



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 114th CONGRESS, FIRST SESSION

Vol. 161

WASHINGTON, MONDAY, JUNE 8, 2015

No. 90

Senate

The Senate met at 3 p.m. and was called to order by the President pro tempore (Mr. HATCH).

PRAYER

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

Let us pray.

Eternal Father, to whom all hearts are open, and from whom no secrets are hidden, with reverence we pause to pray that You would make us good enough for the challenging times in which we serve.

Lord, You made humanity to dream, so enable us to see that horizon that promises a better nation and world. Keep our eyes open to the everlasting hills, the illuminated skies, the bright sunrises of hope and beauty and truth.

Keep ever before our lawmakers a vision of Your perfect Kingdom when all people will fulfill the law of love. Help our Senators to shut out all distracting sounds and obstructing movements that prevent them from receiving Your guidance.

We pray in Your sacred 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 MINORITY LEADER

The PRESIDING OFFICER (Mrs. ERNST). The minority leader is recognized.

JUDICIAL NOMINATIONS

Mr. REID. Madam President, a few days ago, the majority leader was reported to have declared to a conservative talk-radio show that under his

leadership, the Republican Senate will shirk its constitutional duties by not continuing to confirm judges—period. He went on to say: We may confirm a few that come from States where only Republicans give the President the names, but other than that, we are going to do none.

I assume this is accurate. I hope it is not, but I assume that it is. It would be a very stunning and disappointing declaration that the senior Senator from Kentucky, especially since he argued for the fair consideration of President Bush's court nominees, would now switch his position.

In July of 2008, here is what he said: "Even with lameduck Presidents, there is a historical standard of fairness as to confirming judicial nominees, especially circuit court nominees."

That is a direct quote from the majority leader. These are his words. Not a single word has been made up. That is what he said: "Even with lameduck presidents, there is a historical standard of fairness as to confirming judicial nominees, especially circuit court nominees."

And the record is spread with many quotes he has given just the same. He also said in that same year: "No party is without blame in the confirmation process, but what is going on now—or, more accurately, what is not going on—is yet another step backward in politicizing the confirmation process—something we had all hoped that we would get beyond."

Earlier my friend from Kentucky said: "Judicial nominations need to be treated fairly and commitments need to be kept." And even earlier than that, here is what he said: "On the issue of judicial confirmations, the majority leader and I discussed this matter publicly at the beginning of the Congress"—he is saying that he and I are talking—"and we agreed that President Bush, in the last 2 years of his term, should be treated as well as President Reagan, Bush 41, and Presi-

dent Clinton were treated in the last 2 years of their tenures in office because there was one common thread, and that was that the Senate was controlled by the opposition party."

So what he is saying there is that what he wanted was for Bush to be treated the same way that Bush 1, President Reagan, and President Clinton had been treated. He got that with large numbers of judges being appointed.

So we are here now with the statements ringing loudly that the majority leader is intent on writing off the Senate's constitutional duty of offering our advice and consent now that President Obama is nominating individuals to the Federal bench.

The Republican leader is a student of the Senate. He says he is, and I believe that. I am confident that he understands that the Senate cannot and should not neglect the constitutional obligations we have. The Senate cannot simply ignore critical vacancies in the last 2 years of any President's term—what a bad standard to set, especially with the growth in certain communities. We have a number of judicial emergencies that have been determined.

It is all the more troubling that the majority leader wants to pick an unnecessary fight over judges just as Republican Senators are working with the President to fill vacancies in their States. The majority leader is essentially telling other Senators that their judicial recommendations simply don't matter—Democrats, Independents, Republicans. The majority leader is telling the chairman of the Judiciary Committee that regardless of the judicial nominations his committee continues to report out, they could be blocked on the Senate floor.

But I do say this just as a caveat: The present Judiciary Committee is doing the same thing that was done by the present chairman of the Finance Committee when he was chair of the

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



Printed on recycled paper.

S3849

Judiciary Committee. He didn't have to worry about a lot of names on the calendar because he simply held no hearings in the Judiciary Committee. The same situation is prevailing now. So we don't have a lot of people on the calendar because they are not having any hearings to speak of in the Judiciary Committee.

I have spoken here on the floor before about the nomination of Felipe Restrepo for the Third Circuit Court of Appeals in Philadelphia. After repeated, repeated, and repeated delays, the committee is finally considering his nomination on Wednesday. He has been waiting for months. This is an incredibly qualified nominee who enjoys vast bipartisan support, including both Pennsylvania Senators, one a Democrat and one a Republican. The Republican Senator from Pennsylvania has said that Judge Restrepo would be a "superb addition to the Third Circuit."

In that case we have waited months to even have a hearing.

So it must have been shocking for the junior Senator from Pennsylvania to learn that his judicial pick would face another delay—a delay indefinitely, perhaps. This is a blatant rejection of the Senate's constitutional duties.

Just as Senator MCCONNELL argued for fairness for President Bush's nominations, it is not unreasonable for Democrats to expect that same measure of fairness that President Bush got in the 110th Congress.

Regardless of whether a State had two Democrats, two Republicans or a split delegation, Senate Democrats brought President Bush's nominees up for a vote. By this point in the seventh year of George W. Bush's Presidency, Senate Democrats confirmed 18 judges, including 3 circuit court judges.

In almost 6 months, the Republican Senate has only confirmed four district court judges. To put this in perspective, during the Presidency of Bush, we confirmed four in 1 month.

So perhaps the majority leader's comments about a judicial slowdown were just confirming what he has already done to block the President's nominees. I repeat. The committee is being run the same way that the present chair of the Finance Committee did when he was chair of the Judiciary Committee—just holding no hearings. That way, there is nobody on the calendar—or very few.

The Republican Senate hasn't confirmed even a single circuit court judge—not even a consensus nominee such as Kara Stoll to the Federal Circuit. She was reported out of committee by a voice vote in April. Nothing so far—they are not even having hearings, I repeat, on most nominees. Therefore, there is no one to report to the floor.

Actions speak louder than words, and the majority leader can demonstrate that his remarks were misinterpreted—and I would certainly hope so—by scheduling a prompt vote on the Stoll

nomination. We should schedule a vote on her nomination no later than this week. Kara Stoll is the only appeals court judge awaiting a vote before the Senate.

For the reasons I have just said, people have been in the pipeline, but they won't hold hearings. Both of these nominations—Restrepo and Stoll—need a vote now. Let's hope the majority leader will reflect upon his past statements about fair consideration of judicial nominees, in comparison to what he said on a talk show—I guess appealing to the rightwing even more than what has happened recently, and that is quite a bit. Let's hope he does not treat judicial nominees as they have never been treated before. Let's hope that the Senate will quickly confirm at least these two qualified judges. We need a lot more, but these two would be a step in the right direction.

I note there is no one on the floor, and I ask that the Chair announce the business of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2016

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1735, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (H.R. 1735) to authorize appropriations for fiscal year 2016 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

McCain amendment No. 1463, in the nature of a substitute.

McCain amendment No. 1456 (to amendment No. 1463), to require additional information supporting long-range plans for construction of naval vessels.

Reed amendment No. 1521 (to amendment No. 1463), to limit the availability of amounts authorized to be appropriated for overseas contingency operations pending relief from the spending limits under the Budget Control Act of 2011.

Cornyn amendment No. 1486 (to amendment No. 1463), to require reporting on energy security issues involving Europe and the Russian Federation, and to express the sense of Congress regarding ways the United States could help vulnerable allies and partners with energy security.

Vitter amendment No. 1473 (to amendment No. 1463), to limit the retirement of Army combat units.

Markey amendment No. 1645 (to amendment No. 1463), to express the sense of Congress that exports of crude oil to United States allies and partners should not be determined to be consistent with the national interest if those exports would increase energy prices in the United States for American consumers or businesses or increase the reliance of the United States on imported oil.

Reed (for Blumenthal) amendment No. 1564 (to amendment No. 1463), to increase civil penalties for violations of the Servicemembers Civil Relief Act.

McCain (for Paul) modified amendment No. 1543 (to amendment No. 1463), to strengthen employee cost savings suggestions programs within the Federal Government.

Reed (for Durbin) amendment No. 1559 (to amendment No. 1463), to prohibit the award of Department of Defense contracts to inverted domestic corporations.

Mr. MCCAIN. Madam President, I note with some interest over the weekend in the New York Times that "Russia Wields Aid and Ideology Against West to Fight Sanctions."

On the front page of the New York Times:

The war in Ukraine that has pitted Russia against the West is being waged not just with tanks, artillery and troops. Increasingly, Moscow has brought to bear different kinds of weapons, according to American and European officials: Money, ideology, and disinformation.

Yesterday and today in the Wall Street Journal: "Iraqis Call for a Deeper Overhaul of Army." Also: "Mistrust of military leadership among troops is widespread in crisis of confidence."

Right below that: "Airstrikes Kill Dozens as Fighting in Yemen Intensifies."

The reporting of a world in turmoil, as described by my friend LINDSEY GRAHAM as on fire, continues.

To top it all off, today, speaking to reporters at the G7 summit in Germany, President Obama said: "We don't yet have a complete strategy about how to combat ISIS."

I would remind my colleagues that on August 28, 2014, nearly a year ago, President Obama stated: "We don't have a strategy yet to fight ISIS in Iraq and in Syria."

My friends, nearly a year after the President said we don't have a strategy yet to fight ISIS in Iraq and in Syria, he said again: We don't yet have a complete strategy about how to combat ISIS.