

sensation Adele for the No. 1 spot on the Top 100 iTunes chart—he has entered most of the results rounds in the same situation. Additionally, going into the live results finale, Smith held half of the top 10 spots on ‘The Voice’ iTunes charts and had 10 singles ranking on ‘The Voice’ chart—no easy feat considering the criteria for doing so means the single must be ranked on the Top 200 iTunes chart.

In addition to performing with former contestants from this season, Smith performed with former Voice coach and world renowned singer Usher on Tuesday night’s live results show. The duo sang Usher’s hit ‘Without You’ with the crowd screaming and cheering throughout the performance as Smith showcased his broad range.

Throughout the show, Smith has remained humble as the judges continue to remark on his flawless performances, citing his perfection and ability to connect with the audience.

The judges are not the only ones raving about Smith. Fans are posting on social media about how much the young artist has inspired them through his music. In addition to purchasing iTunes and making social media posts, fans cannot get enough of Smith’s performances. As of the finale show on Tuesday, Smith’s YouTube performances on the show had an outstanding 55 million views to date.

Smith spoke about what the experience has meant to him in an interview that aired during the live finale. The young singer, who continuously stressed how important it is to him to make it acceptable to be who you are, echoed those sentiments again during the interview, saying if he won the show it would prove it.

“You can be exactly who you are . . . to be the winner of The Voice would just prove that,” said Smith.

Later in the show, the top 4 performers were surprised with brand new vehicles—courtesy of the show’s partners, Nissan.

Smith chose the Nissan Altima and expressed his gratitude for the vehicle, saying he would not have to borrow his parents’ car anymore.

Smith was the only remaining contestant on coach Adam Levine’s team and the coach was obviously thrilled for the young man who he says has inspired him throughout the show.

Smith will be making appearances on numerous upcoming television shows as a result of the win.

A homecoming celebration is planned on Monday in Smith’s honor. A parade will begin at 2:30 p.m. in downtown Harlan followed by a program at 4 p.m. at the Harlan Center.

To continue following Smith, like his Facebook page and follow him on Twitter.

#### JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, as we close the book on the first session of the 114th Congress, our attention is on the thousands of pages in the omnibus spending bill. But as the Republican leadership rushes to spin the press about what the Senate has accomplished in their 12 months in the majority, there is one Senate responsibility that should not get lost in the noise. That is our responsibility to equip our coequal branches of government, the Federal judiciary and the executive branch, with the confirmed public servants that both branches need to serve the American people.

Senate Republicans began the year by filibustering the nomination of the first Black woman to be nominated for the position of Attorney General of the United States. No other Attorney General nominee in our history has been met with a filibuster. That did not stop Republicans from holding up Loretta Lynch’s nomination longer than the last seven Attorneys Generals combined. Our Nation’s top law enforcement official deserved better treatment, but the fight to get her a confirmation vote previewed how difficult it would be to get votes scheduled on other crucial nominees. Republicans have blocked confirmation votes for the people nominated to serve as Ambassadors to some of our closest allies. They have blocked consideration of nominees who would help keep our country safe from terrorist threats, including a Treasury Department nominee who would lead an office that investigates terrorist financing.

By the end of this week, Senate Republicans will have also earned the dubious distinction of matching the record for confirming the fewest annual number of judicial nominees in more than half a century. Too many Americans who have sought justice in our Federal courts this year have instead found delays and empty courtrooms because of Senate Republicans’ obstruction on judicial nominees. I am concerned that Republicans’ treatment of our third branch risks politicizing it and diminishing the role that it was designed to play in our system of government.

For the first 6 years of President Obama’s tenure in office, Senate Republicans pulled out every stop to obstruct confirmations on judicial nominees—systematically filibustering nominees and abandoning the Senate’s tradition of confirming consensus judicial nominees before long recesses. While I was hopeful they would change course once they assumed the majority, they have instead taken their obstruction to unprecedented heights by virtually shutting down judicial confirmations.

Over the course of the entire year, Senate Republicans have allowed judicial confirmation votes for only 11 nominees. In stark contrast, when Senate Democrats were in the majority during the seventh year of the Bush Presidency, we confirmed 40 judges that year—more than triple the number of judges confirmed this year. The Senate has a constitutional duty to provide advice and consent on the President’s nominees. It is part of the core duties we must fulfill as Senators, and a fully functioning Federal judiciary is dependent on us meeting this obligation.

I have urged the Republican leaders to allow confirmation votes on the uncontroversial judicial nominees before the end of the year. We have 19 judicial nominees still pending on the floor. Each of these nominees was voice voted out of the Judiciary Committee,

and each has the support of their home State Senators. Traditionally, the Senate has confirmed such consensus nominees at the end of a session, but Republicans have repeatedly refused to do so during the Obama Presidency. This is the seventh year in a row that Senate Republicans are rejecting the Senate’s practice of consenting to confirmation votes at the end of a session. At the end of 2009, Senate Republicans left 10 judicial nominees on the Senate floor without a vote. At the end of 2010 and again in 2011, Senate Republicans left 19 judicial nominees pending on the calendar as they left town. In 2012, it was 11 judicial nominees, and in 2013, it was nine that Senate Republicans left pending on the floor. Last year, Senate Republicans attempted to block 12 nominees on the floor in December. Fortunately, because Leader REID took seriously the Senate’s duty to fill judicial vacancies and filed cloture on those nominees, we were able to get those nominees confirmed. In each of the last 2 years of the George W. Bush administration when Democrats were in the Senate majority, we confirmed all of President Bush’s judicial nominees pending on the Executive Calendar in December before we left for the year. Contrast that with this year when Senate Republicans are leaving 19 judicial nominees pending on the floor as they head home.

The Republicans’ double standard for President Obama’s nominees will force the Senate to spend time next year doing work that should have been completed by now. For example, for the 19 nominations Senate Republicans left in 2010 and again in 2011, it took nearly half the following year in each case for the Senate to confirm these nominees. Perhaps Senate Republicans’ real intent is to just run out the clock on the Obama administration—but these delays are not procedural abstractions without real world consequences. For the judicial nominees who have already made a commitment to public service in the Federal judiciary, the obstruction means they must continue to wait and keep their professional lives on hold wondering if the Senate will do its job.

The consequences for the judges currently serving in the Federal judiciary, as well as the litigants seeking justice before them, are also very real. Senate Republicans’ treatment of judicial nominations has resulted in a dramatic increase in judicial vacancies this year. Since Republicans took over the majority in January, judicial vacancies have increased by more than 50 percent—from 42 to 66. These vacancies impact communities across America, and it is doing the most harm to States with at least one Republican Senator. Of the 66 current vacancies that exist, 47 of them—or more than 70 percent—are in States with at least one Republican Senator.

Of critical concern is the fact that judicial vacancies deemed to be “emergency” vacancies by the Administrative Office of the U.S. Courts have

more than doubled this year. These vacancies represent judicial districts where caseloads are unmanageably high, leading to lengthier delays for parties before those courts; yet, as we leave for the year, 9 of the 19 nominees pending on the floor that Senate Republicans refuse to confirm are judicial emergency vacancies in Pennsylvania, Tennessee, Minnesota, New Jersey, Iowa, New York, and California.

In addition to the article III nominees, there are five nominees to the U.S. Court of Federal Claims who were nominated well over a year ago. Each of these nominees was unanimously voice voted out of Committee last year and again this year. The Court of Federal Claims has been referred to as the “keeper of the nation’s conscience” and “the People’s Court” because it allows citizens with claims against the government to promptly seek justice. It is critically important that we confirm the five pending nominees to this court. However, they continue to be blocked by a single Republican Senator—the junior Senator of Arkansas.

Senator COTTON claims to have concerns that the court’s caseload is not high enough and that the court should simply depend on senior judges coming out of retirement to hear cases. A recent letter to the committee from the chief judge of the Court of Federal Claims, however, indicates that only one of the nine senior judges is willing to be recalled for full-time duty and the other three would only agree to be recalled on a limited basis. Furthermore, the court’s overall caseload has increased by 9 percent over the last year. No member of the Judiciary Committee raised caseload concerns when these nominees were unanimously approved by voice vote last year or again this year. There is no good reason for Senator COTTON to deprive Americans across the country of a fully functioning Court of Federal Claims by blocking the five highly qualified nominees from receiving an up-or-down vote. These nominees include Armando Bonilla, a Cuban American who has devoted his entire career to public service at the U.S. Department of Justice; Jeri Somers, an African-American woman who spent over two decades serving as a judge advocate general and as a military judge; and several others who would contribute to our justice system. As these nominees approach the 2-year mark of waiting for the Senate to take up their confirmations, I urge Senator COTTON to consider these well-qualified nominees on their merits.

I have heard some suggest that Republicans’ glacial pace on judicial confirmations is political retribution for the change to Senate rules regarding nominations. This obstruction, however, does not hurt U.S. Senators—it hurts the American people. Behind the statistics on Republican obstruction—the number of nominees languishing without votes on the Senate floor, the rising number of judicial vacancies,

and the dramatic increase in emergency vacancies—are the experiences of real people in our justice system—individuals and small businesses seeking justice in our Federal courts who end up waiting for years for overburdened courts to hear their claims.

The national press, including the Wall Street Journal and the Associated Press, has highlighted the devastating effects of the high number of judicial vacancies. The Wall Street Journal interviewed one of the Federal judges in a California district where a judgeship went unfilled for almost 3 years. Judge Lawrence J. O’Neill said, “Over the years I’ve received several letters from people indicating, ‘Even if I win this case now, my business has failed because of the delay. How is this justice?’ And the simple answer, which I cannot give them, is this: It is not justice. We know it.”

Senate Republicans’ obstruction on judicial nominees has also had another effect; it has halted the enormous progress needed in making the Federal judiciary better reflect the citizenry it serves. This progress increases public confidence in our justice system. I am proud of the fact that there are more women and minorities than ever before serving on our Federal bench.

Yet, as we conclude this session, the Senate is leaving several nominees of color with outstanding qualifications on the floor without votes. This includes Judge Luis Felipe Restrepo, who was nominated to a judicial emergency vacancy in the third circuit well over a year ago. When he is eventually confirmed, he will be the first Hispanic judge from Pennsylvania on the third circuit. Judge Restrepo has the strong support of the Hispanic National Bar Association and has bipartisan support from his home State Senators, Senator TOOMEY and Senator CASEY. Senator TOOMEY has said not only that he strongly supports Judge Restrepo’s confirmation, but that he also recommended him to the President. Despite this overwhelming support for his nomination and the emergency vacancy that needs to be filled urgently, Republican leadership recently skipped over Judge Restrepo on the Executive Calendar to confirm a district court nominee from Tennessee for a non-emergency judgeship.

In addition to Judge Restrepo, Senate Republicans are adjourning for the year with four exceptional African-American district court nominees and an exceptional Hispanic district court nominee held up on the floor. Two of the African-American nominees—Waverly Crenshaw and Edward Stanton—have been nominated to district court positions in Tennessee. Both have the support of their home State Republican Senators and were unanimously approved by the Judiciary Committee by voice vote. The three other nominees of color—Justice Wilhelmina Wright to the District of Minnesota and John Vazquez and Julien Neals to the District of New Jersey—are all nominated

to judicial emergency vacancies. All have the support of their home State Senators, and all were voted out of the Judiciary Committee by voice vote. The only reason all of these nominees could not be confirmed this week is that Senate Republicans would not allow it.

While there is no reason not to hold votes on these nominees today, I am glad that Republicans have consented to a bipartisan plan to confirm five well-qualified judicial nominees in the 5-week period after we return in the new year. Because of this agreement, the Senate will be on pace in the first 2 months of next year to confirm almost half the number of nominees it took us this entire year to confirm. Under the agreement, the Senate will hold confirmation votes for Judge Restrepo as well as four district court nominees: Justice Wilhelmina Wright to the district of Minnesota; John Vazquez to the district of New Jersey; Judge Rebecca Ebinger to the southern district of Iowa; and Judge Leonard Strand to the northern district of Iowa. Four of these nominees are nominated to fill emergency vacancies, and three are nominees of color. This agreement allows for good progress that the Senate must continue to build on, so that we reduce judicial vacancies to ensure that Americans can seek timely justice in our courts.

Federal judges serve an essential role in communities across the Nation. In 2 weeks, the Chief Justice of the United States will issue his end-of-year report. His predecessor often noted in such reports the impact of unfilled judicial vacancies on the functioning of the third branch. I hope that such a core resource matter will again be addressed in the upcoming report because the Republican majority’s treatment of nominations this past year has been an historic disappointment.

I hope that, in the new year, the Senate will make progress on the judicial nominees pending in the Judiciary Committee as well as on additional nominees that we receive from the President. I was glad to hear the majority leader’s remarks this week that he does not believe there should be a cutoff point for confirming qualified judicial nominees in an election year. The majority leader has been consistent on this view, and I commend him for it. In July 2008, the Senate Republican caucus held a hearing solely dedicated to arguing that the Thurmond rule does not exist. At that hearing, the senior Senator from Kentucky stated: “I think it’s clear that there is no Thurmond Rule. And I think the facts demonstrate that.” Similarly, the Senator from Iowa, my friend who is now serving as chairman of the Judiciary Committee, stated at that hearing that the Thurmond rule was in his view “plain bunk.” He said: “The reality is that the Senate has never stopped confirming judicial nominees during the last few months of a president’s term.” That was certainly the case when

Democrats were in the majority in the last 2 years of the George W. Bush administration. I served as chairman of the Judiciary Committee then, and I can tell you that Senate Democrats confirmed 22 of President Bush's judicial nominees in the second half of 2008.

The American people deserve to have judicial vacancies in their communities filled. Hard-working Americans across this country are counting on us to do our jobs as Senators. Our constituents call our offices and meet with us to let us know how they feel about the legislative issues before us. They should not also have to ask us to fulfill the bare minimum of our constitutional duties, such as the duty to consider nominees in a timely manner to keep the third branch of government fully functioning.

I sincerely hope the new year will bring a new approach from Senate Republicans and that we can move forward to confirm all of the pending judicial nominees without further delay.

#### REJECTING HATEFUL RHETORIC

Mr. LEAHY. Mr. President, for more than 235 years, the United States has served as a beacon of hope and opportunity for millions coming to our shores seeking a better life. Ours is a nation founded upon the ideal of freedom, and throughout our history, there have been moments when this most fundamental ideal has been challenged. The complicated history of our Nation is not without its dark moments, but at every turn, we have sought to recommit ourselves to our basic ideals and principles, always moving to be a more inclusive society.

Today, as some continue to espouse hate-filled views that demonize those of a certain faith, we need thoughtful voices to speak out and remind us all of what we stand for as Americans. In his column this weekend in the *Rutland Herald*, veteran journalist Barrie Dunsmore did just that. He reminded us that in the wake of the attacks on Pearl Harbor, our own government rushed to judge Japanese Americans and imprisoned them in internment camps out of fear they sought to do us harm. This was a deplorable response to a national tragedy that remains a stain on our history. Mr. Dunsmore reflected on how this fear was perpetuated by news media professionals who enabled these scare tactics through their reporting and the response by some elected leaders who also promulgated this fear through their own actions.

Fear is what drove the racist and unconstitutional response to Japanese Americans in the wake of the attacks on Pearl Harbor in 1941. And fear is what is encouraging some to recklessly hurl suspicion on Muslim Americans today in the wake of a terrorist attack in San Bernardino, CA, and unrest around the world. As Americans, we must categorically reject the divisive and corrosive rhetoric of fear that only serves to undermine us as a nation.

Americans cannot let themselves be coerced by the politics of fear today. If we do, then the terrorists and extremists will have won. Terrorists want us to be afraid, and they want us to be a nation divided. Groups like ISIS actively promote the narrative that Muslims are not welcome in the United States, and the xenophobic, hateful rhetoric espoused by some today plays into our enemies' hands. It also demeans us as a democratic nation founded on the principles of freedom, equality, and liberty. We should not let our country be defined by irresponsible fear-mongering. We are better than that.

Columns like the one written this weekend by Barrie Dunsmore are important reminders of just how far we have come as a nation. We cannot turn back now, and we cannot turn against our fellow Americans now.

Mr. President, I ask unanimous consent that a copy of Barrie Dunsmore's column from Sunday, December 13, 2015, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the *Rutland Herald*, Dec. 13, 2015]

#### FEAR IN THE DRIVER'S SEAT

(By Barrie Dunsmore)

"Nothing in modern politics equates with the rhetoric from candidate Trump." So wrote Dan Balz this past week in *The Washington Post*.

Balz is the *Post's* veteran and scrupulously nonpartisan senior political correspondent. He also wrote: "Trump's call for a ban on Muslims entering the United States marked a sudden and sizable escalation—and in this case one that sent shock waves around the world—in the inflammatory and sometimes demagogic rhetoric of the candidate who continues to lead virtually every national and state poll testing whom Republicans favor for their presidential candidate." Evidence of Trump's support can be seen in polls since the Muslim ban idea was proposed, in which a substantial majority evidently agrees with him.

In offering a defense for his latest scheme, Trump cited President Franklin Roosevelt's decision to intern thousands of Japanese-Americans shortly after the Japanese attack on Pearl Harbor in 1941. News reports this past week have mentioned this comparison—which was probably news to many Americans. When I was teaching a semester at Middlebury College, a senior who was an A student, told me he had never heard of the Japanese internment. That inspired me to give the subject extra attention in class, and to recall that period of history in this newspaper nearly a decade ago. What follows are elements of that column.

On Dec. 7, 1941, Japanese forces attacked Pearl Harbor, killing more than 2,000 people and destroying much of the U.S. Pacific fleet. On Feb. 19, 1942, President Roosevelt signed executive order No. 9066.

Over the next eight months, 120,000 individuals of Japanese descent were ordered to leave their homes in California, Washington, Oregon and Arizona. Two-thirds were American citizens representing almost 90 percent of all Japanese-Americans. No charges were brought against these individuals; there were no judicial hearings.

After being temporarily held in detention camps set up in converted race tracks and fairgrounds, the internees were transported

to concentration camps in the deserts and swamplands of the Southwest. There, they were kept in overcrowded rooms with no furniture other than cots, surrounded by barbed wire and military police. There they remained for three years.

Why did this happen? In a word: fear. But it was a fear that was incited, encouraged and exploited by political players of many stripes. In the weeks that followed the attack on Pearl Harbor, California was teeming with rumors of sabotage and espionage. The mayor of Los Angeles, Fletcher Bowron, spread the story that Japanese fishermen and farmers had been seen mysteriously waving lights along the state's shoreline. The top American military commander for the region, General John DeWitt, reported as true rumors that enemy planes had passed over California—and claimed that 20,000 Japanese were about to stage an uprising in San Francisco. All of these stories were false.

The news media also did its share of rumor-mongering. The Hearst columnist Damon Runyon erroneously reported that a radio transmitter had been discovered in a rooming house that catered to Japanese residents. Even the respected national columnist Walter Lippmann warned of a likely major act of sabotage by ethnic Japanese.

It would not be long before virtually all West Coast newspapers, the *American Legion*, the L.A. Chamber of Commerce, a host of other business and fraternal organizations—not to mention the area's top political and military leaders—were demanding that all persons of Japanese ancestry be removed from the West Coast. Many of these demands were overtly racist, such as that of the attorney general of Idaho, who proclaimed all Japanese should "be put into concentration camps for the remainder of the war . . . We want to keep this a white man's country."

Professor Geoffrey Stone points out in his book, *"Perilous Times: Free Speech in Wartime,"* "There was not a single documented act of espionage, sabotage or treasonable activity committed by an American citizen of Japanese descent or by a Japanese national residing on the West Coast."

President Roosevelt was not being pushed by his own advisers to sign the order for the internment. Attorney General Francis Biddle opposed it. So did FBI Director J. Edgar Hoover who described the demands for mass evacuations as "public hysteria." Secretary of War Henry Stimson thought internment was a "tragedy" and almost certainly unconstitutional.

Professor Stone concludes, "Although Roosevelt explained the order in terms of military necessity, there is little doubt that domestic politics played a role in his thinking, particularly since 1942 was an election year." And, of course, the U.S. had been attacked and was now involved in another world war.

Those civil libertarians who opposed internment and thought that the Supreme Court would ultimately reverse Roosevelt's order would be disappointed. Two related cases eventually reached the court, and in both, the convictions were upheld.

Years later some of those directly involved would publicly express regret for their decisions in these cases. The famously liberal Justice William O. Douglas later confessed, "I have always regretted that I bowed to my elders." The also noted liberal Chief Justice Earl Warren, who as attorney general of California played a pivotal role in the process, wrote in his memoirs in 1974 that internment "was not in keeping with our American concept of freedom and the rights of citizens."

On Feb. 19, 1976, as part of the national bicentennial, President Gerald Ford issued a proclamation noting that the anniversary of