

into June. Assuming the nomination is not held over for a week, that leaves only 2 days before May 23 for the committee to review her answers, schedule and hold a committee vote, and for the full Senate to vote on her nomination. No circuit court nominee has had hearings prior to their ABA report being received. The ABA report is not expected until at least May 19.

In the past, the Democrats have been very vocal in opposing this kind of a schedule. When the schedule was set for Peter Keisler 33 days after his nomination, the Democrats cited the concern that the Keisler hearing should not be held so quickly in advance of the ABA recommendations: "We should not be scheduling hearings for nominees before the Committee has received their ABA ratings," all of which is violated here.

Senator SCHUMER said:

So let me reiterate some of the concerns we expressed about proceeding so hastily on this nomination. First, we have barely had time to consider the nominee's record. Mr. Keisler was named to this seat 33 days ago. So, we are having this hearing with astonishing and inexplicable speed.

Well, this hearing is even more astonishing and even more inexplicable. When we do not follow regular order, we tend to get into trouble. The appropriate course would be to move to the nominations of Judge Conrad and Mr. Matthews in the Fourth Circuit where there is a judicial emergency.

How much time remains, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes 20 seconds.

### FILIBUSTERING

Mr. SPECTER. I want to comment briefly about what I consider the dis-

integration of the standing of the Senate as the world's greatest deliberative body. There was a time, when someone wanted to filibuster, that they had to stand up and speak. The Democrats brought to the floor legislation to alter the Supreme Court decision which cut short the statute of limitations on women's pay. I voted for cloture to take up that issue. The issue came and went in the course of a few hours one day. Under the traditional rules of the Senate, when a matter is raised, it is presented. It is argued. If someone opposes and wants to object and filibuster, they have to speak.

The cost of a filibuster today is very cheap. All you have to do is say: I am going to filibuster. Then there is a cloture vote, and 60 votes are not obtained, and the issue goes away.

That is not the way the Senate has traditionally functioned. If the Democrats had been serious about trying to change the rule that the Supreme Court handed down, which I thought was a bad decision—bad on the law, and it certainly can be changed by legislation—they would have argued the matter. They would have compelled opponents to come to the Senate floor and oppose the matter. There would have been a public debate. Had there been an extended debate, the American people would have understood the wrong Supreme Court decision and insisted the Congress take corrective action.

Similarly, we have found the Senate has now been overwhelmed by procedural motions on filling the tree which preclude any meaningful, traditional Senate approach to our function where Senators should be able to offer amendments at any time on any issue. Senator REID, who now has the distinction of having the record on filling the tree the most times, has it in heavy com-

petition. Senator Mitchell established a new record in the 103rd Congress with nine. Senator Lott tied him in the 106th Congress with nine. Senator Frist tied him in the 109th Congress with nine. But Senator REID is now the champion.

The problem with filling the tree is that Senators are precluded from coming to the floor and offering amendments. The American people do not understand what is happening in the Senate because nothing is happening in the Senate. Last week we had one cloture vote at 5:30 on Monday. We didn't vote on Tuesday, Wednesday, Thursday, or Friday—one vote, and not a peep in the news media about the inactive Senate. So what we are seeing—and I intend to speak at length on this at a later date—is the disintegration of what the Senate is supposed to be.

If legislation is needed to change the statute of limitations on enforcing women's employment rights for equal pay, let the Senate take it up and debate. If we are on the FAA Act, let's have Senators come forward and consider it.

It is time we declared a truce on the judge issue. It has been exacerbated continuously over the last 20 years. It is time for a truce because the American people are caught in the crossfire.

Mr. President, I ask unanimous consent that a survey of the filling of the tree, compiled by CRS, be printed in the RECORD. I urge my colleagues to study it to see how the business of the Senate has been thwarted, stymied, and eliminated by this procedural, inappropriate activity.

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

TABLE 1.—INSTANCES WHERE OPPORTUNITIES FOR FLOOR AMENDMENT WERE LIMITED BY THE SENATE MAJORITY LEADER OR HIS DESIGNEE FILLING OF PARTIALLY FILLING THE "AMENDMENT TREE": 1987–2008<sup>1</sup>

Congress & Years	Senate Majority Leader	Measure(s)	Notes & Citations
100th (1987–1988)	Robert C. Byrd (D-WV)	S. 1420, Omnibus Trade and Competitiveness Act of 1987.	Sen. Byrd, working in concert with Sen. Howard M. Metzenbaum, filled the "strike and insert" tree with a series of amendments, SA435–439. (Congressional Record, vol. 133, July 8, 1987, pp. 18871–18876.) Media reports indicate the goal was to obtain a straight vote on a compromise proposal requiring advance notice of certain plant closings. ("Senate Passes Measure on Plant-Closing Notice," The Washington Post, July 9, 1987, p. E1.)
		S. 2, Senatorial Election Campaign Act of 1987.	Sen. Byrd, working in concert with Sen. David L. Boren, filled the "motion to recommit" tree with amendments, SA1403–1405. In debate, Sen. Byrd indicated his goal was to displace several non-germane amendments to S. 1 relating to funding for the Nicaraguan contras, thus returning the Senate to consideration of the subject of the underlying bill. (Congressional Record, vol. 134, Feb. 17, 1988, p. 1481.)
		S. 2488, Parental and Medical Leave Act of 1988.	Sen. Byrd filled the "motion to recommit" tree with amendments, SA3308–3310. In floor debate, Sen. Byrd indicated that he had done so in response to a continued inability to secure a time agreement on amendments, including a requirement for germaneness or relevancy. He characterized the motion and the amendments to it as an attempt to place S. 2488 back before the Senate in a form containing several specific policy provisions. (Congressional Record, vol. 134, Sep. 29, 1988, pp. 26523–26588.)
101st (1989–1990)	George J. Mitchell (D-ME)	None identified	None identified
102nd (1991–1992)	George J. Mitchell (D-ME)	S. Con. Res. 106, Concurrent resolution setting forth the congressional budget for FY 1993, 1994, 1995, 1996, & 1997.	Sen. Mitchell filled the "insert" tree with two amendments, SA1778–1779 offered to a substitute amendment for S. Con. Res. 106, SA1777, which appears to have been treated as an original text for the purposes of amendment. Floor debate suggests a unanimous consent agreement was entered into laying out this approach with the goal of controlling and structuring the consideration of policy alternatives relating to entitlement reform. (Congressional Record, vol. 134, Apr. 10, 1992, pp. 9283–9284.)
103rd (1993–1994)	George J. Mitchell (D-ME)	H.R. 1335, Emergency Supplemental Appropriations for FY 1993. S. 1491, FAA Authorization Act of 1994.	Sen. Robert C. Byrd, acting on behalf of the majority leader, filled the tree on the substitute to the measure, offering SA271–272. (Congressional Record, daily edition, vol. 139, Mar. 25, 1993, p. S3715.) On multiple occasions during consideration of this measure, Sen. Mitchell or his designee offered second-degree amendments, for example, SA1776, 1779, and 1781, to non-germane first-degree amendments dealing with the subject of President William J. Clinton and the Whitewater Development Corporation. On each occasion, this action filled the "insert" tree and prevented a vote on the first-degree amendment. (Congressional Record, daily edition, vol. 140, June 15, 1994, pp. S6890–6894.)
104th (1995–1996)	Robert Dole (R-KS)	S.J. Res. 21, Constitutional Amendment to Limit Congressional Terms. S. 1664, Immigration Control and Financial Responsibility Act of 1996. H.R. 2937, White House Travel Office Reimbursement.	Acting as the designee of the majority leader, Sen. Fred Thompson offered a series of amendments, SA3692–3397, to the committee substitute for S.J. Res. 21, filling the amendment tree. He then offered a motion to recommit the joint resolution and proceeded to offer amendments SA3698–3699 to the motion, filling the tree on the motion. In debate, Sen. Thompson indicated that he did so to prevent non-germane amendments from being offered to the measure and to ensure the Senate would debate only the subject of congressional term limits. (Congressional Record, daily edition, vol. 142, Apr. 19, 1996, pp. S3715–3717.) Acting as the designee of the majority leader, Sen. Alan K. Simpson offered a series of second-degree amendments to a number of "stacked" first degree amendments, filling the amendment tree on them. He also filled the recommit tree on the underlying bill, offering SA3725–3726. In debate, Sen. Simpson indicated that he did so to prevent the offering of non-germane second-degree amendments on subjects such as the minimum wage and Social Security. (Congressional Record, daily edition, vol. 142, Apr. 24, 1996, pp. S4012–4016.) Sen. Dole offered a series of amendments, SA3952–3956, first to the bill and then to a motion to refer the bill, filling the tree on both. Sen. Dole indicated that he took this action to prevent non-germane amendments to the measure. Sen. Dole filed for cloture on the measure and indicated his willingness to enter into negotiations on possibly permitting a non-germane amendment relating to the minimum wage to be offered. (Congressional Record, daily edition, vol. 142, May 3, 1996, pp. S4670–4672.)

TABLE 1.—INSTANCES WHERE OPPORTUNITIES FOR FLOOR AMENDMENT WERE LIMITED BY THE SENATE MAJORITY LEADER OR HIS DESIGNEE FILLING OF PARTIALLY FILLING THE “AMENDMENT TREE”: 1987–2008<sup>1</sup>—Continued

Congress & Years	Senate Majority Leader	Measure(s)	Notes & Citations
105th (1997–1998)	Trent Lott (R–MS)	H.R. 1296, To provide for the administration of certain Presidio properties at minimal cost to the federal taxpayer.	On Mar. 26, 1996, Sen. Dole filled the tree on the motion to commit the bill SA3653–3654 and immediately filed cloture on the motion. The floor debate suggests that this action was taken in an attempt to block amendments to the measure on the subject of the minimum wage. (Congressional Record, daily edition, vol. 142, Mar. 26, 1996, pp. S2898–2899.)
		S. 25, Bipartisan Campaign Reform Act of 1997.	Sen. Lott offered a series of amendments, SA1258–1265, to the bill and to a motion to recommit the bill, filling both the “strike and insert” tree and the recommit tree. In debate, Sen. Lott indicated he did so to bar all amendments to the measure except those negotiated between himself and supporters of S. 25. The agreement provided for a modified form of the bill and one Lott amendment to it containing provisions of the “Paycheck Protection Act.” (Congressional Record, daily edition, vol. 143, Sept. 29, 1997, pp. S10106–10114.)
106th (1999–2000)	Trent Lott (R–MS)	S. 1663, Paycheck Protection Act	On Feb. 24, 1998, Sen. Lott offered a series of amendments SA1648–1650 along with a motion to commit, which he then filled with amendments SA1651–1653. The leader then filed cloture on the motion. (Congressional Record, daily edition, vol. 143, Feb. 24, 1997, pp. S939–940.)
		S. 280, Education Flexibility Partnership Act of 1999.	Sen. James Jeffords, as the designee of Sen. Lott filled the tree on the measure on Mar. 10, 1999 with SA66–68. (Congressional Record, daily edition, vol. 145, Mar. 10, 1999, p. S2489–2490.) Media reports claimed he did so to prevent certain minority party Senators, “from offering amendments reflecting their education goals including the hiring of 100,000 additional teachers.” (Matthew Tully, “Both Sides Used Senate Rules Effectively to Tie Things Up,” CQ Daily Monitor, Nov. 29, 1999.)
		S. 557, An original bill to provide guidance for the designation of emergencies as a part of the budget process.	On Apr. 20, 1999, Sen. Lott filled this tree by offering two amendments on behalf of another Senator SA254–255 and then immediately filing for cloture. Floor debate suggests he did this to block the offering of amendments relating to a Social Security and Medicare “lockbox.” (Congressional Record, daily edition, vol. 145, Apr. 20, 1999, p. S3896.)
		S. 544, Emergency Supplemental Appropriations Act for Fiscal Year 1999.	On Mar. 19, 1999, Sen. Lott proposed a second-degree amendment (SA124) “prohibiting the use of funds for military operations in the Federal Republic of Yugoslavia (Serbia and Montenegro) unless Congress enacts specific authorization in law for the conduct of those operations.” This amendment filled the insert tree and he then filed cloture on the amendment. In floor debate, Sen. Lott indicated he took this action to ensure that there would be a debate on the subject of Yugoslavia, but added that he wanted to continue to negotiate a time agreement for Senate consideration of the subject. (Congressional Record, daily edition, vol. 145, Mar. 19, 1999, pp. S2995–2996.)
		S. 96, The Y2K Act	Sen. Lott filled the tree on the measure, offering SA268–271. In debate, he indicated his willingness to have a pending amendment on the filled tree laid aside so that germane amendments could be offered. (Congressional Record, daily edition, vol. 145, Apr. 27, 1999, pp. S4232–4234.) A media account stated that Sen. Lott pursued this strategy in part to prevent minority party Senators from offering non-germane amendments relating to gun control. (Matthew Tully, “Both Sides Used Senate Rules Effectively to Tie Things Up,” CQ Daily Monitor, Nov. 29, 1999.)
		H.R. 1501, Juvenile Justice Reform Act of 1999.	On July 26, 1999, Sen. Lott filled the tree on the measure, offering amendments SA1344–1348. In debate, Sen. Lott indicated he filled the tree with amendments consisting of the Senate version of the bill with the intention of going to conference with the House. (Congressional Record, daily edition, vol. 146, July 26, 1999, pp. S9209–9210.)
		H.R. 434, African Growth and Opportunity Act.	Sen. Lott filled the tree on the measure on Oct. 27, 1999, offering SA2332–2335. In debate, he expressed regret at “having to” do so, and indicated he would agree to lay aside a pending amendment if a Senator wished to offer relevant amendments. (Congressional Record, daily edition, vol. 146, Oct. 27, 1999, pp. S13202–13203.) A media account stated that Sen. Lott pursued this strategy in part to prevent minority party Senators from offering nongermane amendments on the subjects of minimum wage and campaign finance reform. (Matthew Tully, “Both Sides Used Senate Rules Effectively to Tie Things Up,” CQ Daily Monitor, Nov. 29, 1999.)
107th (2001–2002)	Thomas A. Daschle (D–SD)	H.R. 4577, Labor-HHS-Education Appropriations.	Sen. Lott filled the tree on the motion to commit the bill, offering amendments SA3598–3600. During debate, he indicated his desire to negotiate a time agreement for the consideration of amendments dealing with the ergonomic standard issued by the Occupational Safety and Health Administration (OSHA). The motion to commit was later withdrawn when a time agreement was accepted. (Congressional Record, daily edition, vol. 146, June 22, 2000, pp. S5628–5629.)
		S. 2045, American Competitiveness in the Twenty-First Century Act.	Sen. Lott filled the “strike and insert” tree twice on this bill as well as a tree on a motion to recommit the measure. In doing so, Sen. Lott called up an amendment filed by a minority party Senator, SA 4183. In debate, Sen. Lott indicated followed this course because of an inability to reach a time agreement governing consideration of the measure. (Congressional Record, daily edition, vol. 146, Sept. 15, 2000, pp. S9026–9029.)
		H.R. 5005, Homeland Security Act of 2002.	Sen. Daschle filled the tree on the motion to commit with instructions by offering amendments SA4742–4743. In debate, he indicated he did so to “keep in place the current parliamentary circumstances” while Senators tried to negotiate a time agreement for the further consideration of amendments. (Congressional Record, daily edition, vol. 148, Sept. 25, 2002, pp. S9205.)
		S. 14, Energy Policy Act of 2003	On July 30, 2003, the majority leader offered a motion to commit the bill to the Energy and Natural Resources Committee with instructions. He filled the tree on the motion to commit with instructions with amendments SA1433–1434 and filed cloture on the motion. In debate, the leader indicated he did so to try to bring the underlying bill to a final vote prior to the August recess period. (Congressional Record, daily edition, vol. 149, July 30, 2003, p. S10251.)
108th (2003–2004)	William H. Frist (R–TN)	S. 2062, Class Action Fairness Act.	On July 7, the majority leader offered two amendments to the bill (SA3548–3549) filling the insert tree. He then offered a motion to commit the bill with instructions and filled the tree on the motion with amendments SA3551–3551. The majority leader filed cloture on the bill. Floor debate suggests that Sen. Frist pursued this course in response to an inability to secure a time agreement structuring the offering of amendments to the bill, including a relevancy requirement. (Congressional Record, daily edition, vol. 150, July 7, 2004, pp. S7698–7699.)
		S. 1637, Jumpstart our Business Strength Act.	On Mar. 22, 2004, the majority leader offered a motion to commit the bill with instructions that the committee report back the measure with an amendment specified in the motion. Senators filed amendments SA2898–2899 to those instructions, filling the tree. After cloture on the motion subsequently failed, the majority leader offered another motion to commit, and offered amendments SA3011–3013 to it, filling the tree on the motion. Floor debate suggests these efforts were attempts to expedite consideration of the bill. (Congressional Record, daily edition, vol. 150, Mar. 22, 2004, pp. S2852–2853.)
		S. 397, Protection of Lawful Commerce in Arms Act.	On July 27, 2005, the majority leader offered amendments to the bill SA1605–1606 filling the tree. Senators came to the floor to ask unanimous consent to set aside the pending amendments to be able to consider their amendment. This request was objected to each time. Floor debate suggests that this action was undertaken pending the negotiation of a time agreement relating to the consideration of amendments, including a germaneness requirement. (Congressional Record, daily edition, vol. 151, July 27, 2005, p. 9087.)
		H.R. 4297, Tax Relief Extension Reconciliation.	On Feb. 2, 2006, the majority leader offered amendments SA2707–2709, filling the tree on the bill. He then offered a motion to commit the bill with instructions, and proceeded to fill the tree on the motion with amendments SA2710–2711. In floor debate, Sen. Frist indicated he did this in order to structure floor consideration and potentially reach a final vote on the measure. (Congressional Record, daily edition, vol. 152, Feb. 2, 2006, pp. 472–473.)
		S. 2271, USA PATRIOT Act Amendments.	On Feb. 16, 2006, the majority leader filled the insert tree on the measure with amendments SA2895–2896. The majority leader then filed a cloture petition on the bill and objected to unanimous consent requests to lay aside any of the pending amendments. In debate, one Senator charged that the leader undertook this action to block amendments to the bill. (Congressional Record, daily edition, vol. 152, Feb. 16, 2006, pp. 1379–1380.)
		S. 1955, Health Insurance Marketplace Modernization Act.	On May 10, 2006, the majority leader filled the insert tree with amendments SA3886–3887. He then offered a motion to recommit the bill with instructions and immediately offered amendments SA3888–3890 to fill the tree on the motion. In debate, Sen. Frist explained that he did this because there had, “. . . been attempts or suggestions that we use this bill as a Christmas tree for all sorts of amendments . . . amendments that don’t relate to the underlying bill.” (Congressional Record, daily edition, vol. 152, May 10, 2006, pp. S4285–4295.)
		S. 3711, Gulf of Mexico Energy Security Act of 2006.	On July 27, 2006, the majority leader filled the insert tree with amendments SA4713–4714. The majority leader then filed cloture on the bill. Remarks made in floor debate suggests he did so to exert some control over the subject of energy amendments offered to the bill. (Congressional Record, daily edition, vol. 152, July 27, 2006, p. S8334.)
109th (2005–2006)	William H. Frist (R–TN)	S. 2454, Securing America’s Borders Act.	On Mar. 29, 2006, SA3192 was offered as a substitute to the measure. Senators then offered amendments to SA3192, filling the tree. Senators attempted to offer additional amendments by asking unanimous consent to set aside the pending amendments, but objection was heard in each instance. On Apr. 5, 2006 the majority leader moved to commit the bill to the Judiciary Committee with instructions that the committee report forthwith with an amendment. He then offered amendments to the motion SA3424–3426 filling the tree on it. (Congressional Record, daily edition, vol. 152, Apr. 5, 2006, p. S2895–2896.)
		H.R. 6061, Secure Fence Act of 2006.	On Sep. 21, 2006, the majority leader filled the insert tree on the bill with amendments SA5031–5032. On Sep. 25, 2006, the majority leader withdrew his first degree amendment (rendering the second degree amendment moot), and then filled the tree again with amendments SA5036–5037. He then filed cloture on the first degree amendment and offered a motion to commit the bill with instructions, and filled the tree on that motion, offering amendments, SA5038–5040. Floor debate suggests this action was taken while the leaders attempted to negotiate an agreement for the consideration of amendments relating to terrorist detainees. (Congressional Record, daily edition, vol. 152, Sept. 21, 2006, pp. 10097–10098)
		S. 403, Child Interstate Abortion Notification Act.	On Sep. 27, 2006, Sen. Bennett, acting on behalf of the majority leader, filled the tree on the House amendment to the measure with amendments SA5090–5091. He also filed for cloture on the House amendment. (Congressional Record, daily edition, vol. 152, Sept. 27, 2006, pp. S10616–10618.)
		H.R. 6111, Tax Relief and Health Care Act of 2006.	On Dec. 8, 2006, Sen. Frist filled the tree on the motion to concur in the House amendment to the Senate amendment to the measure, with SA5236–5237. He also filed for cloture on the motion. (Congressional Record, daily edition, vol. 152, Dec. 8, 2006, pp. S11658–11659.)
		H.J.Res. 20, Revised Continuing Appropriations Resolution 2007.	On Feb. 8, 2007, Sen. Reid filled the tree on the measure with the offering of SA237–241. Debate suggests the strategy was pursued in order to speed consideration of the measure. (Congressional Record, daily edition, vol. 153, Feb. 8, 2007, p. S1746.)
110th (2007–2008)	Harry M. Reid (D–NV)		

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Congress & Years	Senate Majority Leader	Measure(s)	Notes & Citations
		H.R. 2206, U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007.	On May 15, 2007, Sen. Reid filled the tree on the measure and the motion to commit, offering SA1123–1128. Floor debate indicates this was an action taken with the knowledge and cooperation of the minority leader, in an attempt to structure floor consideration and move the measure to conference. (Congressional Record, daily edition, vol. 153, May 15, 2007, p. S6116–S6117.)
		S. 1348, Comprehensive Immigration Reform Act of 2007. PARTIAL TREE .....	On June 7, 2007, Sen. Reid used his right of first recognition to offer two amendments to the measure, SA1492–1493. While this action does not appear to have completely filled the amendment tree, remarks made by the Senator in debate (“What I am going to do is send a couple of amendments to the desk so there is some control over amendments that are offered”) suggest it was done to limit or obtain a measure of control over the next amendment offered by filling some available limbs and refusing consent to lay aside amendments. (Congressional Record, daily edition, vol. 153, June 7, 2007, p. S7303–7304)
		S. 1639, A bill to provide comprehensive immigration reform, and for other purposes.	On June 26, 2007, Sen. Reid proposed SA1934, and filled the “insert” tree multiple times when the amendment was subsequently divided into several components, an action which some colloquially referred to as the “clay pigeon.”
		S.1. Honest Leadership and Open Government Act of 2007.	On July 31, 2007, Sen. Reid filled the tree on the motion to concur in the House amendment to the measure, offering amendments SA2589–2590. The leader then filed cloture on the motion. (Congressional Record, daily edition, vol. 153, July 31, 2007, pp. S10400–10401.)
		H.R. 1585, FY 2008 National Defense Authorization Act.	On Sept. 25, 2007, Sen. Reid offered SA3038–3040 to the motion to commit the bill, filling the recommit tree. (Congressional Record, daily edition, vol. 153, Sept. 25, 2007, p. S12024.)
		H.R. 976, Children's Health Insurance Program Reauthorization Act of 2007.	On Sept. 26, 2007, Sen. Reid moved to concur in the House amendments to the Senate amendments to H.R. 976. He then filed cloture on the motion and filled that tree, offering SA3071–3072. (Congressional Record, daily edition, vol. 153, Sept. 26, 2007, pp. S12122–12123.)
		H.R. 2419 Farm, Nutrition, and Bioenergy Act of 2007.	On Nov. 6, 2007, Sen. Reid filled the “strike and insert” tree as well as the motion to commit tree, offering SA3509–3514. In debate, the Senator indicated he would be willing to lay aside pending amendments in order for Senators to offer germane or relevant amendments. (Congressional Record, daily edition, vol. 153, Nov. 6, 2007, pp. S13946–13949.)
		H.R. 6, Energy Independence and Security Act of 2007.	On Dec. 12, 2007, Sen. Reid filled the tree on the motion to concur with two amendments SA3841–3842 and immediately filed cloture on the motion. (Congressional Record, daily edition, vol. 153, Dec. 12, 2007, p. S15218.)
		H.R. 5140, Economic Stimulus Act of 2008.	On Feb. 5, 2008, Sen. Reid filled the insert tree as well as on the motion to commit tree with amendments SA3983–3987. (Congressional Record, daily edition, vol. 154, Feb. 5, 2008, p. S656.)
		H.R. 2881, FAA Reauthorization Act of 2007.	On May 1, 2008, Sen. Reid filled the tree on the measure with amendments SA4628–4631 and on the motion to commit with instructions with SA4636–4637. (Congressional Record, daily edition, vol. 154, May 1, 2008, p. S3581–3582.)

<sup>1</sup> As of May 2, 2008. Information from the Legislative Information System of the U.S. Congress (LIS) and cited issues of the Congressional Record.

Mr. SPECTER. I again call on the Rules Committee to take up my pending rule change which would stop this abhorrent practice.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

#### GASOLINE PRICES

Mr. CORNYN. Mr. President, I wish to join my distinguished colleague, the ranking member of the Judiciary Committee, in talking about the importance of moving judicial nominations through the Senate.

I also, though, wish to start by briefly mentioning a couple numbers. The first is \$3.61. This is the average price of a gallon of gasoline in America today. The next number I would like to show my colleagues is 743. That is how many days it has been since Speaker PELOSI said she would—if elected Speaker—how long ago she said the Democrats would offer their commonsense plan for bringing down prices of gasoline at the pump. I would note we continue to wait for that commonsense plan, and Americans across this country are waiting for Congress to do something about it.

I would note last Friday I joined a number of my colleagues, including the Senator from New Mexico, Mr. DOMENICI, and others in introducing a plan we think will help bring down the price of gasoline at the pump. Our colleagues, not surprisingly, may disagree. But we are waiting for their plan, all these 743 days. I think the American people are wondering and watching and wondering why we have not acted and why Speaker PELOSI, in particular, has not followed through on her commitment made more than 2 years ago.

#### JUDICIAL NOMINATIONS

Mr. CORNYN. Mr. President, this morning, in North Carolina, Senator

JOHN MCCAIN, the presumptive Republican nominee for President of the United States, is giving a very important speech. He may be speaking even as I am speaking. But he is talking about the role of judges in our Government. I think it is a very important speech. I hope our colleagues and the American people will pay close attention to what Senator MCCAIN is saying when he talks about the important role Federal judges play in our American Government.

I hope Senator OBAMA and Senator CLINTON will likewise take the opportunity, at the first chance they have, to talk about their philosophy, about the types of judges they believe should be nominated by the next President of the United States, were they to have that privilege and that opportunity.

Five years ago, on April 30, 2003, I, along with nine other of the newest Members of the Senate, wrote a letter on this issue to Senator Frist and Senator Daschle, the respective leaders of our parties. That letter was important not only because it was a bipartisan statement acknowledging the judicial confirmation process was broken and needed fixing but also important because it called, on a bipartisan basis, by the newest Members of the Senate, for a clean break or as we called it, a fresh start when it came to the issue of judicial confirmations and, notably, we said to “leave the bitterness of the past behind us.”

Mr. President, I ask unanimous consent that letter be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. CORNYN. I would like to read from a passage in that letter, signed by we 10 freshmen at the time. In 2003, we wrote to our leaders:

In some instances, when a well qualified nominee for the federal bench is denied a

vote, the obstruction is justified on the ground of how prior nominees—typically, the nominees of a previous President—were treated. All of these recriminations, made by members on both sides of the aisle, relate to circumstances which occurred before any of us [actually] arrived in the United States Senate. None of us were parties to any of the reported past offenses, whether real or perceived. None of us believe that the ill will of the past should dictate the terms and direction of the future.

Unfortunately, 5 years later, when it comes to judicial nominations, the grievances of the past are still dictating the terms and direction of the future when it comes to judicial nominees. There is still time for that fresh start we called for, still time for a clean slate but, unfortunately, no signs that is likely to occur in the current environment.

So it will likely come to pass once again that last year's and the previous year's grievances will be used again, not without some justification, by Senate Republicans to justify the obstruction of a future Democratic President's judicial nominees, which shows the death spiral we are involved in when it comes to not taking care of the Nation's work, not allowing an up-or-down vote of judicial nominees on the floor of the Senate.

When it comes to judicial nominations, the Senate is supposed to be, as Senator SPECTER said, the world's greatest deliberative body. But it often acts more like the Hatfields and the McCoys, or perhaps, for those who remember Huck Finn, the Grangerfords and the Shepherdsons, who do not know how the feud began but, nonetheless, continue to escalate the violence.

Let's step back and consider the basic facts. Right now across America there are 46 Federal judicial vacancies—12 on the circuit court of appeals, 34 on the district courts. Of these 46 vacancies, 13 are considered “judicial emergencies,” including a handful on the Fourth Circuit Court of Appeals,