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## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, March 13, 2012, at 10 a.m.

## Senate

MONDAY, MARCH 12, 2012

The Senate met at 2 p.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

### PRAYER

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

Let us pray.

Lord of mercy, we trust Your power and will not be afraid.

In these challenging days, give our lawmakers peace that comes from confidence in Your providential powers. When they feel pessimistic, remind them that You are able to keep them from stumbling and that deliverance comes from You. You are a gracious and merciful God, slow to anger and abounding in steadfast love. Help our Senators today to strive to do as much good as they can in as many circumstances and to as many people as they can.

We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS 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. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 12, 2012.

To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUE,  
*President pro tempore.*

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

### RECOGNITION OF THE MAJORITY LEADER

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

### RECOGNIZING CHAPLAIN BLACK

Mr. REID. Mr. President, we rarely acknowledge the Chaplain here in the Senate, and we should more often. We are so fortunate as a body to have this good man leading prayer virtually every day. He gives tremendous thought to his prayers and what he should say. His prayers are always very challenging and encompass the issues we are dealing with.

For those of you who are watching him and who don't know anything about this man, he is a role model for what America is all about. He was raised by a single mother, and she would give him a few pennies each day that he would memorize a verse of Scripture. I have seen the man and his

ability to speak volumes. The way he pulls up things he has in his brain reminds me of Senator Byrd, who for many years sat right here behind where I am, and who had a remarkable ability to remember what he read or studied. Admiral Black is the same.

So I speak for the whole Senate—not Democrats or Republicans but for this body—in expressing our appreciation for the good work he does, not only the prayers he offers here but the counseling he does on a daily basis here in the Senate.

### JUDICIAL NOMINATIONS

Mr. REID. Mr. President, each day the Senate begins its workday with a solemn ritual, and we just did. We pledge allegiance to our flag. Each day we rededicate our loyalty to this flag and to the fundamental pillar for which it stands—the right to justice for all. Unfortunately, for tens of millions of Americans, that right to equal justice under law is at risk, and I am sorry to say it is at risk because of Republican ideology.

More than half the Nation's population—160 million Americans—live in parts of this country that have been declared a judicial emergency. What does that mean? It means that more than half the people in our country who seek justice in the courts and the judges find that the courts are strained to the breaking point under a backlog so intense an emergency has been declared.

The Presiding Officer is an expert on bankruptcy and knows how important filling those bankruptcy slots are. 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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reason we are slow in filling those bankruptcy spots is, of course, we need more bankruptcy judges, but the bankruptcy judges are chosen by our Federal judiciary, trial court judges. They have other work to do. They are so overwhelmed with work to do.

People who have businesses that they have problems dealing with because of Federal laws need to go to court and have those issues redressed. There could be injuries suffered that only the Federal system can relieve them of their responsibilities, such as discrimination because of age, gender, anti-trust cases, business rearranging.

Mr. President, you have heard the expression "What are you trying to do, make a Federal case out of it?" The reason people say that is the Federal court system is the place you go to be treated fairly. When I practiced law, I had great respect for the State court system, but it was in the minor leagues compared to when I had to go across the street to the Federal court—a much different setting.

One out of every 10 Federal judgeships is now standing vacant. Americans can no longer rely on fair and speedy trials. The courts where Social Security cases are heard, appeals are heard, and discrimination suits are tried—I went through the whole list—simply do not have enough judges to handle the cases brought before them. In these courts, our Federal judges are being forced to limit their time on the cases they have. We don't want these Federal courts to be like traffic court judges. They have different responsibilities. We want people to say: What are you trying to do, make a Federal case out of this? We want that to mean something. And families and businesses typically wait for years before their civil cases are heard.

There are some problems Congress can't solve, but this is not one of those problems. I repeat: This is not one of those problems.

The Senate could act tomorrow to put highly qualified judges on the Federal bench, judges who are supported by both Democrats and Republicans.

The Senate could act tomorrow to ease the backlog of cases, lighten the load of overworked judges, and shorten the time it takes to see justice done in our great country.

The Senate could act tomorrow to confirm 22 judges currently ready to serve but awaiting Senate action. These are 22 qualified, consensus nominees. The overwhelming majority of them received unanimous support from the Judiciary Committee. They have the support of the Republican Senators from their home States. Eleven of these nominees would fill vacancies designated as judicial emergencies. I will soon announce cloture on all of these to bring to a stop the filibuster being conducted on these good men and women who want to serve. We are going to file on the 17th. Eleven of these people whom we are trying to get confirmed are nominees from judicial

emergency States. Yet the Republicans refuse to allow us to vote on these qualified judicial nominees. Republicans have prevented the Senate from doing its constitutional duty, and that is what it is. The House doesn't have to deal with this because our Constitution says it is the obligation of the Senate to confirm or reject the nominations the President sends to us. We should have up-or-down votes on these.

The kinds of qualified consensus nominees that in years past would have been confirmed in days or weeks now languish for months and months with no action. There are judges on this list who go back to November of last year, not because we couldn't have done it—these could be confirmed in a matter of minutes. The vote should be routine.

There should not be a fight that delays action on important jobs measures. Creating jobs is the Senate's No. 1 priority. Republican obstructionism is the only thing standing in the way of moving forward with additional work to get our economy back on track. Unfortunately, Republicans have forced our hand. What else can we do? Their endless obstructionism has created a judicial emergency in this country time and time again. At the end of last year, the Senate Republicans refused to allow votes on even one of the 14 judicial nominees awaiting confirmation last year, breaking with the Senate's longstanding tradition of clearing the calendar of consensus nominees at the end of a session. Each of these nominees was well qualified and had bipartisan support.

President Obama's judicial nominations have waited an average of five times longer to be confirmed than those of President Bush. Look at this chart. These are days. President Clinton's were confirmed in a matter of about 5 or 6 days; President Bush's, 21 or 22 days. President Obama's are still skyrocketing. It is really unfair. It is unfair. It is not only unfair to the system, but it is unfair to these nominees. They are all well qualified. They received nearly unanimous support. They are all lawyers having to hold their practice back, waiting to see what is going to happen here. These are lifetime appointments. That is what the Founding Fathers established.

The long waits have nothing to do with the qualifications of these nominations. As I have indicated, after waiting months for the Senate to act on these judges, they are often confirmed almost unanimously. What does that say? It says that the wait is dilatory. It is delay for delay's sake. As we know, my friend the Republican leader said his No. 1 goal in this Congress is to defeat President Obama, and this is part of it.

President Thomas Jefferson said:

When one undertakes to administer justice, it must be with an even hand, and by rule; what is done for one must be done for everyone in equal degree.

When we have judicial emergencies all over this country affecting 160 mil-

lion people, what President Jefferson said doesn't work. President Jefferson's principle is as true in America's court system as it is anyplace in America, and it should be true in the Senate. One qualified consensus judicial nominee ought to be treated like another regardless of political party and regardless of who is President, quite frankly.

With the courts already in crisis, the Republicans could not have chosen a worse time to play politics with the confirmation process. So today I regret that I have to file cloture on a package of 17 district court judges. I hope we can move through these. I hope people are not going to be doing more dilatory tactics. If cloture is invoked, people have a right under our rules to hold up the next judge in line for 30 hours. That will show what this is all about. It will show that it is an effort to embarrass the President and not take into consideration 160 million people who don't have the ability to have their cases tried in an orderly manner.

The motion to end a filibuster only applies to district court judges and trial judges. So I hope Republicans won't continue to filibuster appellate judges, our circuit court judges. That would be wrong. We would have no alternative but to take action with that. There is a lesser number of those, but they are very important positions.

We have so much work to do in this body. We must complete action on that extremely important Transportation bill which will either save or create 2.8 million jobs. I will work with our Republican leader and finalize a path forward on a bipartisan small business jobs bill the House passed by a very large margin last week. We must consider postal reform legislation, cybersecurity legislation. We have gas prices we have to deal with, the reauthorization of the Violence Against Women Act, and other issues that are important to our country.

It is unfortunate that we had to move forward on something that is so glaringly wrong. Look at this. These are stats. These are not going to change. President Clinton's are not going to change. Whatever happened, happened. This is not going to change. Whatever happened, happened. Here, this number keeps going up. You can go back to a couple of judges in November, December, January, February, March. We are up to 5 months with some of these judges.

I note the absence of a quorum.

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

The legislative clerk called the roll.

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

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

#### RESERVATION OF LEADER TIME

Mr. REID. Would the Chair announce the business of the day.