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Senate

The Senate met at 10 a.m. and was called to order by the Honorable WILLIAM M. COWAN, a Senator from the Commonwealth of Massachusetts.

PRAYER

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

Let us pray.

O Lord, our rock, You are our shield in the time of storm. We give You our hopes and dreams, knowing that You know what is best for our Nation and world. Lord, You know the numerous challenges we face, so guide our Senators with Your wisdom. May integrity and uprightness be the standards for their conduct so that they will not disappoint You. Lift the light of Your countenance upon them and be gracious to them. Give fresh strength and wisdom as You renew the drumbeat of Your Spirit in their hearts, empowering them to march to the rhythm of Your righteousness.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WILLIAM M. COWAN 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. LEAHY).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 5, 2013.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM M. COWAN, a

Senator from the Commonwealth of Massachusetts, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. COWAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

THE CHAPLAIN

Mr. REID. Mr. President, before the Chaplain leaves the Chamber, I want to say something on behalf of all the Senators.

New Senators probably don't know him as well as those who have been here longer than the beginning of this year, but we are so fortunate to have this good man leading the Senate in our spiritual activities. He leads the prayer every morning. We have a "Prayer Breakfast" every Wednesday. And during that period of time when we don't see him, he is out counseling people who work here, including individual Senators.

During the last few years, my wife has been ill and has had a bad accident. He has been so in tune with her, making sure that we all are aware of how well she is doing. She has had a great recovery.

So on behalf of the whole Senate, I extend my appreciation to this good man—a man who was born with very little except a very good mother who taught him early on—and had a very keen intellect—that with his mind he could accomplish a great deal.

As far as memory, there is only one other person I have known in my lifetime who had a memory like his, and that was Robert Byrd, the longtime Senator from West Virginia. Chaplain Black has a remarkable memory of not only all the Scriptures, Old and New

Testament, but poems. He has an intellect that is really amazing.

Again, I repeat, we are all so very fortunate that he is Chaplain of the Senate.

SCHEDULE

Mr. REID. Mr. President, following leader remarks today, the Senate will be in morning business until 11:45 a.m., with the majority controlling the first 30 minutes and the Republicans controlling the second 30 minutes.

Following morning business the Senate will proceed to the consideration of S. Res. 64, which is the committee funding resolution. At about 12:15 p.m. there will be a rollcall vote on Senator PAUL's amendment striking funding for the National Security Working Group. Following the vote the Senate will be in recess until 2:15 p.m. to allow for the weekly caucus meetings.

As a reminder, I filed cloture on the nomination of Caitlin Halligan to be U.S. circuit judge for the DC Circuit, and I will discuss that in just a few minutes. We are going to vote on her tomorrow.

NOMINATIONS

Mr. REID. Mr. President, four-time Prime Minister of the United Kingdom William Gladstone said something we all have repeated many times: "Justice delayed is justice denied." By that measure millions of Americans who rely on courts that are overworked and understaffed are being denied the justice they rightly deserve.

With 1 out of every 10 Federal judgeships today vacant, Americans can no longer rely on fairness and speedy trials. More than one-half of the Nation's population lives in a part of the country that has been declared a judicial emergency—more than one-half.

The high number of vacancies isn't due to a lack of qualified lawyers to take these jobs; it is due, instead, to

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



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blatant partisanship. I am going to lay out in a few minutes what is remarkable.

President Obama's judicial nominees have waited on average four times longer to be confirmed than those nominated by the second George W. Bush. Even highly qualified nominees—nominees who are eventually confirmed unanimously or almost unanimously—routinely wait for months to be confirmed because of the delay tactics used by my Republican colleagues.

Tomorrow we are going to consider highly qualified Caitlin Joan Halligan to be a DC circuit judge. She has been waiting more than 2 years to be confirmed. She was nominated for the second time to fill a vacancy on the U.S. Court of Appeals for the DC Circuit. This is a court that was formed some 65 years ago. It was done because the Supreme Court couldn't do the cases—they didn't have time to do them, and the circuit courts were overwhelmed with work they couldn't do.

Many consider the DC Circuit to be just a tiny notch below the Supreme Court. In fact, PAT LEAHY, the chairman of the Judiciary Committee, said yesterday many believe it is more important than the Supreme Court because they have such wide-ranging jurisdiction. Once they make a decision, rarely does the Supreme Court take up their cases. They consider complex appeals of Federal regulations, among other things, and have jurisdiction over vital national security challenges.

It is also one of the many courts in crisis across the country. Mr. President, 36 to 37 percent of the DC Circuit seats are vacant. There are four vacancies now. The last appointment to the DC Circuit was made in 2006. It is now 2013. In the years since the number of pending cases per judge has grown to almost 200 from a little over 100.

When Ms. Halligan was nominated to the DC Circuit in 2010, she was nominated to fill one of two vacancies. Many Republicans said they voted against her then because there was no need; the DC Circuit had enough judges. Now it is four short.

More than 2 years after she was first turned down, her nomination is again before the Senate, and the DC Circuit has four empty seats. The last time the Senate considered Ms. Halligan's nomination, some of my Republican colleagues claimed the DC Circuit didn't need any more judges, so they filibustered the confirmation. No one could credibly make that argument today. If my Republican colleagues choose to filibuster her confirmation a second time, their naked partisanship will certainly be exposed.

For example, Patricia Wald, who served on that court for 20 years—for 5 years she was the chief judge—said of the confirmation process:

The constitutional system of nomination and confirmation can work only if there is good faith on the part of both the president and the Senate to move qualified nominees along, rather than withholding consent for political reasons.

For example, if someone doesn't want to vote for her, tell them to vote no. Have them vote no. I invite them to vote no. But don't stop her from having an up-or-down vote.

I was very troubled with Justice Thomas, who was then a circuit court judge. A decision had to be made by me and many others: Should we allow Justice Thomas an up-or-down vote? The decision was made, yes, we should. He barely made it. He got 2 or 3 votes more than 50. It would have been so easy to stop that nomination, but it would have been the wrong thing to do. As bad as I feel he has been as a jurist, it doesn't matter. He should have had the ability to have an up-or-down vote. A Republican President sent that name forward, and he was entitled to a vote. That was a decision I and many other Democratic Senators made.

If my Republican colleagues don't like this woman, for whatever reason, vote against her. Don't stop her from having an up-or-down vote. A second partisan filibuster of this highly qualified nominee by my Republican colleagues would be in very bad faith. I repeat: If for some reason you don't like her, vote against her. Don't stop her from having a vote.

One qualified, consensus judicial nominee ought to be treated as another regardless of the political party of the President who made the nomination.

President Obama is the only President in 65 years—since this court was formed—to not have a single person put on the DC Circuit. That is how important this court is, and this is how Ms. Halligan and others have been stymied from getting on this court.

It is not because President Obama's nominees are anything but totally qualified. Ms. Halligan's colleagues have called her a brilliant legal mind. She has outstanding credentials, strong support from lawyers, a vast number of Republicans, former judges, law enforcement officials, and more than 20 former Supreme Court clerks from across the political spectrum.

She graduated with honors from Princeton and Georgetown Law School. She clerked for Justice Patricia Wald, whom I just quoted, and this woman was a judge in the DC Circuit for 20 years, 5 years as a chief judge.

If a truly exceptional candidate such as Caitlin Halligan isn't qualified to be a judge in the United States, I don't know who would be. I think it is very delicate ground Republicans are walking on if they think they can filibuster this woman and get away with it. It would be wrong. If they don't like her, vote against her.

Mr. President, I 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. McCONNELL. 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.

RECOGNITION OF THE MINORITY LEADER

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

REGULAR ORDER

Mr. McCONNELL. Mr. President, back in November the American people sent a divided government to Washington. I know this is not the outcome that President Obama had hoped for. I know he wanted complete control of Washington, just like he had the first 2 years of his Presidency.

Still, it was surprising to me—and I think to a lot of other people around here—to learn over the weekend that among the first calls the President made after his acceptance speech on election day had to do with ginning up another campaign.

The President wasn't focused on solving the problems that middle-class families face today but how to get a Democratic Speaker of the House 2 years down the road. That was the message he sent to top House Democrats.

Since then, the President, along with his Washington Democratic allies, has expended enormous amounts of energy to advance that goal—rebooting his political organization, provoking manufactured crises with Congress, engineering show votes in the Senate, and traveling around the country to campaign relentlessly against his opponents.

That is why the sequester went into effect in its current form. That is why Washington continues to careen needlessly from crisis to crisis.

And that is why we find ourselves in a situation where more than 1,400 days have passed since Senate Democrats last passed a budget. What a sad state of affairs for our country, and for the notion of governance in general.

Every year House Republicans have passed budgets that seriously address the transcendent challenge of our time: putting runaway Washington spending and debt on a sustainable path so we can create jobs and grow the economy.

Meanwhile, Democrats have followed the President's lead, focusing on the next campaign to the exclusion of all else.

But it is not just Senate Democrats who have been missing in action. The President has been late submitting his own budget outline nearly every single year.

He has already missed this year's deadline by more than a month.

Just last week we learned the President will submit his budget after the House and the Senate have passed their own budgets and have gone home for Passover and Easter. That goes far beyond the pale of just missing deadlines.

Look, the American people are tired of the delays and the excuses. It is time