



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 114<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 161

WASHINGTON, TUESDAY, DECEMBER 8, 2015

No. 177

## Senate

The Senate met at 10 a.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.

O Lord, our Lord, the majesty of Your Name fills the Earth. We see Your handiwork in the beauty of the sunrise and the majesty of the sunset.

As the world listens to the American political rhetoric and history waits to judge us, guide our lawmakers. Lord, make this upper Chamber of the legislative branch a truly deliberative body. Learning from the lessons of history, may our Senators strive to defend our Constitution against all foreign and domestic enemies. Grant that this defense will involve looking before leaping. May our Senators make decisions that will not seem foolish in the cool light of retrospection.

Arise, O Lord. Remind the nations that they are merely human.

We pray in Your sovereign 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 PRESIDING OFFICER (Mr. COTTON). The majority leader is recognized.

### EVERY STUDENT SUCCEEDS BILL

Mr. McCONNELL. Mr. President, both parties have long agreed that No Child Left Behind is broken and needs

to be fixed. The House of Representatives passed reformist replacements for this law over the past few Congresses, but the Senate didn't consider legislation on the floor for years—until now.

A new majority in Congress thought it was time to finally change that dynamic. So we have demonstrated how a functioning committee process and a functioning Senate could help break through the gridlock. We showed how it could lead to important work across the aisle from a Republican like Senator ALEXANDER and a Democrat like Senator MURRAY, and in so doing, we not only proved that conservative reform was possible, we proved that it could pass by big bipartisan margins.

The version of the Every Student Succeeds Act the Senate considered this summer passed 81 to 17. The Every Student Succeeds Act before us just passed the House 359 to 64, and soon we will have the opportunity to send it to the President for his signature.

The Wall Street Journal dubbed this bill “the largest devolution of federal control to the States in a quarter-century.” It will stop Washington from imposing Common Core. It will strengthen the charter school program. It will substitute one-size-fits-all Federal mandates for greater State and local flexibility. In short, the Every Student Succeeds Act will put education back in the hands of those who know our kids best: parents, teachers, States, and school boards. It will help students succeed instead of helping Washington grow. That is something all of us can get behind because all of us represent different States with different children who have different needs.

I know Kentucky's newly appointed education commissioner is enthusiastic about this landmark reform. He wrote me to say that this bill would be good for Kentucky because it would do things such as ensure more flexibility, support rural schools, and help the Commonwealth provide for teacher development.

I thank the senior Senators from Tennessee and Washington for all their hard work on this bill. Some may have questioned whether Washington could ever agree on a replacement for No Child Left Behind, but today we have the Every Student Succeeds Act before us. It is a good replacement. It is a conservative reform with significant bipartisan support and one that will do right by those who matter most in the discussion: our children and our future.

Just days after the President signed an important bipartisan highway bill we passed, we soon expect to send him an important bipartisan education bill to sign as well. We might even pass it as soon as today. Passing either of these bipartisan bills after years of inaction would have represented a very big win for our country. What is more, it is notable that both could now be signed into law within such a short timeframe.

Passage of these bills follows Senate passage of many other achievements for the American people too, on issues ranging from cyber security, to trade, to energy, to entitlement reform, even combatting modern-day slavery.

Sometimes it was assumed that Washington could never come to an agreement on certain issues, but not only did we pass some long-stalled priorities for America, we often did so on a bipartisan basis. The question is, How do you achieve passage of important bills? One way is to foster an atmosphere where both parties can have more of a say on more issues, starting at the committee level. Let me give an example. Consider what the American people saw in the debate over the Education bill. They saw Senators they sent to Washington having their voices heard again, regardless of party. They saw them making meaningful contributions in committee. They saw them working across the aisle. They saw them having more opportunities to offer amendments. The American people actually saw the Senate take more

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



Printed on recycled paper.

S8445

amendment rollcall votes on this single bill than the Senate took all of last year on all bills combined.

This is what Senator MURRAY, a Democrat, said when the Senate first passed this bill in July: "I am very proud of the bipartisan work we have done on the Senate floor—debating amendments, taking votes, and making this good bill even better." I know her Republican counterpart, Senator ALEXANDER, feels exactly the same way, just like Senator INHOFE, a Republican, agrees with Senator BOXER, a Democrat, when she refers to the highway bill as "a major accomplishment."

#### ORDER FOR RECESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. today for the weekly conference meetings and that if cloture is invoked on the conference report to accompany S. 1177, the time during the recess count toward the postcloture time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

#### PLATFORM OF THE REPUBLICAN PARTY

Mr. REID. Mr. President, Donald Trump is standing on the platform of hate—I am sorry to say hate that the Republican Party has built for him.

It was just last week that I came to the floor of the Senate and said the Republican Party is running on a platform of hate. Yesterday Donald Trump provided the strongest evidence yet that it is true. Trump's proposal to bar Muslims from entering this country is hateful, despicable, and really vile. We are a country founded on religious liberty, not a country that imposes religious tests. Trump's statement is a slap in the face to the millions of peace-loving Muslims living here and to those who want to travel and live here. We welcome them all, and to them I say: Donald Trump is not America.

Sadly, however, Donald Trump has become the Republican Party, because it is just not him—many of the leading candidates for the Republican nomination have said the same hateful things, especially about Muslims. Jeb Bush and TED CRUZ proposed religious tests for refugees. You can't condemn Trump when you want to impose a religious test on women and children fleeing death and persecution. Ben Carson has called Muslims "rabid dogs." Chris Christie said they should be tracked.

Today, Donald Trump offered the only true statement he has made for some time, referring to some of his fel-

low Republicans, those running against him for President. He said:

They have been condemning almost everything I say and then they come to my side.

That is disturbing, but it is true. Republican candidates condemn Trump's remarks and then adopt his racist policies as their own.

We shouldn't try to fool ourselves: This sort of racism has been prevalent in Republican politics for decades. Trump is just saying out loud what other Republicans merely suggest.

Political leaders must condemn these hateful, un-American statements with their words and their actions. Silence only empowers bigots.

#### NOMINATIONS

Mr. REID. Mr. President, as the year draws to an end, Republicans are doing high fives and celebrating as if they hit a home run when they haven't even singled.

Republicans are seeing a distorted image of reality. All their talk of productivity and progress overlooks many facts and ignores their constitutional duty to provide advice and consent on President Obama's nominations—any President's nominations. Republicans are balking at fulfilling their constitutional role.

The job of Congress is to pass laws and to confirm nominations. By that measure, this Congress has been the least productive ever. The total number of bills passed and nominations confirmed this Congress is lower than any Congress in decades. This Republican majority has confirmed fewer nominations than any Congress in decades. Because of Republicans' obstruction, qualified nominees are prevented from serving the American people.

Yesterday the Senate skipped over the confirmation of Judge Luis Felipe Restrepo and confirmed just the 11th judge this session. There are 18 more judicial emergencies than when the Republicans took control of the Senate. What is a judicial emergency? It means they have more work than the judge can do. Instead of making progress in judicial backlogs across the Nation, we are falling even further behind and creating more emergencies. One of those judicial emergencies is Judge Restrepo. He is a talented Federal district judge from the State of Pennsylvania, and he is a talented Latino nominated for the Third Circuit.

The junior Senator from Pennsylvania—who is responsible for delaying this good man for more than 6 months in the committee—finally engaged on the nomination. On Monday the junior Senator said: I am sending a letter to Senator MCCONNELL requesting a vote on his confirmation. I don't know why he couldn't say to the Republican leader: Will you bring this up for a vote? Why the letter? Where has Senator TOOMEY been since July when this nomination was first reported out of the committee 5 months ago? Why has this nomination been pending for more

than a year? I wonder if it is because election time is here. Senate Democrats have waited months to confirm this good man. He should be confirmed now, today. Sadly, though, Republicans are blocking every Latino judicial nominee currently being considered.

Here is a partial list: Judge Restrepo—I already talked about him; Armando Bonilla, who is the first Latino ever nominated to the Court of Federal Claims; John Michael Vazquez, nominated to the District of New Jersey; Dax Eric Lopez, nominated to the Northern District of Georgia, who would make history as the first Hispanic appointed Federal judge in that State. Georgia has a large number of Hispanics in that State.

Because of this obstruction, last night the Senate skipped over Judge Restrepo—I mentioned that earlier—leaving another judicial emergency. Instead, the Senate confirmed Travis Randall McDonough as district judge for the Eastern District of Tennessee. After confirming Judge McDonough, 19 judicial nominees remain on the Executive Calendar who were all voted out of committee unanimously.

Yesterday's confirmation marks only the 11th judicial confirmation this entire Congress. At this point in 2007, Democrats worked with President Bush to confirm 36 judicial nominees—11 compared to 36. It is obvious why they are doing it; they hope Donald Trump will be elected President and Hillary Clinton will not be. Yesterday's confirmation marks the 11th judicial confirmation of this Congress. If the Republican Senate keeps up this pace, many of their recommendations—from Tennessee, Iowa, Georgia, and many other States—are at risk of not being confirmed. These are Republican selections. The American people are paying the price.

Since the Republicans took control of the Senate, the number of judicial emergencies around the country has more than doubled. During this session of Congress, we have only confirmed one circuit judge. Because of the Republicans slow-walking, the Senate is currently on pace to confirm the lowest number of judges in a comparable session in half a century.

As William Gladstone said, "Justice delayed is justice denied." That is true. More than 30,000 people across the country have been waiting for more than 3 years for a resolution to their court case.

Judge Lawrence O'Neill, who was nominated by President George W. Bush to the Eastern District of California, is fed up with the staggering delays in his court. Here is what he said:

Over the years I've received several letters from people indicating, "Even if I win this case now, my business has failed because of the delay. How is this justice?" And the simple answer, which I cannot give them, is this: It is not justice. We know it.

The judge is right. What is happening with our judiciary is damaging our