

and mapped out a plan to actually guarantee gridlock for the rest of the year.

This is sort of a stunningly cynical strategy when you think about it. Millions of Americans cannot find work. The average length of unemployment is the longest it has ever been. Hundreds of thousands of Americans who had a job when this President took office have simply dropped out of the workforce. And yet the Washington Democrats' plan for this year is to sit on their hands and blame it on the other guy.

I certainly hope this was just a couple of overzealous staffers saying this. I hope our Democratic friends have not decided this is how they plan to spend the rest of this year. I hope they have not given up on governing in favor of campaigning and complaining because, to borrow a phrase, facing up to the economic crises we face cannot wait. Democrats in Congress cannot simply throw in the towel because they are no longer getting everything they want.

The fact is, Democrats got everything they wanted for 2 years—for 2 years after this President was elected. The American people decided to impose a little balance in the November 2010 election, and they are still waiting for this White House and Democratic leaders in Congress to work on a different approach. So it is about time we got started. President Obama's 3-year experiment with big government has made our economy worse and our future more uncertain. Americans want a government that is simpler, streamlined, and secure.

But we will not be able to achieve these things if Democrats refuse to even try, if they have decided to spend the next year on show votes and legislation that is designed for bus tours instead of bill signings.

The No. 1 issue facing our country is jobs, and the No. 1 goal of Republicans in 2012 is to continue to make it easier for American small business to create jobs. We will accomplish this by focusing on three things: fundamental tax reform, regulatory reform, and energy security. But we will surely fail if the Democratic majority in the Senate refuses to help.

So Republicans will continue to make the case for policies that will spark an economic revival and create new opportunities for struggling Americans, and we hope the Democrats will join us. Tomorrow, the President will come to the Capitol to tell us what he thinks about the state of our country and to outline his plans for the future. We welcome him. We look forward to his address. We stand ready to work with him as always on an agenda that will get our Nation moving again, not an agenda to divide, not a repackaging of the same ideas that have made our economy worse and our future more uncertain but a truly bipartisan agenda that gets us beyond past skirmishes and onto a different path entirely. There is much we can and should do to-

gether. Let us focus on that and put the rest aside.

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, there will now be a period of morning business until 4 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

GERRARD NOMINATION

Mr. NELSON of Nebraska. I rise to speak on behalf of an outstanding Nebraskan, State Supreme Court Justice John Gerrard. His nomination to fill a vacancy on the U.S. District Court for Nebraska is now before the Senate.

John Gerrard has built an exceptional record in private practice and on the Nebraska Supreme Court and will do an exemplary job as a U.S. district judge for the District of Nebraska. I have known him for more than 20 years and believe he has the experience, the intellect, and the temperament needed on our Federal bench. I cannot think of anyone better qualified than John Gerrard.

I was very pleased the President nominated him. I have welcomed my colleague Senator Johann's strong support, and I believe the Senate should confirm him for the position of a U.S. district court judge.

John Gerrard, a native of Schuyler, NE, has served as a private attorney, a city attorney, counsel to several public school districts in Nebraska, and he has an outstanding public record as a judge. In private practice, Judge Gerrard tried dozens of cases, both civil and criminal, to verdicts in State and Federal courts. He was highly respected as a trial attorney earning an "AV" Martindale-Hubbell rating from his colleagues. He was elected to the American Board of Trial Advocates by his peers.

During my tenure as Governor, I appointed him, in 1995, to the Nebraska Supreme Court. Nebraska voters have shown their confidence in him by retaining him in office three times: in 1998, 2004, and 2010. He has consistently received top ratings by the Nebraska State Bar Association in its biennial judicial evaluations, particularly in the areas of legal analysis, judicial temperament, and fair treatment of litigants and their lawyers.

Furthermore, the Nebraska judicial system gave him its Distinguished Judge for Improvement of Judicial System Award in 2006. This was in recognition of his work as cochair of the system's Minority Justice Committee

and the Interpreter Advisory Committee, as well as leading initiatives promoting racial and ethnic fairness under the law.

Also, in 2008, the Nebraska State Bar Foundation gave him its Legal Pioneer Award. This was for making the courts more user friendly for citizens from all cultures by utilizing technology and other means to improve both understanding and participation in the courts. I would note that on the Nebraska Supreme Court, Judge Gerrard has authored more than 450 opinions, and he is widely considered a leader on that court.

Judge Gerrard is held in the highest regard by both the bench and the bar in Nebraska, and the American Bar Association has deemed him "unanimously well qualified" to serve as a U.S. district judge. Judge Gerrard maintains the same even temperament off the bench as he does on the bench. Clearly, he is an exemplary person who has contributed much to our society.

Furthermore, he and his wife Nancy have been married for 34 years and have raised four exceptional children. I would also note that during my years as Governor, I appointed 81 judges in the State of Nebraska, including the Nebraska State Supreme Court. Since I have been in the Senate, I voted on numerous judicial nominees. In all cases, I have supported candidates for the judiciary who convinced me they would follow the law and would not manipulate it to promote a personal or activist agenda. This is a critical test for me and it is relevant concerning Justice Gerrard. I am convinced he would not allow personal beliefs to interfere with his judicial duties, nor would he bring an activist agenda to the Federal bench. He has proven this beyond a doubt with his disciplined approach to the law over the last 16½ years as a judge on the Nebraska Supreme Court.

Questions, however, have been raised to Justice Gerrard on those points, and I would like to address them now. He has been asked whether a matter may be constitutional one day and not the next based on a changing legal landscape. He has answered for the record that the U.S. Supreme Court and the circuit courts set the binding precedent on whether a matter is constitutional, which he would follow as a district judge.

He has stated a Federal district court judge can conclude the law has changed only by legislation or by a ruling by a higher court. Justice Gerrard has a clear understanding of the limitations of a Federal district court judge. He has demonstrated that understanding in the deference he has given to the legislative branch and to higher court precedent during his years on the Nebraska Supreme Court.

He has also been asked specifically whether he has personal beliefs that would make him unable to carry out the death penalty. Again, he has answered, for the record, that he does not. More to the point, Nebraska carried out the death penalty while I was

Governor and Justice Gerrard was serving on the Nebraska Supreme Court. As a matter of fact, the court has concurred in establishing an execution date to take place this March 6 in the State of Nebraska.

Issuing and executing a death sentence is one of the most solemn responsibilities the judicial and executive branches are entrusted with. In every instance, Justice Gerrard has ruled on the death penalty, he has been balanced, even-handed and, most important, faithful to the Constitution. In fact, Judge Gerrard has confirmed for the record that the U.S. Supreme Court and the Nebraska Supreme Court have repeatedly held that the death penalty is an acceptable punishment as long as the laws for imposing it are followed and the constitutional limitations imposed by the U.S. Supreme Court are respected.

Finally, Judge Gerrard has stated, and the record shows, he has voted to confirm a number of sentences and convictions of those sentenced to death, and he has authored more than one State court opinion upholding the constitutionality of Nebraska's death penalty law. In my view, Judge Gerrard's answers and his clear record more than adequately address any concerns about his ability or willingness to both apply the law with impartiality and to carry out the law effectively.

To sum up, John Gerrard deserves to be confirmed by the Senate because he has an outstanding legal record, he possesses the proper temperament needed on the Federal bench, and he will follow legal precedent to carry out the law rather than interpret as he sees it. He has been and will be an impartial judge, not an activist. So I urge his confirmation by my colleagues.

I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. JOHANNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JOHANNIS. Mr. President, I am very pleased today to rise in support of a man who has proven himself worthy to serve as a Federal judge on the U.S. district court.

Justice John Gerrard has experience, integrity, and respect for the Constitution—all of which are necessary for someone serving on our Federal bench.

He has earned the respect and the admiration of the people of Nebraska. He consistently receives top ratings from the Nebraska State Bar Association, and the people of Nebraska have expressed their confidence in him not once, not twice, but three times, voting to retain him on the bench.

Justice Gerrard has authored hundreds of opinions throughout his 16 years as a member of the Nebraska Su-

preme Court. These decisions reveal with clarity his philosophy regarding the powers and limitations of a judge. They reflect his commitment to adhere to the Constitution and the laws of our great Nation.

When asked about judicial restraint after his nomination to the U.S. district court, Justice Gerrard responded:

I firmly believe that a judge should rely on the admissible evidence and applicable law (and nothing else) when rendering a decision.

He further responded:

I do not believe a judge should consider his or her own values or policy preferences in determining what the law means—and I have never done so at any time in my judicial career.

This unequivocal statement says a lot. Justice Gerrard knows that his more than 450 opinions are a matter of public record and that they are open to everyone's scrutiny. He has welcomed that. He has welcomed it with humility.

You will not hear him boast about being the youngest person ever appointed to my home State's high court, nor will you hear him boast about his successful years as a private attorney and city attorney—and they were successful. He is absolutely unassuming. He is reflective and he is articulate. He speaks with great reverence about the oath he took to uphold the Constitution.

I did not know Justice Gerrard prior to his appointment to the Nebraska Supreme Court, but he quickly developed a reputation as a disciplined judge who renders very well researched opinions.

I believe Justice John Gerrard is a worthy member to join the U.S. district court, and so I stand here today urging my colleagues to vote in favor of his confirmation.

I would also like to take a moment to talk about the process that brought us here this afternoon. In this regard, I would like to offer my appreciation and thanks to my colleague from Nebraska, the senior Senator, BEN NELSON. Senator NELSON called me before this nomination was made and asked for my input. I took that opportunity to sit down with Judge Gerrard and to talk to him. After our meeting and knowing what I knew about the justice, it was my decision to support his nomination to the U.S. district court. In fact, I would say, if I had total control of this nomination, I would do it all over again.

This is a fine man. This is a man who I hope will have strong bipartisan support this afternoon when we vote on making him a U.S. district judge. He is a good man, and he deserves a strong bipartisan vote. He is going to adhere to the laws of our Nation with integrity, humility, and a strict adherence to the law.

I yield the floor.

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. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JOHN M. GERRARD TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA

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 assistant legislative clerk read the nomination of John M. Gerrard, of Nebraska, to be United States District Judge for the District of Nebraska.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 90 minutes for debate, with 60 minutes divided in the usual form and 30 minutes under the control of the Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask that I be notified after 12 minutes.

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

Mr. SESSIONS. Mr. President, by all accounts, Judge Gerrard of the Nebraska Supreme Court is a good man with a good family and many friends, and he has done a pretty good job over the years—maybe a good job over the years—as a capable practicing jurist now on the Supreme Court of Nebraska.

I will vote against that nomination, reluctantly. I really do not want to in one sense, but his nomination raises an important issue about the duty of a judge to be faithful to the law and to commit to serve under the law and under the Constitution, as the oath of a Federal judge requires. In other words, as a judge you are a servant to the law.

You honor the law. You venerate the law. You follow the law whether or not you like it, whether or not you think it is a good idea, whether or not had you been at the Constitutional Convention in the 1700s, you would have voted for that phrase or not voted for that phrase or whether if you had been in the House or the Senate you would have worked to change the Constitution or change the law of the State of Nebraska. Those are matters that are outside the province of a judge. If judges choose to be involved in policy-setting, then they ought to invest themselves in the policy-setting branches, the legislative and executive branches.