

The President last night also failed to mention that these costs will be borne as much by grandma and grandpa as they will by any corporate executives or Members of Congress. He did not mention that nuclear power is a fuel that burns nothing, thereby helping us achieve cleaner air and a better environment. He failed to mention that the costs of his global warming treaty will be even higher for every American if we continue to shut down nuclear power plants in favor of coal-burning technologies. And most regrettably, he failed to offer any kind of explanation into why his administration supports the Department of Energy as they unlawfully stick it to the American taxpayers.

While the DOE waits, and hides behind courtroom appeals, and shirks its responsibilities that it is legally bound to accept, Americans across our country can expect yet more rate increases and yet higher taxes from a government that is either too afraid or too incompetent to act.

How can we face ourselves come Sunday morning—just 4 days from today—if we simply step back and quietly allow this to happen? We could not, we should not, and we will not.

So finally, Mr. President, I urge my colleagues to reassure their constituents that come midnight on Saturday, the people will not be forgotten, that they will return to Washington next week and fulfill their oath to protect the taxpayers and ensure that their Government fulfills its obligation to them, and that we will never allow such a failure to happen again.

Thank you very much, Mr. President. And I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

There being no objection, at 12:51 p.m., the Senate recessed until 2:15; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERTS).

EXECUTIVE SESSION

THE JUDICIARY

VOTE ON NOMINATION OF ANN L. AIKEN

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Ann L. Aiken, of Oregon, to be United States District Judge for the District of Oregon? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH] is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. FAIRCLOTH] would vote "no."

Mr. FORD. I announce that the Senator from Illinois [Mrs. DURBIN] and the Senator from Illinois [Ms. MOSELEY-BRAUN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced— yeas 67, nays 30, as follows:

[Rollcall Vote No. 1 Ex.]

YEAS—67

Akaka	Feinstein	Mikulski
Baucus	Ford	Moynihan
Bennett	Glenn	Murray
Biden	Gorton	Reed
Bingaman	Graham	Reid
Boxer	Harkin	Robb
Breaux	Hatch	Rockefeller
Bryan	Hollings	Roth
Bumpers	Inouye	Santorum
Byrd	Jeffords	Sarbanes
Campbell	Johnson	Sessions
Chafee	Kempthorne	Shelby
Cleland	Kennedy	Smith (OR)
Coats	Kerry	Specter
Cochran	Kerry	Stevens
Collins	Kohl	Thomas
Conrad	Landrieu	Thompson
Daschle	Lautenberg	Thurmond
DeWine	Leahy	Torricelli
Dodd	Levin	Wellstone
Domenici	Lieberman	Wyden
Dorgan	Lugar	
Feingold	Mack	

NAYS—30

Abraham	Frist	Kyl
Allard	Gramm	Lott
Ashcroft	Grams	McCain
Bond	Grassley	McConnell
Brownback	Gregg	Murkowski
Burns	Hagel	Nickles
Coverdell	Helms	Roberts
Craig	Hutchinson	Smith (NH)
D'Amato	Hutchison	Snowe
Enzi	Inhofe	Warner

NOT VOTING—3

Durbin	Faircloth	Moseley-Braun
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The nomination was confirmed.

Mr. WYDEN. Mr. President, I move to reconsider the vote.

Mr. SMITH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON NOMINATIONS OF BARRY G. SILVERMAN AND RICHARD W. STORY

The PRESIDING OFFICER. The question is on the confirmations, en bloc, of Barry G. Silverman, of Arizona, to be a circuit judge of the ninth circuit, and Richard W. Story, of Georgia, to be a district judge for the Northern District of Georgia.

The nominations were confirmed.

Mr. LEAHY. Mr. President, I am delighted that we have finally broken the logjam on Ninth Circuit vacancies. Judge Silverman is the first judge to be confirmed to this Court in two years. In the meantime, the Court has been suffering from vacancies amounting to more than one-third of the authorized judgeships for the court and had to cancel over 600 arguments last year.

I congratulate Judge Silverman and his family and thank Senator KYL for his cooperation in this effort. I hope that we will move forward promptly to consider the nominations of Judge Richard Paez, Professor William Fletcher, Margaret McKeown and the others needed to staff this important court.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of morning business.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

JUDICIAL NOMINATIONS

Mr. KENNEDY. Mr. President, I was unable to make my comments earlier involving the consideration and approval of the various judges. I would like to address the Senate for a few moments on this particular issue and, most importantly, to express the strong support for the three nominations that have just been confirmed by the Senate.

Judge Silverman has served with distinction for the past three years on the federal district court in Arizona and will be an impressive member of the 9th Circuit Court of Appeals. Judge Richard Story, has served as a state court judge for many years, and will do an excellent job on the United States District Court in Northern Georgia.

I am particularly pleased that at long last the Senate is allowed to consider the nomination of Judge Ann Aiken. She is an outstanding choice for the federal district court in Oregon. For the past decade, she has served with distinction as a state court judge—first on the district court and, for the past five years on the circuit court. She is widely respected in Oregon for her service to her community. She received the Woman of Achievement award in 1993 from the Oregon Commission for Women. The U.S. Department of Justice honored her in 1994 for her leadership in helping victims of crime.

But despite her impressive qualifications, her nomination has been stonewalled by Republicans in the Senate for more than two years.

On the average, it is taking twice as long for Senate Republicans to confirm President Clinton's nominees as it took for Democrats to act on President Bush's nominations to the federal courts.

For women, the problem is especially serious. Women nominated to federal judgeships are being subjected to greater delays by Senate Republicans than men.

So far in this Republican Congress, women nominated to our federal courts are four times—four times—more likely than men to be held up by the Republican Senate for more than a year.

Last year, the Senate confirmed 30 men, but only 6 women. So only 17 percent of the nominees that the Republican leadership brought before the Senate were women—half as many as President Clinton nominated.

The country is paying a heavy price for this obstruction. Citizens can't get their day in court, because the Republican Senate is playing politics with the courts and preventing needed judicial positions from being filled.

When even a Republican Chief Justice criticizes the Republican Congress, you know something's wrong.

Chief Justice Rehnquist issued his annual year-end report on the State of the Judiciary last month, and he sharply criticized the Republican Senate for refusing to move more quickly to confirm judges.

The Chief Justice is deeply concerned about the high number of judicial vacancies on the federal courts. There are too few judges to handle the workload.

The Republican bottleneck in the Senate is jeopardizing the court system and undermining the quality of justice. Of the 77 judicial nominations pending last year, only 36 were confirmed—less than half. Eleven have been awaiting action for over 18 months.

That's a scandal. Nominees deserve a vote. If our Republican colleagues don't like them, vote against them. But don't just sit on them—that's obstruction of justice.

Free and full debate over judicial nominations is healthy. The Constitution is clear that only individuals acceptable to both the President and the Senate should be confirmed. The President and the Senate do not always agree. But we should resolve these disagreements by voting on these nominees—yes or no. As Chief Justice Rehnquist said in his annual report, "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time it should vote" up or down.

Some Republicans claim they are protecting the federal courts from "judicial activism." But this argument is a smokescreen. If President Clinton is actually nominating judicial activists, then why is it that these nominees are approved almost unanimously when the Senate is finally allowed to vote on them?

Eric Clay's nomination to the Sixth Circuit Court of Appeals was held up in the Senate for more than 15 months. He was finally confirmed—unanimously—by voice vote.

Joseph Battalion—President Clinton's nominee to the District Court of Nebraska—was held up for 17 months. Then he, too, finally passed the Senate on a voice vote.

Other nominees were confirmed by overwhelming votes, but only after long delays. Katherine Sweeney Hayden was confirmed to the District Court in New Jersey by a vote of 97-0. Ronald L. Gilman's nomination to the Sixth Circuit Court of Appeals and Janet C. Hall's nomination to the District Court of Connecticut were each confirmed by a vote of 98-1.

The closest vote we have had on any of President Clinton's judicial nominees was 76 to 23 in favor of confirmation.

Clearly, the Republicans' claim that Clinton judges are activist judges is a transparent smokescreen being used to slow down the confirmation process. The reason is obvious. The Republican majority in Congress is doing all it can to prevent a Democratic President from naming judges to the federal courts. The courts are suffering and so is the nation.

In some areas of the country, people have to wait years to have their cases even heard in court. And then they have to wait years more for overburdened judges to find time to reach their decisions. Families, workers, small businesses, women and minorities have traditionally looked to the courts to resolve disputes. The lack of federal judges makes the swift resolution of their cases impossible.

The number of cases filed in the federal appeals courts has grown by 11 percent over the last six years. The average time between filing and disposition has also increased. Courts with long-standing vacancies are in even worse shape.

In the District Court in Oregon, the court to which Ann Aiken has been nominated, the number of case filings has risen by nearly a third since 1990.

Another nominee, Margaret Morrow has been nominated to the federal district court in Los Angeles, and I hope we will consider her nomination next week. Since 1994, the caseload in that court has grown by 15 percent. The time people have to wait for their civil cases to be resolved has increased by 11 percent. In that district, over 300 pending civil cases are more than three years old.

Real people are being hurt. Consider the case of Rudy Boerseker, a 40-year-old mine worker in Illinois who was injured by poor maintenance of equipment. The facts of the case made clear that the accident resulted from the mining company's negligence. Yet Mr. Boerseker was finally forced to accept a settlement for less than half of what he would probably have received if the case had gone to trial.

He agreed to an unfair settlement, because he could not afford to wait the three or four years it would take for the case to be decided.

In the Southern District of Texas, 4,000 victims of a student loan scam are waiting for the outcome of a class action suit that has been pending for almost eight years.

In South Carolina, there is still no decision in a suit filed more than six years ago against the state's apportionment laws. The outcome of this case will affect hundreds of thousands of citizens. It goes to the heart of whether the basic constitutional principle of "one person, one vote" is being fairly applied.

In Southern Florida, Julio Vasquez—a U.S. citizen migrant worker—broke his leg in 1989 in a boarding house provided by his employer. To this day, nearly nine years later, Mr. Vasquez has never received sufficient medical

attention, and his injury affects his ability to work. He is still waiting for the judge's ruling in his case.

In the District Court of Oregon, a five-million dollar judgment in favor a family business in a patent dispute with a Fortune 500 firm was tied up for more than a year because of the delays caused by two vacancies on the court.

These examples are typical victims of the vacancy crisis in the federal courts.

They are hard-working Americans injured on the job—citizens seeking to exercise their right to vote—students trying to get an education—small businesses denied their rights by large corporations.

It is time to end these delays and end these industries. It's a new year, and a new session, and I hope very much that our colleagues will turn over a new leaf and end these unreasonable, unacceptable, and unconscionable delays.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383), a Supplementary Notice of Proposed Rulemaking was submitted by the Office of Compliance, U.S. Congress. This Supplementary Notice requests further comment on proposed amendments to procedural rules previously adopted implementing various labor and employment and public access laws to covered employees within the Legislative Branch.

Section 304(b) requires this Notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL
ACCOUNTABILITY ACT OF 1995: AMENDMENTS
TO PROCEDURAL RULES

SUPPLEMENTARY NOTICE OF PROPOSED RULEMAKING

Summary: On October 1, 1997, the Executive Director of the Office of Compliance ("Office") published a Notice of Proposed Rulemaking ("NPRM") to amend the Procedural Rules of the Office of Compliance to cover the General Accounting Office ("GAO") and the Library of Congress ("Library") and their employees. 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997). The Congressional Accountability Act of 1995 ("CAA") applies rights and protections of eleven labor, employment, and public access laws to the Legislative Branch. Sections 204-206 and 215 of the CAA, which apply rights and protections of the Employee Polygraph Protection Act of 1988 ("EPPA"), the Worker Adjustment and Retraining Notification Act ("WARN Act"), the Uniformed Services Employment and Reemployment Act of 1994 ("USERRA"), and the Occupational Safety and Health Act of 1970 ("OSHAct"), became effective with respect to GAO and the Library on December 30, 1997. The NPRM proposed to extend the Procedural Rules to cover GAO and the Library and their employees for purposes of: (1) proceedings relating to these sections 204-206 and 215, (2) proceedings relating to section