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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, September 21, 2004, at 12:30 p.m.

Senate

MONDAY, SEPTEMBER 20, 2004

The Senate met at 2 p.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord our God, restorer of the joy of those who find You, we praise Your holy name. Thank You for giving us lifetime favor and for Your unchanging faithfulness. You turn our mourning into dancing and clothe us with gladness.

Today we pray for our Senators. Shine Your light of wisdom on them and be gracious to them. Remove from them contention and strife as You infuse them with humility. Keep Your arms of protection around them and their loved ones in these challenging times.

Lift Your mighty scepter over our military and bless it with success. Lord, rule in the midst of Your world until the kingdom of Earth will acknowledge Your sovereignty. Let Your mighty name protect us as You give us our heart's desires.

We place our trust in You, the Lord our God. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Kentucky is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, today we will have a period for morning business throughout the afternoon. Under a previous unanimous-consent agreement, we will vote on passage of the Military Construction appropriations bill at 5:30 p.m. today. The final 10 minutes prior to the vote is scheduled for closing remarks on the MILCON legislation. As a reminder, we have also reached an agreement for consideration of the Legislative Branch appropriations bill and will be scheduling that matter for tomorrow's session. As always, Members will be notified as additional votes are scheduled.

We have a number of other legislative and executive matters that are possible this week, including additional appropriations bills, the nomination of PORTER GOSS to be Director of the CIA, and an extension of various expiring family tax provisions.

Mr. President, I thank the Senate for its attention. I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, there will now be a period for the transaction of morning business for debate only with Senators permitted to speak therein for up to 10 minutes each.

The Chair inquires, does the Senator from Nevada wish to suggest the absence of a quorum?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the submission of the resolution are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada.

THE FEDERAL JUDICIARY

Mr. REID. Mr. President, before I came to the Senate, I practiced law for many years in my home state of Nevada. I was an attorney who went to court all the time, and I often went to Federal court. There is a tremendous difference between State courts and Federal courts. There is more solemnity in the Federal courts. There are more procedures that are important to the establishment of justice and maintaining justice in our Federal court system. The main reason for this is that our Federal judges are appointed for life. They are not subject to the whims of a political issue at any given time. They know that if they rule a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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certain way, they are not going to be thrown off the bench in the next election.

I am still a very proud member of the Nevada bar, and I have great respect for the law. I appreciate everyone who is involved in the practice of the law and the judicial process.

In fact, the reason there has been so much debate about Federal judicial nominations is because we care deeply about these lifetime positions. They are vital to our system of Government.

The U.S. Constitution is such an important document. When we come to this body, we swear we will uphold the U.S. Constitution. Framers of this great document were visionary, in my opinion. They understood the importance of the legal process. That is why they made the judiciary one of the three equal branches of Government, separate but equal.

Our judiciary and our legal system are vital to this democracy. Unfortunately, some people only seem to recognize that fact when it is convenient.

I am sad to announce that this administration wants the public to believe nothing is more important than filling vacancies on the Federal bench. Yet, this same administration refuses to fund the judicial branch so it can function properly. This body, because of the numbers we have gotten from the White House, is contemplating a budget resolution that would freeze the judiciary appropriations at last year's levels. The funding for staffing and other expenses was below the level of fiscal year 2001. That is, 2004 was below the level of 2001.

While funding went down over that time, the workload of our Federal judiciary has increased by more than 10 percent. The budget crunch has already forced the judiciary to fire 145 employees. Now if we freeze judiciary funding at these levels, again we will cripple the operations of our Federal courts. It will force early buyouts. They will come up with gimmicks such as these early buyouts. They will have to do some layoffs. They will have to do furlough days. They will limit the number of hours people can work, and there will be a loss of between 2,000 to 5,000 probation officers and court staff alone.

What does this mean? Fewer probation officers means less supervision of Federal offenders and more danger on our streets. Do we want to do that? By withholding the resources of our judiciary, which is so desperately needed, we would threaten the ability of our legal system to function properly.

By next June, payments to court-appointed private attorneys in criminal cases would be halted. Why is this significant? Because our Federal public defender system cannot represent defendants in cases where there are conflicts with other defendants these defendants have to be represented by court-appointed private attorneys. Without adequate funding, they are not going to be able to do that anymore. In

addition, civil jury trials would come to a halt in June because there would be no funds to pay the jurors.

The Constitution is the world's greatest blueprint for democracy, and our justice system is the fairest and the best in all the world. We should not be running a second-class judicial system. The Senate needs to provide our judiciary the resources it needs to fund these functions properly.

While the Senate committee-passed bill does appropriate funding for the judiciary, it is not enough. At the very least, we must appropriate the amount contained in H.R. 4754. Anything less than that will jeopardize the judiciary's fundamental mission of providing justice.

I have spoken at great length with members of the Federal bench about salaries for Federal judges, including U.S. Supreme Court Justices. We have to pay our Federal judges better to continue to attract and retain the "best of the best" in our Federal judiciary, but today we are not even asking for that. We simply want funding that will be better than the 2001 level.

As in so many cases, this administration's rhetoric on judicial nominees is a flip side of reality. The President bemoans the supposed slow pace of the Senate's confirmation of his judicial nominees. Here is reality: The Senate has confirmed more than 95 percent of the President's nominees for the Federal court. I think the number is 203 approved and 9 or 10 turned down.

The pace of our consideration of nominees is faster than that afforded any President in modern times. The vacancy rate on the Federal bench is the lowest in many years. Yet the President argues that the Senate's objection to a small number of his nominees will slow the administration of justice. Again, that is not reality. Here is reality: The President proposes a budget that shortchanges the judiciary, ensuring that the judges who serve today on the Federal bench do not have the resources they need to do the job they were appointed to do. That is the reality.

I ask unanimous consent that the full text of a letter I received from Lloyd D. George, formerly the Chief Judge in Nevada, now on senior status, a man who has the support and approval of all Federal judges, be printed in the RECORD.

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

U.S. DISTRICT COURT,
DISTRICT OF NEVADA,
Las Vegas, NV, August 24, 2004.

Hon. HARRY REID,
U.S. Senator, Senate Hart Building,
Washington, DC.

DEAR SENATOR REID: This is a brief summary outline of critical points contained in Mr. Mecham's report on the urgent judiciary funding needs. I've also attached his full report. We would be most grateful, Senator, if you could help bring Congress to an understanding of how the judiciary's role in sustaining the rule of law will be severely dam-

aged if the current budget impasse on judiciary funding is not resolved, and the judiciary's funding is included in a long-term continuing resolution that would freeze overall appropriations at FY 2004 levels. It is the operation of and respect for the rule of law which sets our country apart from most others.

A minimum current services funding level (sustained by a 6.1 percent increase over FY 2004 appropriations) would maintain the current staffing and operating expenses.

A freeze of the juror appropriation would require the halting of civil jury trials in July 2005.

The modest increase in the FY 2004 budget still required the courts to terminate, buy-out or furlough employees despite the 10% workload growth from the previous year. Courts have also scaled back on technology, reduced improvements and public hours access, and cut back on probation officers' testing and aftercare of offenders.

The judiciary could be forced to fire or furlough the equivalent of 2,000 to 5,000 probation, pretrial services, and clerks' office employees—almost one-fourth of the current staff. It is worth noting that once a skilled employee is released, even if funding is eventually restored, the employee usually does not return, resulting in the loss of a significant investment in human resources.

A freeze of the defender services appropriations would require halting panel attorney payments in June 2005.

Should the appropriations process become stalled, an effort to exempt the judiciary from a long-term continuing resolution at FY 2004 levels should be considered, and an annual appropriation at least to the levels contained in H.R. 4754 should be provided. Such a course is not without precedence, and was taken in 1996 when, at the request of the Chief Justice, the judiciary was exempted, along with other law enforcement agencies from a full year continuing resolution, and an appropriations bill for the judiciary was resolved within months. Although the Chief Justice rarely calls upon the Judicial Conference to pass a resolution, this year he made such a request in view of the critical budgetary situation. The Judicial Conference unanimously passed the resolution which I attach for your review.

As always, I respect your judgment and remain confident in your commitment to the Third Branch and the constitutional rights and privileges that it protects.

Sincerely,

LLOYD D. GEORGE,
District Judge.

Mr. REID. Judge George has served on many committees of the Supreme Court. He is a great judge. I do not know if "revered" is the right word, but people like this man and look up to him. Lloyd George was appointed by a Republican President. He is a Republican, and he is not trying to embarrass the President. He is a person who believes in the three separate but equal branches of Government and he thinks what is happening to the Federal judiciary is causing inequality in the separation of powers doctrine.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for up to 30 minutes.

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