

114TH CONGRESS
2D SESSION

H. RES. _____

Expressing the sense of the House of Representatives that the Senate should fulfill its constitutional obligation to provide full and fair consideration of the President's nominee for Associate Justice of the Supreme Court.

IN THE HOUSE OF REPRESENTATIVES

M. _____ submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Expressing the sense of the House of Representatives that the Senate should fulfill its constitutional obligation to provide full and fair consideration of the President's nominee for Associate Justice of the Supreme Court.

Whereas Justice Antonin Scalia passed away on February 13, 2016, thereby creating a vacancy on the Supreme Court of the United States;

Whereas President Barack Obama nominated Judge Merrick Garland on March 16, 2016, to fill this vacancy;

Whereas Article II, Section 2 of the United States Constitution vests the authority to nominate Supreme Court Justices with the President of the United States, by and with the advice and consent of the Senate;

Whereas President Obama was twice elected President by the American people with a majority of the popular and Electoral College votes in both instances;

Whereas shortly after the public announcement of Justice Scalia's passing, Senate Majority Leader Mitch McConnell declared that the Senate would not consider any nominee that President Obama might name, regardless of that nominee's qualifications, and that the next President, who will take office nearly one year later, on January 20, 2017, should fill the vacancy instead;

Whereas all Republican Members of the Senate Judiciary Committee signed a letter dated February 23, 2016, sent to Senator McConnell in which they pledged not to hold any hearings on any person that President Obama nominates to fill the Supreme Court vacancy;

Whereas according to the Congressional Research Service, there have been six prior instances since 1900 when the Senate has confirmed Supreme Court nominations during presidential election years;

Whereas in 1988, in the last year of Republican Ronald Reagan's presidency, the Democratic-controlled Senate confirmed the nomination of Justice Anthony Kennedy by President Reagan by a 97-0 vote;

Whereas the Senate's refusal to consider any nominee appointed by President Obama impairs the Supreme Court's ability to perform its constitutional duties, potentially leaving many critical legal questions subject to a lower level of judicial review over the course of two Supreme Court terms;

Whereas no nominee to the Supreme Court in our Nation's history has waited longer than 125 days before receiving

a final floor vote or other result, and Senate Republicans' refusal to consider President Obama's nominee could last for well over 300 days;

Whereas retired Supreme Court Justice Sandra Day O'Connor, a Reagan appointee, said in response to the question of whether President Obama should nominate someone to fill the seat held by Justice Scalia, that "I think we need somebody there now to do the job, and let's get on with it";

Whereas the last four Justices to be appointed to the Supreme Court were confirmed in an average of 77 days, and that the average time between nomination and confirmation of Supreme Court Justices since 1967 has been 59 days; and

Whereas there is almost a full year left in President Obama's term, leaving more than enough time for the Senate to consider and vote on President Obama's nomination of Judge Garland: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that—

3 (1) the Senate should fulfill its constitutional
4 obligation by observing regular order and holding
5 hearings to consider the President's nomination of
6 Judge Garland to fill the vacant seat on the Su-
7 preme Court; and

8 (2) the Senate, after giving its full and fair con-
9 sideration, should vote on the President's nomina-
10 tion.