

The Senator from Utah.

TRIBUTES TO DEPARTING SENATORS

Mr. HATCH. Mr. President, I have only heard two of the comments of the majority leader—one for the distinguished Senator from Michigan and one for the distinguished Senator from West Virginia. I have to say that both of those Senators deserve a lot of commendation for the service they have given to the Senate. They are both friends of mine.

CARL LEVIN

Senator LEVIN has been a terrific, solid performer for the Democrats in the U.S. Senate, and he is an honest—totally honest—decent, honorable man.

JAY ROCKEFELLER

Senator ROCKEFELLER is on the Finance Committee with me. He is one of the senior people on that committee and certainly one of the people I have enjoyed working with. We worked a number of years ago on the CHIP bill, the SCHIP bill, and he was of inestimable help there. I have to say he has been a wonderful member of the very important Finance Committee.

I will miss both of these brethren and wish them the very, very best in their lives as they go through the remaining years of their lives, and hopefully they and their families will have a wonderful, wonderful time together.

PRESIDENT OBAMA'S IMMIGRATION EXECUTIVE ORDER

Mr. HATCH. Mr. President, as the Appropriations Committees prepare to release the product of their negotiations on a spending bill this afternoon, I rise today to discuss the troubling development that has made their work all the more challenging: President Obama's immigration Executive order. By circumventing Congress, the President has dispensed with the duly-enacted law of the land in a unilateral attempt to alter the legal status of millions of immigrants.

Unfortunately, this issue of Executive overreach is not a new one. Over the past year, I have come to the Senate floor repeatedly to lay out my objections to President Obama's lawlessness—from the release of Guantanamo detainees to ObamaCare, from his purported recess appointments to Benghazi. Today I come to discuss this latest astonishing instance in the area of immigration.

Immigration is a complex and divisive issue, and Americans hold a wide variety of views on the matter. But one thing that should not be controversial is the President's duty to place fidelity to the Constitution over partisan politics.

The Constitution vests lawmaking authority with Congress, not the President. And the Framers specifically sought to end centuries of abuses by the English monarchs, who claimed the

power to dispense with the laws of the land, by requiring the President to take care that the laws be faithfully executed. The Constitution does not suggest or invite the President to enforce the law; it obligates him to do so.

The President and his executive branch, of course, exercise prosecutorial discretion—the discretion to choose not to prosecute certain cases. But that power stems from considerations of fairness and equity in particular cases. Instead of requiring individualized determinations in specific cases, the President's latest Executive order claims the power to sweep up millions of people based on only a few broad, widely shared criteria.

The President is also within his rights not to prosecute when there are not sufficient resources to do so, but the Obama administration has never explained how the Executive order would save money. In fact, the administration's own policy advisers have acknowledged that a work permitting program will be expensive and will take away resources from law enforcement. While no one disagrees that capturing and removing violent criminals should be our highest immigration priority, President Obama has gone much further and made current immigration law essentially a dead letter for millions of illegal immigrants.

President Obama cannot credibly claim that he is attempting to execute immigration law faithfully when ICE agents were forced to release 68,000 potentially deportable aliens last year alone, when the administration took disciplinary action against ICE officers for making lawful arrests, and when the President of the National ICE Council felt compelled to testify before Congress that although “most Americans assume that ICE agents and officers are empowered by the government to enforce the law . . . nothing could be further from the truth.”

Moreover, despite the administration's claim to the contrary, President Obama's action is not comparable to the Executive actions taken by President Reagan or even President George H.W. Bush. Even the Washington Post's editorial board found that claim by the White House to be “indefensible.” Presidents Reagan and Bush simply implemented the enforcement priorities established in laws that Congress actually passed. By contrast President Obama has sought to change the law before Congress has acted, so he cannot rely on Congress's authority to enforce the policy he prefers. Here President Obama has acted directly in the face of congressional opposition, and we should call his Executive order what it is: an attempt to bypass the constitutionally ordained legislative process and rewrite the law unilaterally.

We are all sometimes disappointed and even angry about the outcomes of the legislative process. I have certainly felt that way many times over the course of my 38 years here. But the right response is to redouble our efforts

to get it right, not to try to subvert our constitutional system.

The President should heed his own wisdom from as recently as last fall when he said that by broadening immigration enforcement carve-outs “then essentially I would be ignoring the law in a way that I think would be very difficult to defend legally. So that is not an option. . . . What I've said is there is a path to get this done, and that's through Congress.”

Even beyond the legal and constitutional problems with the Executive order, the President's approach is also bad policy. His Executive order greatly undercuts the chances for lasting immigration reform because it undermines our confidence that the President will live with any compromises we agree to forge through the legislative process. The Executive order is even bad for those who are currently here illegally—those who are supposed to benefit from it. Instead of temporary half measures, they need the certainty that only legislation can provide.

Last month, in an election in which President Obama insisted that all of his policies were on the ballot, the American people delivered the President a decisive rebuke. Many of us from Congress took the right message from the election—that it is time for us to come together to find areas of agreement and to govern like adults.

Apparently President Obama missed that message. To announce this Executive order after the defeat at the polls displays shocking arrogance. Given how the White House and its allies in the media keep raising the specter of a shutdown or impeachment, it is clear the President is attempting to goad Congress into a fight rather than work with us in the difficult job of actually legislating.

Unlike President Obama, I am committed to making real progress toward implementing lasting immigration reform. I supported the Senate's comprehensive immigration bill last year. Even though the bill was far from perfect, I voted for it because I believe in working together to get something done on this vitally important issue. As I have long argued, the way to get real immigration reform back on track is not for the President to insist on his “my way or the highway” approach, either by trying to enact his preferred policy unilaterally or even for him to demand an all-or-nothing comprehensive bill. Instead we should consider individual immigration reform measures that can win broad support and help rebuild trust in our country. Only by doing so will we clear a path forward for other more far-reaching reforms.

Take the area of high-skilled immigration. We face a high-skilled worker shortage that has become a national crisis. In April for the second year in a row the Federal Government reached its current H-1B visa quota for workers just 5 days after accepting applications. Employers submitted 172,500 petitions for just 85,000 available visas, so