

crafting a bill that passed 97-1, and then it fell apart in a partisan conference. This is not a matter that should be partisan. Every one of our States has people who are facing bankruptcy. Every one of our States has the kind of shoddy practices shown here where we have these credit card applications passed out to kids coming out of a movie. They are almost designed to get them to go from this 2.9 percent interest to 23 percent interest as fast as they possibly can.

But if we are going to go into bankruptcy reform, let's do it right. I think we should. I worked hard in the Judiciary Committee on this bipartisan bill. Let's do it in a way that we look at all aspects of it, and let's ask some of the credit card companies and others if they are not doing as much to create the problem as anybody else.

I can give a lot of other examples. I could show you a member of my office whose 6-year-old son received a preapproved credit application for \$50,000. All he had to do was sign it. I do not know about kids today, but when I was 6 years old, if I had a credit card with \$50,000 worth of credit in my pocket, I could have thought of a lot of things I would have liked to have bought.

This may not be the spy that shagged us; it may well be the credit card companies that shagged the Senate. We ought to pay attention to the fact that when they are asking kids to pay 22.99 percent interest, there is more than one reason why we have bankruptcies in this country.

I am hopeful that this year Republicans and Democrats in the Senate can work together to pass and enact into law balanced legislation that corrects the abuses by both debtors and creditors in the bankruptcy system.

But this partisan attempt to prematurely cut off debate before we even started to consider this bill does not bode well for that effort.

I hope that once this cloture motion is defeated, the Senate will begin a reasonable and fair debate on bankruptcy reform legislation that reflects a balancing of rights between debtors and creditors.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

#### NOMINATION OF BRIAN T. STEWART TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH

##### CLOTURE MOTION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the nomination of Brian Theodore Stewart to be a U.S. District Judge for the District of Utah.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I send a cloture motion to the desk to the pending nomination.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

##### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 215, the nomination of Brian Theodore Stewart, of Utah, to be United States District Judge for the District of Utah Vice J. Thomas Greene, Retired.

Trent Lott, Orrin Hatch, Mike Crapo, Wayne Allard, Ben Nighthorse Campbell, Charles Grassley, Peter G. Fitzgerald, Connie Mack, Chuck Hagel, Rod Grams, Pat Roberts, Conrad Burns, Judd Gregg, Larry E. Craig, Robert F. Bennett, and Mike DeWine.

#### ORDER OF BUSINESS

Mr. LOTT. Mr. President, under the order, this vote on the motion to invoke cloture on the Stewart nomination will occur immediately following the vote that is scheduled to begin momentarily. The first vote is on the bankruptcy reform cloture motion. The second vote would be on this cloture motion on the nomination of Brian Theodore Stewart to be U.S. District Judge for the District of Utah.

There could be one or two procedural motion votes that would follow after that, so Members should be on notice there could be up to four votes in succession here.

I yield the floor.

#### BANKRUPTCY REFORM ACT OF 1999—Resumed

##### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 5:30 having arrived, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

##### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 109, S. 625, a bill to amend title 11 of the United States Code, and for other purposes:

Trent Lott, Chuck Grassley, Paul Coverdell, Mike Crapo, Craig Thomas, Larry Craig, Orrin Hatch, Don Nickles, Conrad Burns, Mitch McConnell, Pat Roberts, Fred Thompson, Slade Gorton, Phil Gramm, and Mike DeWine.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under rule XXII is waived.

The question is, Is it the sense of the Senate that debate on S. 625, a bill to amend title 11 of the United States Code, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative assistant called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 280 Leg.]

##### YEAS—53

Abraham	Frist	Murkowski
Allard	Gorton	Nickles
Ashcroft	Gramm	Roberts
Bennett	Grams	Roth
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Stevens
Coverdell	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	Mack	Warner
Enzi	McConnell	

##### NAYS—45

Akaka	Edwards	Levin
Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Graham	Mikulski
Bingaman	Harkin	Moynihan
Boxer	Hollings	Murray
Breaux	Inouye	Reed
Bryan	Johnson	Reid
Byrd	Kennedy	Robb
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

#### ANSWERED "PRESENT"—1

Fitzgerald

#### NOT VOTING—1

McCain

The PRESIDING OFFICER. On this vote the yeas are 53, the nays are 45, and one Senator responded "present." Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

#### ORDER OF PROCEDURE

Mr. THOMAS. I ask unanimous consent the remaining votes in the series be limited to 10 minutes in length.

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

#### EXECUTIVE SESSION

#### NOMINATION OF BRIAN THEODORE STEWART, OF UTAH, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF UTAH

##### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

Mr. KENNEDY. Mr. President, I send an amendment to the desk on the minimum wage and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate is not on that bill.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative assistant proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 215, the nomination of Brian Theodore Stewart, of Utah, to be United States district judge for the district of Utah vice J. Thomas Greene, retired:

Trent Lott, Orrin Hatch, Mike Crapo, Wayne Allard, Ben Nighthorse Campbell, Charles Grassley, Peter G. Fitzgerald, Connie Mack, Chuck Hagel, Rod Grams, Pat Roberts, Conrad Burns, Judd Gregg, Larry E. Craig, Robert F. Bennett, and Mike DeWine.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under rule XXII is waived.

The question is, Is it the sense of the Senate that debate on the nomination of Brian Theodore Stewart, of Utah, to be United States District Judge for the District of Utah, be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN), is necessarily absent.

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 281 Ex.]

#### YEAS—55

Abraham	Frist	Murkowski
Allard	Gorton	Nickles
Ashcroft	Gramm	Roberts
Bennett	Grams	Roth
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Stevens
Coverdell	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	Mack	Warner
Enzi	McConnell	
Fitzgerald	Moynihan	

#### NAYS—44

Akaka	Edwards	Levin
Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Graham	Mikulski
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

#### NOT VOTING—1

McCain

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LEAHY. Mr. President, I deeply regret that we have reached this point in connection with the nomination of Brian Theodore Stewart to the District Court for Utah. Please understand that Democrats are prepared to vote on this nomination, as we are on all of the judicial nominations pending on the Senate Executive Calendar. This impasse is caused not by Democrats' refusals to vote on that nomination but by Republican refusals to allow a vote on the nominations of Judge Paez or Ms. Berzon. If we can vote on the Stewart nomination in less than 2 months, we should be able to vote on the Paez nomination within 4 years and the Berzon nomination within 2 years.

This debate is about fairness. The Senate needs to be fair to all people in this country. For too long nominees—judicial nominees like Judge Paez, Ms. Berzon and Justice Ronnie White of Missouri, and Executive Branch nominees like Bill Lann Lee—have been opposed in anonymity through secret holds and delaying tactics. They have been forced to run a gauntlet of Senate confirmation. Those strong enough to survive are being dealt the final death blow not by being defeating in a fair up or down vote on the nomination but through a refusal of the Republican leadership to call them up for a vote. These nomination are being killed through neglect and silence, not defeated by a majority vote.

Today we are not asking for any Senator's vote for any nomination. Instead, I am asking the Senate recognize that its responsibility is to vote on all the judicial nominations on the calendar. We can vote for them or against them, we can vote them up or vote them down, but after 44 months or 27 months or 20 months, after completing every step in what is a long, tortuous confirmation process, the nominations of Judge Richard Paez, Justice Ronnie White and Marsha Berzon are as entitled to a Senate vote as the nomination of Ted Stewart.

I do not begrudge Ted Stewart a Senate vote. Despite strong opposition from many quarters from Utah and around the country, from environmentalists and civil rights advocates

alike, I did not oppose the Stewart nomination in Committee and I expect to vote for his final confirmation here on the floor of the United States Senate. I have been supportive of Chairman HATCH in his efforts to expedite Committee consideration of the Stewart nomination with the expectation that these other nominees who have been held up so long, nominees like Judge Richard Paez, Marsha Berzon and Justice White, were to be considered by the Senate and finally voted on, as well. The Chairman and I have both voted for Judge Paez and Justice White each time they were considered by the Committee and we both voted for and support Marsha Berzon.

I have tried to work with the Chairman and with the Majority Leader on all these nominations. I would like to work with those whom the Majority Leader is protecting from having to vote on the Paez and Berzon nominations, but I do not know who there are. In spite of what was supposed to be a Senate policy that did away with anonymous holds, we remain in a situation where I do not even know who is objecting to proceeding to schedule a vote on the Paez and Berzon nominations, let alone why they are objecting. In this setting I have no ability to reason with them or address whatever their concerns are because I do not know their concerns. That is wrong and unfair to the nominees.

I do not deny to any Senator his or her prerogatives as a member of the Senate. I have great respect for this institutions and its traditions. Still, I must say that this use of anonymous holds for extended periods that doom a nomination from ever being considered by the United States Senate is wrong and unfair.

Again, I say that this debate is about fairness and about the Senate being fair to all nominees and to other Senators and to the American people. If we can vote on the Stewart nomination within 4 weeks in session, we can vote on the Paez nomination within 4 years and the Berzon nomination within 2 years. That is the point that the distinguished Democratic Leader was making by moving to proceed to consider those nominations this evening. The Republican majority has refused to debate those nominations and continues its steadfast refusal to vote on them after years of delay.

I do not want to see any judicial nomination held up without a vote, but the Republican leadership is not being fair to the other judicial nominees on the calendar. We ask only for a firm commitment that they will each get an up or down vote, too. The Republican Majority refuses to make even that commitment to a vote before the end of the session on these qualified nominees.

In my statement last week I detailed the path that each of these nominees has traveled to the Senate. All are now available for a vote on confirmation by the Senate. All should be accorded an up or down vote.