

OPINION

LETTERS POLICY

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COMMENTARY

Can Obama be Reagan?

Can the Senate be reasonable?

A Supreme Court vacancy arises late in the second term of an idealistic and ideological president. He confronts a Senate controlled by his opponents and he hopes to win a third term by proxy. This describes the United States this week - and it also describes the U.S. 28 years ago, but with the R's and D's reversed.

Back then, Republican Ronald Reagan had to contend with a Democrat-controlled Senate. Today Democrat Barack Obama must deal with a Senate dominated by Republicans. In 1987-88, Reagan was hoping that his handpicked successor, George H.W. Bush, would extend his presidential legacy, much as Obama's flag now flies with the Democrats' front-runner Hillary Clinton. Just as the resignation of Justice Lewis Powell in mid-1987 opened the way for a pivotal new justice chosen in a genuinely bipartisan process, so now the death of Justice Antonin Scalia creates an opportunity for both parties to work together to select the court's next swing justice.

In 1988, after a few false starts that included the failed nomination of arch-conservative Robert Bork, the country ended up with the more moderate Justice Anthony Kennedy. Today, Kennedy straddles the judicial aisle - sometimes siding with Democrat appointees, other times with court Republicans on hot-button issues including same-sex marriage, campaign finance, abortion rights, gun rights, affirmative action and voting rights. Kennedy's decisive votes and views are doubtless different from those a Justice Bork would have generated. The idealistic and ideological Republican in the White House in 1988 didn't get his first choice, but neither did Senate Democrats get exactly what they'd hoped for. That's the essence of compromise.

Is there a nominee acceptable to Obama that the Republican-controlled Senate could tolerate? Senate Majority Leader Mitch McConnell and Republican Senate Judiciary Committee Chairman Chuck Grassley have both signaled that nobody Obama sends over should even be voted on. But other Republicans are taking a softer line. Last weekend, Sen. Lindsey Graham, R-S.C., left the door open a crack: "No one will be appointed who isn't a consensus choice."

The key number for consensus is 60 percent because of filibuster rules. That means 15 or so Republicans would need to join all the Democrats to make up a 60-vote bloc to bring a nomination to the floor over the opposition of the other 40 Republicans. What kind of person could appeal to the president and win over a significant swath of Republicans? It would have to be someone who shares Obama's instincts about democracy and social justice but also Scalia's reverence for constitutional text and history, and his heartfelt respect for the rule of law. It would have to be someone whose constitutional views

and philosophies have been laid out publicly, so Republicans could know what they were getting (they have felt burned by "stealth" nominees lacking long paper trails and public track records).

Assuming the president could find someone who fit the right (and left) profile, why should the Republicans give the nominee full consideration? First, a hard-line refusal to give Obama's nominee a fair shake could play poorly with middle America. Come November, an appealing but thwarted nominee could energize the Democrats' electoral coalition, and sway swing voters in crucial states. It is easy for hard-liners now to pronounce that any conceivable nominee is a non-starter; it will be much more difficult to stick to this party line if the president puts forth an articulate, earnest, honest candidate with requisite legal chops and a compelling life story.

Senate Republicans should also note that a compromise candidate today may be far better for them than an unknown future nominee. Imagine, for example, that Clinton wins and the Democrats also regain the Senate. She would not have to compromise on a nominee nearly as much as Obama might be willing to now.

There is yet another scenario Republicans must consider: They may win the White House in November but still lose the Senate. A Democrat-controlled Senate would then take office in early January, weeks before Obama leaves the White House. During that overlap, the Democrats could undo the filibuster rule by a simple majority vote (the so-called nuclear option), and Obama could replace his compromise candidate with someone far more liberal. Such a move might seem aggressive, but so too is not giving a president's nominee a fair shake and a floor vote. What goes around comes around.

Now think about the president's incentives. What would Obama gain by threading the needle with a consensus nominee? If common sense and public pressure forced Republicans to accept the candidate, Obama would increase his imprint on the court, and end his presidency with a bipartisan bang. He could make good on his so far unrealized campaign promise to "reduce the polarization and meanness in our politics."

Will Obama and his congressional critics choose to do, at last, what so many Americans desperately want them to do, namely, work together? Ronald Reagan, the very president who gave us Justice Antonin Scalia in 1986, was able to find common ground with Senate opponents soon thereafter with his nomination of Kennedy. His final choice for the court cemented his greatness and provided the high court with welcome moderation. The current president and Senate would do well to ponder the precedent.

—*Akhil Amar is a professor of law and political science at Yale University. Vikram Amar is dean and a professor at the University of Illinois College of Law.*

WEEKLY COLUMN | SEN. TOM O'MARA

'A life lost every 24 minutes'

It seems like not a day goes by when we don't read or hear another story about it: heroin.

It's fast become a top concern, as it needs to be, at every level of government - from the current President to the current crop of presidential candidates, from the nation's Congressional representatives and United States Senators to governors and state legislators, right down to every local office from mayors to town supervisors to city council representatives.

Late last year the nation's surgeon general, Vivek Murthy, noted that "someone dies from an opioid overdose every 24 minutes in this country." He pledged to release this year the first-ever Surgeon General's Report on substance use, addiction, and health. "We're going to look at the best science on everything, from heroin and marijuana, to alcohol and prescription opioids," he said.

Let's face it, it's become a national public health crisis.

At a recent Board of Public Safety meeting in Hornell, the city's police chief, Ted Murray, announced what some have called an amnesty-type program.

"I encourage anyone who believes they have a problem to walk into the police station. We much prefer sending them to treatment rather than sending them to jail. You can even bring the stuff with you, and we will send you to treatment," said Chief Murray, who has noted that Hornell, like many local police agencies, has also established a tip line



SENATOR TOM O'MARA

to encourage the public's help in reporting criminal activity or in seeking help.

At the same meeting, Hornell Mayor Shawn Hogan highlighted the fact that heroin was the hot topic of conversation at a recent meeting of the New York Conference of Mayors. "It seems to be a scourge on every community," he said. Local law enforcement and community leaders know what we're facing, how this epidemic of heroin - and of course let's not overlook meth, bath salts, and other illegal, highly addictive and destructive drugs - is at risk of spiraling out of control. If left unchecked, it could simply overwhelm local systems of criminal justice, health care and social services - to say nothing of the individual lives and families these drugs destroy.

This Tuesday, February 23rd, I'll be bringing the Senate Task Force on Heroin and Opioid Addiction, on which I serve as a member, to Penn Yan to conduct one of several similar forums being held around the state.

The idea is to hear directly from those on the front lines locally who can help us target the necessary and best responses. I'm extremely grateful to all of the local leaders we'll be

hearing from on Tuesday. We'll receive input from regional law enforcement officers, first responders and district attorneys, drug addiction counselors and treatment providers, recovering addicts and family members, social services and health professionals, educators and other experts about the range of complex challenges posed by heroin including addiction prevention and treatment options, drug-related crimes, and other community and public health and safety impacts (you can visit my Senate website, omara.nysenate.gov, for a full list of participants).

So many of our regional law enforcement officers, community leaders, health professionals, recovering addicts, families and other concerned citizens have been vocal and active in this fight against heroin. I look forward to offering a number of them this opportunity to provide their input directly to our Senate task force so that we can work together and continue to develop a state-local partnership to target the most up to date and effective combination of law enforcement, awareness and education, and treatment and prevention that will better protect our communities and save lives, especially young lives.

Late last year, Yates County Sheriff Ronald Spike said, "It takes a community to get involved including government, educators, public health, and faith-based community. This is a nationwide problem."

Not long ago, at a packed

community forum in Dundee sponsored by the Yates County Substance Abuse Coalition (YSAC), organization representative Annmarie Flanagan said, "The difficult part is that there are no quick answers or solutions to this problem... We are working towards finding better solutions to this problem."

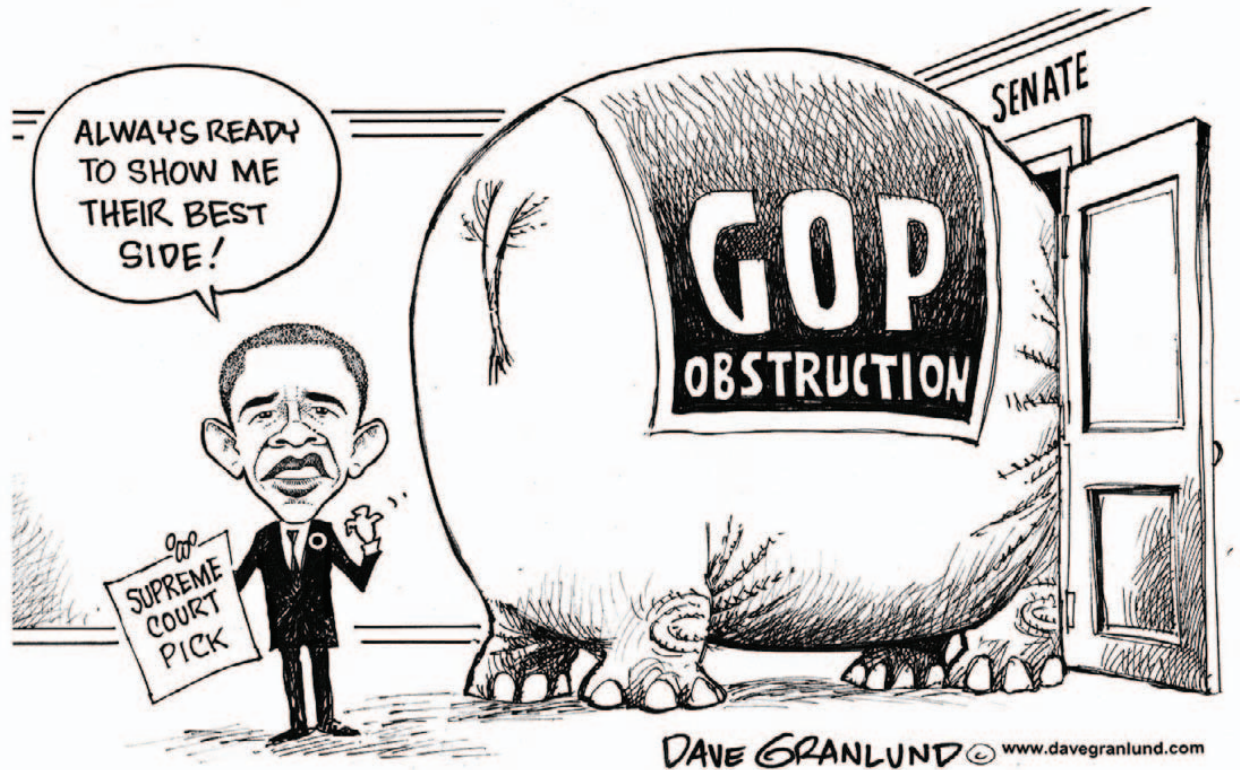
They're both right. There will be no "quick answers or solutions."

But it's critical for all of us to work together. Since its creation in 2014, the Senate Task Force on Heroin, with the help of local citizens and leaders across New York, has helped initiate and successfully advocate for the enactment of a number of new laws, programs and services for combating, preventing and treating the drug's spread. We've stayed focused on awareness and education, prevention and treatment, and law enforcement.

But we need to keep working, at every level of government, to try to ensure that our laws, programs and services stay ahead of this public health crisis. That's the overriding goal of Tuesday's forum in Yates County. We can't let up for one minute knowing that, somewhere in America, another life is lost to the illness of addiction every 24 minutes.

—*State Sen. Tom O'Mara represents New York's 53rd Senate District, which includes Steuben, Chemung, Schuyler and Yates counties, and a portion of Tompkins County*

ANOTHER VIEW



LETTERS TO THE EDITOR

Eliminate pharmacy tobacco sales

TO THE EDITOR | As a resident of Schuyler County, I feel we need to focus our energy on polices that promote both the prevention of tobacco use and tobacco cessation, to reduce our high tobacco use rates. One way many communities have done this is by creating laws that eliminate the sale of tobacco products in pharmacies.

When you think about this, it just makes sense. Pharmacies are where you go to buy products that make you better when you're sick or products that promote a healthy lifestyle. So, why do they sell tobacco products, which are the leading cause of preventable death and disease? With tobacco products on display, the chance youth

will start using increases, and it makes it more difficult for people who are trying to quit. We are fortunate here in Schuyler County because all but one of our pharmacies are tobacco-free!

I strongly believe it would be a great idea for our community to create a tobacco-free pharmacy law, which would prevent any other pharmacies that may come into the area in the future from selling tobacco products. This will help lower exposure to deadly tobacco products, as well as help to lower our tobacco use rates.

Gretchen Silliman,
 Montour Falls

Tobacco ads target African-Americans

TO THE EDITOR | February is Black History Month.

A total of 17.5 percent of adult African-American adults are smokers, compared to the American adult rate of 16.8 percent.

Studies say 45,000 African-Americans die annually from smoking related illnesses. Lung cancer is the second most common cancer in both African American men and women, and it kills more African Americans than any other type of cancer.

A total of 88% of African-American smokers smoke menthol cigarettes, compared to 26 percent of Caucasian smokers, a more dangerous cigarette due to the cooling sensation that allows smokers the ability to more deeply inhale and hold in the smoke longer in their lungs.

It makes you wonder why these inequalities exist. Tobacco companies

are aware of these statistics, and others based on race, culture and economic status, which they use to target these populations. This is an injustice. A product that when used as directed causes death and disease should not be marketed more heavily to one group of people over another. Have you ever noticed some neighborhoods have convenience stores plastered with tobacco advertisements and discounts and others have none? Take a look at your own communities and notice the differences in advertising among areas where different population groups live.

Teresa Matteredazzo,
 Community engagement coordinator, STTAC public health educator, Chemung County