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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

February 23, 2016

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, DC 20510

Dear Majority Leader McConnell,

As we write, we are in the midst of a great national debate over the course our country will take in the coming years. The Presidential election is well underway. Americans have already begun to cast their votes. As we mourn the tragic loss of Justice Antonin Scalia, and celebrate his life's work, the American people are presented with an exceedingly rare opportunity to decide, in a very real and concrete way, the direction the Court will take over the next generation. We believe The People should have this opportunity.

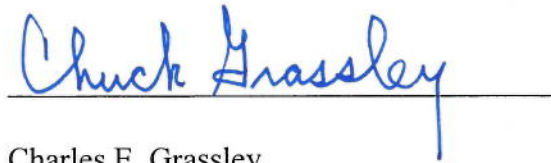
Over the last few days, much has been written about the constitutional power to fill Supreme Court vacancies, a great deal of it inaccurate. Article II, Section 2 of the Constitution is clear. The President may nominate judges of the Supreme Court. But the power to grant, *or withhold*, consent to such nominees rests exclusively with the United States Senate. This is not a difficult or novel constitutional question. As Minority Leader Harry Reid observed in 2005, "The duties of the Senate are set forth in the U.S. Constitution. Nowhere in that document does it say the Senate has a duty to give the Presidential nominees a vote. It says appointments shall be made with the advice and consent of the Senate. That is very different than saying every nominee receives a vote."

We intend to exercise the constitutional power granted the Senate under Article II, Section 2 to ensure the American people are not deprived of the opportunity to engage in a full and robust debate over the type of jurist they wish to decide some of the most critical issues of our time. Not since 1932 has the Senate confirmed in a presidential election year a Supreme Court nominee to a vacancy arising in that year. And it is necessary to go even further back — to 1888 — in order to find an election-year nominee who was nominated and confirmed under divided government, as we have now.

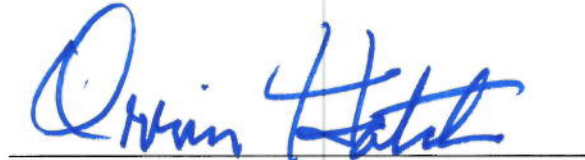
Accordingly, given the particular circumstances under which this vacancy arises, we wish to inform you of our intention to exercise our constitutional authority to withhold consent on any nominee to the Supreme Court submitted by this President to fill Justice Scalia's vacancy. Because our decision is based on constitutional principle and born of a necessity

to protect the will of the American people, this Committee will not hold hearings on any Supreme Court nominee until after our next President is sworn in on January 20, 2017.

Sincerely,



Charles E. Grassley
Chairman, Senate Judiciary Committee



Orrin G. Hatch
United States Senator



Jeff Sessions
United States Senator



Lindsey O. Graham
United States Senator



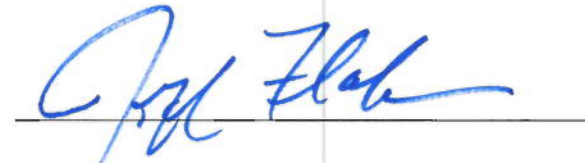
John Cornyn
United State Senator



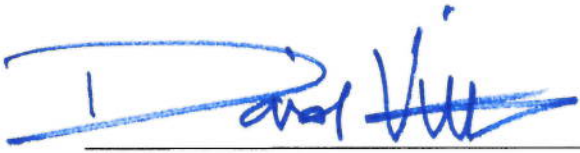
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United States Senator



Ted Cruz
United States Senator



Jeff Flake
United States Senator



David Vitter
United States Senator



David A. Perdue
United States Senator



Thom Tillis
United States Senator