

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## AMERICA'S SMALL BUSINESS TAX RELIEF ACT OF 2015—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 636, which the clerk will report.

The bill clerk read as follows:

Motion to proceed to Calendar No. 55, H.R. 636, to amend the Internal Revenue Code of 1986 to permanently extend increased expensing limitations, and for other purposes.

The PRESIDING OFFICER. The assistant Democratic leader.

## NOMINATION OF MERRICK GARLAND

Mr. DURBIN. Mr. President, there is an old verse that reads, if I remember correctly, as follows: While I was going up the stair, I met a man who wasn't there. He wasn't there again today. I wish that man would go away.

That man in the U.S. Senate is Merrick Garland, a person whom I am sure the Republican leadership wishes would just go away. But he is not going to go away.

Merrick Garland is the nominee whom President Obama has sent forward to fill the vacancy on the Supreme Court occasioned by the untimely death of Antonin Scalia. In sending that name forward, President Obama was meeting his constitutional responsibility. Article II, section 2 of the U.S. Constitution states clearly that the President shall—shall—nominate a person to fill a vacancy on the U.S. Supreme Court. It goes on to say that the responsibility of the Senate is to provide advice and consent to Supreme Court nominations. It is very clear. The men who wrote the Constitution understood the importance of filling a vacancy on the U.S. Supreme Court, and they understood it to be so important that they mandated that the President send the nominee forward to fill that vacancy.

You can read that Constitution from start to finish and never find the rationale being used by Senator MCCONNELL, the majority leader of the Senate, to stop that nomination from being considered in the Senate. There is no argument made in the Constitution—nor has there ever been an argument made—that because the President is in the last year of his 4-year term, he no longer has a constitutional responsibility to fill a vacancy on the Supreme Court. In fact, never—underline never—has the Senate refused a hearing to a nominee who has been sent forward by a President of the United States to fill this important vacancy. It speaks volumes that Senator MCCONNELL, the Republican leader, has decided—has taken it on himself—to stop the Senate from considering the President's nominee.

It is an embarrassing position to take for many of his colleagues. Look at what they are going through. Republican Senators who went home over this Easter break—many of them—went to town meetings where people asked this very basic question: Senator, why is it that you won't do your job? Why won't you even give a hearing to this man who was sent by the President for consideration by the Senate to fill this important vacancy?

It is a hard question to answer if you take the position of Senator MCCONNELL, the Republican leader, because the answer is that, basically, he is arguing that this President has no authority—no authority to fill this vacancy. Senator MCCONNELL argues that we should hold this vacancy open for the rest of this calendar year into next year so that a new President—whoever that might be—would have the power to fill this vacancy. He argues that the American people will speak through this next election as to a new President and that person should have the authority.

Well, what we discovered over the course of the last several weeks is this isn't about giving the American people a voice in choosing to fill that vacancy; it is about giving two individuals, the Koch brothers, the decision to fill that vacancy. These brothers have decided it is in their best interests—their political interests, their economic interests, whatever it may be—to keep this spot vacant on the U.S. Supreme Court in the hopes that a Republican Presidential candidate will win the election and fill the Court vacancy with the blessing of the Koch brothers. So Republican Senators are going back to their home districts and States, basically facing the electorate in their home States, and finding it impossible to justify avoiding any consideration of this nominee.

It got more difficult this morning.

I ask unanimous consent that this article from the Washington Post be printed in the RECORD in its entirety. The Washington Post has reported that U.S. Appeals Court Judge Merrick Garland is getting a boost for his Supreme Court nomination from some of the lawyers who know him best—his former law clerks. It goes on to say that 68 former law clerks for this judge have written to Members of Congress recommending him based on their personal experience of working professionally with him.

Let me read this passage from their letter:

There are not many bosses who so uniformly inspire the loyalty that we all feel toward Chief Judge Garland. Our enthusiasm is both a testament to his character and a reflection of his commitment to mentoring and encouraging us long after we left his chambers. He has stood by our side during the happiest moments of our lives—quite literally, having officiated the weddings of seven of his former clerks. He has welcomed us and our growing families into his home. He is a constant source of career advice and guidance. And he has offered love and sup-

port in the dark times, too, when we have suffered setbacks, losses, and uncertainty.

This article one might expect from his clerks saying what a good person he is, but they have gone out of their way to suggest to the Senate that a person of this quality and this integrity should be treated fairly—fairly.

I listened to some of the comments that are being made on the Republican side about this man, and it is a long way from fairness. What they are saying to him is we don't care about where you came from. We don't care about your education. We don't care about your professional qualifications. We don't care about your career on the bench. We care that you have been nominated by President Barack Obama, and as far as Senator MCCONNELL is concerned, enough said.

If Barack Obama nominates this man, Senator MCCONNELL has made it clear he will deny to him something that has never ever been denied to a Supreme Court nominee in the history of the United States of America: a fair hearing.

That is why it is painful for a lot of Republican Senators to go back and face audiences. The partisans in the audience come in, in a predictable state, with Republicans saying: Hold the line. Don't let Obama act like a President of the United States. We want him to go away. Democrats come in and ask: Can't you at least give this man a hearing? I would say to my Republican colleagues: Listen to the people who view themselves as Independents in this country, folks who don't carry a party label. They are saying overwhelmingly that Merrick Garland is entitled to a hearing before the U.S. Senate. He is an extraordinarily well-qualified man. There is no credible justification to refuse to give him a hearing.

Merrick Garland was born in Chicago. His father ran a small business. His mother volunteered in the Rogers Park neighborhood. He was the grandson of immigrants who fled anti-Semitism in the Pale of Settlement in Russia. They came to America in the early 1900s. Judge Garland grew up in Lincolnwood, IL. He graduated at the top of his class at Niles West High School in Skokie. He earned an undergraduate and law degree from Harvard. He was a law clerk to Judge Henry Friendly on the Second Circuit and to Supreme Court Justice William Brennan.

He had a distinguished career at the Justice Department. They sent Merrick Garland down after the Oklahoma City tragedy, when there was a terrible incident—a domestic terrorist bombing—that killed and maimed so many people. The prosecution of that accused terrorist was the highest priority for the Department of Justice. They had to get it right, not just for the cause of justice but for the victims and their families. They had to get it right on this prosecution. So they sent their very best prosecutor, Merrick