

Neil Gorsuch came before the Senate Judiciary Committee for his confirmation hearing. Senators from both sides had the opportunity to ask him questions. Both they and the American people were able to learn more about Judge Gorsuch, about the type of jurist he has been and will continue to be, about his character and temperament, and about his aptitude to serve on the Supreme Court.

His answers reflected what we have all come to find about the judge over the past several weeks. He has sterling credentials and a reputation as a fair and impartial jurist. He is also known to be a gifted writer, who is smart, kind, humble, and independent.

As I mentioned yesterday, his impressive testimony has caught the attention of publications, news outlets, and commentators from across the country and across the political spectrum. In a panel discussion just yesterday, an MSNBC commentator noted Judge Gorsuch's "masterful performance"—one that he called a "tour de force."

Another panelist and NBC correspondent had a complimentary view of the nominee, as well, noting that "in terms of character, in terms of professionalism, [and in terms of] integrity, there wasn't, I would argue, anything, or hardly anything there to criticize Gorsuch on."

The Wall Street Journal noted that Gorsuch "stressed his independence" throughout the hearing. The Detroit news echoed these observations and has urged the Senate to confirm him. It editorialized that "[a]fter two days of often hostile hearings, Supreme Court nominee Neil Gorsuch is proving himself an even-tempered, deeply knowledgeable nominee who should be confirmed by the Senate."

The paper also noted that Judge Gorsuch is "[eminently] qualified" and that he "is coming across in the hearings as the very image of a thoughtful jurist. He displayed an impressive depth of knowledge, and admirable patience. And he's carefully followed past practice of judicial nominees in refusing to say how he'd rule on specific issues."

His independence is really without question at this point. The American Bar Association, which awarded Judge Gorsuch its highest rating of unanimously "well qualified," recently submitted testimony to the Judiciary Committee. Here is what the Bar Association had to say about Judge Gorsuch's independence:

Our evaluation process provided an excellent opportunity to gain a glimpse at whether Judge Gorsuch is a judge who ascribes to the concept of an independent judiciary. Based on the writings, interviews, and analyses we scrutinized to reach our rating, we discerned that Judge Gorsuch believes strongly in the independence of the judicial branch of government, and we predict that he will be a strong but respectful voice in protecting it.

The ABA went on:

As one interviewee noted with alacrity, "Judge Gorsuch has 'grit,' which he gets

from being a multi-generation Westerner." Another stated, "He is dedicated to the constitutional doctrine of separation of powers and to the independence of the judiciary." Yet another observed, "In addition to his outstanding academic credentials and brilliant mind, Judge Gorsuch's demeanor and written opinions during his tenure on the Tenth Circuit Court of Appeals demonstrate that he believes unwaveringly in the rule of law and judicial independence. In my opinion, he is exceptionally well qualified to serve as a justice of the Supreme Court of the United States." We agree.

I certainly agree with that. This is from the American Bar Association, an organization that the Democratic leader and former Democratic chairman of the Judiciary Committee have deemed the gold standard for evaluating nominees. In addition, the assistant Democratic leader acknowledged yesterday that Judge Gorsuch is "very gifted" and "has a great background and service as judge."

But despite the Judge's outstanding performance, his exceptional background, and the extensive support he has received from people of all political leanings, we know that some Senate Democrats will continue trying to come up with any reason to delay the confirmation process. It is not the first time we have seen our friends across the aisle engage in obstructionist tactics. In fact, we just saw a historic level of obstruction when it came to confirming the President's Cabinet.

We know that our colleagues are under a great deal of pressure from the far left. We know some of these groups are calling for them to "resist." We know that even more than 4 months after the election, some on the far left simply refuse to accept the outcome of last year's election.

Well, it is past time to move on from that mindset and return to the serious business of governing. One way we can do so is by confirming Judge Gorsuch as the next Supreme Court Justice without delay. He is a proven jurist. He is an outstanding intellect. He has earned the respect and admiration of so many—Democrats, Independents, and Republicans alike. He is also unquestionably independent.

Today we will hear even more praise for Judge Gorsuch as witnesses come before the Judiciary Committee. I urge my colleagues to show him the fair consideration he deserves and, ultimately, to come together in supporting his nomination in the days ahead.

REPEALING AND REPLACING OBAMACARE

Mr. MCCONNELL. Mr. President, today marks the seventh anniversary of ObamaCare becoming law. In the years since, millions of Americans lost their plans and their doctors. They saw the cost of their premiums and deductibles soar. They watched their choices disappear as insurers were forced out of the marketplace. Former President Bill Clinton called ObamaCare the "craziest thing in the

world." He was right. It was a direct attack on the middle class. These failed policies are affecting real people every day. Americans expected the law to deliver on its promises, but instead they have paid more and received less. ObamaCare has been a flawed system from the start. Over the past 7 years, things have gotten progressively worse.

Our Nation cannot continue on this trajectory as ObamaCare continues to unravel at every level, leaving Americans to pick up the pieces. On this seventh anniversary of ObamaCare's enactment, Americans deserve a better way forward. Thankfully, we finally have a Congress and a President who are committed to delivering much needed reform.

The legislation currently before the House will help bring relief. It will repeal and replace ObamaCare, which is exactly what we promised the American people we would do. Instead of forcing Americans to buy something they may not want, like ObamaCare does, this bill gives Americans the freedom to choose what type of coverage is right for them.

I look forward to the House passing that bill soon, and we look forward to taking it up in the Senate, where there will be a robust amendment process. Then, I look forward to collaborating with my colleagues to pass it. It is important, however, to remember that this bill is only one part of a three-pronged strategy to bring relief. The administration is already working to fix the damage 7 years of ObamaCare has done to the health markets across the country, and we will continue to consider further legislation in Congress to bring more competition and reform.

It is time to move on from 7 years of ObamaCare's broken promises and unyielding attacks on the middle class. The status quo is not an option. So let's work together to get this done.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE FEDERAL COMMUNICATIONS COMMISSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S.J. Res. 34, which the clerk will report.

The legislative clerk read as follows: A joint resolution (S.J. Res. 34) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Federal Communications Commission relating to "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services."

The PRESIDING OFFICER (Mr. STRANGE). If no one yields time, time will be charged equally.

The Senator from Maryland.

END RACIAL AND RELIGIOUS PROFILING ACT

Mr. CARDIN. Mr. President, I rise today to talk about a bill that I have introduced. I have introduced it in prior Congresses. But I think it is particularly important in this Congress. It is the End Racial and Religious Profiling Act of 2017. I am proud to have many of my colleagues as cosponsors of this legislation, including Senators BALDWIN, BLUMENTHAL, BOOKER, BROWN, CANTWELL, COONS, DUCKWORTH, DURBIN, FEINSTEIN, FRANKEN, GILLIBRAND, HARRIS, HEINRICH, HIRONO, KAINE, MARKEY, MENENDEZ, MERKLEY, MURPHY, MURRAY, SANDERS, STABENOW, UDALL, VAN HOLLEN, WYDEN, and WARREN.

In the House of Representatives, the bill's principal sponsor is Congressman CONYERS. It is needed now more than ever before. I say that for many reasons, one of which is that we have seen a large increase in hate crimes in our community. Yesterday I was on the phone with a father from Harford County, MD, whose son was the victim of a hate episode related to that person's religion and ethnic background.

We have seen in our community a large increase in hate crimes against the Jewish community. There have been a lot of bomb threats that have been called into Jewish schools and to the Jewish Community Centers. We have seen physical attacks and the desecration of cemeteries. So the minority community feels threatened.

That has been escalating as a result of the actions of our President and his Executive orders. The Executive orders—he has issued two now that are dealing with the immigrant community—do raise the temperature in our community and the concern in our community that people are being threatened because of their religion, threatened because of their ethnic background, threatened because of their status as part of an immigrant community.

All of that has added to the concerns in America today. The legislation that I have introduced would make it illegal for discriminatory policing—for police to use as an indicator for their actions a person's race, religion, or ethnic background.

Discriminatory policing is against our values. Quite frankly, it is not what we stand for as a nation. We don't target people because of their religion. I will always remember that shortly after the Trayvon episode, I met with community activists in Baltimore. Many told me examples of how they were with their parents when the police stopped them randomly, for no reason at all, but solely because of the person's race and how communities felt threatened as a result of it.

It is not what we stand for as a nation. It turns communities against police, rather than working with the po-

lice. It is a waste of resources. It does not work. It can be deadly as we have seen in too many communities in our Nation. In my own city of Baltimore, we had the episode concerning Freddie Gray, who died in police custody.

I went to Sandtown, where Freddie Gray came from, shortly after that episode and met with the community, and I heard comparable stories about how good community activists felt like they were betraying their community if they worked with the local police, because they said the system was just stacked against their community and their race.

So let me, if I might, quote from the Department of Justice report on the Freddie Gray case. Our congressional delegation asked for a pattern or practice investigation. In part of that investigation, they came out with this finding:

There is overwhelming statistical evidence of racial disparities in Baltimore Police Department's (BPD's) stops, searches, and arrests. . . . BPD officers subject African-Americans to a disproportionate number of pedestrian and vehicles stops on Baltimore streets and search African-Americans disproportionately during these stops. . . . The policing practices that cause the racial disparities in BPD's stops, searches, and arrests, along with evidence suggesting intentional discrimination against African-Americans, undermine the community trust that is central to effective policing. . . . Indeed, we heard from many community members who were reluctant to engage with the officers because of their belief that the Department treats African-Americans unfairly. . . . These concerns were acknowledged by BPD leadership and officers, who explained that lack of trust—particularly in many of Baltimore's African-American communities—inhibit officers' efforts to build relationships that are a key component of effective policing. . . .

I say that because racial profiling—discriminatory profiling—is ineffective and is counterproductive. It actually makes communities less safe. I have the honor of being the Special Representative for Anti-Semitism, Racism and Intolerance in the OSCE, or the Organization for Security and Cooperation in Europe's Parliamentary Assembly.

In that capacity, I have identified four major areas of concern within the 57 countries that represent the OSCE, including the United States. Those priorities are discriminatory actions against the Muslim community, the rise of anti-Semitism, the concerns of discrimination against the immigrant community, and also the concerns on discriminatory policing.

Discriminatory policing is very much engaged in our concerns about the rise of anti-Semitism, racism, and intolerance. Now, I want to make it clear: The overwhelming majority of people in law enforcement are good people. They are professionals. They are trying to do their job. They are against racial profiling. But we need to protect the professionalism within the police departments and establish a national policy against racial profiling.

My legislation is supported by over 1,150 organizations. Let me just, if I might, mention a couple of those, by quoting their leaders. Wade Henderson, president and CEO of the Leadership Conference on Civil and Human Rights, who supports this legislation said:

Discriminatory profiling is wrong, fosters distrust between law enforcement and the communities they serve and puts public safety at risk. Racial profiling infringes on civil liberties and squanders resources that should be used instead to catch criminal perpetrators. We urge his colleagues to join Senator Cardin and stand for effective law enforcement by supporting [this legislation].

Jennifer Bellamy, the ACLU legislative counsel, who also supports this legislation, said:

For centuries, discriminatory profiling practices have harmed communities of color. It is not enough to be 'against' racism and racial profiling, we need national leaders to end discriminatory practices. We know that profiling of any kind is ineffective and diverts law enforcement's time, money, and energy away from actual threats. The time is now to end racial profiling once and for all.

Then, lastly, Hilary Shelton, the director of the NAACP Washington Bureau and the senior vice president for policy and advocacy said:

This important legislation takes concrete steps to put an end to the insidious practice of profiling individuals by federal, state and local levels based on physical attributes or an individual's religion. It is difficult for our faith in the American criminal justice system not to be challenged when we cannot walk down the street, drive down an interstate, go through an airport, or even enter into our own homes without being stopped merely because of the color of our skin, who we are perceived to be, or what we choose to wear.

I could mention many of the other groups and many other quotes. This legislation is pretty straightforward. It establishes a national uniform standard against discriminatory profiling at all levels of law enforcement—State, local Federal.

For example, it tells us that we can't use as descriptors a person's race. We can do so when we are using it to describe a particular crime, but not as a predictor of future crimes. Let me close by quoting from Ron Davis, the former police chief of East Palo Alto, CA, where he said:

[T]here exists no national, standardized definition for racial profiling that prohibits all uses of race, national origin, and religion, except when describing a person. Consequently, many state and local policies define racial profiling as using race as the "sole" basis for a stop or any police action. This definition is misleading in that it suggests using race as a factor for anything other than a description is justified, which it is not. Simply put, race is a descriptor not a predictor. To use race along with other salient descriptors when describing someone who just committed a crime is appropriate.

That is what this legislation does. It establishes a national definition. It prohibits it in any form of policing in our country. It provides for training. It provides Federal grants for best practices. It requires the Attorney General

to issue reports. It is legislation that is needed in our country.

Former Attorney General Eric Holder adopted it at the national level, and he said:

In this Nation, security and liberty are—at their best—partners, not enemies, in ensuring safety and opportunity for all. . . . In this Nation, the document that sets forth the supreme law of the land—the Constitution—is meant to empower, not exclude. . . . Racial profiling is wrong. It can leave a lasting scar on communities and individuals. And it is, quite simply, bad policing—whatever city, whatever state.

The 14th Amendment to the U.S. Constitution guarantees “equal protection of the laws” to all Americans. Racial and discriminatory profiling is abhorrent to those principles, and it should be ended once and for all.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

TRUMPCARE

Mrs. MURRAY. Mr. President, I want to start by addressing the news last night that Republican leaders have decided to try to make their awful TrumpCare legislation even worse. TrumpCare wasn't enough of a giveaway to insurance companies, and it didn't do enough harm to women, seniors, and people with preexisting conditions, so Republican leaders decided to double down in efforts to appeal to their extreme conservative base.

They are now claiming that they can take away essential health benefits like maternity care, mental health care, and preexisting conditions through the reconciliation process, but here are the facts: Republican leaders know, just as Democrats do, that measures to take away these critically important protections cannot survive the reconciliation process and could never get 60 votes in the Senate. They are simply trying to sell conservatives a bill of goods today in the rush to jam this through, but the more they scramble, the more harmful this bill gets for patients and families and the worse it will be for any House Republican who will be held accountable for their votes on it.

As we all know, today marks 7 years since the Affordable Care Act was signed into law. While some here in Congress may view this as an ideal opportunity to ram through a reckless, harmful repeal of the law, I, for one, think about today a little differently.

I remember 7 years ago, standing with a young constituent of mine from Seattle, Marci Owens, as we watched President Obama sign the Affordable Care Act into law. I had met Marci when she was about 11 years old, in the midst of some of the most heated moments of the healthcare reform debate, and to this day, I will never forget the story she told me about her mom, who

all of a sudden had become sick, was forced to miss work, and because of that, she lost her job and lost her health insurance. Ultimately, because she wasn't even able to see a doctor or get any care, she died as a result of her illness.

I took that story with me, along with countless other stories of families unable to access care, pay for medication, or see a doctor. I used them as motivation as my colleagues and I worked tirelessly to pass the Affordable Care Act.

Just last month, I was proud to have Marci, who is now 18, attend President Trump's joint address to Congress as my guest. Today, Marci is still sharing her story and advocating for affordable healthcare, as well as transgender rights. She, along with millions of others across the country, is once again standing up, speaking out, and making it clear that we cannot go backward.

I come to the Senate floor to share some of the stories of families in my home State of Washington who are worried, who are afraid, and whose lives will be at risk if President Trump and Republicans take us down this dangerous path to repeal, people whose voices need to be heard more than ever.

I want to make it very clear why we are here and what is at stake. The House Republican TrumpCare bill would have a profoundly negative impact on the lives and the well-being and the financial security of people across the country, people who are truly terrified about the uncertain path forward. Yet, for having such a profound impact, Republicans are seemingly doing everything they can to limit public discussion on TrumpCare. This bill was rushed through four House committees without a single public hearing, no testimony, no expert view. House Republicans voted the bill out of two of these committees without a CBO score, without knowing how many people would be impacted.

In the Senate this week, every Senate Democrat on the Health, Education, Labor, and Pensions Committee called on the chairman to allow for a hearing to talk about this bill, but he refused. He ignored the request, and he held a hearing on other health policy instead. That the Health Committee—the Health Committee—has not been allowed to hold a single hearing to talk about and debate TrumpCare is appalling and shameful.

Not to be outdone, of course, the majority leader, instead of committing to give all Senators time to review and evaluate the bill, has now said the bill will go straight to the floor for a vote as soon as next week, prompting even Members of his own party to come out against this plan.

In all, these efforts are unprecedented. They are wrong, and they speak volumes about the kind of bill they are trying to ram through, because we now know many of the facts of the bill.

This bill will kick 24 million people off their coverage. It will cause premiums to skyrocket. Seniors will pay more for their care. It will put at risk those who are struggling with mental illness and substance use disorders, including opioid addiction. It would end Medicaid as we know it.

Predictively, it attacks women's constitutionally protected healthcare and rights. It defunds Planned Parenthood and puts insurance companies back in charge of other critical parts of women's healthcare, including maternity care, cancer screenings, and contraception. This bill undermines women's access to healthcare and women's ability to make their own healthcare decisions in virtually every way a piece of legislation could.

I oppose this bill in the strongest terms. I am going to be doing everything I can to fight back against it, and I know Senate Democrats will as well.

Families across the country are looking to us, and they have nowhere else to turn. Like many of my colleagues, I have constituents coming up to me constantly when I am at home, asking me what is going to happen if TrumpCare becomes law. They are bravely sharing deeply personal stories about their health, their families, and their fears—something they should not have to do. They deserve to be heard.

Erin Zerba from my home State of Washington deserves to be heard. She has been a teacher for 19 years and teaches in two rural school districts, but because of her part-time standing in both districts, she is ineligible for insurance. If it weren't for the Medicaid expansion under the Affordable Care Act, she would have no options.

As Erin puts it, she is “terrified” to learn that Medicaid would be gutted under TrumpCare. She has multiple disabilities, including autism and Ehlers-Danlos syndrome. She has had repeated surgeries following a difficult pregnancy. The medication she has to take every day is very expensive. There is no generic form. She is one of those millions of people.

I have to say that we are going to fight back in every way we can because the TrumpCare bill that is being rushed through the House with giveaways being given to Senators for their votes is not the way we take care of people in this country. I am deeply worried about the process of this bill.

I see the Democratic leader on the floor, and I know how important it is for him to speak. I just want to say, as the ranking member on the Health Committee, it is appalling to me that we have had no hearings, no expert witnesses, no markup. We have not seen this bill, and it is being rushed through. It will impact every single American and deserves the time of day, not some created chaos and deadline timeline that was created simply to fulfill a campaign promise and not to do the right thing for the American people.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

THANKING THE SENIOR SENATOR FROM WASHINGTON

Mr. SCHUMER. Mr. President, first, I would like to thank the senior Senator from the State of Washington, the ranking member of the Health Committee, for her outstanding work on this issue. She knows this issue better than just about anybody in this Chamber. She is passionate and also fact-driven about her views and has had great influence on this Chamber.

I hope my colleagues on the other side of the aisle will review what she said. To rush through a bill for a campaign promise—a bill that is fraught with problems and difficulty, many of which will probably not come to light until after the bill comes to the floor—is the wrong thing to do. I thank the senior Senator from the State of Washington.

TERROR ATTACK IN LONDON

Mr. President, first, I want to just say a few words. My heartfelt condolences go to the families of the victims in London.

Terrorism strikes everywhere. It was so close to the symbol of Great Britain—Parliament, Big Ben, a place we have all seen in pictures and some of us have had the opportunity to see in person. It reminds us that the scourge of terrorism needs to be eradicated in any way we can. I am committed to that, and I know the 100 Members of this Senate body are as well.

Our hearts go out to those who were lost.

NOMINATION OF NEIL GORSUCH

Mr. President, now I will move on to the subject I wish to speak about at length this morning, and that is Judge Gorsuch.

I have had the opportunity these past 3 days to watch Judge Neil Gorsuch in the Judiciary Committee and to review his credentials and record on the Tenth Circuit and before that.

I would particularly like to recognize the outstanding work done by every Democratic member of the Judiciary Committee. They were outstanding in questioning Judge Gorsuch despite his lack of candor and desire to answer. I would like to particularly call out our exceptional ranking member, Senator FEINSTEIN, who has done a wonderful job leading that committee.

I have thought long and hard about his nomination and what it means for the future of the Supreme Court and for the future of our country. What is at stake is considerable. The decisions we make here in the Senate over the next few weeks about Judge Gorsuch, as on any Supreme Court nominee, will echo through the lifetime tenure of that judge, through a generation of Americans.

Discussions of the Supreme Court can get wonky and technical, with invocations of precedent and canons of

interpretation. What is at stake, however, is not at all abstract; it is real and it is concrete for Americans, whose lives, health, happiness, and freedoms are on the line at the Supreme Court. Closely divided decisions recently have meant the difference between the ability to marry the person you love or not, the ability to have your right to vote protected or not, the ability to make personal choices about your own healthcare or not. The Supreme Court matters a great deal. It matters for workers who want to protect both their lives and their jobs, for employees who need to be able to seek redress for discrimination, and for parents who want their kids to get a fair shake in the education system.

It is with all this in mind that I have come to a decision about the current nominee. After careful deliberation, I have concluded that I cannot support Judge Neil Gorsuch's nomination to the Supreme Court. His nomination will face a cloture vote. He will have to earn 60 votes for confirmation. My vote will be no, and I urge my colleagues to do the same.

To my Republican friends who think that if Judge Gorsuch fails to reach 60 votes, we ought to change the rules, I say: If this nominee cannot earn 60 votes—a bar met by each of President Obama's nominees and George Bush's last two nominees—the answer isn't to change the rules, it is to change the nominee.

This morning, I would like to lay out the reasons I will be voting no on this nomination.

First, Judge Gorsuch was unable to sufficiently convince me that he would be an independent check on a President who has shown almost no restraint from Executive overreach.

Second, he was unable to convince me that he would be a mainstream Justice who could rule free from the biases of politics and ideology. His career and judicial record suggest not a neutral legal mind but someone with a deep-seated conservative ideology. He was groomed by the Federalist Society and has not shown 1 inch of difference between his views and theirs.

Finally, he is someone who almost instinctively favors the powerful over the weak, corporations over working Americans. There could not be a worse time for someone with those instincts.

Judge Gorsuch's opportunity to disabuse us of all these objections was in the hearing process, but he declined to answer question after question after question with any substance. Absent a real description of judicial philosophy, all we have to judge the judge on is his record.

First, I want to address the first issue I raised, that of judicial independence. It is so clear that at this moment in our history, our democracy requires a judge who is willing to rule against this President. This administration seems to have little regard for the rule of law and is likely to test the Constitution in ways it hasn't been

challenged in decades. It is absolutely the case that this Supreme Court will be tried in ways that few courts have been tested since the earliest days of the Republic when constitutional questions abounded.

The President himself has attacked individual judges and the credibility of the judiciary at large. The President has attacked a three-judge panel of the Ninth Circuit and said if they didn't decide with him, they would be responsible for the next terrorist act. I have never heard any President in my lifetime or read about any President in previous history who dared do that. We are in uncharted territory with this President and with judicial independence. It requires a strong independent backbone. Judge Gorsuch has shown none. Senators on the Judiciary Committee rightly asked Judge Gorsuch direct questions about this issue. I did so myself in my meeting with the judge. While the judge repeatedly asserted his independence, he could not point to anything in his record to guarantee it. Judge Gorsuch offered the Judiciary myriad platitudes on this point. "No man is above the law," he said. He said he was "disheartened" by the President's attacks on the judiciary. The President, for his sake, said that Judge Gorsuch didn't mean him, and everyone left it at that.

If Judge Gorsuch had an ounce of courage, had shown a scintilla of an ability to be independent, he would have said: No, Mr. President. No, President Trump, I did mean you. Instead, he just tells us in general that he is demoralized, disheartened. Telling us is not the same as showing us. He is asking us to take him at his word, but his record suggests that he has long been someone who has advocated extreme deference to assertions of broad Presidential power.

That leads me to my second point; that Judge Gorsuch was unable to convince me that he would be a neutral judge, free of ideology and bias. The hearings this week were an opportunity for Judge Gorsuch to explain his record, to tell us how he thinks and how his judicial philosophy does not fundamentally advantage the powerful. Instead, we got banalities and platitudes. We didn't get any real answers to any real questions about what he thinks about the law and why. He refused to answer general questions on dark money in politics, LGBTQ rights, the constitutionality of the Muslim ban. I couldn't believe it, when I asked him: Is a law that bans Muslims, a law that just said all Muslims are banned from the U.S. unconstitutional, he couldn't even answer that. He refused to say whether he agreed with Supreme Court decisions in seminal cases like *Brown v. Board*, *Roe v. Wade*, *Griswold v. Connecticut*, despite the fact that his predecessors, Justices Roberts and Alito, said they agreed with those cases.

He refused to answer questions about the emoluments clause, a section of the

Constitution that prohibits foreign corruption of U.S. officials. Instead of an umpire calling balls and strikes in baseball, what we really saw was a well-trained expert in dodgeball.

My friend, the ranking member of the committee, said it best. "What worries me," she told the nominee, "is that you have been very much able to avoid any specificity like no one I have ever seen before."

Let me repeat. There is no legal standard, rule, or even logic for failing to answer questions that don't involve immediate and specific cases that are or could come before the Court. It is evasion, just evasion, plain and simple, and it belies a deeper truth about this nominee.

If anyone doubts that Judge Gorsuch doesn't have strong views, that thinks he would be a neutral judge calling balls and strikes as Judge Roberts once put it, just look at the way he was chosen. He was supported and pushed forward by the Heritage Foundation and the Federalist Society, and groomed by billionaire conservatives like Mr. Anschutz. President Trump simply picked someone from off their list.

President Trump sought the advice and consent from the Federalist Society instead of from the U.S. Senate. Does anyone think the Federalist Society would choose someone who just called balls and strikes? Does anyone think they would put on their list a neutral, moderate judge when they haven't ever supported anyone but judicial conservatives, almost all hard-right judicial conservatives in their history? The Federalist Society has been dedicated for a generation to influence the courts to favor corporations and special interests. If anyone doubts that Judge Gorsuch could be an activist judge with views eschewing the interests of average people, look at how he was selected—by a group that is not neutral, a group that has been dedicated to changing the judiciary and placing activist, hard-right judges on the bench. Now that he is nominated, look at how much money, dark, secret, undisclosed money—it is a good bet from the very corporations Judge Gorsuch has been defending his whole career. If he were so neutral, would they be spending this money? I doubt it.

Anyone groomed by the Federalist Society will not call balls and strikes. Their views are best foretold by the ideology of the people who groomed them. To say Judge Gorsuch has no ideology whatsoever is absurd. He just will not admit it to the American people. To say he is just neutral in his views is belied by his history since his college days and by his own judicial record. He even tried to deny it. In the hearings, Judge Gorsuch repeated the hollow assertion that judges don't have parties or politics. He said there are no Democratic judges or Republican judges, but if that were true, we wouldn't be here, would we? If that were true, if the Senate were merely

evaluating a nominee based on his or her qualifications, Merrick Garland would be seated on the Supreme Court right now. Merrick Garland is not a Justice. We all know why. We all know my friends across the aisle held the Supreme Court seat open for over 1 year in hopes that they would have the opportunity to install someone hand-picked by the Heritage Foundation and the Federalist Society to advance the goal of Big Money interests entrenching their power in the Court.

They don't even mind that this nomination is moving forward under a cloud of an FBI investigation of the President's campaign. The Republicans held a Supreme Court seat open for a year under a Democratic President who was under no investigation but now are rushing to fill the seat for a President whose campaign is under investigation. It is unseemly and wrong to be moving so fast on a lifetime appointment in such circumstances.

Finally, Judge Gorsuch came into this hearing with a record that raises deep concerns about whether he would consider fairly the plight of the average citizen before the interests of powerful special interests. I examined his record. I saw a judge who repeatedly decided with insurance companies that wanted to deny disability benefits to employees. I saw a judge who, in unemployment discrimination, sided with employers the great majority of the time. I saw a judge who, on the issue of money and politics, seems to be in the same company as Justices Thomas and Scalia, willing to restrict the most commonsense contribution limits.

In the hearings, Judge Gorsuch did nothing to explain his philosophy, did nothing to assuage those concerns. We will just have to go by his record, a record that shows time and time again his rulings favor the already powerful over ordinary Americans.

Judge Gorsuch ruled against a teacher, Grace Hwang, who, having been through two bouts of cancer, was advised by her doctors not to return to the college campus during a flu epidemic lest she put her life at risk. She was fired for taking sick leave. Judge Gorsuch, true to form, voted to uphold that dismissal. Her daughter Katherine told us last week:

This decision to protect her health cost my mom her job. When Judge Gorsuch issued his ruling, he didn't think about the impact that this had on our family. The law calls for "reasonable accommodation for those who are disabled."

Judge Gorsuch ignored the human cost.

Judge Gorsuch ruled against a truck-driver, Alfonse Maddin, who had to make a similar choice between his employer and his life. I met with him. He told me a harrowing story of being stuck in the cab of a tractor-trailer with frozen brakes, no heat, temperatures outside dipping to 27 below zero. He had a choice, leave the trailer with broken brakes and drive the cab to safety or stay in the trailer and freeze

to death. He radioed his company to explain his predicament. They told him that the cargo was the most important thing; he couldn't leave it. Rather than risk the lives of other motorists on a freezing highway by driving a trailer with frozen brakes, Mr. Maddin struggled to unhitch his trailer and drive his cab to safety—returning later for it once he was not at risk of dying from the cold. For that, his company fired him. He sued. Seven judges heard this case as it went through appeal. Only one, Judge Gorsuch, in dissent, ruled against him. Judge Gorsuch used an exceptionally technical and illogical reading of the statute to reach the absurd conclusion that Mr. Maddin was obligated to risk his life to protect his cargo.

Mr. Maddin said that Judge Gorsuch's nomination to the Supreme Court gives him "pause for concern" because he "demonstrated a willingness to artfully diminish the humane element that encompassed the issue."

Judge Gorsuch also ruled against a parent of a severely autistic child, Luke, who sought what the Individuals with Disabilities in Education Act guarantees him—the right to an education that met his needs. Jeff Perkins, Luke's father, is testifying before the Judiciary Committee today. Their story is powerful. Judge Gorsuch ruled that Luke was not entitled to attend a specialized school because he was able to make more than *de minimis* progress in the normal educational system.

Just yesterday, the Supreme Court unanimously—including Justice Alito and so many others who are so conservative—rejected Judge Gorsuch's interpretation of the IDEA. The Court held that "when all is said and done, a student offered an educational program providing 'merely more than a *de minimis* progress from year to year can hardly be said to have been offered an education at all.'" That puts Judge Gorsuch's interpretation of the IDEA law to the right of even Justice Thomas—a very difficult feat.

Whom we put on the bench, their basic judgment, matters. While I do not think that the personal views and experiences should bear on the decisions of day-to-day cases, there is a reason we don't program computers to decide cases. We do not want judges with ice water in their veins. What we want and need are judges who understand the litigants before them and bring a modicum—at least a modicum—of human judgment into the courtroom. You can call this trait empathy or mercy. I think it falls in the category of common sense. It is common sense that necessarily comes from each person's own, unique life experience. Even Judge Gorsuch acknowledged this when he told the committee "I am not an algorithm." Yet he wouldn't tell us how, as a human—a nonalgorithm—he would uniquely approach a case.

When it comes to the application of the law, that empathy, that mercy,

that “humane element” of common sense—as Alphonse Maddin, the truck-driver, put it—is the most important judicial trait of them all because ultimately the law is abstract, but the people and situations are real. The task of the judge is to apply those abstract legal doctrines to very humane and sometimes very messy situations. It is a hard thing to do to bring fairness and justice to a world that is too short on both.

I am reminded of the words spoken by Portia, the great lawyer in “The Merchant of Venice,” who spoke of the blessings and necessity of mercy in applying the law.

He said:

The quality of mercy is not strain'd,
It droppeth as the gentle rain from heaven
Upon the place beneath. It is twice blest:
It blesseth him that gives and him that
takes.

'Tis mightiest in the mightiest: it becomes
The thron-ed monarch better than his crown;
His sceptre shows the force of temporal
power,

The attribute to awe and majesty,
Wherein doth sit the dread and fear of kings;
But mercy is above this sceptred sway,
It is enthroned in the hearts of kings,
It is an attribute to God himself.

Judge Gorsuch told us he is not God, and that is true, but his humanity does not excuse him from the attribute of mercy. Instead, his humanity should require it.

Alphonse Maddin sought the mercy of the law. The Hwang family sought the mercy of the law. Luke, the autistic child whose school was failing him, sought the mercy of the law. The man who had the power to see plain sense in their cases, who could rule in their favor and right the wrongs that had been done to them as other judges had done in each of those cases—Judge Neil Gorsuch—said no.

I am voting no on Gorsuch for Alphonse Maddin and workers across the country, for the Hwang family and others who do not want to choose between their health and providing for their children, and for the Perkins family, who loves their children just as they are and wants for them no fewer than the opportunities afforded to every other child in America.

The American people deserve someone who sees average litigants as more than incidental consequences of precedent, when that precedent produces an absurd result, whose view of the law is not so cold and so arid so as to wring out every last drop of humanity and common sense. It requires only the bare minimum of judicial decency to rule the right way in the cases I have mentioned, and Judge Gorsuch did not.

That is all the evidence my colleagues should need to vote no, and I urge them and will urge them in the days ahead to do so.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MARKEY. Mr. President, today, we are truly in a historic fight, a fight to protect one of the most treasured

and revered American values—our right to privacy. Make no mistake, our privacy has never been more in danger, and the American public knows it.

The American public knows its privacy is in danger when a smart TV can listen to its most intimate living room conversations—your conversations with your children, with your parents, with your spouse.

The American public knows its privacy is in danger when it seems that every day there is a hack on the databases of one of our country's largest companies—Yahoo!, Target, Home Depot, JPMorgan Chase.

The American public knows its privacy is in danger when the Russian surveillance machine—firing on all cylinders—hacks the U.S. election, threatening to undermine our sacred democratic system.

The American public knows its privacy is in danger when both Chambers of Congress hold countless hearings, launch investigations, and receive briefings on the rapidly growing cybersecurity threat to our Nation and the impact both on our national security and to the public.

The American public wants us to do more to protect its privacy. The American public wants us to do more to protect its sensitive information. Yet what do the Republicans in Congress want to do today on the Senate floor? They want to make it easier for Americans' sensitive information to be used, shared, and sold without their permission.

Today, the Republicans are seeking a vote on a Congressional Review Act resolution that would allow Comcast, Verizon, Charter, AT&T, and other broadband companies to take control away from consumers and relentlessly collect and sell their sensitive information without the consent of that family.

That is sensitive information about your health, about your finances, even about your children. They want to track your location and draw a map of where you shop, where you work, where you eat, where your children go to school, and then sell that information to data brokers or anyone else who wants to make a profit off of you.

They want to document how many times you search online for heart disease, breast cancer, opioid addiction treatments, or AIDS treatment, and then sell that information to your insurance company. They want to know what games your teenagers play or shows they watch so they can then target ads to your family—and all of this done without your consent.

What the Republicans are bringing to the floor today is going to basically change the definition of “ISP”—internet service provider—to “information sold for profit.” It will stand for “invading subscriber privacy.”

President Trump, himself, is outraged about fake violations of his own privacy, but we should all be alarmed by this very real violation of privacy

that will occur today if the Senate decides to roll back these important consumer protections.

Here on the Senate floor, the Republicans are fighting to make it easier for your broadband provider to use and sell that same type of information—remarkably detailed and sensitive dossiers of information about you, your kids, your parents, your grandparents—320 million Americans.

The Republicans are trying to rescind the Federal Communications Commission's broadband privacy rules, which simply require your cable, wireless, or telephone company provider to obtain consumer consent before using or sharing subscribers' personal information; promote transparency by disclosing what they collect about internet and wireless users; and adopt data security protections and notify consumers if a breach occurs.

That is it. That is what this whole debate is all about—whether consumers, not the broadband providers, have control over their sensitive information.

The big broadband companies and their Republican allies say we need a light touch regulatory framework to protect Americans' broadband privacy—a light touch approach, like with the Federal Trade Commission, which does not prescribe actual privacy rules. The Federal Trade Commission only enforces the privacy policies companies create for themselves, and then they bring an enforcement action if a company violates its own very low standards, but if Comcast's or AT&T's or Verizon's policy is that you have no privacy, there is nothing for anyone to enforce. It would be impossible for the internet service provider to violate its own nonexistent or very low privacy protections.

Let's be clear here. When the broadband behemoths say “light touch,” they mean “hands off.” They mean hands off their ability to monetize captive consumers' sensitive information.

Let's be clear. When the big broadband barons and their Republican allies are firing their opening salvo in the war on net neutrality, they want broadband privacy protections to be the first victim.

When Republicans say we need to harmonize regulations, they really mean self-regulation. Self-regulation is the ultimate dream of the Republicans, who are beholden to those special interests. They really want to allow broadband companies to write their own privacy rules.

Is this really what the American public wants—a harmonized, light-touch approach to protecting their sensitive information from their broadband providers? Does the American public really want us to allow our broadband companies to ignore reasonable data security practices, making consumers' sensitive information more vulnerable to breaches and unauthorized access?

This resolution does just that. The internet service providers even oppose

following reasonable data security practices.

We should know better. The American public wants us to strengthen our privacy protections, not weaken them. The American people do not want their sensitive information collected, used, and sold by any third party, whether that be your broadband provider or a hacker.

At its core, this debate is about our values—our values as a people, our values as a society. While technology has certainly changed, our core values have not changed as a country. For generations, we have valued the right to choose whom we let into our homes, whom we communicate with, whom we share our most sensitive secrets with, but now the Republicans and the broadband industry are telling us that we must forgo those rights just because our homes are connected to the internet and our phones are connected to the internet.

With many Americans across the country having only a couple of broadband providers, at most, to choose from, they will not have the option of changing service providers if their privacy protections are not transparent or robust. And throughout it all, while the internet service providers monetize your personal information, the monthly bill will continue to show up for the service that is siphoning off your sensitive information.

My colleagues, we know the attack on the free and open internet is coming. Net neutrality is on the chopping block, and this is the first step in ensuring that the few and the powerful control the internet. We must stop this today, so I urge my colleagues to join with me.

The fundamental principle here is that every person should have the knowledge that information is being gathered about their families when they use the internet; second, that they have notice from the company that that information is going to be resold to a third party, to someone else, not to the broadband company; and third, that you have the right to say no, that you do not want that information about your family member to be resold.

When we were all younger and the salesman came to the front door and knocked, your mother told you to tell the salesman that they could not come into the house because the privacy of your family did not warrant allowing a stranger into your home. The broadband companies now say: Well, we are in your home, and we are wired in every room, and we now have the right to take all of the information of your family and sell it. What sites do your children go on? What sites do you go on to look for help for the disease that someone in your family might have?

Now the broadband companies say they are coming right through the front door. They are going into every room in your house. The American people have the right to say what they

have always said: No, you cannot take those secrets of our family. You cannot take how we use that information.

So this vote that we are about to take in the next couple of hours on the Senate floor goes right to the heart of who we are.

We now hear more about the Russians, and we hear more about companies whose information has been hacked. Then the Republicans are crying their crocodile tears about the compromise of privacy of people in our country, and then they come to the floor and take all of the information online in the family and allow it to be sold as a product. That is just fundamentally wrong. It goes contrary to the values of our country.

I urge very strongly a “no” vote from the Members of the Senate. Just remember: This is the privacy vote of all time on the Senate floor—of all time—because there has never been anything like the internet going into our homes. No one should be allowed to take all of that information and just sell it without getting their permission.

Mr. President, I urge a “no” vote on this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I just want to commend my colleague from Massachusetts for an excellent presentation. He has really outlined A to Z with respect to what this issue is all about. I commend him, and I also commend the ranking member of the committee, Senator NELSON, our colleague from Florida, for his excellent job.

Before he leaves the floor, picking up on the remarks of our colleague from Massachusetts, I am particularly struck by the fact that I have always thought that it is a classic conservative principle to empower the individual—to empower the individual to make fundamental choices about what would be important to them and their family and their wallets and all of the activities that are central to the life of a working class family.

What we have been touching on—very eloquently by my colleague from Massachusetts—is we are going to be voting in a little bit to strip rights from individuals, to retreat from that classic conservative principle of empowering individuals and families to make decisions.

I think, for all of the reasons that my colleague from Massachusetts has talked about and that Senator NELSON has been talking about, this idea of stripping from individuals the right to make these fundamental decisions and allowing the gatekeepers of the internet to collect, share, and profit from personal information of consumers without their consent is an extraordinary mistake for our country at this time.

I serve on the Senate Select Committee on Intelligence. I think, for many people, these issues have, in ef-

fect, converged with respect to privacy policy as it relates to the private marketplace, which is what this ill-advised proposal that we are going to vote on today is all about.

We are constantly offered up ideas that suggest that you really are faced with what amounts to a flawed set of choices. In the intelligence area, we are consistently told: Well, you just have to give up a little bit of liberty to have security. And the reality is that liberty and security are not mutually exclusive. Smart policies give us both. They give us security and liberty. Unfortunately, around here, we are coming up with policies, like weakening strong encryption, that are reducing both—reducing security and reducing liberty. I think what we are dealing with here on this ill-advised resolution in the Senate, with respect to the FCC rule, is yet another set of false choices—that you can either have internet access or privacy. They are not mutually exclusive. Just as we can have security and liberty, we can have internet access and privacy for all of the reasons that my friend from Massachusetts has been outlining.

Now, the FCC acted on the responsibility given to them by the Congress to protect browsing history—arguably the most intimate, personal information imaginable. Browsing history makes what the Senate did in the past with metadata look like small potatoes. Browsing history is really a picture into your personal life. I have appreciated the support of my colleagues for making sure that in the intelligence field, without court oversight, you couldn't get access to people's browsing history.

The Congress, in effect, told the Federal Communications Commission to protect browsing history, favorite applications, and even locations of American broadband users, and the FCC acted on it. Before that time, there were no rules in place outlining how an internet service provider—those are the ISPs that we always hear Senators talking about—may use, share, or even sell their customers' private information. So, just as the FCC has done for wireline phone customers, the FCC said it was going to keep up with the evolution of telecommunications networks by ensuring privacy protections would apply to broadband internet use. This struck a lot of us as just common sense. Again, building on the conservative principle of empowering the individual, the judgment was that by creating what are called “opt-in” consent agreements, where the consumer makes an affirmative decision about what they want—it is not what governments want, it is not what big companies want, it is what the consumer wants. The judgment was that by creating this opt-in consent agreement, the consumer would get a clear understanding of what the broadband provider knows about them from, for example, their computer or from their smartphone.

The big internet service providers are in a unique position to see where information flows over the networks and can see more of Americans' data than probably anybody else in what we might call the internet ecosystem. The websites we visit, what we look for, what time we are online—all of this, even our location—would be considered highly personal and highly sensitive information.

The responsibility of the internet service provider is to protect consumer privacy. It is compounded by the fact that the majority of broadband consumers have only one option for fast internet service to their home. There is only one company offering them service. So it seems to me what we are talking about—what Senator MARKEY has outlined—really looks like bad news for folks in rural areas where they are only going to have one provider, and, frankly, I think in a lot of metropolitan areas, particularly where there are modest-income individuals.

Without these protections in place, most consumers are left with the choice of giving up their browsing history for an internet service provider to sell to the highest bidder or to have no internet at all. So think about what that means for, say, an older person.

By the way, under what is being considered in the other body on healthcare, people between 50 and 64 aren't going to have a lot of extra money laying around. Those are people who are going to get clobbered—clobbered—by the healthcare bill that is being considered in the House today.

What is being considered in the House today—talking about the wallets of people between 50 and 64—would allow the insurance companies to charge people who are pre-Medicare five times as much as younger people. So they are already going to be paying thousands of dollars more out-of-pocket. Now, given what may happen in this body, we would have consumers left with the choice of giving up their browsing history for an internet service provider to sell to the highest bidder or have no internet at all. So we are socking it to them in terms of their healthcare premiums, and then we are socking it to them in terms of essential communications as well.

I just think this is unacceptable and certainly contrary to the whole notion of classic conservatism, empowering the individual. And it is certainly taking away these rights from folks in rural America—most of my towns in Oregon have populations of under 10,000 people. This proposal that is being discussed here is going to strip consumers of basic rights that are practically a requirement for economic success in the 21st century.

I am going to close by picking up on another point that I think Senator MARKEY said very well, and I believe I heard Senator NELSON, our ranking member, touch on as well. It looks to me like a subject that should not be in controversy: basic transparency and

accountability for the individual, and individual empowerment. It shouldn't be controversial. It shouldn't be a contentious matter. My colleague and I served in the other body for a number of years, and we built coalitions of people all across the political spectrum around the principles we are advocating today. Providing transparency and empowering the individual shouldn't be a contentious issue.

Under these regulations, internet service providers can still collect and use their subscribers' information. The rules simply ensure that internet service providers receive consent—receive permission from an empowered consumer—that it is OK to reuse or sell their information, and the companies would provide the consumers an explanation of how their data is collected and where it is shared. These rules are about transparency, plain and simple. Customers, especially those, as I have indicated, who are captive to one internet service provider, deserve to know how their internet service provider is using their data.

The broadband privacy rules are not some kind of attack on monetizing consumer data, but simply a recognition of the importance of consumer consent.

I will close by saying that more and more in this area, the American people are getting presented false choices. They are being told, as I see on the Intelligence Committee, that you have to give up some of your liberty to have your security. Those are false choices. They are not mutually exclusive. Everyone in America, everyone paying attention to this debate ought to know that they have a right to both. Don't ever, ever let a politician tell you that you have to give up some of your liberty to have your security. You have a right to vote, and it is our job, colleagues on both sides of the aisle, to come up with policies that do both.

Today, we ought to make sure that people aren't presented with another false choice—that to have Internet access you have to give up your privacy rights. You can have both, and the Federal Communications Commission has sought to come up with a sensible policy to do that.

So I join my colleagues, particularly my friend from Massachusetts, who knows so much about this field, and our terrific ranking minority member, Senator NELSON, in urging colleagues to oppose a harmful resolution that, in my view, turns class conservatism on its head and strips consumers of their rights in a truly ill-advised manner.

I yield the floor.

Mr. VAN HOLLEN. Mr. President, I oppose the resolution to repeal the Federal Communications Commission's rule to protect consumers from having their data sold by internet service providers, or ISPs, without their permission.

Passing this resolution of disapproval would represent yet another victory for big business and a defeat for hard-

working Americans who use the internet to do their job, connect with friends, or read the news.

The internet started as a system to facilitate communication among academic and military networks. In 1995, less than 1 percent of the world used it. Today more than 87 percent of Americans and more than 40 percent of the world's population use the internet.

Today the internet has become nearly indispensable. Increasingly, our toasters, refrigerators, and cars can connect to the internet, but legislation has been slow to keep up with technology. Every website we visit and every link we click leaves an unintended trail that tells a story about our lives. ISPs can collect information about our location, children, sensitive information, family status, financial information, Social Security numbers, web browsing history, and even the content of communications. ISPs sell this highly sensitive and highly personal data to the highest bidder without any consent or knowledge.

Recognizing that telecommunications companies have little incentive to tell consumers what they are doing with their personal data, the FCC promulgated a rule to make sure that consumers can protect their privacy through transparency, choice, and data security. The rule's name explains its purpose: "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services." The FCC rule would not stop companies from selling consumers' information, but the rule would require ISPs to get consumers' consent before using, disclosing, or allowing others to access this information.

As former FCC Chairman Wheeler said, "It's the consumers' information. How it is used should be the consumers' choice."

With this resolution, Congressional Republicans are telling 9 out of 10 Americans that they should not be able to decide how private corporations collect, disclose, and sell their personal data. This resolution puts the special interests of data users above those of consumers. I oppose the resolution.

Mr. WYDEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SULLIVAN). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation? Are we in morning business?

The PRESIDING OFFICER. The Senate is considering S.J. Res. 34.

CALLING FOR THE APPOINTMENT OF A SPECIAL PROSECUTOR

Mr. LEAHY. Mr. President, I have been privileged to serve in this body for more than 42 years, and I thank my native State of Vermont for that.

When I joined the Senate, our country was still crawling out of an intractable war—a war which came to an end with a vote in the Senate Armed Services Committee in April of 1975. Since then, I have seen our country slide into new wars. I have seen scandals that have consumed this town and our Nation. I have seen horrific terrorist attacks that have shaken our country to its core, from Oklahoma City to 9/11, and others. All of these events, in different ways, have tested our country. But I have never seen a threat to our democratic institutions like I see today.

There is still much we do not know about Russian interference in the 2016 Presidential election, but what we do know is deeply disturbing. Last night, reports indicated that there is evidence that certain Trump officials coordinated the release of hacked documents with Russian officials. And on Monday the FBI Director confirmed that the FBI has been investigating possible collusion between the Trump campaign and Russia since July of last year.

Already, the Intelligence Community has made public its conclusion that Russian President Putin waged a multifaceted influence campaign to delegitimize Secretary Clinton and help Donald Trump win the Presidency. Worse, he intended to undermine public faith in our democratic process. What is even worse is that this interference did not end on November 8, election day. It is ongoing. That—whether you are a Republican or a Democrat—should concern every American.

According to the Intelligence Community, President Putin will continue using cyber-attacks and propaganda campaigns to undermine our future elections. This is nothing less than an attack on our democracy. It should outrage all Americans, no matter what their political affiliation, and we need to know all the facts.

Frankly, my experience here tells me we need a thorough, independent investigation. We need to send a clear message to President Putin that America, our country—the country that the Presiding Officer and I revere—will not tolerate future efforts to manipulate our most sacred democratic process, our elections.

All of us here know that President Trump is not going to lead such an investigation. He is not going to deliver this message. The President, unfortunately, spent much of the 2016 campaign supportive of President Putin. Then-Candidate Trump refused to call on Russia to stop meddling in our election, saying: “I’m not going to tell Putin what to do.” He even encouraged Russian hacking on live television, pleading: “Russia, if you’re listening, I hope you’ll be able to find the 30,000 emails that are missing.” It is unprecedented. No candidate, in my memory, of either party has ever called on another country to interfere in our elections that way.

This was occurring as the President was claiming to have had no role in

weakening the Republican Party’s official position on Russia’s incursion into Ukraine. Of course, we have now learned that this was false, and his campaign played a central role in softening his party’s stance on Russia.

I do not know why the President is so enthralled with President Vladimir Putin, a man who has shown such disregard for personal rights, even as he has made himself one of the wealthiest people in the world. It may be simply because Russia is heavily invested in the Trump brand. Years before the President denied having any financial relationships with the Russians, his son admitted that Russians own a disproportionate share of Trump assets, saying: “We see a lot of money pouring in from Russia.” Now, just how invested Moscow is in Trump is not known. The President broke with precedent of both Republicans and Democrats and did not release his tax returns. But I imagine there would be quite a sigh of relief if the only secret in the President’s full tax returns were that he did not pay his share of taxes and paid far less than the average American.

The President, though, is not the only one in his administration incapable of telling the truth when it comes to Russia. His Attorney General provided testimony that was not true before the Senate Judiciary Committee in response to questions from me and Senator FRANKEN about Russian contacts, and we know his first National Security Advisor, Michael Flynn, resigned after lying to Vice President PENCE about his conversations with the Russian Ambassador.

President Trump’s former campaign chairman, Paul Manafort, also resigned after questions were raised about his extensive activities in Russia and Ukraine. Of course, now it has been reported that Mr. Manafort earned \$10 million per year for secret work on behalf of Putin.

Another former adviser, Roger Stone, had early warning of the release of hacked documents. He has admitted to having conversations with “Guccifer 2.0,” the Russian-connected hacker responsible for the cyber-attack on the Democratic National Committee.

They say that where there is smoke there is fire. There is so much smoke here that it is getting hard to breathe. The President unfortunately continues to make matters worse. This week alone, he continued his untruth about President Obama personally ordering a wiretap of Trump Tower, something everybody knows is not true. I think members of his own administration’s inner circle are embarrassed every time he persists in this.

On Monday, the President ramped up his own influence campaign to undermine the integrity of this investigation, tweeting “fake news” as the Director of the FBI prepared to testify under oath in the House of Representatives.

Now, I have no reason to doubt the integrity of the FBI’s investigation

thus far, but I have every reason to believe it is eventually going to be at risk. That is why we need somebody independent—dependent of the Congress, independent of the administration. We need an independent special prosecutor to lead this investigation and to ultimately decide whether there is sufficient evidence to prosecute. A special prosecutor would not report to the Attorney General, who himself is a witness to this investigation. And a special prosecutor, unlike the Attorney General or even the FBI Director, cannot be fired by the President.

I have thought long and hard about this. I went on my experience here with administrations beginning with President Gerald Ford straight through to today. It takes a lot of thought to call for a special prosecutor, but this is one where we need it, where the American people have to have somebody they can trust outside Republicans, Democrats, and the Congress, and certainly outside the administration.

Our Nation is at a precipice. We can either confront what happened in our election and get to the bottom of it with an independent investigation and make sure it never happens again. Or we can just pretend this is another Washington scandal and allow it to be filtered through a familiar partisan lens. That would be a terrible mistake. In all my years here, I have never seen a time when another country—one that has shown its animosity toward us—has tried to interfere in our elections. If Russia can get away with interfering with our elections, what else can they interfere with in our democratic Nation? They do not share the ideals we do. They do not allow free elections. They do not allow freedom of expression. They do not allow their people to speak out. Why would anyone think that they would have America’s interests at heart?

Today we have a counterintelligence investigation into the campaign of a sitting President. There is evidence that this campaign colluded with a foreign adversary to impact our Presidential election. This is not normal. We must not treat it as such. I would feel this way no matter who had won the election—no matter if they were Democrat or Republican, because it goes beyond one party.

President Putin’s goal last year was to undermine our democratic institutions—to corrode American’s trust and faith in government, something that has sustained us through two World Wars, through a Civil War, through all the other problems this Nation has faced. That trust should sustain us long after every one of us in this body are gone.

This is a responsibility that we as Senators have to our great Nation: not to think of ourselves for the moment, but to think where this Nation is 10 years, 20 years, 30 years, and 100 years from now. We must do that. We owe that to the American people. Republicans and Democrats alike, we owe it

to the American people. We take an oath to uphold our Constitution.

We come here, all of us—and I have great respect for every Senator here in both parties—we come here hoping to do the best for our Nation. Our Nation is in peril. All of us would stand together if we had an adversary attack us. All of us would stand together if somebody declared war on us. We have done that in the past. We did that after Pearl Harbor. We did that other times in our Nation's history. Well, because this is done quietly behind the scenes, it is a great attack on us.

As I said, President Putin's goal last year was to undermine our democratic institutions—to corrode Americans' trust and faith in our government, no matter who is President. If we do not get to the bottom of Russian interference, he will no doubt be successful. And if anybody doubts it, if he is successful, he will try it again.

That is why we should stand united and call for a truly independent investigation. The American people deserve nothing less. We can sit here and talk about this bill and that bill, but it is so rare that we have something overriding. This is overriding. Let's have an independent investigation. This Senator is willing to accept that whichever way it goes.

I see our distinguished majority leader on the floor.

I will yield the floor.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at 12:15 p.m. today there be 10 minutes of debate, equally divided in the usual form, remaining on S.J. Res. 34; further, that following the use or yielding back of that time, the joint resolution be read a third time and the Senate vote on the resolution with no intervening action or debate; finally, notwithstanding rule XXII, following disposition of the joint resolution, the Senate vote on the motion to invoke cloture on Executive Calendar No. 20, David Friedman to be Ambassador to Israel.

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

If no one yields time, the time will be charged equally.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BLUMENTHAL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BLUMENTHAL. Mr. President, the rules that the Federal Communications Commission recently promulgated—and when I say “recently,” it was October, only months ago—ex-

panded the concept of privacy and consumer protection as applied to broadband. Now we are on the verge of rescinding those rules through S.J. Res. 34.

This resolution is a direct attack on consumer rights, on privacy, on rules that afford basic protection against intrusive and illegal interference with consumers' use of social media sites, websites, that often they take for granted. Many Americans simply don't stop to think about how broadband providers, as the carriers of all internet traffic, are also able to collect and use consumer data, to put together a detailed picture of who they are, what they do, where and when they buy things, where they go, what they like to do—all of it an array of data that people assume is private, all of it freely available to those internet providers.

Even when data is encrypted, our broadband providers can piece together significant amounts of information about us—including private information, medical conditions, financial problems—based on online activity. It is a mine that can be used—more valuable than a gold mine—because that information can be sold and bought and used again so that privacy becomes a completely evanescent and illusory feature of our lives.

Consumers wanting to switch broadband providers are often hit with hefty termination fees, and they have to experience a lapse in Internet service at home—something that most simply don't have the luxury to do or endure in today's connected society where internet is accessible. They have no meaningful choice about how to safeguard broadband privacy. They have one choice if they want speeds above 25 megabits per second. That is why I applauded those rules when they were promulgated by the FCC back in October, finalizing broadband privacy protections. I applauded them because signing up for the internet should not mean you sign away your rights to privacy.

Just as telephone networks must obtain consumer approval before selling customer information, broadband providers ought to be required to obtain consumers' affirmative consent before selling their sensitive browsing or app usage data to advertisers. The FCC rules that this resolution would decimate, utterly destroy, essentially seek to protect that privacy interest. The only way the FCC's broadband privacy rules protect consumers is through an affirmative opt-in consent. That is the only real protection that works.

These rules also prohibit pay-for-privacy schemes that would require consumers to waive their privacy protections as a precondition to receiving service. They establish data security and breach notification standards for broadband providers.

They also have important national security implications. Just last week, the Department of Justice indicted four individuals, including Russian

spies, for hacking into Yahoo! systems in 2014 and obtaining access to at least 500 million Yahoo! accounts. According to the indictment, these Russian intelligence officers spied on U.S. Government officials and private sector employees of financial companies. One defendant also exploited the data for financial gain.

Without clear rules of the road, broadband subscribers will have no certainty or choice about how their private information can be used, no protection against abuse, and no assurance that security standards will be bolstered against that kind of attack that the Russians and their spies launched.

The FTC doesn't have jurisdiction over the security and privacy practices of broadband, cable, and wireless carriers. If the Ninth Circuit's recent decision in *FTC v. AT&T* is upheld, adopting a “status-based” instead of “activity-based” interpretation of the FTC's common carrier exemption, the FTC's jurisdiction and ability to impose privacy and security obligations would be even further curtailed.

Critics also say that the FCC's broadband privacy rules would unfairly create a separate regulatory regime for “edge providers,” websites such as Google or Facebook. If that is their real concern, why haven't they focused their efforts on ensuring that the FTC has meaningful rulemaking authority so that it can implement privacy and data security rules over such websites?

In closing, I have long supported giving the FTC authority to adopt its own rules governing the privacy and security of websites. Giving the FTC authority to adopt new rules would help ensure our privacy, keep our privacy safe no matter where we go on the internet or how we connect. However, I don't see any of our colleagues, in supporting this resolution, rushing to accomplish these goals.

We should all remember that consumers need control over their own information and how it is used. This resolution would subvert and sabotage that control.

All too often, Americans take for granted privacy until it is lost. Once it is lost, rarely can it be recovered. Once that information becomes public, privacy is irreparably damaged.

Today's vote, if it succeeds, will deprive Americans of important baseline privacy standards that they expect and demand the government to provide. Few Americans are aware of this vote today. Many will be aware of its consequences. It will do extraordinary damage to privacy, if it is approved.

I urge my colleagues to reject it and to help preserve American privacy.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. HARRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PATIENT PROTECTION AND AFFORDABLE CARE ACT

Ms. HARRIS. Mr. President, I rise to celebrate the anniversary of one of the most significant legislative achievements in American history, the passage of the Patient Protection and Affordable Care Act, also known as ObamaCare.

I rise in strong opposition to the American Health Care Act, a callous and carelessly written bill that would roll back progress and strip health insurance from millions of Americans.

I rise on behalf of people like Chrystal from my home State of California. You see, I know Chrystal. She works in my dentist's office. In early 2011, just after I was elected attorney general of California, I went in for a checkup. It had been a while since I had seen her. Chrystal asked me how I had been, and I asked her how she had been, and then she shared with me great news. She was pregnant.

As a dental hygienist, she was working for a few different dentists and wasn't on the payroll of any of them as a full-time employee. This was before the ACA was in place, so Chrystal was on private insurance with only basic coverage, just enough to cover her annual exams.

When Chrystal found out she was pregnant, she went to her insurance company to apply for prenatal coverage. She was denied. When I asked her why, she told me that they said she had a preexisting condition. So you can imagine I asked her: Are you OK? What is wrong? What is the preexisting condition?

She told me she was pregnant.

When she applied to another healthcare company for insurance, again, she was denied. Why? Preexisting condition. What was it? She was pregnant.

So this young woman was forced to go into her sixth month of pregnancy before she received a sonogram. Instead, thankfully, there was a free clinic in San Francisco, so she could get her prenatal care.

Thank God she had a strong and beautiful baby boy. His name is Jackson. They are both doing well today.

Thank God that situation is no longer the reality for millions of Americans.

I share Chrystal's story to remind us what America's healthcare system looked like only a few years ago.

We should not forget that before the ACA, 48 million Americans lacked health insurance. That is more people than the entire country of Canada.

Before the ACA, when these people got sick, they had three choices: Go without treatment, go to the emergency room, or go broke.

Before the ACA, 129 million people—almost one out of every two Americans—could be denied insurance coverage because of preexisting conditions. And the minute you got sick,

your insurer could dig up some flimsy reason to drop your coverage. You could be denied coverage for chemotherapy or insulin if you had cancer or diabetes. You could be denied prenatal coverage if you were pregnant, like Chrystal. You could even be denied health coverage if you were a victim of domestic violence.

Before the ACA, healthcare costs were crushing low-income and middle-class Americans. Premiums—which, of course, are those monthly bills that we all pay for our insurance—were going up and up. Sky-high medical bills were the No. 1 reason Americans went broke, causing them to sell their homes, their cars, and even pawn their jewelry to pay off their debts.

One of the worst things about facing the healthcare system without coverage before the ACA was that it left you feeling utterly alone. Most Americans know what I am talking about: that knot in your stomach when you know there is something wrong with your health or the health of your child or your parent, but you are not sure what it is, whether it can be fixed or whether your insurance will cover it, and the frustration, the anger as you try to make sense of the fine print and codes on the medical bill that has so many zeros.

How many of us have walked into an emergency room with a loved one and felt time just stop? Maybe it was with your child who was running a fever or having trouble breathing. Maybe your partner is being rushed in with a possible heart attack. All you will know is that something is wrong. All you know is that you are overwhelmed and scared, and you know that you should not also have to fight on the phone with an insurance company or wonder if a doctor will even see you at all. That is how millions and millions of Americans experienced our healthcare system.

It was not right or fair. So the ACA set out to make things better, and 7 years ago today, President Barack Obama signed the Affordable Care Act into law. It finally extended good, affordable health insurance to Americans like Chrystal all across the Nation. Vice President Biden was absolutely right when, at the time, he said that it was a "big"—and then I will not quote the next word; let's call it blanking—"deal."

It is a shame that people have been playing politics with this law and with America's health. The former Speaker of the House said that the ACA would be "Armageddon." A Republican Presidential candidate who now sits in the Cabinet called the ACA—and these are his actual words—"the worst thing that has happened in this nation since slavery."

Earlier this month, the President of the United States tweeted that the ACA is "a complete and total disaster." Well, I say: Tell that to the people of California because when a State wants to make the ACA work, it

works—whether that is California or Kentucky, and real people living real lives know it.

For example, I recently heard from Myra from Sherman Oaks, CA, who was diagnosed with an aggressive form of breast cancer. She wrote:

Before ObamaCare, my husband and I lived under constant stress due to our lack of good health insurance.

But, because of the ACA, Myra told me:

We had a Silver Blue Shield plan that covered . . . well over a million dollars in bills to date. I am happy to report I am now well, but without insurance, I was facing a death sentence. Without the ACA, we would certainly have had to sell our home to pay my bills and try to figure out how to make ends meet.

She wrote that it covered well over a million dollars. That is what the ACA does.

Here is how Cindy of from Oakley, CA, has experienced real life. She wrote:

My daughter was diagnosed with an eating disorder at 13 years old and I can directly thank the excellent care received at Kaiser Northern California for her good health today at age 17. Without the ACA and the mental health parity it helps provide . . . I would not have had treatment options available to me.

Again, coverage for mental health treatment—that is what the ACA does.

Honoree, a single mom from Samoa, CA, living with a spinal cord injury that has kept her from working for 3½ years, wrote to me and said:

I wanted to let you know that I love ObamaCare! My healthcare has steadily improved since the ACA was enacted. . . . I can't tell you how AMAZING it felt to get my teeth cleaned and cared for after waiting more than a decade.

I walked around for weeks saying, "thanks, ObamaCare!" whenever I sensed how good my teeth felt.

I would be saddened to see the ACA get scrapped. It's made a huge difference in our lives. Actually, I'd be more than saddened, I'd be very scared.

Again, this is testimony about the ACA, in this case about dental coverage and improved healthcare. That is what the ACA does.

I will state that I believe there is a huge disconnect between the over-the-top criticism of the ACA and the law's actual impact. There is a disconnect between the politics and how people are actually living and thriving under the ACA. In fact, in a recent poll, one in three Americans didn't even realize that the ACA and ObamaCare were actually the same thing, and they are. So, everybody, let's be clear about this. The Affordable Care Act is ObamaCare, and ObamaCare is the Affordable Care Act.

We all know, of course, that there are ways to improve the ACA, but ending it is not the answer. The truth is that the ACA has largely done what it was supposed to do—expand, protect, and reduce—expand coverage, protect consumers, and reduce the pace of rising healthcare costs. Thanks to the ACA and Medicaid expansion, 20 million

more Americans have health insurance. That is the population of the entire State of New York. Thanks to the ACA, premiums are going up at the slowest rate in half a century. Thanks to the ACA, doctors are innovating and providing better preventive care, from keeping people out of the hospital to delivering healthier babies. Thanks to the ACA, insurers cannot set lifetime limits on your care, meaning your insurance company won't tell you in the middle of a cancer treatment that they have paid all they ever will. Thanks to the ACA, millions of underserved Americans in rural towns and in cities and everywhere in between have access to care for the first time. Thanks to the ACA, young people can stay on their parents' insurance until they are 26. Thanks to the ACA, 55 million women have insurance that works—mammograms, checkups, and birth control with no copays. When you pick up your prescription at the pharmacy and see that the bill is zero dollars, well, that is the ACA. And thanks to the ACA, you can't be discriminated against if you have a preexisting condition, including that preexisting condition called being a woman.

Of course, navigating the healthcare system is still daunting, but things are better. There are now some rules of the road to keep insurance companies from taking advantage of you during some of life's most vulnerable moments. Because of the ACA, because of ObamaCare, you can sleep a little easier at night and know that your care will be there when you need it.

Let's fast-forward to today. Today, we mark the seventh anniversary of this historic life-changing law. But all that it covers and protects could also be ripped away, and that is because of the American Health Care Act, the Republican healthcare plan on the House side. That is what it will do—rip it all away.

They have done their best to mislead folks about their plan. They have criticized objective news reports, and they even questioned the Congressional Budget Office—which, as we know, is, by the way, a nonpartisan, independent office which crunched the numbers and found that this new plan would cause millions of Americans to lose insurance coverage.

Before we leap on to this new bill, let's all ask some key questions. Let's all take a good look at what this plan really would and would not do.

First, will this bill provide insurance for everybody, as President Trump promised? Well, the answer is no. In fact, the independent Congressional Budget Office says that under the GOP plan, 24 million Americans will lose their health insurance by the end of the decade. That is equal to the population of 15 States combined.

Who are these people? These are middle-class families, our Nation's teachers, veterans, truckdrivers, nurses, and farmers. These families include those who struggle with opioid addiction,

have a child that needs support for autism, or have an aging parent who needs a nursing home. This bill threatens them all.

Let's ask: Will the plan help the folks who need care most? The answer is no. The House Republican plan's flat tax credits are based only on age, with no consideration of income level. So what that means is that a 40-year-old cashier making \$10,000 gets the exact same amount as the 40-year-old banker making \$74,000 a year. It doesn't matter whether you live in downtown Manhattan or the Cleveland suburbs or rural Alaska.

Let's ask: Will monthly costs go down for low-income and middle-class families who are stretched horribly thin right now? The answer is no. According to that same independent analysis, the Republican plan will immediately increase American families' premiums by 15 to 20 percent, with higher deductibles and out-of-pocket costs after that. In the next decade, a person in their fifties could see their insurance costs go up 850 percent. Their insurance costs can go up 850 percent.

Let's ask: What about our seniors—will their monthly costs go down? Sadly, the answer is no. The Republican plan lets insurers charge seniors five times as much as other Americans, meaning that high cholesterol your doctor diagnosed could cost you \$3,200 more a month.

Let's ask: Will all women still have access to affordable family planning? The answer is no. This new bill will give Americans choice in healthcare, but the women of America will not have choice. The bill denies women tax credits if they get a plan that covers abortions. It prohibits Planned Parenthood from providing care for millions on Medicaid. Some 2.5 million patients choose Planned Parenthood every year, including roughly 1 million in California. They should be able to see the provider they choose and trust.

Let's ask: Will this new plan protect Medicaid, as President Trump promised? Well, the answer is no. Medicaid covers many people whose jobs don't offer healthcare, and it also pays for half of all the births in this Nation. It supports people with disabilities and children with special needs. Most people don't realize that Medicaid is the primary payer for treatment of opioid addiction and substance abuse. But this new plan being offered by House Republicans would roll back Medicaid coverage and cut nearly \$1 trillion in Medicaid benefits over the next decade.

Let's ask: Does the plan put American families ahead of insurance companies? The answer, tragically, is no. Under this plan, if you lose your job and it takes more than 2 months to find another, you will be charged a 30-percent penalty on top of the monthly costs you are already paying. That money goes right into the insurance company's pockets.

So, by now, you are probably wondering: Who exactly does this bill help?

Well, here is your answer. It gives millionaires a \$50,000 average tax cut every year. It gives the top 0.1 percent in this country a \$195,000 tax cut every year. It gives insurance companies a \$145 billion tax break over the next decade. The President and the Speaker want you to believe that this plan is good for American families, but under their bill, the only thing that gets healthier are the insurance companies' bottom line.

As far as California is concerned, this bill would devastate our families. Here are the facts, and, frankly, here is the fight. Over 5 million Californians have received insurance through the Affordable Care Act. I say they are worth fighting for.

Since the ACA went into effect, California's uninsured population has been cut almost in half, from 17 percent to about 7 percent. I say they are worth fighting for.

Medi-Cal went from covering 8.5 million Americans to 13.5 million today. One in two children are covered under Medicaid. I say they are worth fighting for.

The community clinics and health centers that so many Californians rely on would be cut back or closed. I say they are worth fighting for.

A UC Berkeley study estimates that repealing the ACA would cost California up to 200,000 jobs, everyone from home healthcare aides and janitors to workers in retail, restaurants, and accounting. I say they are worth fighting for.

I rise today to emphasize that it is really important that we understand the everyday consequences of this bill. We are talking about real people. If you are a farmer in the Central Valley on Medicaid, you can lose that coverage. If you are a Los Angeles senior with diabetes, you may no longer be able to afford coverage on the individual market. If you are a family in Shasta County with a child dealing with a prescription drug addiction, substance abuse treatment likely will not be covered. If you are a couple in Humboldt County with an ailing parent, your request for home health services could be denied. These are the kinds of Californians and the kinds of Americans who this plan would hurt.

When these folks wake up at 3 a.m. worrying about an ache or pain or their next chemo appointment, when they wake up with that concern and that thought at 3 a.m., I promise you, they are not thinking about that through the lens of being a Republican or a Democrat. They think about themselves as fathers, mothers, parents, daughters and sons, and grandparents. They worry about their health needs and how their health needs will affect not only themselves but their loved ones. These concerns are not about politics. These are universal concerns, and we have all been there.

It is because all of us share these concerns and because all of us would be badly harmed by this new plan that

this bill is opposed by the American Medical Association, the American Hospital Association, the American Nurses Association, the American Heart Association, the American Cancer Society, the American Diabetes Association, and the AARP. They are the most respected medical and patient advocacy groups in this country, and they know what is at stake.

Ultimately, I believe this bill is not just about medicine or math; I believe this is about morals. The plan that the House is voting on today is a values statement, and it is not a good one. As our former President said about the ACA, this is more than just about healthcare; it is about the character of our country, and it is about whether or not we look out for one another.

I think we need to take a good, hard look in the mirror and ask: Who are we as a country? Are we a country that cuts the deficit by cutting care for our most vulnerable?

Let's look in the mirror and ask: Are we a country that gives tax breaks to insurers while giving higher medical bills to patients?

Are we a country that tells seniors and cancer patients and women "You are on your own"?

Are we a country that sees healthcare as a privilege for a few or a right for all?

I believe that is what we have to decide.

The ACA is not perfect. It can be strengthened, and I am willing to work with anyone who will work in good faith to do that, but it is time to stop playing politics with public health.

Our government has three main functions: public safety, public education, and public health. We shouldn't be turning these responsibilities into partisan issues. Instead, we should be figuring out how to improve the lives of all Americans, whether we are Democrats, Republicans, or Independents.

People are counting on us, people like one of my constituents in Kern County—a woman who is suffering from lung disease, who said:

We are not asking for much . . . decent healthcare. . . . Don't take it away. . . . Make it better.

I say to my colleagues: Do not take away American people's healthcare. Let's make it better.

I yield the floor.

The PRESIDING OFFICER (Mrs. FISCHER). Under the previous order, there will now be 10 minutes of debate, equally divided in the usual form, prior to a vote on S.J. Res. 34.

The majority whip.

Mr. CORNYN. Madam President, speaking of the vote that we will be having in just a few minutes, for the last several weeks, this Chamber has worked very hard to undo harmful rules and regulations that had been put forward by the Obama administration, at the last moment, as he was headed out the door. These are rules that hurt job creators and stifle economic growth.

The FCC privacy rules are just another example of burdensome rules that hurt more than they help and serve as another example of the government's picking winners and losers. They unnecessarily target internet service providers and, ultimately, make our internet ecosystem less efficient by adding more redtape.

The bottom line is that the FCC privacy rules are bad regulations that need to be repealed.

I should also note that this Congressional Review Act vote will not change the entire online privacy protections that consumers currently enjoy, and it will not change statutory privacy protections under the Communications Act. It will repeal something that was done unilaterally by President Obama and his administration, as I said, following the ending of his term, as they were headed out the door.

I thank the junior Senator from Arizona, Senator FLAKE, for his work on this CRA and moving it forward.

I urge all of my colleagues to support this resolution of disapproval.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. SCHATZ. Madam President, today, we will vote on a resolution that will take away privacy protections from the American people. By voting for this resolution, Congress is ignoring the fact that people want more protections online, not fewer.

In 2016, Pew did a study to determine the state of privacy in the United States, and the center found "Americans express a consistent lack of confidence about the security of everyday communication channels and the organizations that control them."

Pew found that this is especially true when it comes to the internet. People no longer trust organizations—public or private—to protect the data they collect.

Today, we are going to make that worse. That is because broadband providers know our complete browsing history. Think about that for a second. They know everything we do online, everything we search for on a daily basis. Think about how personal that information is, how it paints a picture of who we are. It is totally reasonable for broadband providers to have to ask customers for their consent before they take that information—our browsing history, what we do online—and sell it to a third party.

That will no longer be the case after the Republicans vote for this bill and it is enacted into law. Broadband providers will be able to take your browsing history and sell it without your permission. The FCC spent months on this rule, and by using the CRA to get rid of it, Congress is taking away the FCC's authority to do anything like it ever again. That will mean there is no Federal agency—not the FTC, not the FCC—that will even have jurisdiction over the issue of privacy for broadband providers.

What is the solution here? We should work with the private sector, the FCC, and the FTC to find a comprehensive solution together.

At a time when data collection and use is increasing exponentially, Republicans should not be rolling back protections for consumers. This is yet another repeal without replace.

Fifty-five years ago this month, President Kennedy gave a seminal speech about consumer rights. He spoke about the march of technology—how it had outpaced old laws and regulations and how fast that progress had occurred. That progress is only getting faster. The next massive technological change will be the "internet of things," in which we will have tens of billions of devices connected to each other and interacting with us whether we like it or not.

As technology marches on, what stays the same is the bedrock principle that President Kennedy outlined, which is that consumers have a right to be safe, a right to be informed, a right to choose, and a right to be heard. Those rights are in jeopardy. The FCC took a small but important step, but the Republicans are walking it back.

Let me be clear. This is the single biggest step backward in online privacy in many years. I urge a "no" vote.

I ask unanimous consent all time be yielded back.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. SCHATZ. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Under the previous order, the joint resolution having been read the third time, the question is, Shall the joint resolution pass?

The clerk will call the roll.

The bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON) and the Senator from Kentucky (Mr. PAUL).

The PRESIDING OFFICER (Mr. ROUNDS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—50

Alexander	Enzi	McCain
Barrasso	Ernst	McConnell
Blunt	Fischer	Moran
Boozman	Flake	Murkowski
Burr	Gardner	Perdue
Capito	Graham	Portman
Cassidy	Grassley	Risch
Cochran	Hatch	Roberts
Collins	Heller	Rounds
Corker	Hoeben	Rubio
Cornyn	Inhofe	Sasse
Cotton	Johnson	Scott
Crapo	Kennedy	Shelby
Cruz	Lankford	Strange
Daines	Lee	

Sullivan	Tillis	Wicker
Thune	Toomey	Young

NAYS—48

Baldwin	Gillibrand	Murray
Bennet	Harris	Nelson
Blumenthal	Hassan	Peters
Booker	Heinrich	Reed
Brown	Heitkamp	Sanders
Cantwell	Hirono	Schatz
Cardin	Kaine	Schumer
Carper	King	Shaheen
Casey	Klobuchar	Stabenow
Coons	Leahy	Tester
Cortez Masto	Manchin	Udall
Donnelly	Markey	Van Hollen
Duckworth	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Murphy	Wyden

NOT VOTING—2

Isakson Paul

The joint resolution (S.J. Res. 34) was passed, as follows:

S.J. RES. 34

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Federal Communications Commission relating to "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services" (81 Fed. Reg. 87274 (December 2, 2016)), and such rule shall have no force or effect.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. SASSE). Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant 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 David Friedman, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Mitch McConnell, Steve Daines, John Cornyn, Tom Cotton, Bob Corker, John Boozman, John Hoeven, James Lankford, Roger F. Wicker, John Barrasso, Lamar Alexander, Orrin G. Hatch, David Perdue, James M. Inhofe, Mike Rounds, Bill Cassidy, Thom Tillis.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of David Friedman, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON) and the Senator from Kentucky (Mr. PAUL).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—52

Alexander	Flake	Perdue
Barrasso	Gardner	Portman
Blunt	Graham	Risch
Boozman	Grassley	Roberts
Burr	Hatch	Rounds
Capito	Heller	Rubio
Cassidy	Hoeven	Sasse
Cochran	Inhofe	Scott
Collins	Johnson	Shelby
Corker	Kennedy	Strange
Cornyn	Lankford	Sullivan
Cotton	Lee	Thune
Crapo	Manchin	Tillis
Cruz	McCain	Toomey
Daines	McConnell	Wicker
Enzi	Menendez	Young
Ernst	Moran	
Fischer	Murkowski	

NAYS—46

Baldwin	Gillibrand	Peters
Bennet	Harris	Reed
Blumenthal	Hassan	Sanders
Booker	Heinrich	Schatz
Brown	Heitkamp	Schumer
Cantwell	Hirono	Shaheen
Cardin	Kaine	Stabenow
Carper	King	Tester
Casey	Klobuchar	Udall
Coons	Leahy	Van Hollen
Cortez Masto	Markey	Warner
Donnelly	McCaskill	Warren
Duckworth	Merkley	Whitehouse
Durbin	Murphy	Wyden
Feinstein	Murray	
Franken	Nelson	

NOT VOTING—2

Isakson Paul

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 46. The motion is agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of David Friedman, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. SCHATZ. Mr. President, I would like to talk about U.S. support for Israel. It used to be that U.S. support for Israel was bipartisan. One of the most deeply disappointing realities in Washington today is that this support is becoming characterized as increasingly partisan. That is because—what happened was Republicans came out against one of President Obama's signature foreign policy achievements, the Iran nuclear deal.

That opposition came in the face of consensus among national security experts across the political spectrum, both here and in Israel, that this deal was good for the security of Israel. Ultimately, what happened is, it politicized our foreign policy in the Middle East to the point that what would have otherwise been a bipartisan vote for a bipartisan consensus Ambassador to the country of Israel from the United States, will now be confirmed along mostly party lines.

People will look at this confirmation and say: U.S. support for Israel now exists largely on a partisan basis. Let's be clear. It does not. I support every penny that goes to Israel. I think it is critical that the country maintains its qualitative military edge in the region, and I take a backseat to no one in my personal or professional passion for the United States-Israel relationship.

That is why I cannot support Mr. Friedman's nomination to be the U.S. Ambassador to Israel. He has radical views. He has made outrageous and offensive statements on a wide range of issues.

Here is a sampling of his past comments. Mr. Friedman has said that the State Department is anti-Semitic. He has said that President Obama is an anti-Semite. He has said that the two-state solution solves a "nonexistent problem." Mr. Friedman has called for Israeli citizens who are Arabs to be stripped of their civil rights. He has lobbed one of the worst words in Jewish history at large parts of the American Jewish community, calling them "kapos," which is a term for the Jews who worked for the Nazis in concentration camps. These are more than just provocative statements by Mr. Friedman; they are lies.

For decades, the United States has stood firm as an honest broker of peace. We have said to both sides that they can trust us to help end this conflict, and that is based on the principle that the United States is passionate about peace in Israel but dispassionate about how we get there. Mr. Friedman is not objective about how we get there. On the contrary, he is very passionately for settlements, and he is very passionately against the two-state solution, which means he is basically against decades of bipartisan U.S. foreign policy.

Just a few months ago, the organization he led advertised that they have a new program that will train students to "successfully delegitimize the notion of a two-state solution." This group is actively working to take the two-state solution off the table.

I understand that the Senate is not fully aligned on U.S. foreign policy when it comes to Israel. I understand we have our disagreements. We may disagree on whether a two-state solution is best, on where our Embassy should be located, and on how to approach the peace process, but there are some things we ought to be able to agree upon: that our Ambassador to Israel should not be more involved in Israel's politics than our own, that our Ambassador to Israel should not be so provocative that they wouldn't even be welcome at the negotiating table, and that our Ambassador should not be the kind of person who uses language to fuel violence, hate, and instability. That means we should be able to agree that our Ambassador to Israel cannot be Mr. Friedman.