

way or the other, the President indicated yesterday there will be some things he wants to put on it other than the direct funding—whether we can do it at that time or later in the year, we need to do something about increasing judges' pay, and I hope we can do that.

Thank you, Mr. President.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

JUDICIAL CONFIRMATION PROCESS

Mr. McCONNELL. Mr. President, I wish to make a few observations about the status of the judicial confirmation process, and then I will turn to another matter.

It has been 108 days since the Senate confirmed a Federal judge of any kind. It last did so the week before Christmas, on December 18, 2007. Since then, the Senate has made precious little progress on judicial nominations. I don't blame the majority leader for that. I think we began this Congress with a general understanding of what we hoped to achieve, and that is still possible. But as of today, we have not confirmed any judicial nominees this year, and the Judiciary Committee has held only one hearing on one circuit court nominee since last September.

Today we will finally be able to confirm some judicial nominees. That is obviously good news, and I applaud that. But after we confirm the judicial nominees on the calendar, that may be it for a while due to the glacial pace at which the Judiciary Committee is proceeding.

It is not as if the committee has been otherwise occupied. This is another week in which the committee could have held a hearing, for example, on the qualified nominees to the Fourth Circuit Court of Appeals, but again it chose not to. These nominees meet the chairman's own criteria for prompt consideration. Nevertheless, they have been inexplicably languishing for hundreds of days without a hearing while the Fourth Circuit is one-third vacant.

We were told that having the support of home State Senators "means a great deal and points toward the kind of qualified consensus nominee that can be quickly confirmed."

Let me say that again. We were told that having the support of home State Senators "means a great deal and points toward the kind of qualified consensus nominee that can be quickly confirmed."

Well, Steven Matthews of South Carolina had the strong support of both of his home State Senators, one of whom, by the way, sits on the Judiciary Committee, but he has been waiting 217 days just to get a hearing.

Judge Robert Conrad of North Carolina, whom the Senate majority unani-

mously confirmed to two Federal positions and most recently to a lifetime position on the district court, has the strong support of both of his home State Senators. Yet he has been waiting for 268 days.

My Democratic colleagues are quick to point to the lack of home State support as a reason not to give someone a hearing. But it is beginning to look as if this criterion is being selectively applied. It is readily used as a reason not to move a nominee, coincidentally, when the nominee is from a State with a Democratic Senator, but it is ignored when the nominee has the support of two Republican Senators. At least that has been the case to date with the Fourth Circuit nominees.

For example, Rod Rosenstein is the U.S. attorney in Maryland. He has been nominated to the Fourth Circuit. By all accounts, Mr. Rosenstein is a fine lawyer and public servant. His peers at the American Bar Association certainly think so. They gave him the ABA's highest rating, "unanimously well qualified."

The Washington Post also thinks Mr. Rosenstein is an outstanding nominee. In an editorial entitled "A Worthy Nominee," the Post noted that Mr. Rosenstein has "earned plaudits for his crackdown on gang violence and public corruption," and that one of his supporters at the head of the Criminal Division during the Clinton administration, Jo Ann Davis, called him a "perfect" candidate for a judgeship:

Smart, savvy and as straight an arrow as I have ever encountered.

The Post bemoaned the fact that Mr. Rosenstein does not have the support, for some reason, of his home State Senators, and out of deference to them the committee would not process Mr. Rosenstein's nomination. But Mr. Matthews and Judge Conrad do enjoy the strong support of their home State Senators. Yet those nominees can't get a hearing. So it doesn't seem that the same sort of deference is being paid to the Carolina Senators as to others.

I do understand the committee intends to give a hearing to the Fourth Circuit nominee from Virginia because the junior Senator from Virginia—a Democrat—in addition to the senior Senator from Virginia—a Republican—support the nominee. It is great that the committee may actually at some point move a circuit court nominee, especially one to a circuit that is 33 percent vacant. But why is this nominee leap-frogging over two other nominees to the very same circuit, both of whom enjoy the strong support of their home State Senators and both of whom have been pending for hundreds of days longer than the nominee from Virginia?

It looks as though if a Democratic Senator in the Fourth Circuit opposes the nominee, then the committee will not move the nominee, and if a Democratic Senator of the Fourth Circuit supports the nominee, then the committee will move the nominee. But if

two Republican Senators in the Fourth Circuit—or, in this case, four Republican Senators in that circuit—support two nominees, that doesn't seem to mean anything.

We need to treat all of the Senators who represent the Fourth Circuit consistently and fairly. We can do that by holding a joint hearing for Mr. Matthews and Judge Conrad. Doing so will make up for lost time and will afford the Carolina Senators the respect to which they are entitled.

TRIBUTE TO CORPORAL WINDELL JERYD SIMMONS

Mr. McCONNELL. Mr. President, in Kentucky there is a family mourning the loss of a young man who was taken from them entirely too soon. On September 21, 2006, CPL Windell Jerryd Simmons was tragically killed when an improvised explosive device detonated under his humvee while on patrol near Taji, Iraq. The Hopkinsville, KY, soldier was 20 years old.

For his valor in service, Corporal Simmons received several medals, awards, and decorations, including the Army Good Conduct Medal, the Army Commendation Medal, the Purple Heart, and the Bronze Star.

Jeryd, as he was known, may have been born in Nuremberg, Germany, in 1986, but he was raised in Hopkinsville. Jeryd's mother, Betty Simmons-Mayo, tells us how her son would always greet her whenever he entered a room.

Jeryd used to always enter a room and say, "Hey Mom." Then whenever he would come back into the room, he would say, "Hey, Mom" again, she recalls. I think he would say "Hey, Mom" at least 15 times a day. He would start his e-mails from Iraq with "Hey, Mom."

But her friendly son was not without his mischievous side. Betty also recalls a time when Jeryd hid a water gun behind his back and would sneakily shoot his mother, brother, and sister with it every time they walked by. Whenever one of his victims accused him of being a culprit, Jeryd would plead innocence. So his mother hatched a scheme to prank the prankster. She said:

Jeryd loved to play practical jokes. To get him back, I got everyone a water balloon, and the next time he was outside, we threw balloons at him. He stopped shooting everyone after that.

Jeryd graduated from Christian County High School in 2004 and set his sights on enlisting in the U.S. Army. He had made his decision to serve his country before graduating.

Jeryd's friends remember him as a natural leader, somebody they would dearly miss, but also someone they knew would make them proud for his service in uniform.

"He was like the ring leader. He was the best," says Tad Abukuppeh, a high school classmate. "No matter what it was, he was always energetic about everything we did together."

Another friend, Justin Baker, agrees.

He was pretty quiet in school, but when you got him out of school, he was one of the funniest guys you would meet. He was the idea man. If we were bored, he would think of something to do.

Jeryd enlisted on June 24, 2004, and was assigned to HHC Company, 3rd Battalion, 67th Armored Regiment, 4th Brigade, 4th Infantry Division, stationed in Fort Hood, TX.

He was deployed to Iraq in December 2005. Jeryd wrote in an email to his mother that he would be home in time for Christmas. But, sadly, that was an appointment he would not keep.

Jeryd's funeral service was held in Hopkinsville, where he was buried in a veterans' cemetery. He was laid to rest with full military rites, including a 21-gun salute and the playing of "Taps."

A memorial service for Corporal Simmons was held in Fort Hood also. At that service, CPT Brad McBrayer remembered Jeryd as someone who made people laugh. He reminded his fellow soldiers of Jeryd's career ambition to be a special agent for the FBI someday.

Our thoughts are with the Simmons family today after the loss of CPL Windell Jeryd Simmons. We are thinking of his mother, Betty Simmons-Mayo; his father, William Simmons; his stepfather, Jamel Mayo; his brother, William J. Deal; his sister, Jarysa L. Simmons; his step-grandmother, Mrs. Alfreda Brewer, and many other beloved family members and friends.

April Harris, Jeryd's math teacher from Christian County High, remembers Jeryd this way: "He could have taken the easy route," she says, "but he wanted to prepare himself."

While she was speaking about Jeryd's efforts in her classroom, she could easily have been talking about the focus and determination Jeryd applied to life itself.

Our Nation is honored to have so many sons and daughters like CPL Windell Jeryd Simmons, who choose to stand and fight for freedom and for their country.

On behalf of a grateful Nation, this U.S. Senate salutes Corporal Simmons's choice to serve. We owe his family a debt that cannot be repaid. And we will forever honor his sacrifice.

Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders, or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Montana is recognized.

INSIDER TRADING

Mr. TESTER. Mr. President, I rise today to discuss the recent acquisition

of Bear Stearns by JPMorgan Chase and the events that caused the downfall of one of our largest investment banks and its eventual merger with JPMorgan Chase.

When I first learned of the merger, I urged Chairman DODD to hold a hearing. Last week, the Banking Committee began to exercise its much-needed oversight role on this deal. The hearing served to shine a spotlight on the actions of the Federal Reserve and the Treasury Department.

Over the past 2 weeks, we have learned much about the events that led up to Bear Stearns' demise and how the government interceded to save it. Unfortunately, some of the accounts have raised more questions than answers. Congress must continue to look into this deal and possible illegal behavior.

Mr. President, I am calling on the proper law enforcement authorities to investigate whether illegal insider trading may have fueled Bear Stearns' downfall.

In the days, hours and, ultimately, minutes before news of Bear Stearns became public, it appears trading in Bear Stearns' stock jumped substantially.

Volume trading in shares of Bear Stearns jumped from just over 5 million shares on the first day of trading in March to an astronomical 186,986,900 shares on March 14—2 days before the Fed authorized the \$29 billion bailout. Let me say that one more time. Volume trading in shares of Bear Stearns jumped from just over 5 million shares on the first day of trading in March to an astronomical 186,986,900 shares on Friday, March 14. In fact, the previous high in volume over the last year was just over 28 million shares. Yet on March 14, shares of Bear Stearns were traded nearly 187 million times. They were traded at nearly 187 million times.

It is uncertain whether or not rampant fears of the company's demise led to that spike or whether those looking to make a buck engaged in illegal market manipulation.

During the hearing last Thursday, I asked SEC Chairman Cox if he was aware of any evidence suggesting that speculators had bet heavily that Bear Stearns' share price would fall, known on Wall Street as "short selling."

Chairman Cox responded: "I'm a little bit constrained because the SEC is in the law enforcement business." He stated that SEC pursues insider trading aggressively and said his agency was mulling "several law enforcement matters" that had not been filed in any U.S. court.

Today, I will be sending this letter to Chairman Cox, as well as Attorney General Mukasey, calling on them to immediately and thoroughly investigate the role that short-selling played in the events surrounding Bear Stearns' collapse.

Market manipulation is illegal and must be prosecuted to the fullest extent of the law. I am asking that Chair-

man Cox and Attorney General Mukasey to respond to me and the Senate Banking Committee with a report as early as possible about this investigation.

The American taxpayers have been asked to carry the burden of a \$29 billion loan that is linked to possibly risky mortgage backed securities. In fact, JPMorgan Chase would not have agreed to acquire Bear Stearns had the government not shared the risk.

I want to repeat that one more time—one of the world's largest and most respected investment banks would not carry the full risk without government aid. And we are supposed to believe on blind faith that the investment is safe and will be repaid in full?

Knowing the consequences and the burden is being carried not only by shareholders, but by average taxpayers who live paycheck-to-paycheck, we must learn if the Federal Reserve acted properly.

We must be certain that investors did not violate laws barring speculators from engaging in market manipulation or insider trading. We must be certain that the taxpayers did not post a preemptive bailout to cover massive short selling for those to make money in the markets.

I rose on the floor last week to raise my concern for the families in Montana and the rest of the country who work hard and play by the rules; yet, can't find a decent place to live that they can afford. And for communities throughout rural America where opportunity is slipping away because of the failure of the national leadership to invest in basic infrastructure that connects us to one another.

These families cannot be asked to cover what some are calling a Government bailout when they are having hard time filling their truck with diesel and to save for their kid's college fund.

I look forward to hearing back from the SEC and Department of Justice. I hope they tell me that it was fear and nothing but market dynamics and not illegal trading. I hope they will tell me that the \$29 billion loan was justified and was a one-time act to prevent an economic meltdown.

But if there was insider trading and market manipulation, the proper law enforcement authorities of the U.S. government must respond with appropriate action and prosecute any wrongdoing to the fullest extent of the law.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, we are in morning business, is that correct?

The ACTING PRESIDENT pro tempore. That is correct.