

the social science research network, also testified before the House Judiciary Committee.

He stated that the President's Constitutional duty to take care that the laws be faithfully executed "is not optional; it is mandatory," and that President Obama's "wholesale suspension of law . . . is the paradigm case of a 'take care' clause violation."

He further testified:

What's striking about this is the president's decision to enforce the immigration laws as though the DREAM Act had been enacted, when in fact it has not. . . . Rather than declining to comply with a duly enacted statute, the president is complying meticulously, but with a bill that never became law.

So they offered a bill. It was rejected by the Congress. The President is almost to the letter enforcing a bill rejected by the people's representatives. Professor Rosenkranz goes on to say:

Congress has repeatedly considered . . . the DREAM Act. The President favors this act. Congress has repeatedly declined to pass it. So the President simply announced that he would enforce the Immigration and Nationality Act as though it had been—as though the DREAM Act had been enacted. To put the point another way, the president's duty is to take care that the laws be faithfully executed, laws capital L, not those bills that fail to become law, like the DREAM Act.

I think this is a serious matter and I think Professor Rosenkranz hits it directly. Professor Rosenkranz was in agreement with Professor Turley that "prosecutorial discretion is one thing."

It is real.

But wholesale suspension of law is quite something else, and that is what has happened under ObamaCare. Likewise, in the immigration context, kind of case-by-case prosecutorial discretion is one thing, but a blanket policy that the immigration act will not apply to 1.8 million people, that's quite something different. This is a scale of decision-making that is not within the traditional conception of prosecutorial discretion.

That is certainly true. It is hard to believe we are here. I think we are here because in the great law schools of America and the top levels of our academic world in our new media and so forth, we have moved in sort of a postmodern world in which words do not have meaning. They are subject to being altered whenever they choose to fit the mood of a moment.

The President said, when he nominated people for the Supreme Court, he wanted nominees who would show empathy. What is empathy? It is not law. Is it politics? Is it bias? Is it personal opinion? Our system is based on law, not empathy, not bias, not politics, not ideology. This is a serious matter. Chairman GOODLATTE then interjected:

In fact the president has taken it a step further and has actually given legal documents to the people in that circumstance, well beyond simply deciding not to leave them there and not prosecute them, but to actually enable their violation of the law by giving them documents to help them evade the problems that ensue from living in the country that they're not lawfully present in.

Professor Rosenkranz replied, "Quite right." This matter is not going away. We

are going to deal with it. I truly believe the American people expect this government of theirs that works for them to produce an immigration system, a legal system that involves ObamaCare and other policies that is committed to law and not to the feelings of the chief executive and not to his policy preferences.

We avoid that or we have a serious matter in this country that goes to the heart of the strength of this Republic. You could sap that strength, erode the power of our legal system. The legal system, in my opinion, is the greatest strength this Nation has.

I yield the floor.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9 a.m. tomorrow.

Thereupon, the Senate, at 8:16 p.m., adjourned until Tuesday, December 17, 2013, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 16, 2013:

DEPARTMENT OF STATE

ANNE W. PATTERSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER AMBASSADOR, TO BE AN ASSISTANT SECRETARY OF STATE (NEAR EASTERN AFFAIRS).

DEPARTMENT OF HOMELAND SECURITY

JEH CHARLES JOHNSON, OF NEW JERSEY, TO BE SECRETARY OF HOMELAND SECURITY.