’t ever, ever take the position that you are not going to follow a court order.

So from all of that, you would think that things were fine and that this was a wasted exercise of time here on the Senate floor. But, unfortunately, it is not because at the other end of Pennsylvania Avenue, the White House is constantly attacking the rule of law from all angles. And this administration is teetering on full-blown defiance of court rulings.

Vice President VANCE posted that “Judges aren’t allowed to control the executive’s legitimate power.” That is an invitation to violate court orders if the executive takes the position that its own view of what its legitimate power is, is what controls.

One Senate Republican went so far as to call court orders that the administration lost a “coup.” Well, if there is any coup going on, it is the executive branch coup taking place in our country right now, not a court-ordered coup.

The Department of Justice, which should know better—including the Solicitor General who should for sure know better—refused to say that they will always follow a court order, and many colleagues actually defended them.

And then outside of the immediate danger of refusing to obey a court order is the attack on the integrity and safety of the judiciary. We have seen this in Rhode Island. A judge in Rhode Island—very respected judge, very well-known throughout our State, very well-regarded, very experienced—made the determination that the freeze order of the Trump administration was unconstitutional, which, in my view, is not even a close call. That was an easy, easy answer. Rather than respond, they dropped—what I call—the flying monkeys on him. Elon Musk maintains on

X a cohort of extremists and oddballs who he can launch by targeting an individual to go and attack and harass that individual and their family. He did precisely that to this judge to the point where the judge's daughter was actually doxed by one of these extremist followers of Musk.

It ought to be self-evident the judge's orders are to be followed. It ought to be self-evident if you don't like a judge's order, you don't threaten the judge or his daughter; instead, you appeal it.

And the third tactic that they are using is what I call the fog bank tactic. So the order is the freeze is unconstitutional. OMB, you have to let the money go. And then people who have money coming to them properly obligated, properly appropriated try to call up and say: OK. The order says you can't hold it back. When is it coming? What do they get? No clear answers—the fog bank. The executive officials retreat behind refusal to answer emails, refusal to answer phone calls, vague answers that give no response. Sometimes even happy indications that: Don't worry. Hang out there. I am sure that we can work this out. And even in some cases: Yes, you will have access to these funds. And no matter what the answer is from the fog bank, it doesn't change the fact that the money just doesn't go.

It reminds me of old bad movies of the Soviet Union where the KGB guy in the corner makes all the decisions and the nominal chief of the agency says: Oh, yes, of course we are going to do this. But unless the KGB guy signs off, the money doesn't go.

In this case, it isn't the KGB guy; it is the little muskrats who are in these Departments trying to foul up the lawful flow of properly appropriated and obligated funds. That is a slo-mo contempt of these court orders. And as courts and plaintiffs dig in, I think we are going to find more and more evidence of the deliberate contumacious nature of that fog bank strategy.

I yield the floor, thanking, again, our chairman for his leadership on this issue.

The PRESIDING OFFICER. The Senator from California.

Mr. PADILLA. Mr. President, I, too, rise today to defend the principles at the core of our democratic Republic that we are a government of laws and institutions, not of individuals; that no billionaire has more rights than any worker, and that no President has more rights than any citizen of our country; that we are a government of three coequal branches, providing checks and balances on each other. And bottom line: That no one is above the law.

Yet as we stand here today, the Trump administration is clearly openly laying the groundwork to reject all of these principles. They are operating under their idea that the President, his Cabinet of loyalists, and an unelected billionaire adviser can simply ignore the law or courts in rulings that they disagree with.

Earlier this month, Vice President VANCE claimed that "if a judge tried to command the attorney general in how to use his or her discretion as a prosecutor, that's . . . illegal. Judges aren't allowed to control the executive's legitimate power."

That is the Vice President. At the same time, President Trump's seeming co-President, Elon Musk, has repeatedly called for the impeaching of judges who rule against Donald Trump's attempts at power grabs. And now President Trump himself has said:

He who saves his Country does not violate any law.

Historians may recognize this quote because it is widely attributed to Napoleon, a man who became a dictator and who abolished the French Republic at the time. Seems to me pretty clear that is precisely the example that Donald Trump is looking to. And it should alarm all of us.

When I think about just how much of Donald Trump's life has been spent staring at the four walls of a courtroom—yes, from the inside, folks, the four walls of a courtroom—maybe you can understand why he may want to do away with the courts.

But the Judiciary does not work for Donald Trump. It is a separate, coequal branch of government. The courts, colleagues, work for the American people. And so far, they have served the American people by pausing many of the President's blatantly illegal Executive orders and overreach. But that is why he is continuing to target the courts.

Colleagues, I am one of the few non-lawyers to serve on the Judiciary Committee. And at times, I get to bring a different perspective to our deliberations and our debates. I will defer to my colleagues to maybe cover some of the legal history or case law that applies here. But for Americans watching from home, here is how I can boil it down.

Let's ask ourselves: Do you believe the President can simply ignore the law? Do you believe that the President should be all-powerful? Do you believe that if you have to follow the law, then the President of our country should have to follow it, as well?

The answers should seem very, very obvious. For years, we have known that if a President did try to push the boundaries of what is legal and what is not, we could count on an independent Department of Justice to enforce court rulings. But over the past few weeks, what we have seen in the Judiciary Committee is nominee after nominee appear before us and refuse to simply commit to upholding the law. They claim, one after another, that they respect the Constitution and stand for the rule of law. But when given specific examples of what would you do, not if, we have seen a President in his first term and already in this term suggest those he appoints to not follow the law—they refused to commit.

That dynamic, colleagues, is unprecedented, and it is dangerous. And it is

also the result of an administration that demands applicants pass a loyalty test to get their job in the first place. And it has brought us dangerously close to a constitutional crisis. A President feeling unconstrained by the courts, by the Constitution, and the rule of law is no President at all. It is a power-hungry, wannabe King.

Last night, President Trump, in his address, had an opportunity to unite or at least genuinely try to unite the country and affirm his commitment to the rule of law. Sadly, I am not surprised that he refused to do so. But this morning, we also saw the Supreme Court cite against the Trump administration and affirm a lower court's order that the administration stop their unlawful freeze on foreign aid—one of the many, many challenges working its way through the judiciary.

So the question now becomes: Will Donald Trump listen, and will Republicans in Congress demand that he uphold the law?

So what we are asking of our Republican colleagues today isn't anything radical. It is the fundamental principle that men and women dedicated to themselves nearly 250 years ago in the founding of our Nation, that we shall be ruled of, by, and for the people; not of, by, and for a King or dictator.

To our Republican colleagues, all we ask is this: Stand up. Stand up for the rule of law. Stand up for the Constitution. And stand up for our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. SCHIFF. Mr. President, John Adams once said that we are a Nation of laws, not men. And this idea has been foundational to the understanding of the American Republic.

But what does it mean to be a Nation of laws, and is it still true in America in the era of Donald Trump? Are we a Nation of laws when characterized by a legal code that applies equally to all citizens, a justice system in which no one is above the law or beyond its reach, in which there is not one law for the rich and powerful and yet another for everyone else?

Or have we become a Nation of men in which the law must bend to the will of its most powerful citizens, a society in which wealth and privilege mean that the law need not apply to them with the same force as it applies to others or not at all?

Four years ago, after losing his reelection campaign, Donald Trump conspired to interfere with the peaceful transfer of power and incited a violent attack on the Capitol. He also withheld highly classified material and obstructed an investigation into that offense.

In what could be seen as a vindication of the rule of law, Donald Trump was indicted for these crimes, but the system of justice bound by the rule of law requires not only that charging decisions be made against people similarly situated without preference or

disfavor according to their position but that the conduct of those prosecutions likewise be timely and appropriate. In this, our justice system failed miserably. Trump was able to seek endless delays in court, and the courts, understanding of that motivation and mindful of the fact that justice delayed can mean justice is denied, willfully delayed the prosecution of Donald Trump until he could avoid a reckoning with justice altogether.

Most egregious was the conduct of the High Court itself. The Roberts Court first delayed any potential trial of the President and then crippled the prosecution altogether in a decision granting the President immunity from prosecution for the commission of crimes while in office. No wonder the President thanked the Court at last night's joint address and told Justice Roberts, in particular, that he would not forget.

For the first time in America, the Supreme Court held that if you reach the pinnacle of power, the Presidency, the criminal laws need not apply to you; that, indeed, you may use the power of that office itself to commit crimes and never be held to account.

As Justice Sotomayor wrote, that new immunity lies about like a loaded weapon and makes a mockery of the principle that no man is above the law.

Now we have entered a perilous new phase as a country, in which a person who escaped the application of law is now charged with administering the law in which Donald Trump has appointed his own criminal defense lawyers to top positions in the Justice Department and appointed an FBI Director with a long published enemies list.

It is a Justice Department in which Trump's lawyers have sought to dismiss a serious corruption case against the mayor of New York, as an alleged quid pro quo for his willingness to do the President's bidding on unrelated policy matters. They seek a dismissal without prejudice, meaning the President can lower that sword of Damocles on the head of the mayor should he ever demonstrate independence from the whims of the President.

Six senior Justice Department prosecutors resigned their office rather than pervert justice in this way.

As one wrote in his resignation letter, "I expect you will eventually find someone who is enough of a fool, or enough of a coward, to file your motion. But it was never going to be me."

Other prosecutors at the Justice Department have likewise refused illegal orders to initiate investigations where no probable cause exists, rather than violate their oaths of office.

If this continues, we will be left with a Justice Department leadership populated by only cowards and fools—a Justice Department used both as a sword to go after the President's enemies and a shield to hide its corruption. Then, what will remain of our Nation of laws but a sad memory of a time when we lived up to our Founders' dreams only to squander the gift of our inheritance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I rise in support of Senator DURBIN's simple but necessary resolution. It reaffirms three basic principles that should be self-evident to all Senators serving in this body: one, that there are courts established under the Constitution as a coequal branch of government; two, that in the words of Chief Justice Marshall, in *Marbury v. Madison*, those courts' role is to say what the law is; and three, that the Constitution requires the executive branch to comply with all Federal court rulings.

As I reminded all of the Senators who were assembled for the President's inauguration, there is a reason that that inauguration is not held in a gilded Presidential palace, like it is in some countries. It is held in the U.S. Capitol, and the President is sworn in by the Chief Justice of the U.S. Supreme Court—and in this case, with all Supreme Court Justices there—to make the point that, in America, we have three coequal branches of government, and they all have a very defined role under the Constitution.

These are things we all learned in high school civics, and they are the bedrock of the rule of law. Yet, today, the President refuses to acknowledge these foundational principles. He claims, in channeling Napoleon, that "he who saves his country does not violate the law." He has asserted that "I have an article II, where I have the right to do whatever I want as President." And he has even used the White House's social media account to post an image of himself wearing a crown, proclaiming: "LONG LIVE THE KING!"

I call that kind of a smoking gun, when it comes to the evidence that Senator DURBIN's very important resolution is necessary.

Judges appointed by Presidents of both parties have found many of the President's actions illegal. You have seen, in the past 30 days, judges appointed by Ronald Reagan, judges appointed by George Bush, judges appointed by Donald Trump himself, along with judges appointed by Democratic Presidents, who have looked at the facts, who have looked at the law, and, in the words of Chief Justice Marshall in *Marbury v. Madison*, have said "what the law is." They have found the President's actions illegal—from unilateral funding freezes, in direct defiance of statutes in the Constitution's crystal-clear mandate that the power of the purse resides squarely with Congress, to illegal firings of government officials, where they have been reinstated.

Yet the administration continues to question principles at the very heart of our Constitution.

Just last month, the Vice President said:

Judges aren't allowed to control the executive's legitimate power.

In 2021, JD VANCE, before he was elected, suggested that the President should dismantle the Federal workforce, and "when the courts stop you, stand before the country like Andrew Jackson did and say, 'The Chief Justice has made his ruling. Now let him enforce it.'"

Elon Musk, who was here in the House of Representatives just last night, lauded by the President, has said: "The only way to restore rule of the people in America is to impeach judges," citing the purge of judges by the government in El Salvador as an example—the world's greatest democracy, the United States of America, now pointing to the rules in El Salvador.

Aaron Reitz, the nominee to head the Office of Legal Policy, had previously called for defiance of a court order, tweeting himself:

Looking for some Andrew Jackson-level leadership on this one. "Judge Yeakel has made his decision. Now let him enforce it."

When asked about this tweet at the hearing that Senator DURBIN and Senator GRASSLEY held over his nomination and when asked whether the President can defy a court order, Reitz said, "There is no hard and fast rule in all instances in which a litigant must comply with all or some or various parts of a judicial decision."

And when asked for his view on the matter, John Sauer, the President's nominee for Solicitor General, told the committee he did not want to speak to hypotheticals. This is a frightening nonanswer.

It is very clear we are to follow the law in the Senate. The President is to follow the law.

In fact, while the Framers gave the President the power to faithfully execute the law, our Constitution created an accountable President. The Framers, who detested the King's unchecked power, made sure to create an independent judiciary to prevent abuse of power wherever it occurred and ensure that no one is above the law, not even the President.

As James Madison noted, "Independent tribunals of justice" serve as "an impenetrable bulwark against every assumption of power in the legislative or executive." That includes, of course, the power to issue binding court orders that the Executive cannot set aside.

Like many of my colleagues, I have vigorously opposed some decisions by judges. But even when I disagree with a decision, I never thought it was an open question about whether that decision should be followed. If you do not like a court ruling, you appeal it. If we think a decision was wrong, we introduce legislation or a constitutional amendment, as we have done, to change it or a reasoned argument before the Supreme Court or we file an amicus brief. I attended hearings in which we filed an amicus brief.

I know many of my Republican colleagues and other prominent conservatives agree.

Speaking to the nominees at last week's hearing, Senator KENNEDY of Louisiana said:

Don't ever, ever take the position that you're not going to follow the order of a Federal court, ever.

The majority leader Senator THUNE has been very clear that people should follow the law.

Federalist Society cofounder Steven Calabresi wrote in the *Minnesota Law Review* that a system in which the President had the power to defy court judgments "would not be so much a system of constitutional government as it would be a system of rule by an elected Napoleonic strongman."

Calabresi noted that all past Presidents have understood this as well. Even Richard Nixon surrendered the Watergate tapes when ordered by a court.

Ours is a nation of laws, not a nation of Kings. Ours is a nation of laws in which no one is above the law. When taking the oath of office—this just happened a month ago; we were all there—the President promises to "preserve, protect and defend the Constitution of the United States." That is a pledge to obey court orders. And if the President chooses not to and flouts a court order, he will provoke a constitutional crisis.

As Chief Justice John Roberts made clear at the end of last year, any suggestions that Federal court rulings will be rejected are, in his words, "dangerous" and, in his words, "must be soundly rejected."

Hagan Scotten, the lead prosecutor in the Mayor Eric Adams case, who resigned instead of carrying out politicized orders, maybe said it best. He wrote in his letter of resignation:

I expect you will eventually find someone who is enough of a fool, or enough of a coward, to file your motion. But it was never going to be me.

This comes from a lawyer with an incredible career, someone who was a decorated Iraq war veteran, someone who clerked for Judge Kavanaugh before he got to the Supreme Court and clerked for Justice Roberts himself. But he would not commit an illegal act.

"I expect you will eventually find someone who is enough of a fool," he said, "or enough of a coward, to file your motion. But it was never going to be me."

To my Republican colleagues, those words, they should be something you keep in your head, something that should haunt you in the middle of the night.

Nominees who won't answer unequivocally that the President must comply with a court order, remember the words, maybe "you will . . . find someone who is enough of a fool, or enough of a coward. . . . But it [is] never going to be me."

Our job—our job—is to look at these nominees and make decisions on the facts, to advise and consent, not to accept and acquiesce.

And certainly we should, at the very least, support Senator DURBIN's resolu-

tion—so simple and such a reinstatement of our actual law—that there are courts established under the Constitution as a coequal branch of government—super not controversial; that, in the words of Chief Justice Marshall in *Marbury v. Madison*, those courts' role is to say what the law is; and, finally, that the Constitution requires the executive branch to comply with all Federal rulings. That is the law, and we ask our colleagues to support this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, like a number of my colleagues who are here today, I want to support the Senate resolution affirming the rule of law and the legitimacy of judicial review, and I thank Senator DURBIN for bringing it to the floor.

I am here with a lot of regret and sadness in a way. We should have pride in our uniquely just and democratic system that puts the rule of law above everything else. But my regret, my sadness, is that there was a time in this country when the other side of the aisle would have been speaking for this resolution as well and would have been not just accepting but advocating robustly, not just in rhetoric but in action that we reaffirm our allegiance to the rule of law and the legitimacy of courts scrutinizing what we do to make sure that we stay within the Constitution and the rule of law.

We are here because, in effect, that basic consensus and acceptance seems to be dissipating, perhaps even shredding.

The Founders were far from perfect, and one of their great virtues was to recognize their imperfection. So they devised a system that precluded anybody from being fully in power of everything. They lived under an autocracy—the monarchy—that sent English soldiers into their homes, allowed them to take people and property without any kind of approval; in effect, subjected them to a loss of liberty that they regarded as their fundamental rights as Englishmen.

In fact, our system of constitutional rule owes a lot to the English system, the *Magna Carta*. We all know the history from our law school days.

From my law school days, I remember well my professor expounding with great reverence this idea that, in our country, courts can override the excesses of a legislature or an executive. It is not a simple proposition. I will grant you, in a democracy, the idea of a U.S. Supreme Court, the highest Court in the land, appointed for life nine people—the number has varied—without any election, able to override the two popularly elected branches of government seems totally anomalous and undemocratic. Yet the U.S. Supreme Court, as a check, as an enforcer of that balance, has played a critical role throughout our history in enforcing our rights and preserving them.

And at times, it has failed—*Dred Scott*, *Korematsu*. The U.S. Supreme Court is far from perfect too. But in our system, we are a government of people observing and enforcing the law.

In the days when I thought there would be no question that following court orders should be a basic tenet, certainly, for lawyers who are steeped in the culture of following the law—after all, what good is it to be debating in court before a judge if the losing party simply disregards the outcome?

So I come with sadness and regret because we face today a growing and more popularly accepted idea that those court orders need not be obeyed; that judicial review is not the acceptable tenet of our Constitution that it has been for centuries; and that, perhaps, maybe this President should not be bound by what the courts say.

That is so fundamentally dangerous to our democracy that we are here today simply to make a statement that this resolution affirming the rule of law and the legitimacy of judicial review is necessary at this moment.

I am not going to go into all of the history that Senator KLOBUCHAR recited so well and eloquently or colleagues have done as well. We don't blindly follow the edicts or orders of individuals in this country, elected or not, but all of us in this Chamber, all of us who have served in the military, all of us who served in any public office for the public raise our right hand, and we swear an oath not to the President, not to the majority leader, not to any potentate or officeholder, we swear to the Constitution. That is an oath that we take to the Constitution and the laws of the United States, so help me God. That is the oath that requires us to obey the courts insofar as they articulate the laws and the Constitution.

Like the Founders and the Supreme Court, lower courts may be far from perfect too. That is why we have not just judicial review of executive and legislative branches but also within our judiciary review and appeals, not just once but twice, and within State court systems as well, and then from State courts to our Federal courts.

I want to just close by saying I spent most of my career as a lawyer going to court, trying cases, arguing before judges. I can tell you, some of those decisions were just dead wrong, just so wrong as to make my blood boil.

And whether it was for a client or for the United States of America, when I was a U.S. attorney and the decision went against me, for the people of the United States, or the people of Connecticut, when I was attorney general and the decision went against me, I was angry. But it never crossed my mind that I should just disobey. And the reason is that the larger good, the longer range public interest is served when those court orders are obeyed; and that, sometimes, whether it is *Dred Scott* or *Korematsu*, the appeal is to history, the appeal is to the future, to a moral conscience or a legislative

chain or someone sensing deep in their gut that an injustice has been done.

And that is the kind of system that has survived, these centuries, as the American experiment. We believe in the possibility of change and reform but not by disobeying a judiciary that serves ultimately to prevent autocracy, dictatorship, and tyranny.

One of the lessons of tyranny in the 20th century that Professor Tim Snyder cites in his book "On Tyranny"—one of the first lessons of 20 lessons on tyranny in the 20th century—is do not obey in advance. Do not obey in advance. That is not to say we don't obey court orders. It is to say we do not obey in advance what a dictator tells us to do.

And when a dictator or a would-be tyrant says, "Don't follow court decisions," we have an obligation to speak up and stand up. And that is what we are doing through this resolution.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. DURBIN. Mr. President, it has been my great honor to represent the State of Illinois in this Chamber for many years, and I have been present for a lot of proceedings which are memorable, some historic. I can't think of one, in its simplicity, that is as important as what we have witnessed in the last hour of debate.

We are literally asking a fundamental question about our democracy that is seldom asked. It is rare that we have a circumstance where we have to ask it, but we certainly understand in this situation that it must be resolved.

What I tried to do in establishing this resolution was to make it as pointed, as direct, and as simple as possible. There are "Whereas" clauses, which are of little or no consequence, but the resolution clause is so simple and direct that I want to repeat it before I make my request for unanimous consent:

Resolved, That the Senate affirms that—

(1) Article III of the Constitution of the United States vests the "judicial Power of the United States . . . in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish";

(2) as Chief Justice Marshall held in the Supreme Court's landmark 1803 decision *Marbury v. Madison*, "It is emphatically the province and duty of the judicial department to say what the law is"; and

(3) the Constitution of the United States and established precedent require the executive branch to comply with all Federal court rulings.

That is it. It acknowledges article III establishing the courts. It acknowledges *Marbury v. Madison*, one of the very first cases any student of law in the United States must understand. And, No. 3, it says clearly the Constitution and established precedent require the executive branch to comply with all Federal court rulings.

I am sorry that we have reached a point in our history where we even have to ask the question, but shame on us if we don't.

This is not a political resolution. I have tried to make it as apolitical as possible because it gets to these basic principles.

I want to thank my colleagues who came forward on the floor to say a word in support of this resolution.

Now, Mr. President, as if in legislative session, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 108, Affirming the rule of law and the legitimacy of judicial review, which is at the desk; further, I ask that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, reserving the right to object, I have always advocated respect for the Federal courts, and, particularly, over the last 2 years, I have opposed a vicious smear campaign by Democrats designed to undermine faith in our Supreme Court and our judicial system.

Now that we have a Republican President, my Democratic colleagues appear to have a newfound respect for the courts. It wasn't very long ago that they were singing a different time and a different tune.

In the last few years, the Democrats have called the Supreme Court: controlled by a "creepy right-wing billionaire," "a radical Supreme Court," and "a partisan and reactionary court."

One of my colleagues on the Judiciary Committee said the idea that you can trust the Supreme Court has been "blown to smithereens." Another committee colleague declared: "I oppose these Justices." And yet another committee colleague questioned: "How can they call it an honorable court? The Justices are cherry-picking their way through constitutional text and history to impose their own ideological agenda on the American people."

Over the last few years, Democrats have repeatedly threatened the Court for ruling in ways that they did not like. Famously, in 2020, the Senate Democratic leader threatened the Court to influence its rulings on abortion. He said:

I want to tell you, Gorsuch; I want to tell you, Kavanaugh: You have released the whirlwind, and you will pay the price. You won't know what hit you if you go forward with these awful decisions.

And in the wake of the 2024 Presidential immunity decision, the Democratic House minority leader said:

House Democrats will engage in aggressive oversight and legislative activity with respect to the Supreme Court to ensure that the extreme, far-right Justices in the majority are brought into compliance with the Constitution.

Now, I am happy that Democrats have finally discovered the importance of respecting the judiciary. They certainly didn't hold this view when Presi-

dent Biden was in office. President Biden ignored the Court's position that the CDC's eviction moratorium was unconstitutional and his own lawyer's advice that he couldn't do it. He went ahead and extended the moratorium anyway, and the Court had to strike it down.

President Biden boasted once that the Court's decision on student loan forgiveness "didn't stop him."

The Biden administration undermined the Court's 2023 decision that racial discrimination in college admissions is unconstitutional and even issued a "Dear colleague" letter on how to circumvent that ruling.

More broadly, President Biden flouted law after law throughout his entire administration. He ignored the plain text of our immigration laws, the parole statute, and our civil rights laws in the name of advancing his agenda.

And you know what? I heard no complaint from my Democratic colleagues.

Although I fully agree that Congress stands for the rule of law, this resolution is nothing but a partisan messaging statement. President Trump has been clear on this. Just a few weeks ago, he said: I will always abide by the courts, and then I will have to appeal.

The answer is I always abide by the courts.

There have been numerous extreme orders from various district courts improperly encroaching on core article II powers. President Trump and his administration have worked diligently to abide by those orders, no matter how outrageous, by appealing them and challenging their scope and reach. He is completely within his right to do so, and his conduct is appropriate and legitimate.

Our constitutional system has a robust system of checks and balances. The executive branch must abide by the courts, and the courts must also ensure that their rulings are respectful of jurisdictional limits and, particularly, our famous separation of powers.

Some of the recent orders of individual district judges issued on an expedited basis with very broad nationwide impact have concerned me. I think Congress needs to examine this issue closely. Concerns about nationwide injunctions and temporary restraining orders have been raised on both sides of the aisle, across Presidential administrations. And if my colleagues want to work with me on it, we will head down that route of addressing those abuses.

For today's purposes, however, this resolution is incomplete. And coming from Democrats, I think it shows that they are totally inconsistent. It unfairly targets President Trump. In turn, then, it ignores the Democratic attacks on the legitimacy of the Court, and it ignores President Biden's flagrant violation of law.

So I am offering Senator DURBIN an opportunity that he can't turn down, a resolution to highlight the inappropriate attacks by Democrats against the legitimacy of the Supreme Court

and to clarify the executive branch must comply with lawful orders.

So the point is that I ask that the Senator would modify his request; that the Grassley amendment to the resolution at the desk be considered and agreed to, and the Grassley amendment to the preamble at the desk be considered and agreed to.

The PRESIDING OFFICER. Is there objection to the modification?

The Democratic whip.

Mr. DURBIN. Mr. President, reserving the right to object, I would like to ask a question of my friend the chairman when it comes to the modification which he is suggesting. Does this include, in one, request, both modifications?

Mr. GRASSLEY. Yes, it does.

Mr. DURBIN. So I want to make certain particularly that I understand the modification to the resolution clause. If I understand it correctly, you are adding a word. Perhaps you could clarify that as to whether or not there is a requirement of the executive branch to comply with all Federal court rulings. Do you modify that particular sentence?

Mr. GRASSLEY. That is right.

Mr. DURBIN. And do you add the word "lawful"?

Mr. GRASSLEY. Yes.

Mr. DURBIN. Mr. President, I think I want to clarify for the record and for history so there is no dispute. There have been differences of opinion about court orders in the past. I would say without fear of contradiction that although President Biden's name has been mentioned repeatedly, particularly when it comes to the forgiveness of student loan debt, there was never any acknowledgement of defiance of any court order, period.

There was a court order against the Biden administration, and President Biden did not agree with it but went forward with a different approach to the law. He was never found in contempt, nor was any suggestion made that he violated a court order. His name has been mentioned many times, but that just doesn't square with the reality.

Here is the difficulty. Think about this for a second. Under *Marbury v. Madison*, we basically said it is the province and duty of the judicial department, judges and courts, to say what the law is. Then the modification being made by the Senator from Iowa says: You only have to abide by lawful court rulings.

Did I state that correctly?

Mr. GRASSLEY. I think you need to be—we need to clarify because I think your inference is that Trump has violated some court orders. He has not. In fact, this very day, the Supreme Court ruled against him on a 5-to-4 decision that goes back to the lower court to make a firm decision.

So you can't say that the court system isn't working against President Trump as it worked against President Biden.

Mr. DURBIN. That is a fair criticism. I want to make it clear I am not saying that President Trump has violated a court order. I don't know that he has. The question is, Whenever an order is issued either for him or against him, will he obey the order? Will he acknowledge that that is his lawful responsibility? That is what it comes down to.

I am not looking prospectively or in history—his brief time in the Presidency this round—but, rather, saying that whatever the court order in the future, whether for him or against him, he is bound by that court order. You have added the word "lawful" court order.

I am not sure—if the court is to decide the law, and they decide in his favor, then the law is acknowledged to be binding on him and his actions. Conversely, if the ruling is against him and the court order is against him, I hope you would acknowledge that that is lawful and that he has to follow it even though they ruled against him. That is simple constitutional law. I am not presuming how the court will rule. I am saying that however it rules, he is bound by that ruling. Do you agree with me, Senator?

Mr. GRASSLEY. I have made very clear that we have a separation of powers, and each branch has to respect the other's powers.

Mr. DURBIN. I acknowledge that as well. The question is, Does that mean that the executive branch is bound by the decision of the court and has to follow a court order, whether it is for or against the administration?

Mr. GRASSLEY. I think what I would like to do is—do you agree with my amendment or you don't so we can move on and get to other important stuff today. I want to help you get your resolution through, and I want to just say what is good for the goose is good for the gander.

Mr. DURBIN. That is basic mid-western philosophy, which we share, and I don't disagree with you. But I think the addition of the word "lawful" in the final sentence equivocates on what the Constitution's clarity is. So I am going to object with the possibility that we can work on this together to see if there is a way to reach a conclusion.

I think this is so basic. You have served honorably in the U.S. Senate for your entire career, and the point that I am getting to is that we ought to make certain that, moving forward, there is clarity on this most basic checks-and-balances constitutional provision.

The PRESIDING OFFICER. Is there an objection to the modification?

Mr. DURBIN. I object to the modification as written.

The PRESIDING OFFICER. Is there an objection to the original request?

Mr. GRASSLEY. Reserving the right to object, before I do object, I want Senator DURBIN to know that there are things like this that we ought to work out, but we can't be complaining about

the courts if we have a Democratic President and not complaining—just complaining when we have a Republican President.

I think there are enough abuses of these nationwide orders to stop certain activity that our committee ought to be looking at and reviewing and see if they are being abused.

I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Iowa.

Mr. GRASSLEY. I would like to speak on Mr. Blanche.

Senator DURBIN, I see we have an agreement.

Mr. President, I see we have an agreement that Senator DURBIN speaks—that I go again.

Thank you very much, Senator DURBIN.

Soon, we will begin voting on the nomination of Todd Blanche.

Mr. President, I ask unanimous consent that the following Senators be allowed to speak prior to the rollcall vote: Senator DURBIN for 5 minutes, Senator RICKETTS for 5 minutes, and this Senator for 10 minutes, but I am not going to take 10 minutes.

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

NOMINATION OF TODD BLANCHE

Mr. GRASSLEY. Mr. President, soon, we will be voting on the nomination of Todd Blanche to serve as Deputy Attorney General of the United States. I support his nomination and urge all of my colleagues to vote for this well-qualified nominee. Mr. Blanche's record shows that he is the right man for this job.

His story exemplifies the American dream. As a young man, he supported his young family by working as a paralegal during the day while attending law school at night. He clerked twice for judges appointed by Presidents of both parties and ultimately became a respected prosecutor in the Southern District of New York. His colleagues from that office of both political parties told us that Mr. Blanche is "a fundamentally good and decent man." Mr. Blanche then entered private practice at two very prestigious law firms—including the oldest firm on Wall Street.

This remarkable resume has all the hallmarks of someone who should serve as a senior official at the Justice Department, but this isn't what impresses me the most. I have spoken often about the partisan weaponization of our justice system. I have worked to investigate it. I have released records proving that weaponization exists.

My colleagues, for your information, you can expect to see more of this information coming out from me very, very soon.

I believe Mr. Blanche is the right man for the job because he has seen this weaponization firsthand, and he has paid a personal cost to do something about it. This is the price he paid: Mr. Blanche was forced out of his law firm because he chose to represent