

is not a fundamental right and thus does not protect Americans from actions by states and localities that prevent them from lawfully exercising their ability to bear arms. As with the Ricci and Didden cases, Judge Sotomayor gave the losing party's claims in these cases short shrift and did not thoroughly explain her analysis. In one case, she disposed of the party's second amendment claim in a mere one-sentence footnote. In the other case, which was argued after the Supreme Court's seminal second amendment decision in *District of Columbia v. Heller*, she gave this important precedent cursory treatment, devoting only one paragraph in an unsigned opinion to this important issue, which is unusual for a case of this significance.

The losing parties in these cases might not have belonged to the groups that the President had in mind when he was articulating his "empathy" standard. But they certainly underscore the hazards of such a standard. They had important constitutional claims, and they deserved to have their claims treated seriously and adjudicated fairly under the law, regardless of what Judge Sotomayor's personal and political agendas might be. Yet it strikes me that the losing parties in these cases did not in fact get the fair treatment they deserved.

Indeed, taken together, these cases strongly suggest a pattern of unequal treatment in Judge Sotomayor's judicial record, particularly in high-profile cases. This pattern is particularly disturbing in light of Judge Sotomayor's numerous comments about her view of the role of a judge, such as questioning a judge's ability to be impartial "even in most cases," asserting that appellate courts "are where policy is made," and concluding that her experiences and views affect the facts that she "chooses to see" in deciding cases.

Republicans take very seriously our obligation to review anyone who is nominated to a lifetime position on our Nation's highest court. That is why Senators have taken time to review Judge Sotomayor's record to make sure she has the same basic qualities we look for in any Federal judge: superb legal ability, personal integrity, sound temperament, and, most importantly, a commitment to read the law evenhandedly. At the beginning of this process, I noted that some of Judge Sotomayor's past statements and decisions raised concerns. As we begin the confirmation hearings, those concerns have only multiplied.

Boiled down, my concern is this: that Judge Sotomayor's record suggests a history of allowing her personal and political beliefs to seep into her judgments on the bench, which has repeatedly resulted in unequal treatment for those who stand before her.

But that is what these hearings are all about: giving nominees an opportunity to address the concerns that Senators might have about a nominee's record. In this case, the list is long.

So we welcome Judge Sotomayor as she comes before the Judiciary Committee today. And we look forward to a full and thorough hearing on her record and her views.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 1390, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1390) to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, on behalf of the Armed Services Committee, I am pleased to bring S. 1390, the National Defense Authorization Act for Fiscal Year 2010, to the Senate floor. This bill will fully fund the year 2010 budget request of \$680 billion for national security activities in the Department of Defense and the Department of Energy.

The Senate Armed Services Committee has a long tradition of setting aside partisanship and working together in the interest of the national defense. This year follows that tradition. I am pleased that S. 1390 was reported to the Senate on a unanimous 26-to-nothing vote of the committee. This vote stands as a testament to the common commitment of all of our Members to supporting our men and women in uniform. I particularly thank Senator MCCAIN, our ranking minority member, for his strong support throughout the committee process and, of course, for the dedication he has shown to national defense throughout his Senate career.

Earlier this year, the Armed Services Committee reported out the Weapons Systems Acquisition Reform Act of 2009 with similar bipartisan support. In less than 2 months, we were able to get the bill passed by the Senate, complete conference with the House, and have the President sign it into law. It is my hope that we will be able to move with similar dispatch on the bill now before us.

This bill contains many important provisions that will improve the quality of life of our men and women in uniform, provide needed support and assistance to our troops on the battlefields in Iraq and Afghanistan, make the investments we need to meet the challenges of the 21st century, and re-

quire needed reforms in the management of the Department of Defense.

First and foremost, the bill before us continues the increases in compensation and quality of life that our service men and women and their families deserve as they face the hardships imposed by continuing military operations around the world. For example, the bill contains provisions that would, first, authorize a 3.4-percent across-the-board pay raise for all uniformed military personnel, and that represents half a percent more than the budget request and the annual rate of inflation. The bill authorizes a 30,000 increase in the Army's Active-Duty end strength during fiscal years 2011 and 2012 in order to increase dwell time and reduce the stress created by repeated deployments. The bill authorizes payment of over 25 types of bonuses and special pays aimed at encouraging enlistment, reenlistment, and continued service by Active-Duty and Reserve military personnel. We increase the authorization for the Homeowners' Assistance Program by \$350 million in order to provide relief to homeowners in the Armed Forces who are required to relocate because of base closures or change of station orders. And we increase the maximum amount of supplemental subsistence allowance from \$500 to \$1,100 per month to ensure that servicemembers and their families do not have to be dependent on food stamps.

The bill also includes important funding and authorities needed to provide our troops the equipment and support they will continue to need as long as they remain on the battlefields in Iraq and Afghanistan. For example, the bill contains provisions that would provide \$6.7 billion for the Mine Resistant Ambush Protected, MRAP, vehicle fund, including an increase of \$1.2 billion above the President's budget request for MRAP all-terrain vehicles which will be deployed in Afghanistan. The bill fully funds the President's budget request for U.S. Special Operations Command and adds \$131 million for unfunded requirements identified by the commander of Special Operations Command. The bill provides full funding for the Joint Improvised Explosive Device Defeat Organization to continue the development and deployment of technologies to defeat these attacks. And we provide nearly \$7.5 billion to train and equip the Afghan National Army and the Afghan National Police so they can carry more of the burden of defending their own country against the Taliban.

The bill would also implement most of the budget recommendations made by the Secretary of Defense to terminate troubled programs and apply the savings to higher priority activities of the Department. For example, the bill will terminate the Air Force Combat Search and Rescue-X helicopter program, CSAR-X. It will terminate the VH-71 Presidential helicopter. It would cancel and restructure the manned ground vehicle portion of the Army's