

things we say. This is what Franklin had to say:

Nothing can be said to be certain, except death and taxes.

Proving the aphorism, Franklin died less than a year later.

While we know the certainty of death and taxes, we can do something to ease the burden for the 23 million Americans who will be in for a rather unpleasant surprise on April 15 if Congress doesn't act now to stop the middle-class tax hike, which goes by the rather innocuous name of AMT—a law that was originally intended in 1969 to impose taxes on a handful of high-income individuals who used loopholes in the code to avoid paying any regular income tax.

Congress has known about the need to fix this problem all year long, but the majority hasn't brought a bill to the floor. Now they say it will be December before a bill is brought to the floor.

Now, the consequences of mismanaging this stealth tax are very real. This tax will grab \$65 billion out of the pockets of middle-class taxpayers, an average of \$2,000 per family. Millions will be hit for the very first time.

The IRS sent a letter warning the majority that unless they act before December, the tax returns of 50 million people and \$75 billion in tax refunds will be delayed.

Last week, Democrats in the House of Representatives passed a bill that purports to delay the burden of the AMT for 1 year by socking a massive \$80 billion tax increase to the American people. That is the last thing they need right now, and it would be a disastrous jolt to the economy.

Maybe a massive tax hike wrapped in an AMT fix sounds like a very good idea to some people, but I have a message to anyone who thinks that: Such a proposal is dead on arrival in the Senate.

The AMT was never meant to be collected from the millions of Americans whom it will hit this year if we don't act. I say this Congress ought to cut taxes by cutting taxes—cut taxes by cutting taxes—not by raising taxes.

I yield the floor.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I am going to speak for a short time and then Senator DURBIN wants to speak for a brief time. It is an Illinois judge we are voting on.

So I ask unanimous consent that the vote be put off until after Senator DURBIN speaks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FISCAL POLICY

Mr. REID. Mr. President, at this point, I will respond to my friend from Kentucky, the distinguished Republican leader.

We have something new in town that has been going on now for almost 11 months, and that is we are paying for things. That is the reason the Clinton economic machine worked as well as it did. When we had a new program, we paid for it. When taxes were decreased, we paid for that.

We are going to go ahead and do the AMT fix, but we are going to do it by paying for it. We cannot continually run this country in the red. I repeat what I have said on a number of other occasions. When President Bush took office 7 years ago, we had a \$7 trillion surplus over 10 years. He has driven us into near bankruptcy as a result of his fiscal irresponsibility.

We are responsible. We are going to fix AMT before the end of the year, but we will do it the right way; we are going to pay for it.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF ROBERT M. DOW, JR., TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Robert M. Dow, Jr., to be United States District Judge for the Northern District of Illinois.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:10 a.m. shall be equally divided between the leaders and their designees.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to thank Senator REID and Senator LEAHY, Chairman of the Senate Judiciary Committee, for bringing Robert Dow up for a vote this morning in the Senate. I enthusiastically support his nomination. If confirmed, he will fill a Federal District Court vacancy in Chicago that has been pending for over a year.

Robert Dow is an outstanding lawyer and an outstanding person. We have a process in Illinois that has worked almost flawlessly for the last 11 years, where we have bipartisan cooperation in screening judicial candidates. We have had the cooperation of the White House and leaders on both sides of the aisle, and we have not run into a problem. Robert Dow is the latest example.

Mr. Dow was recommended for this position by former Speaker of the House DENNIS HASTERT, the Republican leader in our delegation, with the understanding he faced a veto from myself or Senator OBAMA if we objected.

Having met the man, having reviewed his background, there is no objection. He is an extraordinarily gifted and talented person.

He is a partner at one of Chicago's largest and most prestigious law firms—Mayer Brown—and he has been named as one of the 21 leading lawyers in the United States in the field of telecom, broadcast, and satellite.

There are many things you can say about Robert Dow, but I think there is one that stands out, as I reflect on what he had to say to us. Robert Dow has received an accolade that is noteworthy. In 2004, he received the annual Pro Bono Service Award from his law firm, which has over 1,500 attorneys, for his personal commitment to unpaid legal work to help those less fortunate.

That means a lot to me. It says he understands that being an attorney is not just a job, it is a profession, and a profession carries with it social responsibilities. His willingness to help the disadvantaged went a long way in convincing me he will bring to the court the kind of temperament and values which are so important.

The nomination of Robert Dow is a tribute to the successful bipartisan approach and the fact both parties look forward to his tenure on the Federal bench and the contributions he will make. Speaker HASTERT, Senator OBAMA, and I stand today excited about the prospect that Mr. Dow will soon fulfill this vacancy, which has been there for too long.

I ask my colleagues to join me in supporting Mr. Dow to be a district court judge in the Northern District of Illinois.

I yield the floor.

Mr. LEAHY. Mr. President, the Senate continues, as we have all year, to make progress filling judicial vacancies when we have the cooperation of the White House. The nomination before us today for a lifetime appointment to the Federal bench is Robert Michael Dow, Jr., for the Northern District of Illinois. He has the support of both home-State Senators. I thank Senators DURBIN and OBAMA for their work in connection with this nomination.

After we consider the confirmation of this nominee today, the Senate will have confirmed 35 nominations for lifetime appointments to the Federal bench this session alone. That matches the total number of judges confirmed for 2004. It exceeds the total number of judicial nominations that a Republican-led Senate confirmed in all of 1999, 2005 or 2006 with a Republican majority; all of 1989; all of 2001; all of 1983, when a Republican-led Senate was considering President Reagan's nominees; all of 1993, when a Democratic-led Senate was considering President Clinton's nominees; and, of course, the entire 1996 session during which a Republican-led Senate did not confirm a single one of President Clinton's circuit nominees.

Already this year, we have confirmed five circuit judges to the Federal

bench, including the nominations of Judge Jennifer Walker Elrod and Judge Leslie Southwick who became the fourth and fifth circuit court nominees we confirmed so far this year. That matches the total number of circuit court judges confirmed in all of 1989 and all of 2004, when a Republican-led Senate was considering this President's nominees. It matches the number of President Clinton's circuit court nominations confirmed by this time in 1999 with a Republican-led Senate and is five more than the Republican-led Senate confirmed in the entire 1996 session. That was the session in which not a single circuit court nominee was confirmed. It is more than were confirmed in the entire 1983 and 1993 sessions.

When this nomination is confirmed today, the Senate will have confirmed 135 total Federal judicial nominees in my tenure as Judiciary Chairman. During the Bush Presidency, more circuit judges, more district judges—more total judges—were confirmed in the first 24 months that I served as Judiciary chairman than during the 2-year tenures of either of the two Republican chairmen working with Republican Senate majorities.

The Administrative Office of the U.S. Courts will list 47 judicial vacancies and 14 circuit court vacancies after today's confirmations. At the end of the 109th Congress, the total vacancies when Republicans controlled the Senate were 51 judicial vacancies and 15 circuit court vacancies. Despite the additional 5 vacancies that arose before the start of the 110th Congress, the current vacancy totals under my chairmanship of the Judiciary Committee are below where they were under a Republican led-Judiciary Committee.

The President has sent us only 21 nominations for these remaining vacancies. Twenty-six of these vacancies—more than half—have no nominee. Of the 17 vacancies deemed by the Administrative Office to be judicial emergencies, the President has yet to send us nominees for nine, more than half of them. Of the 14 circuit court vacancies, six—nearly half—are without a nominee. If the President would decide to work with the Senators from Michigan, Rhode Island, Maryland, California, New Jersey, and Virginia, we could be in position to make even more progress.

Of the 26 vacancies without any nominee, the President has violated the timeline he set for himself at least 18 times—18 have been vacant without so much as a nominee for more than 180 days. The number of violations may in fact be much higher since the President said he would nominate within 180 days of receiving notice that there would be a vacancy or intended retirement rather than from the vacancy itself. We conservatively estimate that he also violated his own rule 7 times in connection with the nominations he has made. That would mean that with respect to the 47 vacancies, the President is out of compliance with his own rule more than half of the time.

Today we consider the nomination of Robert Michael Dow, Jr. He is a partner at the law firm of Mayer, Brown, Rowe & Maw, LLP, where he has worked almost his entire career. He received his B.A. from Yale University where he graduated summa cum laude and his J.D. from Harvard Law School where he graduated cum laude. A Rhodes Scholar, Mr. Dow earned a master and doctorate degrees from Oxford University. Mr. Dow also served as a law clerk to Judge Joel M. Flaum on the United States Court of Appeals for the Seventh Circuit.

I congratulate the nominee and his family on his confirmation today.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. OBAMA. Mr. President, I rise to express my support for the confirmation of Robert M. Dow, Jr. to the U.S. District Court for the Northern District of Illinois.

I am very pleased that this nomination has continued the bipartisan approach to filling judgeships in the Federal district courts—an approach that has served Illinois well.

Mr. Dow has an impressive record of professional achievement and an admirable commitment to public service. He has demonstrated fairness, decency, integrity, and a strong personal character that I expect will benefit the people of Illinois and all those with cases before the Northern District.

Most recently, Mr. Dow was a partner at the Chicago law firm of Mayer Brown. He earned his B.A. from Yale University where he graduated Phi Beta Kappa in 1987, and his J.D. from Harvard Law School, where he graduated cum laude in 1993. Mr. Dow was also a Rhodes Scholar who received degrees in international relations from Oxford University.

Mr. Dow has also distinguished himself in his professional career, where he has received a number of honors and accolades. Mr. Dow has been named a "leading lawyer" 5 years in a row by Chambers USA Guide to America's Leading Business Lawyers. He has been listed the past 2 years as an Illinois Super Lawyer in appellate law, and by the Best Lawyers in America in communications law. Mr. Dow also received an award for excellence in undergraduate teaching when he served as a teaching fellow at Harvard University.

Importantly, Mr. Dow has also been an engaged member of the Chicago community. In 2003, he served as a fellow for Leadership Greater Chicago, which stresses the development of community awareness and partnerships among leaders in the city. He is also an active member in a number of legal and academic associations as well as in his church.

Finally, Mr. Dow has a track record of personal commitment to pro bono service. Early in his career, he provided aid and advice to nonprofit organizations and a local court. Over the years,

Mr. Dow has volunteered hundreds of hours to pro bono service, and continues to do so. He recently earned his firm's annual pro bono award. This kind of public service is essential to our legal system. When legal professionals provide voluntary expert legal counsel to those who cannot afford it, it shores up the integrity of our Nation's justice system.

It is good news for Illinois that Robert Dow will be joining the district court. I thank him in advance for his service and congratulate him on his confirmation today.●

Mr. DURBIN. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Robert M. Dow, Jr., to be a U.S. district court judge for the Northern District of Illinois.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Illinois (Mr. OBAMA), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from Oklahoma (Mr. COBURN), the Senator from Idaho (Mr. CRAPO), the Senator from Nevada (Mr. ENSIGN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Florida (Mr. MARTINEZ), the Senator from Arizona (Mr. MCCAIN), and the Senator from Kansas (Mr. ROBERTS).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 408 Ex.]

YEAS—86

Akaka	Dole	Lincoln
Alexander	Domenici	Lott
Allard	Dorgan	Lugar
Barrasso	Durbin	McConnell
Baucus	Enzi	Menendez
Bayh	Feingold	Mikulski
Bennett	Feinstein	Murkowski
Bingaman	Graham	Murray
Bond	Grassley	Nelson (FL)
Boxer	Gregg	Nelson (NE)
Brown	Hagel	Pryor
Brownback	Harkin	Reed
Bunning	Hatch	Reid
Byrd	Hutchison	Rockefeller
Cantwell	Inouye	Salazar
Cardin	Isakson	Schumer
Carper	Johnson	Sessions
Casey	Kennedy	Shelby
Chambliss	Kerry	Smith
Cochran	Klobuchar	Snowe
Coleman	Kohl	Specter
Collins	Kyl	Stabenow
Conrad	Landrieu	Stevens
Corker	Lautenberg	Sununu
Cornyn	Leahy	Tester
Craig	Levin	Thune
DeMint	Lieberman	

Vitter
Voinovich

Warner
Webb

Whitehouse
Wyden

NOT VOTING—14

Biden
Burr
Clinton
Coburn
Crapo

Dodd
Ensign
Inhofe
Martinez
McCain

McCaskill
Obama
Roberts
Sanders

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to reconsider is laid on the table. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will return to legislative session.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until the hour of 12:30 with Senators permitted to speak therein for up to 10 minutes each and the time equally divided between the leaders or their designees, with the Republicans in control of the first half of the time and the majority in control of the second half.

The Senator from Texas.

VETERANS FUNDING

Mrs. HUTCHISON. Mr. President, I rise to discuss an issue that is important for our country. That is the appropriations bill for Veterans and Military Construction.

The Senate and House Appropriations Committees worked together in a bipartisan way to craft a bill that fully funds the Veterans' Administration and Military Construction for the quality of life of our troops. However, we became bogged down last week because the Senate and House leadership decided they would put forward a combination of bills that have no relationship to each other. The Labor-Health and Human Services bill and the Veterans' Administration-Military Construction bill. Under normal circumstances, that might be fine. We have had omnibus appropriations bills before. But there was one problem. That is, the President had already said he would sign the Veterans bill, but he would veto the Labor-Health and Human Services bill. So the combination of these bills was destined to assure a veto.

The Veterans and the Military Construction legislation should go forward on an expedited basis. I call on this Congress to do that. There is no reason—there is no substantive reason, no commonsense reason—we should delay a bill that has been agreed to by Republicans and Democrats and could easily pass the House and Senate and be sent to the President before the end of this week.

Yesterday we had celebrations all over the country for veterans, saying

how much we appreciate their sacrifices and what they have given to our country. Today we come back to work, and we still don't have a Veterans' Administration funding appropriations passed for this year. It is not that the veterans' needs are not going to be funded, because we are in a continuing resolution that assures the basic things will be done. But what isn't going to be done is the new priorities we put in this legislation on a bipartisan basis. We have added more funding for research into prostheses, artificial arms and legs, because those are the kinds of injuries our troops are coming home with. They are becoming veterans because, of course, they can no longer serve in Active Duty.

I will digress for one moment and say that when I visit Walter Reed or the Center for the Intrepid in San Antonio where young men and women who have come home injured from Iraq and Afghanistan are being rehabilitated, they complain because they are being put out of Active-Duty military. That is the kind of spirit these young men and women have. They will be maimed. They will have lost arms or legs; they will be burned. Yet they will say: Senator, I want to go back. I want to be with my comrades.

Of course, we are going to take care of those young men and women who have sacrificed so much through our Veterans' Administration. We have new priorities in these bills that will put more into research and rehabilitation for these brave men and women. We also have a new burn unit initiative to do more research on our burn victims. Many of our troops come back with mental health problems. We are establishing more research and centers of excellence for post-traumatic stress syndrome in the bill that has been agreed to.

All I am asking this morning is, why not pass this bill right now? We have a formality of calling a new conference committee on the separate bill. That could be done today. We have agreement. There is no reason not to fund these new priorities. I call on the Senate and House leadership to make it happen. There is no excuse. We have new priorities. We have bipartisan agreement.

My message to the leadership is: Let's trust our committee members. Let's trust the leadership on the committees. Democrats and Republicans came together. We increased the President's budget. We increased his request. He said: OK, because he knew how important it was that we fully fund the health care needs of our veterans.

Let me tell you another priority in this bill. We have heard story after story of people leaving the Active Duty, usually because of injuries, going into the veterans system. But what happens? There is a long delay, sometimes months, before the veterans' benefits kick in. These are injured warriors. In our bill, we have funding so

those applications can be processed more quickly. We are trying to streamline leaving the Active-Duty military and going into the veterans system. That is in the bill that is languishing this week in Congress.

I call on our leadership to do the right thing. Let's put politics aside. We can take up the Labor-Health and Human Services bill in due course. But today we have a bill with bipartisan agreement that requires a mere formality of calling the conference committee, having the House pass it, the Senate pass it, and sending it to the President. We can celebrate a joint bipartisan victory with Congress and the President coming together. That is what the American people expect. That is what they are looking for in Washington. When we see the approval ratings of Congress and the President so low, why don't we try a new approach? Why don't we do something everyone can celebrate? That is, fund our veterans and military quality-of-life issues this week. It can be done. I call on the congressional leadership to do it. The President has said he will sign it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. ALLARD. Mr. President, first of all, I associate myself with the comments made by the Senator from Texas. She is right. I serve on the Appropriations Committee with her and have worked on veterans issues with her. I very much am joining her in this effort to try to get this veterans bill passed because it is extremely important.

FINDING SOLUTIONS

Mr. ALLARD. Mr. President, now, this year, the Senate has voted on Iraq over 20 times. We have voted on Iraq in the middle of the night. We have voted on Iraq on a Saturday. We have voted on cloture, points of order, motions to waive, and other permutations of the majority's desire to appease moveon.org and other radical constituencies regarding the war in Iraq.

Although Iraq is important, we have ignored other important business. Just last week, we just sent our first appropriations bills to the President, 38 days into the new fiscal year. We just voted on the Attorney General nominee, 45 days after it was sent to the Senate. We have yet to address next year's veterans health care funding needs, 2 days after Veterans Day.

The uncomfortable fact for those who would have us consider nothing not urged by the radical left is we stayed the course in Iraq, followed the plan for the surge as developed by the Pentagon, and we are now seeing the results there—but none here. Every day the situation improves some in Iraq. Every day there are more new stories showing that the country is moving somewhat out of its depths.

Allow me to read some of the news reports.