



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, FIRST SESSION

Vol. 159

WASHINGTON, WEDNESDAY, MARCH 6, 2013

No. 32

Senate

The Senate met at 9:30 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 C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, today, as the snow gently caresses the Earth, we are reminded of Your sovereignty over the seasons of our sojourn. You are our provider and protector. You are king of our lives. Lord, we are grateful that each day when we pray to You, You listen to our prayers. A thousand years means nothing to You. They are merely a day gone by or a few hours in the night.

Inspire our Senators this day to use wisely the fragile time they have. As You help them to do Your will, may they celebrate the movements of Your powerful providence. Show them Your mighty power in these challenging times.

We pray in Your strong 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 6, 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.

SCHEDULE

Mr. REID. Mr. President, following leader remarks the Senate will resume consideration of the nomination of Caitlin Halligan to be U.S. circuit judge for the DC Circuit. At 10:30 there will be a vote on that nomination. We all know the weather is inclement. It is getting worse, as I saw coming in.

I have talked to Senator MCCONNELL today. We are going to vote on the judge at 10:30. We have the Brennan nomination that we are going to finish this week. I have explained to the Republican leader that if they are going to filibuster that—and I understand that is what they are going to do—we could set up a 60-vote threshold filibuster, and then we can go ahead and have a vote on that today, allowing people to make proper travel arrangements. It is strictly up to the minority. We are ready to make that arrangement, if they so agree, because of the weather.

SYRIA

Mr. REID. Mr. President, each day the world watches in horror at what is going on in Syria. Seventy thousand people have been killed as President Bashar al-Assad carries out a campaign of wanton violence against his own people.

These atrocities have gone on for far too long—seventy thousand dead Syr-

ians. It is time for this awful dictator-tyrant to step down and allow his people to pursue a peaceful transition to the democracy which they crave. Assad grows increasingly desperate as rebels continue to gain ground despite the full force of Assad's military arsenal of planes, bombs, and rockets. President Assad should understand the world is watching his every action and will not tolerate his unforgivable slaughter of innocent citizens, including the potential future use of chemical weapons.

President Obama has made clear—and I support him 100 percent—the use of such chemical weapons would constitute a red line for the United States and for the national community. Rather than continue to kill his own people, Assad should end the bloodshed and relinquish power to Syria's citizens.

BRENNAN NOMINATION

Mr. REID. Mr. President, as America closely observes the unfolding of events in Syria and deals with varying threats around the world, it is crucial that President Obama has a seasoned national security team in place.

It is often said there is no substitute for experience, so it is natural that a 25-year CIA veteran, John Brennan, was reported out of the Senate Intelligence Committee by a wide margin on a bipartisan vote.

Mr. Brennan is a highly qualified nominee and should be confirmed immediately. As Deputy National Security Adviser since 2009, John Brennan has been President Obama's chief homeland security and counterterrorism adviser. He has been at the forefront of every major national security decision made during the Obama administration. He is responsible for the White House response to pandemics, cyber threats, natural disasters, and terrorism attacks. He has played an instrumental role in finding Osama bin Laden, killing bin Laden, and, in effect, decimating al-Qaida.

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



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His distinguished intelligence career began more than 30 years ago when he joined the CIA as a career trainee straight out of graduate school. Mr. Brennan worked his way up through the agency to serve in senior management roles in the CIA, including as Deputy Executive Director under George Tenet. Years spent working on covert and analytical missions and as chief of station in Saudi Arabia give him a comprehensive understanding of the CIA's capabilities and inner workings. His knowledge of the Middle East will be essential as we continue to work to defeat al-Qaida and other terrorist threats.

Mr. Brennan has distinguished himself outside of government as well. He spent 4 years in the private sector as president and CEO of the Analysis Corporation. His extensive intelligence background and executive experience uniquely qualify him to lead the Central Intelligence Agency.

Just as CIA faces the challenges abroad, it also faces significant decisions about its future. John Brennan must guide the CIA through a series of considerations dealing with the Agency's relationship with our military, how the Agency should respond to the conclusions of a recent Senate Intelligence Committee report on interrogation techniques and practices, and, finally, the Agency's response to demands for transparency. These considerations must not be made lightly, and John Brennan will give them the attention they deserve in his role as Director.

The Senate must also approach its duty to advise and consent with the solemnity it deserves. Unfortunately, the confirmation process has focused too much this year and the last two Congresses on partisan political considerations and not enough on the quality of the nominees.

I am very disappointed that I am forced to file cloture on John Brennan's nomination. What does that accomplish? If someone doesn't like him, come here and give a big speech, wave your arms, scream and shout, and vote against him. But why hold up the entire Senate over a meaningless vote?

My Republican colleagues have already obstructed several critical nominations this year. I hope that pattern of obstructionist behavior will not persist. I do hope for the sake of the country the obstruction of the last two Congresses will vanish. I feel very certain that in Mr. Brennan's case concerns for national security will outweigh the desire to grandstand for the weakened tea party.

RESERVATION OF LEADER TIME

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

Mr. DURBIN. Mr. 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. DURBIN. Mr. President, the issue before us is Caitlin Halligan's nomination for the DC Circuit Court. I spoke yesterday in support of her nomination. It is unfortunate she is going to be forced to face a filibuster; in other words, that the Republicans are going to insist on a 60-vote margin for her approval. That is unfortunate because we have tried in the beginning of this Senate session to avoid this kind of filibuster confrontation.

In the last several years, we have had over 400 filibusters, a recordbreaking number of filibusters in the Senate. What that means is the ordinary business of the Senate has been stopped 400 times, when those who were trying to bring up a nomination or bill or amendment faced a filibuster which required literally stretching the vote out over days and sometimes even over 1 week. That is unnecessary. It is frustrating as well.

There are a lot of things we need to do and a lot of issues we need to face. I am not afraid of taking on controversial votes on the floor. I think that was part of the job assignment coming here. I quoted many times my late friend, my colleague in the House, Mike Synar of Oklahoma, who used to get right in the face of his colleagues at the Democratic caucus when they complained about controversial votes on the floor and he said: If you don't want to fight fires, don't be a firefighter. If you don't want to vote on controversial issues, don't run for Congress. That is what this job is about.

I agree with that. As painful as some of these votes have been for me and others, we should never use that as an excuse for not tackling the important issues of our time. But this has become routine now—routine filibusters, trying to stop the Senate time and time again. What is particularly insidious about this strategy on this nominee is she is an extraordinarily well-qualified person. "Unanimously well qualified," that is the rating she received from the American Bar Association. When we look at her resume and the things she has done, she stands out as not only an excellent candidate for DC Circuit but one of the best we have had for any judicial position. She is being stopped by the Republicans.

What is their argument? She was the solicitor general for the State of New York. The solicitor general is the hired attorney for a client known as the State of New York. So many times she was sent into court to argue a position that had been taken by the State or by the Governor, and she did her job as their counsel, to argue their position as convincingly as possible. That is what lawyers do every day in courtrooms all across America.

Back in the day when I practiced law, I didn't measure every client who came through the door to ask: Do I agree with every position my client has

taken? Of course not. The belief is in our system of justice both sides deserve a voice in the courtroom and both sides, doing their best, give justice an opportunity. That is what Caitlin Halligan did as the solicitor general for the State of New York.

Listen to this. One of the arguments being made against her was that while she was solicitor general she served on a bar committee that issued a report that favored using article III courts for the prosecution of terrorists. Article III courts are the ordinary criminal courts of the land under our Constitution. The report argued that position. Many Republicans take an opposite position, that anyone accused of terrorism should be tried in a military tribunal, not an ordinary criminal court. They have held that position. They argue that position. They get red in the face saying that is the only way to take care of terrorists and they ignore reality.

The reality is, since 9/11, President Bush, as well as President Obama, had a choice between prosecuting terrorists in article III courts, the criminal courts or in military tribunals. In over 400 cases, they successfully, both Presidents, chose to prosecute accused terrorists in the article III courts—successfully. In only five cases—I believe it is five—have they used military tribunals. The overwhelming evidence is that the article III criminal courts have worked well. Prosecutions have been successful. This argument: Oh, if you have to read Miranda rights to an accused terrorist, we will never be able to prosecute them, they will lawyer up in a hurry. It doesn't quite work that way. In fact, we found the opposite to be true. When many of these folks with connections through terrorism are taken through the ordinary criminal process, they end up being more cooperative than through a military tribunal. That is a fact. A President and the Attorney General have to make that decision. So here is Caitlin Halligan, solicitor general for the State of New York, whose name is on a bar committee report favoring the use of article III courts, which overwhelmingly President Bush and President Obama decided to do, and now the Republicans say that disqualifies her, that disqualifies her from serving on the DC Circuit Court.

It also is ridiculous position to argue that because an attorney argues a point of view in a case, that is her own point of view. I refer my colleagues to the testimony of Justice Roberts when he was up before the Senate Judiciary Committee, when he was asked point blank: You have represented some pretty unsavory clients, some people we might disagree with, does this reflect your point of view? He reminded us what jurisprudence and justice are about in this country, that you will have attorneys arguing their clients' point of view, doing their best for their client, whether they happen to agree with that client's philosophy or not.