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## Senate

The Senate met at 2 p.m. and was called to order by the Honorable CLAIRE MCCASKILL, a Senator from the State of Missouri.

### PRAYER

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

Let us pray.

Eternal God, our refuge and hope, thank You for the opportunity to make a substantive difference for good in our world.

Guide our Senators that they may discover new opportunities to fulfill Your purposes. Lord, give them the wisdom to become concerned about the things that touch Your heart, enabling them to become instruments of Your glory. Open their ears to the cries of the lost and the least in our Nation and world, as they seek to remove the shackles of the hurting. Remind them that apart from You, they can accomplish nothing of lasting significance.

And, Lord, please place Your healing Hands upon Senator EDWARD KENNEDY.

We pray in Your strong Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable CLAIRE MCCASKILL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 19, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable CLAIRE MCCASKILL, a Senator from the State of Missouri, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. MCCASKILL thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

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

### WELL WISHES FOR SENATOR KENNEDY

Mr. REID. Madam President, I received a call early Saturday morning that Senator KENNEDY had taken ill. Since that time, we have heard only encouraging words from his doctors and his family. I spoke to Vicki, his wonderful wife, a couple hours ago. He is resting comfortably. He is having some more tests run today. He is doing very well. Vicki tells me Senator KENNEDY is not only up moving around, but over the weekend he was able to watch some movies, but, more importantly, he was able to watch some Red Sox games. I would note in passing, it cannot hurt his recovery that the Red Sox have won three games in a row.

Anyone who knows Senator KENNEDY and his tremendous work ethic realizes no one is more eager to get back to work than Senator KENNEDY.

So to my good friend, the Senator from Massachusetts, I say: Rest and get well. All of your friends and colleagues in the Senate wish you the very best and look forward to your quick return because there is a lot of work we are depending on you to do. We have a number of things, of course, we were working on together last week.

I talked to him Friday at some length. I am going to give a couple

speeches—actually three—on Wednesday because we are having celebrations here in the Capitol on the 100th birthday of Senator, Majority Leader, and President Johnson. It was interesting to hear Senator KENNEDY—who had worked with him in all of his capacities, as Senator, majority leader, Vice President, and President—some of the comments he had about President Johnson.

So we look forward to Ted being back as soon as possible.

### SCHEDULE

Mr. REID. Madam President, following leader time, there will be a period of morning business for Senators, and they will be able to speak for up to 10 minutes each. There are no votes today, but this is going to be a very busy week. We have a certain number of things we have to do.

We are going to do as many circuit judges as we can. We will certainly at least do one. We have the budget conference report we have to complete. We hope to go to that on Thursday at about 4 o'clock. And, of course, the big one we have to do is the supplemental appropriations bill regarding the war funding in Iraq. Those things we have to complete before we leave here. The budget and the supplemental we have to finish before we leave.

As I indicated, we are going to have some things here on Wednesday in the Capitol regarding President Johnson. From 11 until 12 noon on Wednesday, there will be a time set aside on the Senate floor for tributes to the former President on the centennial of his birth.

### NOMINATIONS

Mr. REID. Madam President, I expect the Senate will consider the nomination of Steven Agee to a Virginia seat on the Fourth Circuit Court of Appeals.

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



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Judge Agee is currently a member of the Virginia Supreme Court. His nomination to the Federal bench is supported by both Senators WEBB and WARNER, and I am confident he will be confirmed overwhelmingly.

Several weeks ago, I pledged my best efforts to have, by the Memorial Day recess, three circuit court nominations completed—by Memorial Day, as I said. I explicitly said at that time that “I cannot guarantee” three confirmations because the outcome would depend on factors that are certainly beyond my control. Still, Senator LEAHY and I have worked hard to move three appellate nominees this month. Judge Agee is one of those three. The next two it appears, in line are Sixth Circuit nominees Raymond Kethledge and Helene White, both of Michigan.

These nominees are the product of an agreement between the White House and Senators LEVIN and STABENOW. It took about 5 or 6 years to work out this agreement, but we now have a chance to fill the vacancies on that circuit.

Senator LEAHY expedited consideration of the Michigan nominees in light of the pledge I made. I did that with the full understanding of Senator LEAHY. Unfortunately, though, Senators on the Republican side on the Judiciary Committee have delayed consideration of Judge White.

I do not know what you would say about what took place at our hearing. Senators have a right to ask questions. They can ask questions. There is certainly leeway. They can basically ask anything they want, and they did. They, following the hearing, asked a total of 73 separate written questions, and some of them were very, very time consuming. As I said, every Senator has a right to ask questions of a nominee, but the number and nature of the questions posed to Judge White suggest there was more to it than just the questions. They went into some things very personal in nature that I am not certain were probative as to this good woman's ability to be a circuit court judge.

In addition, Republicans have insisted that the nomination not move forward until Judge White's ABA review is complete. That is fine with us. They have that right. But in this case, it is ironic they would make that request since she was rated qualified by the ABA 10 years ago when Republicans blocked her nomination from moving forward. Since that time, she has been a sitting Michigan appellate court judge.

It is still possible the Senate will consider these two Michigan nominees before the recess. But if it does not happen, it will be despite my best efforts. I indicated I want to do everything I can to complete this. But we have to have the ABA report, and these questions, as I have indicated, have to be completed.

It is pretty clear these 34 numbered questions I have talked about—a num-

ber of them were compound questions, and that is how we arrived at the number 73—some of these are straightforward questions about judicial philosophy, but there are a number of others that are very time consuming and I am not sure bear on her qualifications. But they have a right to ask those questions.

For example, Senator SESSIONS asked Judge White to compile her caseload statistics as compared with other judges on her court, including the median time intervals between case filing and date of disposition. Think about that. That is a lot of work, a lot of math. Senator SPECTER asked her to supply names and addresses of the groups involved in panel discussions, conferences, and meetings she attended, as well as numerous unpublished opinions.

These are not unreasonable questions, but they are time consuming and they were submitted right before the deadline for submitting written questions to the nominee.

In contrast, Republicans asked Mr. Kethledge—the so-called Republican nominee—the other Michigan nominee, only seven questions, and they were all pretty easy; none of them burdensome questions.

Republicans preferred that Chairman LEAHY, I guess, consider other nominees before the Michigan nominees, but nothing in my pledge regarding judicial nominations deprives Chairman LEAHY of his prerogative to determine the sequence of nominations that would come before his committee.

No one presumed to instruct Senator SPECTER about the sequence of nominations during the years he served as chairman of the Judiciary Committee. And certainly Senator HATCH exercised the chairman's prerogatives freely during the years in which more than 60 of President Clinton's nominees were denied hearings or floor consideration.

Chairman LEAHY and I will continue to process judicial nominations in due course, consistent with the Senate's constitutional role. Consideration of Judge Agee's nomination tomorrow is consistent with that goal.

Madam President, is there going to be a period of morning business now?

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SALAZAR. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. SALAZAR. Madam President, I ask unanimous consent I be authorized to speak in morning business for as much time as I might consume.

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

#### SUPPLEMENTAL APPROPRIATIONS

Mr. SALAZAR. Madam President, this week is a very important week for the United States of America and for the Senate because we will begin our dialog about where we are in Iraq today and where we are going in Iraq in the future; where we are in Afghanistan today and where we are going in Afghanistan in the future.

As part of this dialog we will engage in here in the Senate over the next few days, we will also engage in a major discussion about how it is that our Nation should treat those veterans from both Iraq and Afghanistan, those veterans who have served our country since our country was attacked on 9/11.

It is important at the outset, as we begin this discussion, to first of all pause to remember that there has been a great deal of sacrifice on the part of Americans in terms of life and blood in both Iraq and Afghanistan. We must remember these warriors, these fighters who have been fighting for the cause of their country. We must do that every day so their contribution is never forgotten.

As of today, in Iraq there have been 4,078 Americans who have given their lives carrying out the orders of their Commander in Chief. In Iraq, as of today, since the beginning of that war, there have been 30,004 members of our armed services who have been wounded in Iraq. Let me repeat that number one more time: 30,004 members of our armed services who have been wounded in Iraq. In Afghanistan, where we have now been for 7 years, fighting a just war, going after the Taliban—an effort that spearheaded and should have succeeded in going after Osama bin Laden—in Afghanistan there have been 4,097 Americans who have been killed and 1,044 who have been wounded. For these brave men and women who have served our country and who have given their lives or who have been wounded in the cause that has been assigned to them, we should dedicate the debate we will have on the floor of the Senate in the days ahead.

Today, as we begin that debate, I want to speak about two things. First, with respect to Iraq, it has been my view for the last several years that we need to have a new direction in Iraq. In December of 2006, when the Iraq Study Group, headed up by Congressman Lee Hamilton and former Secretary of State James Baker, came forward with