

Committee or on the Senate floor. Promptly confirming these 39 would bring the President's overall numbers close to parity with President Bush. It wouldn't give him an advantage.

It is time to stop the delay. I think it is important for us to confirm these nominees as quickly as possible. We don't have to go through this painful and embarrassing charade of calling cloture vote after cloture vote on nominees who were accepted on a strong bipartisan vote, have been approved by Republican Senators, and are simply being held up on the hope by some Republican Senators that the day will come when there is a Republican President who can fill these vacancies. That isn't fair. Taking that approach is what gives our Chamber a bad name.

Ten of these nominees were reported out of committee last year. Why continue to delay them? I know during President Bush's first term the Senate confirmed 57 district court nominees within 7 days. These nominees languished on the calendar for months—months. If there is a legitimate objection to any nominee, step forward and state the objection. If a Member opposes the nominee, when the vote comes vote no. But for, goodness' sake, to let these names and nominations languish on the calendar isn't fair to the nominees, and it isn't fair to the courts that are in many instances facing judicial emergencies because of these vacancies.

I urge my colleagues—among these nominees are two for Illinois. Senator MARK KIRK and I had an agreed-to bipartisan approach. We put together bipartisan committees, we each found our favorite nominees, and we submitted the nominee to one another. We asked for approval; we got the approval. We have two extraordinarily good people: John Lee, proposed by me, and Jay Sharp, proposed by Senator KIRK. Both came out of committee without controversy—two excellent nominees sitting on the calendar.

For goodness' sake, I ask my colleagues, why would they do this? It isn't fair to these individuals. It isn't fair to Senator KIRK, and it isn't fair to this process. Let's move these names forward as quickly as possible.

I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

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

#### JUDICIAL NOMINATIONS

Mr. MCCONNELL. Madam President, this week the average price of a gallon of gas is \$4. The national unemployment rate is 8.3 percent. If we include those who are so frustrated they have stopped looking for work altogether, of course, the unemployment rate is much higher than 8.3 percent.

With all of this, the Democratic majority is about to spend more of the

Senate's time on another heavy-handed power play that will not get them anywhere. But it will make clear yet again how out of touch they are with the needs of the American people.

First, we need to make clear what this is about and what this is not about. This is not about making sure the President's judicial nominations are being treated fairly. Despite what the majority would like us to believe, the President is doing quite well on that score, as is clear from both the facts and the admissions of our Democratic friends themselves.

As Senator ALEXANDER noted yesterday, the Senate has confirmed 76 out of 78 district court nominees whom President Obama submitted in his first 2 years. The President withdrew the other two. That is a 97-percent success rate. Not bad.

The Senate confirmed 62 of President Obama's circuit and district court nominations last year alone. If we look at President Bush's and President Obama's lower court confirmations when they both had two Supreme Court appointments for the Senate to consider, President Obama is doing much better than President Bush. President Bush had a total of 120 lower court judges confirmed in 4 years, while President Obama already has 129 lower court judgeships confirmed in just 3 years. So President Obama has had more confirmations in a much shorter period of time.

To the extent there is anyone here to blame, the Obama administration and Senate Democrats should actually look in the mirror. Of the 83 current vacancies, over half of them—44—don't even have nominees. Let me say that again: Of the 83 current vacancies, over half of them—44—don't even have nominees.

As for the minority of the vacancies for which the President has actually submitted a name, almost half of those are still in the Judiciary Committee. So nearly three-fourths of the current vacancies—61 of 83—are due either to the administration failing to nominate someone or the Democratic-controlled Judiciary Committee failing to move them out of committee.

Given what we have to work with, it is no wonder the majority leader complimented Republicans—complimented Republicans—at the end of last year, noting that the Senate had, in fact, accomplished quite a bit on judicial nominations. That was the majority leader of the Senate just last year. The senior Senator from Minnesota, a Democrat on the Judiciary Committee, acknowledged the same thing.

So this is not about making sure the President is treated fairly in his judicial nominations. In fact, this isn't even about judicial nominations at all. This is about giving the President what he wants when he wants it, and what the President wants is to distract the country from his failed policies that have led to soaring gas prices and high unemployment and instead try to write a narrative of obstruction for his cam-

paign. He doesn't care if he eviscerates the Senate's advice and consent responsibility to do so.

What the majority should do is work with us to move these lifetime appointments in an orderly manner as we did 62 times last year and as we have already done 7 times this year. As I suggested yesterday, we could get to the bipartisan jobs bill this week and process some judicial nominations as well. The jobs bill passed the House by a vote of 390 to 23—390 to 23—and the President says he supports it as well. While we are working on a bill to get people back to work, we can make progress on other judicial nominations.

So I encourage the majority to work with us on both legislation and nominations and not to go off on a partisan, unprecedented path that would not get us anywhere and would not solve the problems Americans care about.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

#### WORK TO BE DONE

Mr. SESSIONS. Madam President, I thank our Republican leader, Senator MCCONNELL, for bringing some perspective to this situation. I have seen the circumstances in the Senate and how the nominations process has changed over time. When I came here, there were no filibusters. Maybe there had been one in which a nomination was delayed and the nomination was withdrawn because it had certain problems, but virtually none. It was the position of the Senate that we did not filibuster nominations, and I still believe in that.

But I would point out that in 2001 the Democrats met in conference, and they had a plan to change the ground rules of confirmations. They announced it to the New York Times. Cass Sunstein, Marcia Greenberg, and Laurence Tribe met with them, and they came out and started filibustering systematically the fabulous nominations that President Bush had sent to the Senate. He sent eight nominees early in his administration. Two of them were renominations of President Clinton's nominees. They were promptly confirmed in the Senate. But immediately filibusters of superb nominees such as Priscilla Owen, Janice Rogers Brown, and others commenced, and we had a long process with that. This was led by the Democrats. Then-Senator Obama was one of them. He filibustered Justice Alito's nomination. We had not done that before. He participated in other filibusters. Senator REID voted to block an up-or-down vote 26 times. Senator LEAHY voted to block an up-or-down vote 27 times.

What happened was there was such a controversy over this changing of the rules in the early 2000s that it resulted in a compromise. Fourteen Senators—called the Gang of 14—decided they would break the logjam and create a new rule. It was not a perfect rule. I really think filibusters are not the