

another step towards ending this devastating epidemic.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

NOMINATIONS

Mr. REID. Mr. President, under the Republican leader's direction, this Senate continues to make history for all the wrong reasons. Despite proclaiming that the Senate is back to work, the Republican majority is on pace to become one of the least productive Senates ever.

By now, most Americans are aware of the Republican leader's decision to block consideration of the Supreme Court nomination that President Obama will soon make. But the historic obstruction of a Supreme Court nominee is the most recent and prolific example of the Republican leader's abdication of his constitutional duties and that of the whole Republican caucus. What is that? To provide advice and consent to Presidential nominations.

Since his party assumed the majority in the Senate last January, the Republican leader and his colleagues have ground the nominations to a halt. According to the nonpartisan Congressional Research Service, the pace of judicial nominations being confirmed this Congress is the worst. To date, this Republican-controlled Senate has confirmed a total of 16 judicial nominations. That is about one a month. Since the beginning of the year, we have confirmed just five judges.

We have 11 judges pending on the Senate calendar, and there would be a lot more, but the chairman of the committee simply is not holding any hearings. He canceled the meeting last week. Maybe they will have one the day after tomorrow. They are not even holding hearings for the people in the pipeline whom the President has nominated. The 11 judges pending on the Senate calendar is not definitive of the real problem we have in this country. But even on the 11, the Republicans refuse to schedule votes—even on judges such as Waverly Crenshaw from Tennessee, who is supported by the two Republican Senators from Tennessee.

If the Republican leader will not even schedule votes on consensus judges recommended by Republican Senators, how can Democrats expect a vote on their recommendations?

While the Republican leader and the chairman of the Judiciary Committee seem content not to do their jobs, the American people are being robbed of justice. There has been a spike in judicial emergencies. If there aren't enough judges to hear the cases that arise, it is deemed to be an emergency because the judges there are unable to do the work because there are too few judges.

When the Republicans assumed control of the Senate last year, there were 12 judicial emergencies nationwide. Now there are 31—1 year later, 31. They are going up almost by the week. As I have indicated, that number will only grow as Republicans continue to refuse to process important judicial nominations. But the obstruction isn't limited to Supreme Court nominees or judges to fill these judicial emergencies. There are other matters that we should be concerned about.

Take, for example, the Banking Committee. It is setting records for doing nothing. The committee has been operating under the leadership of the senior Senator from Alabama. In that time, the committee has not yet reported a single nomination. This is unprecedented.

According to the Congressional Research Service, which is a nonpartisan group, the Banking Committee has reported out at least one nomination every year for the past 50 years—not now. It is the only Senate committee not to consider a single nomination last year. When asked why, he said he had other things to do.

What are those nominations that the Senator has put a hold on? What positions have gone unfilled as the chairman pursued his political career with the primary election just having been completed? The Under Secretary of Treasury for Terrorism and Financial Intelligence is really important and two seats on the Securities and Exchange Commission. We know that Wall Street needs to be monitored very closely. We have two seats that need to be filled. There are two seats on the Federal Reserve Board of Governors, and we know how important that is. There are the Director of the U.S. Mint and the Export-Import Bank Board of Directors. They can't do their work now because we need to fill those spots. There are the Assistant Secretary of the Treasury, the inspector general, and the Federal Deposit Insurance Corporation, and others.

From the Republican leader to his committee chairs and the rank and file, we continue to hear that the Senate is working again. This is a figment of the Republicans' imagination. It is not working again. It appears the Republican Senate isn't interested in doing its job. There no longer seems to be a voice of reason coming from the Republican side.

Isn't there a single Republican who will stand against the Republican leader's nominations blockade? Isn't there a single Republican willing to put an end to this historic obstruction? Providing advice and consent on the President's nominees is a constitutional duty. I say: Do your job.

FILLING THE SUPREME COURT VACANCY

Mr. REID. Mr. President, I have an article here from CNN. It is quite illuminating.

When I was a boy growing up in the town of Searchlight, we didn't have people of color—no one, ever. When I went away to high school, we did have people of color. There were not many, but certainly we had African Americans, and we had Hispanics. It wasn't until then, when I went to high school, that I had a wonderful Spanish teacher, Marlan Walker. I was able to visit with him when I went home last time to see him. He had lost his wife Colleen. He made such a difference in my life. But he is a fine man and was a great Spanish teacher. It was the first time I had ever heard anything about pinatas. What is a pinata? Traditionally, they have them in Mexico, where they have a figure. It can be all kinds of things, but let's say it is a horse. You blindfold young people. They have a stick in their hand, and they can't see. They know it is hung there; they saw it before they were blindfolded. They try to find the pinata so they can hit it because presents come out of it. Things come out of the pinata. But, boy, the pinata gets beaten until it starts dumping little presents on everyone's head.

This article, which came from what happened on CNN, would be illuminating for people to read. It is written by Ted Barrett, dated yesterday. When asked about Presidential nominees to the Supreme Court, the assistant Republican leader said: "I think they will bear some resemblance to a pinata."

Think about that. They don't know who the nominee is. They don't know anything about the person, but they already have in their mind that they are going to beat this person like a pinata. These are his words, not mine. Direct quote: "I think they will bear some resemblance to a pinata."

Think about that. He is saying Republicans are going to do all they can to hurt this person's reputation, to beat on them, like a pinata. He went on to say: "Because there is no guarantee, certainly, after that time they're going to look as good as they did going in." Think about that: to say to the American people that they refuse to meet with somebody they don't know, refuse to have a committee hearing on someone they don't know, refuse to have a vote in the committee, and refuse to have a vote on this floor.

Now the assistant Republican leader has told us that it doesn't matter who it is. It doesn't matter if the nominee is a man, woman, old, or young. It doesn't matter what their education is or what their experience is, they are going to beat that person like a pinata. I think they have been listening to Donald Trump too much. The Republicans need to stop and listen to the disgusting rhetoric they are spewing. They are going to treat someone they don't even know like a pinata?

Now the Republicans are reduced to acting like big, tough people and threatening to destroy the reputation of someone they don't even know. They

haven't even seen them yet. This is vile behavior that is beneath the dignity of this institution. If Republicans continue down this path of destruction while working on this process, it is going to reverberate in the wrong direction for decades to come. They have to get their senses back.

Mr. President, I ask unanimous consent that the CNN article written by Ted Barrett, to which I referred, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From CNN, Mar. 7, 2016]

SUPREME COURT NOMINEE WOULD BE A
'PIÑATA,' CORNYN SAYS

(By Ted Barrett)

The No. 2 Senate Republican warned Monday that potential nominees to the Supreme Court should consider the battle they will be forced to endure if they are picked for the post, suggesting a high-stakes slugfest could damage their reputations in a fruitless pursuit of the top court.

"I think they will bear some resemblance to a piñata," said Sen. John Cornyn of Texas.

"What I don't understand is how someone who actually wants to be confirmed to the Supreme Court would actually allow themselves to be used by the administration in a political fight that's going to last from now until the end of the year," Cornyn told a small group of reporters in the Capitol.

He added: "Because there is no guarantee, certainly, after that time they're going to look as good as they did going in."

Cornyn, a member of the Judiciary Committee, adamantly opposes confirming President Barack Obama's Supreme Court pick to replace the late Justice Antonin Scalia, a conservative stalwart on the bench who died last month.

Obama is expected to name a replacement any day.

"There is no question Democrats would do the same thing if the shoe was on the other foot based on their prior conduct and I don't think the voters are really interested in seeing the ideological balance of the court changed for the next 30 years by a lame duck president," Cornyn said.

The tension between the parties was on full display on the Senate floor when Democratic Leader Harry Reid continued his weeks-long tirade against the Republican chairman of the Judiciary Committee, Chuck Grassley of Iowa, for vowing not to schedule a confirmation hearing for an eventual nominee.

"He is allowing himself and his committee to be manipulated by the Republican leader for narrow, partisan warfare. He is taking his orders from the Republican leader and, sadly, Donald Trump," Reid said. "Donald Trump on this issue, when asked about it, his words were three: 'Delay, delay, delay.' Grassley must have been listening."

Democrats believe that under enough pressure Grassley, who is up for re-election, could crumble and open the door to a hearing and a vote for a nominee. But Grassley didn't sound like he was ready to fold when he responded to Reid.

"The tantrums on the other side continue," said Grassley. "But I guess it shouldn't surprise anybody as everyone knows around here nothing makes the minority leader more mad than when his side is forced to play by its own rules."

Grassley also compared Obama to King George III for "executive overreach," which he said frustrated the founding fathers then and frustrates the Senate Republicans now.

Also Monday, Reid met in his Capitol office with Patty Judge, a Democrat and former lieutenant governor of Iowa who just announced she will challenge Grassley this fall.

Cornyn said he has no doubts about the 82-year-old Grassley's ability to withstand political pressure from Democrats.

"They don't know Chuck Grassley," Cornyn said. "He's like a rock."

Interest groups on the left and right are lined up to champion their causes in what is expected to be an expensive and protracted battle that could undermine the candidate, no matter how well qualified or liked he or she is.

"As a practical matter, there would be no requirement on the part of a Democratic president to reappoint the same person. So I think they need to realize we're serious about the position we've taken," Cornyn said.

Mr. REID. I yield the floor and ask the Chair to 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, equally divided, with Senators permitted to speak therein for up to 10 minutes each, with the Democrats controlling the first half and the majority controlling the final half.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

FILLING THE SUPREME COURT VACANCY

Mr. DURBIN. Mr. President, several weeks ago, the untimely passing of Supreme Court Justice Antonin Scalia created a vacancy on the Supreme Court, which now has only eight Justices. It called into question the constitutional responsibility of the President of the United States when such a vacancy exists and the constitutional responsibility of this Senate.

This morning in the Washington Post, there was speculation about six possible nominees the President could send to the Senate. It was speculation in the paper, and we don't know if any one of those would actually be the nominee suggested by the President, but it is very obvious—and having spoken with the President personally on this issue, I know he is carefully weighing the options.

Why will the President move forward on this nomination? Because the Con-

stitution requires it. In article II, section 2, it says the President shall appoint a nominee to fill a vacancy on the U.S. Supreme Court—shall; not may, shall appoint—and the Senate shall perform its advice and consent duties with respect to that nomination. So there are two constitutional responsibilities: for the President to suggest a nominee and for the Senate to act on that nominee.

There have been instances in American history where argument could be made that that constitutional responsibility should be ignored or at least delayed. One that comes to mind dates back to 1942. On October 3, 1942, a vacancy arose on the Supreme Court of the United States. On that day, Justice James Byrnes on the Supreme Court resigned his seat to become Director of the Office of Economic Stabilization in the Roosevelt administration.

On January 11, 1943, President Roosevelt nominated Wiley Rutledge, a Kentucky native and former dean of the University of Iowa College of Law, to fill that vacancy. At this point in 1943, the United States was fully engaged in the Second World War. When the President sent up this nomination, battles were raging in Europe, Asia, Africa, and in the Atlantic and the Pacific. It was unclear whether we would prevail or the enemy would prevail. Each day brought alarming, stunning news about developments in the war.

Three days after making his Supreme Court nomination, President Roosevelt flew to Morocco to join Churchill and de Gaulle at a Casablanca conference on the future of the war. At this conference, the Allies coordinated their strategy against the Axis powers and decided to launch an offensive in Sicily and in Italy.

On January 27, 1943, American bombers from the Eighth Air Force conducted the first American air raid over Germany. On January 30, Japanese aircraft torpedoed and sank a cruiser named the USS *Chicago* in the South Pacific. Sixty-two men lost their lives. Over a thousand survived due to a daring and swift rescue.

The Nation was clearly engaged in war. There was every reason in the world for the President and even the Senate to say: This is no time to talk about a Supreme Court vacancy. Instead, the President and the Senate, even in the midst of World War II, understood their obligation under the Constitution. The Senate Judiciary Committee held a hearing for Rutledge on January 22, 11 days after his nomination had been sent to the Hill by President Roosevelt. The committee reported Rutledge's nomination to the floor on February 1, and he was confirmed by the full Senate on February 8, 1943, 28 days after his nomination.

Mr. President, I wanted to put this set of facts on the record to make it clear that there is absolutely no excuse for what the Senate Republicans are doing with this vacancy. There is no excuse for the Senate Republicans to