

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

JUDICIAL NOMINATIONS

Mr. LOTT. Mr. President, with regard to the judicial nominations, I have a unanimous-consent request I will propound. I am sure the distinguished Democratic leader would like to engage in a colloquy. Before I do that, I want to point out what has occurred with regard to these nominations.

Some time ago, when I was still serving as majority whip, I did try to get a unanimous consent to move a block of four nominees to the Judiciary. Objection was heard on that on behalf of, I believe, the Senator from Montana, who had a judge that was not on the list, that he wanted to make sure was considered.

Subsequent to that, I tried a second time to get those four cleared, and an objection was heard from the Senator from Montana because he still was not satisfied with the assurances with regard to his own judge for district court position in Montana. I assured him at the time we would continue to work to try to get clearance on that nominee, that there were some objections, some holds that had been lodged against that nominee, and therefore it could not be included in that group.

Once I was elected majority leader, in fact, I did continue to work on those four and others. On the Friday before the Fourth of July recess, we were able to get, preliminarily, 10 judges cleared. There was some last-minute problem with one of those 10, so we still had a group of nine judges that we had cleared on this side of the aisle, but, again, there was an objection heard on the Democratic side of the aisle.

In an abundance of good effort to try to see if we cannot move some of these nominations where there are not, and, in fact, should not be objections, I have decided now I will try to bring up a judge each day over the next several days to see if we cannot get them cleared. I think it is a legitimate way. I have tried to do them in a group of four. I have tried to do them in a group of nine. Now I will try to do them one-by-one. Some of these judges—three or four—are supported by Republicans. The others are Democratic nominees. I would go back and forth for a while. But, overall, there will be several more that are being actively supported by the Democrats than by the Republicans.

Once again, I am trying to be fair in how we do that. My intent would be to begin today with the nominee from Missouri, and go then, on Wednesday, with a nominee from Louisiana, because this particular nominee is a person that serves in the court system—I guess she may be a supreme court judge in Louisiana—and there is a qualifying deadline between Wednesday

and Friday of this week for her to either seek reelection or to know whether she is going to be confirmed by the Senate or not. I am trying to move forward in recognition of that particular problem that she has and within the timeframe. Then we would go down the line.

I have submitted to the Democratic leader a list of nine judges that I would intend to do over this week and next week. And then beyond that, I would continue to work and see basically how things go. If we are getting some of these done, we will continue to try to do them. If we hear objections every day, I do not know what else to do. I have tried a group of four, a group of nine, and I am trying them one at a time. I feel like my hands would be clean, and I do not see how there could be objection to us not moving these judges.

I wanted to lay that predicate and explain what is happening. Some feel that none of these judges should be confirmed. Others, including myself, feel like several of them have been pending for a good long while, and unless there is a serious problem with the education, or qualifications, or ethics, we ought to try to move them. That is what I have been working assiduously to do. I am not doing it just by picking a name out of the hat. I am carefully looking at the judges and finding out if there are any problems, and as we get them cleared we can move down the line. Then I will move to the next judge or judges to see if they are, in fact, qualified.

There is no question that, philosophically, I have problems with a lot of them. I am not using that as a basis or a guide stick. I am trying to take them up in a logical order to try to get the calendar acted on in this regard.

UNANIMOUS-CONSENT REQUEST

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider Executive Calendar No. 514, the nomination of Gary Fenner, to be a U.S. district judge for the western district of Missouri.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and that any statements relating to the nomination appear at the appropriate place in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

Mr. DASCHLE. Mr. President, reserving the right to object. First, let me commend the majority leader for his effort to try to resolve this impasse. I believe that he has attempted to act in good faith. He and I have had innumerable conversations about this and have tried to find ways in which to address it in a meaningful way and a satisfactory way to both sides.

He mentioned the effort the day we left prior to the July 4 break. Through

no fault of his, necessarily, we were left with trying to clear this list while everybody was on airplanes going in about 15 different directions. So it was not our lack of effort or some concerted desire on the part of Democrats to oppose the list. But given the fact that after the Chamber had cleared and people had gotten on airplanes, as we attempted to reach people to see whether we could clear it, it was virtually impossible from a practical point of view.

He mentioned the fact that he has tried to bring up small groups and has found that it is difficult to get an agreement on even a small group, and so he is going to take them individually. Mr. President, the issue is not the size of the group, whether it is one, four, or nine. The issue is, what assurance do those who are not on the list, whether it is 1 of the remaining 22, or 1 of the remaining 19, or 1 of the remaining—in this case it would be 12—that they, too, will have an opportunity to have their judge considered?

So, earlier today, I discussed with the distinguished majority leader whether or not it would be possible at least to lay out a calendar, whereby every judge could be assured that on a given day during this work period that particular nomination would be considered. The distinguished leader is not able to do that this afternoon. So then we talked about whether or not it would be possible to at least have the assurance that all 23 would be considered between now and the August recess. The majority leader again was unable to give me that assurance.

Well, then, he did indicate to me that he would be willing to do the first 17. But I notice on Tuesday, July 16, Mr. Lawrence Kahn of New York, Calendar No. 678, is one of those beyond the first 17. It is in that group that was just passed out of committee in the final six. So if he is not willing to do all 23, but is willing then to do 100 percent of the Republican nominees—and there are only 3 or 4—and leave all of the balance on the Democratic list to be taken up at some uncertain time, with no commitment that we are ultimately going to at least be able to try to deal with these issues between now and the August recess, our colleagues have indicated to me as late as just a few minutes ago that, on that basis, on that limited assurance, they are not satisfied that they are going to be able to address their judgeships as well, and they are not convinced that this is a satisfactory way to go.

I applaud the majority leader for his innovation. I do not think that it is necessarily the fact that they were in small groups that was the problem. So taking them up one-by-one may not solve the matter, so long as we find the uncertainty about what happens after July 19 and we have dealt with the first nine.

So, Mr. President, based upon those concerns and the reservations expressed to me by my colleagues, as I

said, just a matter of moments ago, I will have to object to this unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, before we move to the closing script, let me respond to some of the comments made by the distinguished Democratic leader.

First, I will ask a question. You mentioned a Judge Kahn of New York, that he was not on the list. Is that what the Senator said?

Mr. DASCHLE. No. What I said was that the majority leader had indicated to me that he was not prepared to consider at this point the final six judges which were added to the Executive Calendar. Yet, we find on Tuesday, July 16, Calendar No. 678 is one of those judges who were reported out most recently by the Judiciary Committee, and is a component of that final six. He happens to be a Republican. Now, I do not imply by that that the majority leader had special design on just this Republican nominee. But if we are willing to do it for the Republican nominee just reported out of committee, it would seem to me that we ought to do it for the five Democrats as well. That was the issue I attempted to raise.

Mr. LOTT. Mr. President, let me comment because I wanted to clarify that. The problem has been that we had, I think, 16 or 17 judges that had been reported out of the Judiciary Committee, and objections had been heard from any Senators that did not have their judge in that group of 4 or 9. So in order to not have objections, I guess we would have had to have had all 16 or 17 of them cleared that had been reported before June 27. We could not clear them, all 16 or 17 of them, so I thought we would get a block of as many as we could. But we are in a position where any Senator that does not have his cleared is going to object, apparently, to any combination I come up with.

Mr. DASCHLE. Will the distinguished majority leader yield on that point?

Mr. LOTT. Certainly.

Mr. DASCHLE. Because, for the record, I think we ought to see if we can resolve at least our understanding of where both sides are.

We have expressed a desire to work with the majority in terms of putting a list together whereby at least a Senator, if not having cleared the nominee, at least would know that his nominee would come up sometime between now and the August recess.

The distinguished leader will acknowledge that we have talked about at least scheduling for purposes of consideration a given nominee. Everyone recognizes that in order for this system to work, we are going to have to have cooperation on both sides.

Mr. LOTT. Sure.

Mr. DASCHLE. We are not asking today that everybody be cleared. All we are asking is that we have some as-

surance that every one of the nominees on the Executive Calendar will have the opportunity at least to be considered. Then we will go to the next step at a later date.

Mr. LOTT. If I could continue, Mr. President, the other suggestion was made that all of the so-called Republican nominees are on the list. In fact, I am not all that sure which ones are Republican and which ones are Democrat. I started this thing off thinking that they were all probably supported by Democrats. For instance, I understand that one not on the list is the nominee from Ohio which maybe is at least supported by Senator DEWINE.

So I mean, the intent would be to bring it up later on. But I felt that I gave this list for 2 weeks and I did not have time to give four or five names for the third week. So that is why I stopped. So there is at least one and maybe more that are supported by Republicans. I do not really ask for that. What I try to do is see if there are real holds on it; see if they are legitimate. If they have legitimate concerns, I try to move on and get the others.

Also, if you are ever going to bring these up in such a way that you can bring it up and insist that the Senator or Senators who have objections voice those objections and then be prepared to move them, I really think I need to do that one by one. That is what I am trying to do here. If I bring up all 17, or 16 that were pending before June 27, you can be almost certain that there will be objections heard.

So I do not know what to do. I have tried to do it in groups. I have tried it singly, and I am going to continue to try to do that.

Two other opinions, and then I will yield for other comments.

Seven of these new ones were reported next to the last day, I think, that we were in session on Thursday, the 27th. I have not had time to look at all of those. But I am going to. I plan to do that in relatively short order to see what the prospects are. I am prepared to move on to some of those that are not on this list of nine, and it may be that I will continue to try to do one a day at least for a while and see if there is objection. Conversely, if we begin to get some of them agreed to, we might try another block.

But I am trying to be cooperative. I would like to get as many of these done—I cannot tell you this afternoon that I am going to be able to bring up all 23 of them at all.

One of the problems that we have is we have a lot of work to do; must do work. The Democrats can slow roll us, if they want to. They can stop bills, or they can delay bills, or whatever. But there are a certain number of things that we have to do before we get through this year.

I think, also, I am entitled to be given a little bit of benefit of the doubt for a while. We have been keeping our word to each other. I am telling you that I am working these nominations. I

am going to continue to work them. And until I do not do something which I tell you I am going to do—that is one reason I cannot make a commitment to you on the 23 because I am not sure I can keep that commitment.

So I am saying, give me a little time here. Give me a show of good faith. Give me a little trust. I have nine ready to go. I am going to continue to do it for a while. I am going to bring up the Louisiana nominee tomorrow and see if you object to a Democratically supported nominee. Then I am going to bring up the nominee from Colorado, which I presume is supported by a lot of Colorado Democrats because I understand philosophically he is a pretty liberal judge. But he is also supported by Senator BROWN.

Then I am going to go to the West Virginia judge that is supported very aggressively by the distinguished Senator from West Virginia, Senator BYRD.

That will take us through this week, and then sort of see where we are.

If you object to all of them, I will weigh that. If you object to one or two of them and let the other two go, we will kind of assess that.

The objection has already been heard. I will just say to the distinguished Democratic leader that I understand, and I am going to continue to work on it for a while. But you know we have a lot of other things that we need to get done, too.

I will try again and maybe by tomorrow afternoon your folks will have a new way of looking at it, and then we might come back to the Missouri judge at that point.

Mr. DASCHLE. Mr. President, let me emphasize that I want to give the distinguished majority leader plenty of benefit of the doubt, and I want to work with him in good faith. Obviously, he is attempting to work through a number of challenging scheduling questions. I applaud him for making that effort.

To the best of my ability, I intend to work with him as closely as I can. He has indicated that he does not know whether we can get through them all. I hope that he would say, "At least I am going to try." That is all I am asking at this point, that the leader attempt to work with me to try to deal with all 23. If we fail for a lot of reasons, we may fail. But I think my colleagues would like very much to know that at least at some point between now and the August recess, given the fact that we are hoping to cooperate on a whole range of issues—the distinguished leader gave me a two-page, single-spaced list of legislative items that he wishes to bring up between now and the August recess. That is going to take a lot of cooperation on both sides of the aisle for us to get it done.

We have a defense bill that he wants to bring up this week. Hopefully we can work through that.

But the degree to which there is bipartisan cooperation has everything to

do with how much cooperation there is on both sides on issues that we both care about. My colleagues care very deeply about this list of judicial nominees.

I have said it before, but in 1992, with the same set of circumstances, even in September, I am told, our colleagues—the majority of my Democratic colleagues—passed out 66 district and circuit court judges—66.

In this session of Congress, so far it is zero. We have not confirmed one judge in this entire session of Congress. So, I will not belabor the point, except to say that so far there has been very little cooperation.

We are on a new watch. I know the majority leader wants to work very closely with us to try to resolve this matter. All I am saying is what we would simply like is his commitment to work with us, at least to take up the 23 and work through them one by one as he has proposed. We are not going to object as long as we know that all 23 at least will be considered.

So I expect to work with the leader, and perhaps tomorrow we can make some more progress. But at this point we have some more work to do.

Mr. LOTT. Mr. President, I do not want to belabor it any further at this point except for one point. I understand that he is suggesting that if we are going to get cooperation on the legislative agenda, they would want cooperation on the judicial nominations. I would submit the reverse also is true. If we get cooperation on the bills that need to be done for the good of the country—the Department of Defense appropriations bill, the foreign operations appropriations bill, the Treasury-Postal Service appropriations bill—then that would probably make it a little easier for me to be able to continue to move some of these things. So it works both ways. If we get cooperation on those bills, I feel a little more inclined to bear down and say we need to move some of these things.

But I want to say again, it is like the legislation: You can only do so much in a day or a week. The same thing is true of this. I can only go through the process of seeing what the problems are and seeing if we can get them cleared in a period of time.

Also, the last day we went out, I was talking with Senators on the telephone, on airplanes, I tried to get a couple of Senators on the same plane through the cockpit, and had staff waiting when they landed to clear the list of 10 that we had. So it is never easy around here. But I am working those, and I can assure the Senator I will continue to work this as long as I feel there is some show of good faith.

But I repeat, I tried four, I tried nine, and I am going to try them one a day for the next 4 days, and we will see

where we are. But we can keep talking and see what kind of cooperation we get on the bills, and then you can see what kind of cooperation we get on the judges, and maybe we can go forward together.

ORDERS FOR WEDNESDAY, JULY 10, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Wednesday, July 10; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; and there then be a period for morning business until the hour of 11:30, with the following Senators to speak: Senator BINGAMAN, 10 minutes; Senator FAIRCLOTH, 15 minutes; Senator BURNS, 5 minutes.

I further ask immediately following morning business, the Senate resume the DOD authorization bill as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, all Senators are asked to be in the Senate Chamber tomorrow morning at 9:35 a.m., so we may proceed as a body at 9:40 to the House of Representatives to hear the address by the Prime Minister of Israel.

At 12 noon tomorrow, there will be a series of rollcall votes, with the first vote on passage of the defense authorization bill, to be followed by a vote on cloture on the motion to proceed to the national right-to-work legislation, to be followed by votes on the pending amendments to S. 295, the TEAM Act, as well as final passage of that bill.

Following those votes and a period for morning business, I expect the Senate to begin consideration of the Department of Defense appropriations bill. Additional votes can be expected during Wednesday's session.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. LOTT. If there be no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:15 p.m., adjourned until Wednesday, July 10, 1996, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 9, 1996:

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (SELECTEE) LYLE G. BIEN, 000-00-0000.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE APPLICABLE PROVISIONS OF SECTIONS 618, 624, AND 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be colonel

STEPHEN D. CHAIBOTTI, 000-00-0000
LAURENCE C. VLIET, 000-00-0000

To be lieutenant colonel

MICHAEL J. BEGLEY, 000-00-0000
PATRICK W. FLANAGAN, 000-00-0000
MARK R. FRANZ, 000-00-0000

To be major

MATTHEW J. BUNDY, 000-00-0000
DAVID S. DEVOL, 000-00-0000
JEFFREY W. EGGERS, 000-00-0000
DANIEL J. FLANIFAN, 000-00-0000
BRIAN C. FORD, 000-00-0000
TERENCE J. SPANN, 000-00-0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

LINE OF THE AIR FORCE

To be captain

JOHN W. WILKINSON, 000-00-0000

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL SERVICE CORPS

To be captain

JOHN M. LOPARDI, 000-00-0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

RICHARD L. WEST, 000-00-0000

LIMITED DUTY OFFICER (LDO)

To be major

PAUL P. HARRIS, 000-00-0000

IN THE NAVY

THE FOLLOWING-NAMED U.S. AIR FORCE ACADEMY GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 541:

ANTHONY L. EVANGELISTA, 000-00-0000
JOE R. PONTES, JR., 000-00-0000
KATHERINE M. HAYDEN, 000-00-0000
DANIEL J. HOGAN, 000-00-0000
CHRISTOPHER P. KIRBY, 000-00-0000
JOSEPH P. KRIEGER, 000-00-0000
MICHAEL J. RAHM, 000-00-0000
JOHN S. SKINNER, 000-00-0000
ANTHONY W. WALLEY, 000-00-0000

THE FOLLOWING-NAMED U.S. NAVAL ACADEMY GRADUATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

LAURA C. MCCLELLAND, 000-00-0000