

REMEMBERING SENATOR  
ROBERT C. BYRD

Mr. TESTER. Madam President, I have a short speech to give today about a giant of a man. I rise today out of deep respect for our colleague, Senator ROBERT C. BYRD. Sharla and I extend our condolences to the BYRD family and to all the people of West Virginia. We join you in mourning but also in a celebration of his life and his successes as a public servant.

Senator BYRD liked to call me “the Mountain Man,” and when somebody from the Mountain State calls you that, it is an incredible compliment.

Senator BYRD and I had a few things in common: We were both from very small towns, we both married our high school sweethearts, and we both made a living at one time as meat cutters. He must have had an eye for the butchering business because he liked to guess my weight. And wouldn't you know, he always came within 3 pounds. You could say Senator BYRD convinced me to spend a little more time in the gym.

Senator BYRD was elected to Congress 4 years before I was even born, and he always shared his wisdom with those of us who admired it. I am honored to call Senator BYRD a respected teacher and a trusted friend.

I was Presiding Officer on the day the farm bill came before the Senate. Instead of signing the farm bill himself, Senator BYRD let me sign the bill. Although it went unspoken, I know it was because he saw me as the farmer in the Senate. It was truly an honor for me to be able to do that.

Another thing Senator BYRD and I had in common was our upbringing in rural America. He was always proud to fight for folks making a living off the land and in the mountains and in the woods. He was a powerful advocate, and he represented West Virginia with tireless passion. He valued hard work and common sense. Those values are a matter of survival in America. They are values you take with you as you go to Congress, and Senator BYRD showed us that.

Madam President, we will miss Senator BYRD very much. His work over the decades on the Hill has made the entire country a better place for us and for our kids and grandkids.

Before I came to Capitol Hill 3½ years ago, many folks came up to me and said: You are going to have an experience of a lifetime. You will meet some incredible people.

And I will tell you that one of the most incredible men I have met since I have been here was Senator BYRD.

We miss you.

I yield the floor.

CONCLUSION OF MORNING  
BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF GARY SCOTT  
FEINERMAN TO BE UNITED  
STATES DISTRICT JUDGE FOR  
THE NORTHERN DISTRICT OF IL-  
LINOIS

The PRESIDING OFFICER. 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 Gary Scott Feinerman, of Illinois, to be United States District Judge for the Northern District.

The PRESIDING OFFICER. Under the previous order, the time until 5:30 p.m. will be for debate on the nomination, with the time equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS.

Mr. TESTER. Madam President, I ask unanimous consent that the time during the quorum call be equally divided.

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

Mr. TESTER. Madam President, 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.

Mrs. BOXER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mrs. BOXER. Madam President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mrs. BOXER are printed in today's RECORD under “Morning Business.”)

Mr. LEAHY. Madam President, today the Senate is proceeding on only one of the 23 judicial nominees stalled by Republican obstruction from action by the Senate. The nominee the Senate will confirm tonight has been stalled for more than 10 weeks, even though his nomination was reported without a single objection from the Judiciary Committee on April 15. There are eight other judicial nominees who have been stalled for at least as long, or longer, and nominees who were favorably reported last year, last November, still being obstructed.

This confirmation was needlessly delayed for no good purpose. The services of this judge are sorely needed in the Northern District of Illinois. I congratulate Mr. Feinerman and his family on his confirmation today.

The Senate Republican leadership refuses to enter into time agreements on pending judicial nominations. That stalling and obstruction is unprecedented. They refuse to enter into a time agreement to consider the North Carolina nominees to the Fourth Circuit, who were reported in January, de-

spite the fact that one was reported unanimously and one with only a single negative vote. They refuse to enter into a time agreement to debate and vote on the Sixth Circuit nominee from Tennessee who was reported last November. I have told Senator ALEXANDER that all Democrats are prepared to vote on that nomination, and have agreed to do so since November. It is his own leadership that continues to obstruct the nominee.

The Senate is well behind the pace I set for President Bush's judicial nominees in 2001 and 2002. A useful comparison is that in 2002, the second year of the Bush administration, the Democratic Senate majority's hard work led to the confirmation of 72 Federal circuit and district judges nominated by a President from the other party. In this second year of the Obama administration, we have confirmed just 22 so far—72 to 22.

In the first 2 years of the Bush administration, we confirmed 100 Federal circuit and district court judges. So far in the first 2 years of the Obama administration, the Republican leadership has successfully obstructed all but 34 of his Federal circuit and district court nominees—100 to 34. We confirmed twice that many in just 2002. Meanwhile Federal judicial vacancies around the country hover around 100.

By this date in President Bush's Presidency, the Senate had confirmed 57 of his judicial nominees. Despite the fact that President Obama began sending us judicial nominations two months earlier than did President Bush, the Senate has to date only confirmed 34 of his Federal circuit and district court nominees—57 to 34.

Last year, Senate Republicans refused to move forward on judicial nominees. The Senate confirmed the fewest judges in 50 years. The Senate Republican leadership allowed only 12 Federal circuit and district court nominees to be considered and confirmed despite the availability of many more for final action. They have continued their obstruction throughout this year. By every measure, the Republican obstruction is a disaster for the Federal courts and for the American people.

To put this into historical perspective, consider this: In 1982, the second year of the Reagan administration, the Senate confirmed 47 judges. In 1990, the second year of the George H.W. Bush administration, the Senate confirmed 55 judges. In 1994, the second year of the Clinton administration, the Senate confirmed 99 judges. In 2002, the second year of the George W. Bush administration, the Senate confirmed 72 judges. The only year comparable to this year's record-setting low total of 16 was 1996, when the Republican Senate majority refused to consider President Clinton's judicial nominees and only 17 were confirmed all session.

Senate Democrats moved forward with judicial nominees whether the President was Democratic, 1994, or Republican, 1982, 1990, 2002, and whether

they were in the Senate majority, 1990, 1994, 2002, or in the Senate minority, 1982. Senate Republicans, by contrast, have shown an unwillingness to consider judicial nominees of Democratic Presidents, 1996, 2009, 2010.

Over the last recess, I sent a letter to Senator MCCONNELL and to the majority leader concerning these matters. In that letter, I urged, as I have since last December, the Senate to schedule votes on these nominations without further obstruction or delay. I called on the Republican leadership to work with the majority leader to schedule immediate votes on consensus nominations—many, like that finally being considered today, I expect will be confirmed unanimously—and consent to time agreements on those on which debate is requested. As I said in the letter, if there are judicial nominations that Republicans truly wish to filibuster—after arguing during the Bush administration that such action would be unconstitutional and wrong—then they should so indicate to allow the majority leader to seek cloture to end the filibuster. It is outrageous that the majority leader will be forced to file cloture petitions to get votes on the North Carolina, Tennessee and other nominees.

After this confirmation, there will still be 22 judicial nominees favorably reported by the Judiciary Committee being stalled from Senate consideration by the Republican leadership.

The PRESIDING OFFICER (Mr. KAUFMAN). Under the previous order, the question is, Will the Senate advise and consent to the nomination of Gary Scott Feinerman, of Illinois, to be U.S. District Judge for the Northern District of Illinois?

Mr. LEAHY. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Washington (Ms. CANTWELL), the Senator from New York (Mrs. GILLIBRAND), the Senator from South Dakota (Mr. JOHNSON), the Senator from Oregon (Mr. MERKLEY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Vermont (Mr. SANDERS), the Senator from Michigan (Ms. STABENOW), and the Senator from Oregon (Mr. WYDEN), are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. BURR), the Senator from New Hampshire (Mr.

GREGG), the Senator from Florida (Mr. LEMIEUX), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Alabama (Mr. SHELBY), the Senator from Louisiana (Mr. VITTER), and the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER (Mrs. SHAHEEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 0, as follows:

[Rollcall Vote No. 201 Ex.]

#### YEAS—80

Akaka	Durbin	Lugar
Alexander	Ensign	McCain
Barrasso	Enzi	McCaskill
Baucus	Feingold	McConnell
Bayh	Feinstein	Menendez
Begich	Franken	Nelson (NE)
Bennet	Graham	Nelson (FL)
Bingaman	Grassley	Pryor
Boxer	Hagan	Reed
Brown (MA)	Harkin	Reid
Brown (OH)	Hatch	Risch
Bunning	Hutchison	Roberts
Burr	Inhofe	Rockefeller
Cardin	Inouye	Schumer
Carper	Isakson	Sessions
Casey	Johanns	Shaheen
Chambliss	Kaufman	Snowe
Coburn	Kerry	Specter
Cochran	Klobuchar	Tester
Collins	Kohl	Thune
Conrad	Kyl	Udall (CO)
Corker	Landrieu	Udall (NM)
Cornyn	Lautenberg	Warner
Crapo	Leahy	Webb
DeMint	Levin	Whitehouse
Dodd	Lieberman	Wicker
Dorgan	Lincoln	

#### NOT VOTING—19

Bennett	Johnson	Shelby
Bond	LeMieux	Stabenow
Brownback	Merkley	Vitter
Burr	Mikulski	Voinovich
Cantwell	Murkowski	Wyden
Gillibrand	Murray	
Gregg	Sanders	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Hawaii.

Mr. AKAKA. Madam President, I ask unanimous consent to speak as in morning business.

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

#### REMEMBERING SENATOR ROBERT C. BYRD

Mr. AKAKA. Madam President, I rise to pay tribute to Senator ROBERT C. BYRD, my mentor, supporter, and good friend.

Senator BYRD was the dean of the Senate, our foremost constitutional scholar. No one in the history of our country served longer in Congress.

For more than a half century, ROBERT C. BYRD kept the Senate in line. He always kept a copy of the Constitution in his jacket pocket, close to his heart. He was meticulous, a master of the rules of this historic institution.

Through hard work and dedication, Senator BYRD became an institution himself.

When I joined the Senate 20 years ago, to my great fortune, Senator BYRD took me under his wing. He guided me through procedural rules and taught me how to preside over the floor. I still have the notes he gave me when I was a freshman Senator. He was adamant that the Presiding Officer should always be respectful of the speakers, while maintaining strict adherence to the rules of the Senate.

Senator ROBERT C. BYRD was a patriot who cared for and loved this country, the United States of America. He worked hard for the people of West Virginia, who showed their support for him election after election.

Senator ROBERT C. BYRD was a spiritual man. Each week a number of Senators got together for a morning prayer breakfast. Senator BYRD was a regular participant when he was well. His favorite hymn was "Old Rugged Cross." I enjoyed singing it with him many times.

We shared a love for music and the arts. His fiddle playing was legendary.

He loved his family. He loved his children and grandchildren. He loved his dogs. Closest always was his wife Erma who was always by his side until her death in 2006. They spent many wonderful years together, and now they are together again.

My thoughts and prayers are with the Byrd family.

Senator BYRD, we love you and we miss you.

Thank you very much, Madam President.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Madam President, I ask unanimous consent to speak as in morning business.

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

#### USE OF IEDS IN AFGHANISTAN

Mr. CASEY. Madam President, I rise tonight to speak about the war in Afghanistan, but on a particular subject. In particular, I wish to speak about the terribly destructive force of improvised explosive devices. These improvised explosive devices, known by the acronym IEDs, represent the single greatest threat to the United States and coalition forces in Afghanistan. The impact of this deadly tool of war has been felt in my home State of Pennsylvania, and I know so many of our colleagues have had not only loved ones in some cases but constituents who have lost their lives because of IEDs. In Pennsylvania, we have lost marines, soldiers, and National Guard troops to this insidious threat.

In the first 4 months of 2010, incidents of IEDs in Afghanistan increased 94 percent over a comparable period in the previous year according to the United Nations.

In 2009, more than 6,000 IEDs were discovered, the vast majority of which