



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, FIRST SESSION

Vol. 159

WASHINGTON, TUESDAY, DECEMBER 10, 2013

No. 174

Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. LEAHY).

PRAYER

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

Let us pray.

Eternal Spirit, our souls thirst for You. Enable us to hear Your songs in the night and be vivified by Your spirit. Lord, forgive us when we forget how Your gracious hand has preserved our Nation, multiplying, enriching, and sustaining it. Use our lawmakers to keep America strong, reminding them that eternal vigilance is the price for freedom. Thank You for drawing us into the multitude of Your mercy, permitting us to experience abundant living, as we make a commitment to not deviate from the path of integrity.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

WORKFORCE INVESTMENT ACT OF 2013—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 243, S. 1356.

The PRESIDENT pro tempore. The clerk will report the motion.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 243, S. 1356, a bill to amend the Workforce Investment Act of 1998 to strengthen the United States workforce development system

through innovation in, and alignment and improvement of, employment, training, and education programs in the United States, and to promote individual and national economic growth, and for other purposes.

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of Senator MCCONNELL, the Senate will proceed to executive session to consider the nomination of Patricia Millett to be U.S. circuit judge for the DC Circuit and immediately vote on confirmation of that nomination.

Senators should expect additional votes this morning with respect to reconsideration of the cloture vote on the nomination of MEL WATT to be Director of the Federal Housing Finance Agency.

MILLETT AND WATT NOMINATIONS

Mr. President, this morning the Senate will consider the nomination of Patricia Millett to serve on the DC Circuit Court of Appeals, considered by many to be the second highest court in the land. We postponed this vote last night out of consideration for a number of Senators whose flights were delayed by bad weather. I thank my colleagues for their patience. And I am pleased that today Ms. Millett will finally get the fair, up-or-down vote she deserves.

Ms. Millett is exceedingly qualified for this position. She graduated at the top of her class from the University of Illinois at Urbana and attended Harvard Law School. Ms. Millett has argued more than 32 cases before the Supreme Court, including one while her husband was deployed overseas with the U.S. Navy. She also served as Assistant Solicitor General under both President Bill Clinton and President George Bush.

She enjoys bipartisan support from a variety of law enforcement officials, legal professionals, and military organizations. And it is my honor to help confirm a woman whom colleagues have called fair-minded, principled, and exceptionally gifted.

I will also move to reconsider the nomination of Congressman MEL WATT to serve as Administrator of the Federal Housing Finance Agency.

Congressman WATT graduated from the University of North Carolina at Chapel Hill and Yale Law School. He has represented North Carolina's 12th Congressional District since 1993 and served as chairman of the Congressional Black Caucus. And as a senior member of the House Financial Services Committee, Mr. WATT understands the mistakes that led to the housing crisis.

Yet last month Senate Republicans blocked Congressman WATT's nomination—the first time a sitting Member of Congress has been filibustered since 1843, since before the Civil War. They denied Congressman WATT even the courtesy of an up-or-down vote.

Congressman WATT proposed legislation to crack down on the worst abuses in mortgage lending and helped pass the Dodd-Frank bill to prevent predatory lending. By any measure, Congressman WATT is qualified to help struggling homeowners recover from the worst economic downturn in generations.

And at a moment when America still faces difficult economic times—and as the housing market is finally beginning to recover—it is crucial the Senate confirm the most talented and dedicated individuals to serve in the executive branch of government.

It is critical that the Senate confirm Congressman WATT to lead the Federal Housing Finance Agency.

This week the Senate will also consider a number of other highly qualified judicial and executive branch nominees.

The 13 district court nominees on the calendar have been waiting an average of 56 days for a confirmation vote—almost twice as long as the average at this point in President Bush's second term.

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



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One of these district court nominees, Elizabeth Wolford, has been waiting 130 days.

There are also 75 executive branch nominees currently ready to be confirmed by the Senate who have waited an average of 140 days for confirmation.

I want to remind my colleagues that, as always, there is an easy way and a hard way to process these nominations. And the more time the Senate wastes burning the hours and days between votes, the more likely the Senate will hold late-night and weekend votes this work period.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Republican leader is recognized.

REMEMBERING NELSON MANDELA

Mr. MCCONNELL. Mr. President, tens of thousands gathered today in Soweto to pay their last respects to a man who symbolized so much for so many, and it is not hard to see why. Politicians come and go, Presidents rise and fall, but Nelson Mandela was more than a politician, more than just a foreign leader. He was a symbol—a symbol of freedom and hope, not only for his own people but for all people. We also remember Nelson Mandela as a symbol of reconciliation, especially when he had every reason not to be. How many of us could spend so many years in confinement—away from people we love, with little to do but mull the circumstances of our incarceration—and emerge so forgiving toward our captors?

To me it was telling to see that one of the many people paying respects to Nelson Mandela this week was an Afrikaner named Christo Brand. The two men struck up an improbable but lasting friendship during Mandela's time on Robben Island. I say "improbable" because Brand was his jailer.

The story goes that years after his release from prison, President Mandela was attending a ceremony and greeting Members of Parliament when he spotted Brand out across the room. Mandela lifted his arms and announced to everyone that this man had been his warden but he was also his friend. Then he asked Brand to join him in a group photo. "You must stand next to me," he insisted. "We belong together." I think that says it all.

Nelson Mandela could have followed the example of other leaders in the region; he could have led South Africa down the path of Zimbabwe, but he did not. He urged his country to embrace inclusion and freedom and democracy instead. He asked his countrymen to stand with him because he knew that, as he once said to Christo Brand, his people "belong together." So this morning the Senate joins the world in mourning the loss of Nelson Mandela. May his commitment to freedom and reconciliation continue to inspire.

ADVANCING AN AGENDA

Now, Mr. President, on to the business at hand.

I want to start out by saying that I think it was important for all of us to get back home and hear from our constituents over the past couple weeks. I talked with a lot of Kentuckians, and I can tell you there is a lot of anxiety and a lot of frustration out there. Folks are frustrated and upset by what is happening with their health care under ObamaCare, and they are outraged at the tactics and the outright deception—deception—that led to its passage.

It is now clear that the President knew perfectly well that a lot of folks would not be able to keep the plans they had and liked, despite the endless assurances to the contrary they heard from the President himself. Many are also starting to realize that the talking points they heard about their premiums and keeping their doctors were not worth the paper they were written on either.

The response they have gotten from the White House in the face of all this is just as bad. In the face of all the hardship and disruption this law is causing for literally millions of Americans, the White House is defiant. In the face of all of this, the President is trying to convince people that somehow we are the problem. According to the President, the problem is not the law. The problem is the people who are unhappy with it. The people who are unhappy with it, the President says, are the problem. This is exactly what folks are frustrated with—the idea that Washington knows best.

So we are going to keep fighting this fight. If anybody needed any proof that Big Government liberalism does not work, they have gotten a clinic over the past 2 months. It is clearer now than ever that we need to replace this law with commonsense, patient-centered reforms that will actually drive down costs and increase innovation.

The idea that making our health care system more like the Department of Motor Vehicles will somehow improve the final product has now been thoroughly discredited, and a thousand Presidential speeches are not going to change that.

But here is the larger story: ObamaCare is not an isolated case. It may be the most obvious example of this administration's determination to advance its agenda by any means possible, but it is one example of many.

The latest example was the administration's complicity in the power grab we saw last month in the Senate. News reports suggest that the President, who denounced this tactic when Republicans thought about it back in 2005, was actively lobbying for it ahead of the majority leader's fateful decision to pull the trigger.

So the President and the majority leader were for the protection of minority rights in the Senate until they were no longer in the minority. At that point, minority rights, the rules of the Senate, and the principle of a meaningful check on the Executive became an

inconvenience—an inconvenience—that stood in the way of their desire for more power.

As I indicated last month, this was a pure power grab, plain and simple. If the majority party cannot be expected to follow the rules, then there are not any rules.

So this was a grave mistake, and it was a grave betrayal of trust, since some of the main players had previously vowed they would never do it, and then they did—just as the President had vowed that if you like your health care you could keep it. For the President and his enablers in Congress, the ends now clearly justify the means, and that is a very dangerous place for us to be.

So Republicans will continue to speak out against these offenses against our institutions and against the American people, who have a right to expect elected leaders to keep their commitments and respect the rules and our laws. The American people have a right to that.

The American people have given us divided government. The administration needs to accept that fact. They need to work with the government that the people have given them, not the one they wish they had. They need to stop viewing the rules that govern the rest of us as mere suggestions to follow as they wish, while the American people are left to suffer the consequences.

As I have indicated, we see the results of this mindset most powerfully with ObamaCare—a law that this administration was determined to force through—determined to force through—by hook or by crook, regardless of what half-truths it had to repeat to get there, regardless of which Senators it had to coax and cajole.

But the pattern did not end with the law's passage. The administration has repeatedly—repeatedly—invoked executive power to change whatever parts of the law prove inconvenient. Its friends begged for relief from the law, so they carved out special loopholes. Statutory deadlines became an irritation, so they waived them. "Incorrect promises" made to sell the law became an embarrassment, so they changed entire sections on the fly.

To many Washington Democrats, this is all fine—not because they necessarily want to circumvent the law, perhaps, but because they feel justified in doing so if that is what it takes to enact their agenda.

We have seen Democrats use this same approach with immigration policy, with welfare reform, with recess appointments. We have seen them use it to justify government-sanctioned harassment of entire groups of people over at the IRS.

Two weeks ago, we saw Washington Democrats take this ends-justifies-the-means approach to a whole new level entirely, by eliminating—eliminating—the right of the minority party to be heard in the Senate—something they themselves had warned against for

years when they were in the minority, something the Vice President called “a naked power grab” when he was in the Senate.

Washington Democrats changed our democracy irrevocably—irrevocably. They did something they basically promised they would never do. And to what end? To what end? To pack the courts with judges they expect will rubberstamp the President’s partisan agenda, to eliminate one of the last remaining obstacles standing between the President and the enactment of his agenda through executive fiat. In short, because they wanted power that the voters have denied them at the ballot box, they tried to get it another way.

So before we all vote this morning, I just want to make sure everybody understands what this vote is all about. Two weeks ago the President and his Democratic allies defied two centuries of tradition, their own prior statements, and—in the case of some Democratic leaders—their own public commitments about following the rules of the Senate.

They did this for one reason: to advance an agenda the American people do not want. It is an agenda that runs straight through the DC Circuit. So now they are putting their people in place, to quote one member of their leadership, “one way or another.”

This vote is not about any one nominee. It is not about Patricia Millett. It is about an attitude on the left that says the ends justify the means—whatever it takes. They will do whatever it takes to get what they want. That is why we are here today, and that is why I will be opposing this nomination.

Washington Democrats, unfortunately, are focusing their energy on saying and doing anything—anything it takes—to circumvent the representatives of the people. But, ultimately—ultimately—they will be accountable to the American people, and the American people will have their say again very soon—sooner than many of our colleagues might hope.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BOOKER). Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF PATRICIA ANN MILLETT TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Patricia Ann Millett, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. LEAHY. Mr. President, today, the Senate will finally have the oppor-

tunity to vote on the confirmation of Patricia Millett to the U.S. Court of Appeals for the DC Circuit. Over the course of her 25-year legal career, Ms. Millett has risen through the ranks of government and private practice to earn a place among the best appellate practitioners in the country. She has argued 32 cases before the Supreme Court. She worked in the Justice Department under both Republican and Democratic administrations. She is unquestionably qualified and deserves to be confirmed without further delay so she can get to work for the American people.

Patricia Millett’s career mirrors that of the last DC Circuit judge to occupy the very seat to which she is nominated—that of John Roberts, Jr. I voted for his confirmation to both the DC Circuit and later to the Supreme Court. I knew at the time of those votes that I would not agree with every decision he would make on the bench, but I voted for him because of his temperament and his excellent reputation as a lawyer. John Roberts was confirmed unanimously to the DC Circuit on the day the Judiciary Committee completed consideration of his nomination and reported it to the Senate—at a time when the caseload of the DC Circuit by any measure was lower than it is today. If only Senate Republicans had been willing to apply the same standard for Ms. Millett. Instead, they decided to filibuster her nomination even though they had promised to only filibuster nominations under “extraordinary circumstances”. If those Senators had been true to their word, I do not believe we would have reached the tipping point on the use of the filibuster.

By refusing to allow a vote for any existing vacancy on the DC Circuit, Republicans took their determined obstruction to an unprecedented level. As the senior most Senator serving today, I approach changes to the tradition and history of the Senate with great reluctance. I have always believed in the Senate’s unique protection of the minority party. I have held to my belief that the best traditions of the Senate would win out; that the 100 of us who stand in the shoes of more than 310 million Americans would do the right thing.

Now that the Senate has changed its precedents to overcome the escalating obstruction of some, I hope reasonable Republicans will join us in restoring the Senate’s ability to fulfill its constitutional duties. I hope this will include a vote to confirm Patricia Millett to the DC Circuit.

Ms. Millett is a nominee with unquestionable integrity and character. She has engaged in significant community service and committed herself to pro bono work. She helps the neediest among us, volunteering through her church to prepare meals for the homeless and serving regularly as an overnight monitor at a local shelter.

Through her legal work, Ms. Millett has earned broad bipartisan support.

This includes the support of Peter Keisler, Carter Phillips, Kenneth Starr, Theodore Olson, and Paul Clement, and a bipartisan group of 110 appellate practitioners, as well as 37 Deputy Solicitors General and Assistants to the Solicitor General from both Republican and Democratic administrations. She is supported by the national president of the National Fraternal Order of Police, Chuck Canterbury, and many others.

Patricia Millett’s service to our Nation is not limited to her legal career or her humanitarianism. She is part of our Nation’s storied military family, a family that we have called on repeatedly in the past decade. Her husband is a retired Navy reservist, and as a military spouse, Ms. Millett is part of our Nation’s military fabric. She understands personally what we ask of our servicemembers and their families. At the height of Patricia Millett’s legal career, her husband received orders to deploy in support of Operation Iraqi Freedom. For nearly a year, she balanced Supreme Court arguments and the demands of being a single parent all while reassuring her children that their father would return home safe.

But not only is Ms. Millett committed to her own military family, she has helped to secure employment protections for members of our National Guard and Reserve through her pro bono legal work. In a case decided by the Supreme Court in 2011, Ms. Millett represented an Army Reservist who was fired, in part, because some of his co-workers did not like his military absences. The successful arguments that Ms. Millett helped craft have made it easier for all members of our Reserve and National Guard to protect their rights under the Uniformed Services Employment and Reemployment Rights Act.

Patricia Millett embodies what we ask our military families to do on behalf of their country. Military spouses juggle all the challenges that every American family faces—but often with the added pressure of deployments and extended separations. I want to thank all the military spouses who are in the Senate gallery today and those watching on C-SPAN who have worked tirelessly to support the nomination of “one of their own”. We should recognize, honor and support our military families not just through words, but through meaningful action. A vote to confirm Patricia Millett is that meaningful action.

Today the Senate finally has the opportunity to vote for the confirmation of Patricia Millett. I urge my fellow Senators to join me in supporting this outstanding nominee.

Mr. HATCH. Mr. President, over the past few months, here on the Senate floor, in the Judiciary Committee, and in op-eds in national publications, I have explained why the pending nominees to the U.S. Court of Appeals for the DC Circuit should not be confirmed. Neither those facts nor the conclusion they compel have changed and