

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

Mr. CRAIG. I yield the floor.

EXECUTIVE SESSION

NOMINATION OF RONALD LEE GILMAN, OF TENNESSEE, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration of the nomination of Ronald Lee Gilman, of Tennessee, which the clerk will report.

The assistant legislative clerk read the nomination of Ronald Lee Gilman, of Tennessee, to be U.S. circuit judge for the sixth circuit.

The PRESIDING OFFICER. There will be 10 minutes debate on the nomination.

Mr. LEAHY. Mr. President, I understand that on the nomination, there is 5 minutes reserved to a side, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Mr. President, I don't see the distinguished chairman of the Judiciary Committee, so I will take the 5 minutes on this side.

Obviously, this is a case where, I assume, Ronald Gilman will be confirmed, and I congratulate him.

I am pleased that the majority leader has decided to take up the nomination of Ronald L. Gilman to be a judge for the Sixth Circuit Court of Appeals. Mr. Gilman currently works as a partner for Farris, Mathews, Gilman, Branan & Hellen, P.L.C. in Memphis, TN, an adjunct professor of trial advocacy for the University of Memphis Law School, an arbitrator and mediator for the American Arbitration Association in Nashville, TN, an arbitrator and mediator for the National Association of Securities Dealers in Chicago, IL, and as a dalkon shield referee for the Private Adjudication Center in Cary, NC. The ABA gave Mr. Gilman its highest evaluation—a unanimous well qualified rating.

In addition to his paid legal service, Mr. Gilman currently volunteers on behalf of the Memphis, TN and American Bar Associations, the Association of Attorney-Mediators and the Commercial Law Affiliates.

I congratulate Mr. Gilman and his family, and I look forward to his service on the Sixth Circuit of the U.S. Federal Court of Appeals.

I am also delighted that the Judiciary Committee plans to consider 15 judicial nominations at its executive business meeting today. I am hopeful that these nominations may be considered by the full Senate before we adjourn for the year.

Mr. President, we have seen this time and time again where judges are held up because people are concerned about them, we are told, and then we have a

rollcall vote on them and virtually every Senator votes for them. I mention this because no matter how many times we are told that we have to look very carefully at these judges, that they have concerns about them, it is obvious the Senate is not concerned about them and the Senate votes for them.

The same thing has happened with Bill Lann Lee. It is a case where the whole Senate would vote for Bill Lann Lee, that he would be confirmed overwhelmingly as Assistant Attorney General for the Civil Rights Division, but a small ideological group has decided that while they could not defeat Bill Lann Lee on the floor, a minority of the minority would try to defeat him and vote to block him in committee.

It seems the Republican leadership is determined to sacrifice Bill Lann Lee to narrow ideological politics. If the Republican leadership were to allow the Senate to vote on this outstanding nominee, a majority of the Senate, Republicans and Democrats, would vote to confirm him. Unfortunately, the press accounts this morning are that conservative Republicans have decided to block him by a minority of the minority. They have vowed not to allow this nomination to be considered by the Senate before adjournment this year.

This is not democracy. This is not the Senate at its best. This is the Senate at its worst, twisting the rules. The reason the Republican leadership gives for trying to kill this nomination is that Bill Lann Lee agrees with the President. It is not so much about Bill Lee as Bill Clinton. The President won election, and he won reelection. For the Senate to refuse to proceed to this nomination because Mr. Lee honestly testified that he would adhere to policies of equal justice consistent with those of the President is wrong.

Mr. President, can we have order, please? I cannot hear myself.

The PRESIDING OFFICER. There will be order in the body. Any conversations will please be taken off the floor. The Senator may proceed.

Mr. LEAHY. I thank the Chair. The Republican leaders were prodded into this by the narrow ideological extreme right of their party and its allies. They have not brought forward their own bill on affirmative action. They want to talk about it, but they have not brought it forward because they know a majority of Republicans and Democrats would not vote for it.

The Proposition 209 case is over. The Supreme Court has ruled on that. The good people of Houston rejected efforts to abandon those previously discriminated against. So there is nothing left for the extreme right except one trophy, and that trophy is Bill Lann Lee.

What kind of an example does this set? What kind of signal does this send? Bill Lee's life story is an American success story. He is the son of immigrants who struggled against discrimination. His father fought with the American

forces in World War II. He spent his professional career working to solve civil rights problems and diffuse conflict. His record of achievement is exemplary. He is a man of integrity and honor, as even those opposing him have to concede.

When he said to the Judiciary Committee that quotas are illegal and wrong and he would enforce the law, no one should have any doubt about his resolve to do what is right. He is a person with great problem-solving skills. Such matters are too important to be used for political purposes or as wedge issues to divide people. What is promising about this nomination is that Bill Lee is the person with the credentials, credibility and creativity to help move America and all Americans forward.

Any fairminded review of his 23-year career shows him to be well-suited to head the Civil Rights Division. It shows where he has been and where the law has been and how we have moved forward to refine remedial approaches to discrimination and its vestiges. One measure of this extraordinary individual are the testimonies of support provided by so many of his litigation opponents over the years, support based on his fairness and good sense, support from Democrats and Republicans alike.

Just this summer, the Senate moved forward to confirm another Assistant Attorney General, someone who had expressly declined to follow the language of the Telecommunications Act House-Senate conference report and raised concerns among a number of Senators. We were told that the standard to be employed in evaluating these nominees was not to hold a nominee hostage to policy differences with the administration but to vote for the nominee, if well-qualified, to permit the Justice Department to proceed with a confirmed division chief, and for us in Congress to move forward and work with the administration in the formulation and implementation of effective policies.

Unfortunately, with this nomination, that of the first Asian-American to head the Civil Rights Division, the rules are being changed and the standards are being moved. First, it appeared that the Republicans wished to raise their concerns with the nominee and point out their differences with administration policy, as is traditionally done. Then the focus was on Mr. Lee's possible involvement in Supreme Court consideration of the California proposition 209 case. When Mr. Lee came forward and recused himself from involvement in that case, the suggestion was made that the Department of Justice abstain from filing a brief in that case should certiorari be granted.

That suggestion was properly rejected. Indeed, I would think that the Supreme Court would be likely to request the views of the U.S. Government if they were not tendered in an amicus brief. Surely imposition of this suggested gag rule on the United States on issues of significance and concern in

order to confirm a nominee who would not even be involved in formulating the U.S. position would have been ill-advised.

This week the Supreme Court denied review in the California proposition 209 case. If Bill Lee's recusal did not clear the way for his confirmation surely, one would have thought, this action by the Supreme Court removed the immediate obstacle that had been fastened on by the opposition. Instead, the grounds for opposition shifted. It now appears that in order to be confirmed to lead the Civil Rights Division, the nominee must not only commit to uphold the law but disavow the President who has nominated him to serve in this administration. Before we are done I expect that the nominee would be required to endorse S. 950, a bill that the Senate has not considered nor the Congress enacted.

I think it beneath Senators to suggest that this fine nominee ought to be rejected because a previous, unqualified Republican nominee had been rejected by the committee. Tit for tat may be the rule in the alley, but should not govern the actions of the U.S. Senate. Nonetheless, there seems to be a lot of pay back motivating those opposing this fine man.

I regret that a narrow, ideological litmus test is being proposed that would require nominees to disavow remedies and approaches that the Supreme Court has held to be constitutional and necessary to enforce our commitment to equal opportunity. It is the administration's commitment to affirmative action and equal justice that would have to be sacrificed. I know that Bill Lee would not compromise his commitment to enforce the law and to seek equal justice for all Americans.

Moreover, if accepted by a partisan majority, that political litmus test will know no natural limit. It could infect the confirmation of the Associate Attorney General, the Solicitor General and all other nominations.

I regret that some have decided to oppose this good man. He would, in my view, enforce the law, use his problem-solving skills and proven ability to move the country forward and build on the progress that we have been able to make in remedying past discrimination over the last several years. It appears now that for this nomination to prevail in Committee it will take a profile in courage by a couple Republican members. I urge each member to consider his or her vote carefully and what it means for this nomination, for the country and for standards being created for future nominations.

There is a place to consider the important issues involved in the debate over race relations in the country and the constitutionality of affirmative action that the Supreme Court has held to be constitutional. That should not be the issue with respect to the vote on this nominee, however.

When Bill Lee appeared before the Committee with his family he testified

candidly about his views, his work and his values. He articulated to us that he understands that as the Assistant Attorney General for the Civil Rights Division his client is the United States and all of its people. He told us poignantly about why he became a person who has dedicated his life to equal justice for all when he spoke of the treatment that his parents received as immigrants. Mr. Lee told us how in spite of his father's personal treatment and experiences, William Lee remained a fierce American patriot, volunteered to serve in the United States Army Air Corps in World War II and never lost his belief in America.

He inspired his son just as Bill Lee now inspires his own children and countless others across the land. They are the kind of everyday heroes to whom we sing praises.

Mr. Lee told us:

"My father is my hero, but I confess that I found it difficult for many years to appreciate his unflinching patriotism in the face of daily indignities. In my youth, I did not understand how he could remain so deeply grateful to a country where he and my mother faced so much intolerance. But I began to appreciate that the vision he had of being an American was a vision so compelling that he could set aside the momentary ugliness. He knew that the basic American tenet of equality of opportunity is the bedrock of our society."

I know that Bill Lee will remain true to all that his father taught him and hope that the momentary ugliness of people opposing his nomination based on an ideological litmus test of people distorting his achievements and beliefs and of some succumbing to narrow partisanship will not be his reward for a career of good works. Such treatment drives good people from public service and distorts the role of the Senate.

I have often referred to the Senate as acting at its best when it serves as the conscience of the Nation. In this case, I am afraid that the Senate may show no conscience.

I call on the Senate's Republican leadership to end their targeting of Bill Lann Lee and to work with us to bring this nomination to the floor without obstruction so that the Senate may vote and we may confirm a fine person to lead the Civil Rights Division into the next century.

Why this exemplary Asian-American is singled out, a man who has shown far more qualities than most people and could easily be confirmed, I cannot understand. To allow somebody's career, to allow somebody who has lived the American dream, to allow somebody who has demonstrated what is best about this country, to allow the Senate to react to what is worst about this country in defeating him is absolutely wrong. It is a shame on the Senate. It is a shame on the country. It is a shame on all of us if we allow this to happen. The worst part of that shame, Mr. President, is that if the Senate were allowed to vote on Bill Lann Lee, he would be confirmed, because most Senators in both parties would not

allow this shame to go on. Why an ideological ultraright would stop it I cannot understand.

Mr. President, I ask unanimous consent that recent editorials on this matter from the Los Angeles Times, the New York Times, and the Washington Post be included in the RECORD.

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

[From the Los Angeles Times, Nov. 6, 1997]

POLITICS OF THE PARTISAN KILL—HATCH PLAYS THE EXECUTIONER IN THE BILL LEE CONFIRMATION PROCESS

Sen. Orrin G. Hatch's manipulation of Bill Lann Lee's confirmation process was a callous performance, nearly a political beheading for no apparent reason beyond the fact that Lee is President Clinton's choice as the nation's top civil rights official.

The Utah Republican himself acknowledged Tuesday that Lee, nominated to head the Justice Department's civil rights division, is "an able civil rights lawyer with a profoundly admirable passion to improve the lives of many Americans."

The GOP game seems to be to torpedo even the most outstanding appointments out of petulance that the Democrat in the White House has the nominating power. The Senate Judiciary Committee, headed by Hatch, has turned to stalling or harassment in the cases of many worthy nominees to the federal bench, for instance; this continues at a time when one in nine judgeships are vacant.

Lee, with 23 years of experience in civil rights law, is well respected and qualified to do the job, but Hatch painted the Los Angeles attorney as a poster boy for affirmative action. Ridiculous.

The senator says that much of Lee's work has been devoted to "constitutionally suspect, race-conscious public policies that ultimately distort and divide citizens by race."

Distorted view of the law? Lee has worked long and vigorously within the civil rights statutes to uphold the law. He opposed California's Proposition 209 but has said he would support the law of the land, including this week's controversial U.S. Supreme Court decision to let stand Proposition 209, California's ban on race and gender preferences in public hiring and university admissions.

Hatch's opposition could doom Lee's appointment unless two Republicans join the committee's eight Democrats in today's scheduled vote on Lee, who would be the first Asian American to manage the 250-lawyer division. Even if the Judiciary Committee does not recommend Lee, the full Senate should get the opportunity to vote on the nomination. Clinton administration officials, who belatedly mounted a full-court press for their nominee, believe that Lee could be confirmed by a floor vote.

Barring that, Clinton could courageously circumvent the Senate and put Lee in the job by making a "recess appointment" after Congress shuts down Friday for its annual Christmas break. Lee warrants Senate confirmation. He should not be made a political scapegoat.

[From the New York Times Nov. 6, 1997]

AFFIRMATIVE ACTION IN PLAY

The Supreme Court's most momentous decision of the current term may turn out to be its refusal this week to hear a challenge to the constitutionality of California's anti-affirmative-action initiative, Proposition 209. The Court's sidestep allows California to proceed unimpeded with its rollback of remedies that are, regrettably, still needed to

address the nation's persistent problem of race and gender discrimination. It may also encourage other states to follow California.

Had it taken the case, this Court might well have agreed with the Ninth Circuit's decision upholding Proposition 209, which applies to affirmative action programs in public education, employment and contracting. But the opposing arguments are also weighty and deserved a timely and respectful airing by the justices.

In the absence of any guidance from the Supreme Court, the nation is now embarking on a far-reaching legal and social experiment that holds as much potential to exacerbate racial differences as to minimize them. Clearly, many fair-minded Americans are uncomfortable with race-based preferences. But they cannot feel sanguine that alternative steps, such as basing affirmative action on income instead of race, will be adequate to preserve black access to the elite public universities, and the career opportunities and higher pay that follow from it.

The only encouraging development on this contentious issue was seen in Houston, the nation's fourth-largest city, in Tuesday's elections when voters defeated a measure similar to Proposition 209 that would have prohibited affirmative action in Houston's contracting and hiring. The heavy minority turnout for the city's mayoral election was evidently a big factor in mobilizing opposition, as was a clearly worded measure that avoided inflammatory and misleading language. Houston's retiring Mayor, Bob Lanier, a wealthy white developer, did the nation a service by emphasizing the unfair result if affirmative action were eliminated. "Let's not turn back the clock to the days when guys who look like me got all the city's business," he urged voters.

It was hoped that the Supreme Court's refusal to take up Proposition 209 would at least persuade Senator Orrin Hatch to clear President Clinton's nomination of Bill Lann Lee as Assistant Attorney General for Civil Rights. Earlier Mr. Hatch, chairman of the Senate Judiciary Committee, broached the idea of trading Mr. Lee's confirmation for a promise from the Administration not to file a brief with the Court in support of the challenge. Once the 209 challenge was dead, however, Mr. Hatch announced he would vote against Mr. Lee anyway, based on his affirmative-action views.

Yet those views are also the President's, and no one, not even Senator Hatch, disputes that Mr. Lee is well qualified. Mr. Hatch seems to be abusing the confirmation process to bolster his standing with the right wing of his party. Sensible Republican senators need to join quickly with their Democratic colleagues to make sure that Mr. Lee's nomination survives this offensive kind of end-of-session maneuvering.

[From the Washington Post, Oct. 24, 1997]

THE LEE NOMINATION

In July, the president nominated Bill Lann Lee, western regional counsel for the NAACP Legal Defense and Educational Fund, to be assistant attorney general for civil rights. The post had then been vacant for half a year. On Wednesday, Mr. Lee had his confirmation hearing. The nomination now should be approved.

The choice of Mr. Lee has drawn some limited opposition, as civil rights nominations by either party almost always seem to do these days. In this case, however, even opponents, some of them, have acknowledged that, from a professional standpoint, Mr. Lee is qualified. The issue is not his professional competence. The objection is rather to the views of civil rights that he shares with the president, and which, in the view of the critics, should disqualify him.

Mr. Lee's views appear to us to be well inside the bounds of accepted jurisprudence. He is an advocate of affirmative action, as you would expect of someone who has spent his entire professional career—23 years—as a civil rights litigator. The president has likewise generally been a defender of such policies against strong political pressures to the contrary. But Mr. Lee himself observed that the assistant attorney general takes an oath to uphold the law as set forth by the courts, and so he would. The range of discretion in a job such as this is almost always less than the surrounding rhetoric suggests.

Mr. Lee over his career has brought a considerable number of lawsuits in behalf of groups claiming they were discriminated against, and has sought and won resolutions aimed at making the groups whole, somehow defined. It is that kind of group resolution of such disputes that some people object to, on grounds that the whole object of the exercise should be to avoid labeling and treating people as members of racial and other such groups. There is surely some reason for the discomfort this group categorizing generates. But the court's themselves continue to uphold such actions in limited circumstances. And Mr. Lee has won a reputation for resolving such cases sensibly. Los Angeles's Republican Mayor Richard Riordan is one who supports the nomination. "Mr. Lee first became known to me as opposing counsel in an important civil rights case concerning poor bus riders in Los Angeles," he has written. "The work of my opponents rarely evokes my praises, but the negotiations could not have concluded successfully without Mr. Lee's practical leadership and expertise . . . Mr. Lee has practiced mainstream civil rights law."

There are lots of legitimate issues to be argued about in connection with civil rights law. Mr. Lee's nomination is not the right vehicle for resolving them. Senators, including some who no doubt disagree with some of his views, complain with cause about the continuing vacancies in high places at the Justice Department. This is one they should fill before they go home.

THE PRESIDING OFFICER. The Senator's time has expired.

MR. DURBIN. Mr. President, I ask to be recognized.

THE PRESIDING OFFICER. All time has expired as far as the amount of time allocated on this nomination. There are 5 minutes controlled by the majority. But the 5 minutes to the Senator's side has expired.

MR. DURBIN. Is there time in morning business?

THE PRESIDING OFFICER. We are on the nomination of Mr. Gilman of Tennessee.

MR. DURBIN. Mr. President, I ask unanimous consent to speak for 2 minutes.

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

MR. DURBIN. Mr. President, I associate myself with the remarks of the Senator from Vermont. This is a sad day. I have only been a Member of this body for less than a year.

I cannot remember, though, any nominee who has come before the Senate Judiciary Committee who had a more compelling personal story about his life and his family. Bill Lann Lee is an extraordinary man, the son of Chinese immigrants. His parents came to this country penniless and started a hand laundry in New York.

His mother, who sat with him at the confirmation hearing, sat in the window of that hand laundry her entire life in front of a sewing machine. His father, working in that hand laundry, refused to teach Bill Lann Lee and his brother the skill of ironing clothes because he was determined they would not follow him in his footsteps in that laundry.

As Senator LEAHY has said, Bill Lee's father, who could have been deferred because of age from serving in World War II, volunteered, put his life on the line, and came back with the experience of being treated, as he said, "as an American." That is what Bill Lee told us.

Then Bill Lee, given a chance to attend Yale and Columbia Law School, graduated with high honors and, instead of going with a prestigious law firm and making a lot of money, he devoted his life to finding opportunity and education and employment for everyone in this country.

That this Senate—that the Senate Judiciary Committee, and a small group in that body, would turn down this opportunity for such a fine man to serve this country is truly disgraceful.

I believe that we owe it to Mr. Lee to give him a chance to serve, as he has already served this country in so many ways. To take out on Mr. Lee some feelings about President Clinton is totally unfair. I hope the Senate Judiciary Committee will give him this opportunity to serve.

Just last week or so, we all queued up to talk about human rights to the President of China. Now we have a chance to vote on human rights in putting a well-qualified person in the job as Assistant Attorney General for Civil Rights. We are going to determine whether those speeches that were given by Republicans and Democrats were only tourist fare for President Jiang.

MR. THOMPSON. Mr. President, I am pleased that the Senate is taking up the nomination of Ronald L. Gilman of Memphis to be United States circuit judge for the U.S. Court of Appeals for the Sixth Circuit. I want to thank Chairman HATCH of the Judiciary Committee for taking up and reporting this nomination so promptly and the majority leader for scheduling a vote on it so soon after the nomination was reported to the Senate. The Sixth Circuit currently has two vacancies, so it is important to my State and the others in the circuit that this vacancy get filled quickly.

Ron Gilman is a native of Memphis, where he was raised. After attending the Massachusetts Institute of Technology and Harvard Law School, he returned to Memphis in 1967 and since then has spent his entire legal career at the leading Tennessee law firm of Ferris, Mathews, Gilman, Branan and Hellen. I might point out that the Mathews in that firm name is former Senator Harlan Mathews.

Mr. Gilman rapidly became established as a leader of the Memphis bar,

serving as president of the Young Lawyers Division of the Memphis Bar Association and president of the Young Lawyers Conference of the Tennessee Bar Association. He subsequently served a term as president of both the Memphis and Tennessee Bar Associations.

Mr. Gilman is eminently qualified to serve as a judge. His legal career has been as distinguished as it has been multifaceted. He has practiced criminal law, civil litigation, particularly commercial litigation, general business law, and estate planning. Most recently, he has spent a good deal of his practice involved in alternative means of dispute resolution, often serving as an arbitrator and mediator. From a background such as his, I think we can safely expect that Mr. Gilman will bring to the bench the legal practitioner's bent for common sense and careful application of the law rather than an ideological approach to the law.

Mr. Gilman is not only one of Tennessee's most distinguished lawyers, but a leader in the Memphis community as well, having served leadership roles with the Boy Scouts, the Memphis Jewish Home, and Memphis Senior Citizens Services, among other groups. He is a recipient of the Sam A. Myar, Jr. Memorial Award for outstanding service to the legal profession and the Memphis community.

This nomination enjoys widespread and bipartisan support. Both Republican Representative ED BRYANT and Democratic Representative HAROLD FORD, Jr., support the nomination. The entire Tennessee legal community supports the nomination. I have heard not a single negative word about Mr. Gilman's nomination, and I urge my colleagues to vote in favor of this nomination.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I yield back the time on this side. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Ronald Lee Gilman, of Tennessee, to be U.S. circuit judge for the Sixth Circuit? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] is necessarily absent.

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

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 295 Ex.]

YEAS—98

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| Abraham | Feingold | Lott |
| Akaka | Feinstein | Lugar |
| Allard | Ford | Mack |
| Ashcroft | Frist | McCain |
| Baucus | Glenn | McConnell |
| Bennett | Gorton | Moseley-Braun |
| Biden | Graham | Moynihan |
| Bingaman | Gramm | Murkowski |
| Bond | Grassley | Murray |
| Boxer | Gregg | Nickles |
| Breaux | Hagel | Reed |
| Brownback | Harkin | Reid |
| Bryan | Hatch | Robb |
| Bumpers | Helms | Roberts |
| Burns | Hollings | Rockefeller |
| Byrd | Hutchinson | Roth |
| Campbell | Hutchison | Santorum |
| Chafee | Inhofe | Sarbanes |
| Cleland | Inouye | Sessions |
| Coats | Jeffords | Shelby |
| Cochran | Johnson | Smith (NH) |
| Collins | Kempthorne | Smith (OR) |
| Conrad | Kennedy | Snowe |
| Coverdell | Kerrey | Specter |
| Craig | Kerry | Stevens |
| D'Amato | Kohl | Thomas |
| Daschle | Kyl | Thompson |
| DeWine | Landrieu | Thurmond |
| Dodd | Lautenberg | Torricelli |
| Domenici | Leahy | Warner |
| Dorgan | Levin | Wellstone |
| Durbin | Lieberman | Wyden |
| Enzi | | |

NAYS—1

Faircloth

NOT VOTING—1

Mikulski

The nomination was confirmed.

LEGISLATIVE SESSION

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying the bill (H.R. 1119) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The report will be stated by the clerk.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1119), have agreed to recommend and do recommend to their respective Houses this report, signed by majority of the conferees.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 23, 1997.)

The PRESIDING OFFICER. Under the previous order, there will now be 4 hours for debate to be equally divided in the usual form.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the conference report for the National Defense Authorization Act for Fiscal Year 1998 is before the Senate now. This is an important component of the national security legislation that the Congress must pass each year.

The Armed Services Committee worked hard this year to produce a bill that will authorize the appropriation of \$268.2 billion for procurement, research and development, test and evaluation, operation and maintenance, working capital funds, military personnel, military construction and family housing within the Department of Defense, and for the weapons programs of the Department of Energy and the civil defense. This is an important piece of legislation.

Mr. President, there are some Senators who will suggest that the Senate should reject this bill in order to protect interests in their States. This is a very large bill with over 600 legislative provisions. The conference report is nearly a thousand pages. In order to reach agreement on a bill of this magnitude, a lot of compromise is required. The conference report includes many programs and policies essential to the Department of Defense and the Nation. However, not everyone got everything that they wanted. As the committee prepared for our markup, we received letters of request from 99 Senators. The committee tried to accommodate as many of these requests as possible, consistent with our national security needs. Mr. President, neither South Carolina nor Michigan got everything Senator LEVIN and I wanted for our States.

Defeating the Defense authorization bill because three or four Senators did not get everything they wanted would be the ultimate in partisanship over statesmanship. Let me explain what the Nation would lose if there is no Defense authorization bill this year.

I believe the single most controversial issue in the conference report is the policy with regard to depots. In the area of privatization, the bill includes an important compromise that provides for open competition for the work at the closing depots at Kelly and McClellan Air Force Bases. If the bill is not enacted, the opportunity to support full and open competition and to resolve a longstanding and very contentious issue will be lost. The bill would also change the current 60-40 public/private split in The Department of Defense depot maintenance to 50-50, giving The Department of Defense greater flexibility to achieve an optimal mix of public and private capabilities.

Mr. President, negotiating the compromise on the depot issue was a difficult and complex three-way negotiation. Senator LEVIN and I worked together in a totally bipartisan manner to ensure a fair resolution that provided for fair and open competition. We are in total agreement on the compromise. I want to commend Senator