

I don't want to see taking place, but I think you heard from the Senator from Pennsylvania—a respected, open-minded Member of this body—that if we do not start approving some circuit court judges in some significant numbers—I think my colleague from Arizona mentioned hitting some of the historic averages, or at least getting close to it—I think you are going to see people start to jam the body down and say that unless we start approving some circuit court judges, business is not going to happen around here.

I think people will understand why. Circuit court judges are positions that are significant, that are long lasting, that are needed, and yet nominees are not being approved. Why are they not being approved? We have qualified nominees who are in the queue who have been waiting for a long period of time. I have one to talk about here, Judge Robert Conrad in the Fourth Circuit. The seat to which he has been nominated is a judicial emergency. We have a third of the positions on the Fourth Circuit that are open. It is a judicial emergency. His nomination is supported by both home State Senators. They want this position. In North Carolina, Senator BURR and Senator DOLE both support this nominee. He is highly qualified. The ABA says this is a highly qualified nominee, meeting their highest standard of "unanimously well-qualified." This is an individual who has been previously approved by this body for a Federal judgeship, and has now been nominated to move from the Federal district court bench to the circuit court bench. It is a judicial emergency. Yet Judge Conrad's nomination languishes and has languished for over 250 days.

I think clearly what we are setting up right now is for not much to happen in the Senate. I think what you are going to see starting to take place—and we are serving notice here today, if we do not start moving these nominees at some regular pace—qualified people who fit the criteria, who should move on through, business is going to slow down in this body. It may come to a complete standstill if we do not start getting some judges.

We should not go that route. I urge my colleagues, I urge the chairman of the committee and the ranking member, to sit down and say: OK, what can we work out on circuit court judges? District court judges? What can we get worked out so the business of the Senate can move forward? Without that, things are going to slow down here. Things are not going to get done. It is going to be because we are not getting anywhere close to reasonable numbers of circuit court judges approved. I want to say that clearly. That is where this is all headed.

The majority party can choose to go that route. That is what is going to end up taking place. It is going to be about judges. We are going to have a big debate then across the country on that. Meanwhile, the whole Nation wants us

to get work done and we are not getting it done because judges are not being approved.

I hope the majority party will sit up and say we are going to approve this many, that many, we are going to get these moving through in some reasonable fashion so the body can do its job. Judge Conrad is one of those who deserves a hearing. If there are challenges to him on the basis that we don't think he is qualified, we don't like what he said here or there—fine, hold a hearing so we can get those out in the air. Clearly, if we do not start moving some judges in reasonable numbers, you are going to start seeing this body start to not move much through, as we begin to protest not getting judges approved.

We should not go that route. I hope we do not have to.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I have sat here and listened and I have some outline notes from which to speak, but I am not sure we should. The very thing we are talking about is what America wants to spit out, in terms of their elected representatives. The Senate has an obligation to offer advice and consent. There is no question judges are important. That is why you are here, seeing a demonstration from the minority today, of judicial committee members, because we know it is important. It is important across the country because making law from the bench is something that is the antithesis of what most freedom-loving Americans want. The idea that we want to have judges who know their role, know the role of interpreting law rather than making law, is something with which the vast majority of Americans agree.

But I am struck by the fact that gamesmanship is taking place—not just in terms of the majority but also the minority. We are in a game now. How do we move this? How do we leverage this? How do we force it?

My disheartenment comes from the fact—why are we here in the first place? Why did we get here, when we know what the role of the Senate is in terms of advice and consent.

My hope is we do not see a devolution to parliamentary maneuvering, to raise the issue above where it should be.

I am reminded of the fact that the majority had problems with four of President Bush's nominees, starting in January. He withdrew those. In a gesture of good will, he withdraw four nominees who were not—although they were well qualified, they were not acceptable to movement down the road. Now we have highly qualified judges in districts that are judicial emergencies that get actually slandered by the chairman of the committee about supposedly an anti-Catholic statement—when they are Catholic in their faith. So we offer criticism to somebody and never offer them a venue in which to defend themselves.

That is not what America expects of this body. That is not what it expects of the Judiciary Committee. My hope is the majority leader will say: There is a deal to be struck here. Let's do what we can so we don't spend our time on the business of creating wedge issues that don't further the best interests of this country. Give President Bush five or six more, seven or eight more district court nominees, all of which are qualified, bring them to the floor. Let's get it done so it doesn't interfere with other important work. It is time for the Senate to make good on promises. It is time for it to reciprocate for what President Bush did in terms of withdrawing the four nominations. My hope is we will think about what is in the best long-term interest of the country and not the next election.

I thank the Chair.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask if the distinguished Senator from Tennessee is ready to make his remarks, we should do it now. The two managers are not here, but I am sure they would not care. Then when you complete your remarks, we will go forward.

Mr. ALEXANDER. I am prepared to go ahead.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NEW DIRECTION FOR ENERGY INDEPENDENCE, NATIONAL SECURITY, AND CONSUMER PROTECTION ACT AND THE RENEWABLE ENERGY AND ENERGY CONSERVATION TAX ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3221, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3221) moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

Pending:

Dodd-Shelby amendment No. 4387, in the nature of a substitute.

Ensign amendment No. 4419 (to amendment No. 4387), to amend the Internal Revenue