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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

### PRAYER

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

Let us pray:

Eternal Lord God, we pause today to thank You for all of Your blessings. Thank You for the wonder of Your creation, for the beauty of the Earth, for the order You did bring out of chaos, for life itself.

Thank You for this legislative body and for the opportunity to make a substantive difference in the lives of American citizens and the people of our world.

Lord, be near to our lawmakers today. May they set their hearts on new and creative paths of service. Remind them that no true peace is possible without You. Let them remember that they are responsible for lifting others. Heighten their sensitivities and broaden their concerns, until duty becomes a life and not an event. Give them clear heads and trusting hearts. We pray in the Redeemer's Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR 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. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, April 10, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

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

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Thank you very much, Mr. President.

Following my remarks and those of the Republican leader, the Senate will proceed to a period of morning business for up to 60 minutes. Senators will be allowed to speak for up to 10 minutes each during that period of time, with the times equally divided and controlled between the two leaders or their designees. The majority will control the first half and the Republicans the second half.

Following morning business, the Senate will resume consideration of the housing bill, and around 11 or maybe shortly thereafter, we will proceed to a series of three votes on the remaining amendments and passage of the bill.

Upon disposition of the housing bill, the Senate will proceed to S. 2739, the energy lands bill. There are four Coburn amendments in order to the bill, and the proponents and opponents

have up to 2 hours to debate the amendments prior to votes on the amendments and passage of the bill, as amended, if amended.

When the Senate completes the Energy bill, we will turn to executive session to consider the nominations of four district court judges and a circuit court judge. There will be up to 4 hours for debate prior to votes on confirmation of the nominations.

### PRESIDENTIAL DISCUSSIONS

Mr. REID. I would say two things, Mr. President. First of all, the distinguished Republican leader and I had a meeting with the President yesterday. I was happy to hear—I had heard he had issued a veto threat against this bill, and he said that is not the case, and that is good. I don't expect the President to like everything in our bill, but I think this is the beginning of the process. This bill will go to the House, and with the House and the White House, we can come up with a piece of legislation fairly quickly. So I was very satisfied with the housing discussion with the President yesterday.

### CONFIRMATION OF JUDGES

Mr. REID. Finally, on the judges, I appreciate the Judiciary Committee reporting out these judges. In a Presidential election year, it is always very tough for judges. That is the way it has been for a long time, and that is why we have the Thurmond rule and other such rules. But I have indicated to the Republican leader that we are going to try to move these nominations along. We are trying to keep up with the average that has gone on in years past without a lot of political bickering.

We have the finest judicial system in the world. We need to make sure we keep it that way. One of the things we are looking to do—and, hopefully, we may even be able to do it on the supplemental appropriations bill; and one

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



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way or the other, the President indicated yesterday there will be some things he wants to put on it other than the direct funding—whether we can do it at that time or later in the year, we need to do something about increasing judges' pay, and I hope we can do that. Thank you, Mr. President.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### JUDICIAL CONFIRMATION PROCESS

Mr. McCONNELL. Mr. President, I wish to make a few observations about the status of the judicial confirmation process, and then I will turn to another matter.

It has been 108 days since the Senate confirmed a Federal judge of any kind. It last did so the week before Christmas, on December 18, 2007. Since then, the Senate has made precious little progress on judicial nominations. I don't blame the majority leader for that. I think we began this Congress with a general understanding of what we hoped to achieve, and that is still possible. But as of today, we have not confirmed any judicial nominees this year, and the Judiciary Committee has held only one hearing on one circuit court nominee since last September.

Today we will finally be able to confirm some judicial nominees. That is obviously good news, and I applaud that. But after we confirm the judicial nominees on the calendar, that may be it for a while due to the glacial pace at which the Judiciary Committee is proceeding.

It is not as if the committee has been otherwise occupied. This is another week in which the committee could have held a hearing, for example, on the qualified nominees to the Fourth Circuit Court of Appeals, but again it chose not to. These nominees meet the chairman's own criteria for prompt consideration. Nevertheless, they have been inexplicably languishing for hundreds of days without a hearing while the Fourth Circuit is one-third vacant.

We were told that having the support of home State Senators "means a great deal and points toward the kind of qualified consensus nominee that can be quickly confirmed."

Let me say that again. We were told that having the support of home State Senators "means a great deal and points toward the kind of qualified consensus nominee that can be quickly confirmed."

Well, Steven Matthews of South Carolina had the strong support of both of his home State Senators, one of whom, by the way, sits on the Judiciary Committee, but he has been waiting 217 days just to get a hearing.

Judge Robert Conrad of North Carolina, whom the Senate majority unani-

mously confirmed to two Federal positions and most recently to a lifetime position on the district court, has the strong support of both of his home State Senators. Yet he has been waiting for 268 days.

My Democratic colleagues are quick to point to the lack of home State support as a reason not to give someone a hearing. But it is beginning to look as if this criterion is being selectively applied. It is readily used as a reason not to move a nominee, coincidentally, when the nominee is from a State with a Democratic Senator, but it is ignored when the nominee has the support of two Republican Senators. At least that has been the case to date with the Fourth Circuit nominees.

For example, Rod Rosenstein is the U.S. attorney in Maryland. He has been nominated to the Fourth Circuit. By all accounts, Mr. Rosenstein is a fine lawyer and public servant. His peers at the American Bar Association certainly think so. They gave him the ABA's highest rating, "unanimously well qualified."

The Washington Post also thinks Mr. Rosenstein is an outstanding nominee. In an editorial entitled "A Worthy Nominee," the Post noted that Mr. Rosenstein has "earned plaudits for his crackdown on gang violence and public corruption," and that one of his supporters at the head of the Criminal Division during the Clinton administration, Jo Ann Davis, called him a "perfect" candidate for a judgeship:

Smart, savvy and as straight of an arrow as I have ever encountered.

The Post bemoaned the fact that Mr. Rosenstein does not have the support, for some reason, of his home State Senators, and out of deference to them the committee would not process Mr. Rosenstein's nomination. But Mr. Matthews and Judge Conrad do enjoy the strong support of their home State Senators. Yet those nominees can't get a hearing. So it doesn't seem that the same sort of deference is being paid to the Carolina Senators as to others.

I do understand the committee intends to give a hearing to the Fourth Circuit nominee from Virginia because the junior Senator from Virginia—a Democrat—in addition to the senior Senator from Virginia—a Republican—support the nominee. It is great that the committee may actually at some point move a circuit court nominee, especially one to a circuit that is 33 percent vacant. But why is this nominee leap-frogging over two other nominees to the very same circuit, both of whom enjoy the strong support of their home State Senators and both of whom have been pending for hundreds of days longer than the nominee from Virginia?

It looks as though if a Democratic Senator in the Fourth Circuit opposes the nominee, then the committee will not move the nominee, and if a Democratic Senator of the Fourth Circuit supports the nominee, then the committee will move the nominee. But if

two Republican Senators in the Fourth Circuit—or, in this case, four Republican Senators in that circuit—support two nominees, that doesn't seem to mean anything.

We need to treat all of the Senators who represent the Fourth Circuit consistently and fairly. We can do that by holding a joint hearing for Mr. Matthews and Judge Conrad. Doing so will make up for lost time and will afford the Carolina Senators the respect to which they are entitled.

#### TRIBUTE TO CORPORAL WINDELL JERYD SIMMONS

Mr. McCONNELL. Mr. President, in Kentucky there is a family mourning the loss of a young man who was taken from them entirely too soon. On September 21, 2006, CPL Windell Jerryd Simmons was tragically killed when an improvised explosive device detonated under his humvee while on patrol near Taji, Iraq. The Hopkinsville, KY, soldier was 20 years old.

For his valor in service, Corporal Simmons received several medals, awards, and decorations, including the Army Good Conduct Medal, the Army Commendation Medal, the Purple Heart, and the Bronze Star.

Jeryd, as he was known, may have been born in Nuremberg, Germany, in 1986, but he was raised in Hopkinsville. Jeryd's mother, Betty Simmons-Mayo, tells us how her son would always greet her whenever he entered a room.

Jeryd used to always enter a room and say, "Hey Mom." Then whenever he would come back into the room, he would say, "Hey, Mom" again, she recalls. I think he would say "Hey, Mom" at least 15 times a day. He would start his e-mails from Iraq with "Hey, Mom."

But her friendly son was not without his mischievous side. Betty also recalls a time when Jeryd hid a water gun behind his back and would sneakily shoot his mother, brother, and sister with it every time they walked by. Whenever one of his victims accused him of being a culprit, Jeryd would plead innocence. So his mother hatched a scheme to prank the prankster. She said:

Jeryd loved to play practical jokes. To get him back, I got everyone a water balloon, and the next time he was outside, we threw balloons at him. He stopped shooting everyone after that.

Jeryd graduated from Christian County High School in 2004 and set his sights on enlisting in the U.S. Army. He had made his decision to serve his country before graduating.

Jeryd's friends remember him as a natural leader, somebody they would dearly miss, but also someone they knew would make them proud for his service in uniform.

"He was like the ring leader. He was the best," says Tad Abukuppeh, a high school classmate. "No matter what it was, he was always energetic about everything we did together."

Another friend, Justin Baker, agrees.