

|            |            |             |
|------------|------------|-------------|
| Bryan      | Harkin     | Mikulski    |
| Bunning    | Hatch      | Moynihan    |
| Burns      | Helms      | Murkowski   |
| Campbell   | Hollings   | Nickles     |
| Chafee, L. | Hutchinson | Reed        |
| Cleland    | Hutchison  | Reid        |
| Cochran    | Inouye     | Robb        |
| Collins    | Jeffords   | Roberts     |
| Coverdell  | Johnson    | Rockefeller |
| Craig      | Kennedy    | Roth        |
| Crapo      | Kerrey     | Santorum    |
| Daschle    | Kerry      | Sarbanes    |
| DeWine     | Kyl        | Schumer     |
| Dodd       | Landrieu   | Snowe       |
| Domenici   | Lautenberg | Specter     |
| Durbin     | Leahy      | Stevens     |
| Feinstein  | Lieberman  | Thompson    |
| Frist      | Lincoln    | Thurmond    |
| Gorton     | Lott       |             |
| Gramm      | Lugar      | Torricelli  |
| Grassley   | Mack       | Warner      |
| Gregg      | McConnell  | Wyden       |

NAYS—24

|         |            |            |
|---------|------------|------------|
| Allard  | Enzi       | Levin      |
| Baucus  | Feingold   | McCain     |
| Bayh    | Fitzgerald | Sessions   |
| Boxer   | Graham     | Shelby     |
| Byrd    | Grams      | Smith (NH) |
| Conrad  | Hagel      | Thomas     |
| Dorgan  | Inhofe     | Voinovich  |
| Edwards | Kohl       | Wellstone  |

NOT VOTING—2

Murray Smith (OR)

The conference report was agreed to.  
Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to table was agreed to.

COLLOQUY BETWEEN SENATOR WARNER AND SENATOR HELMS

Mr. WARNER. I rise to address a number of aspects of the State Department Authorization Act, which has been included in the final omnibus budget package of legislation. This bill contains a number of provisions that, directly and indirectly, affect the jurisdiction of the Armed Services Committee, and I am very concerned by the fact that this major bill was included with virtually no consultation with our committee. I believe that the process works better when the normal legislative procedures are followed.

I would like to raise a specific issue with the distinguished chairman of the Foreign Relations Committee. Section 1134 of the State Department Authorization Act prohibits Executive Branch agencies from withholding information regarding nonproliferation matters, as set forth in section 602(c) of the Nuclear Non-Proliferation Act of 1978, from the Senate Foreign Relations Committee and the House International Relations Committee, including information in special access programs.

I am aware that problems with the dissemination of nonproliferation information have arisen in the past. DOD has taken steps to correct these problems and has established a policy that special access programs will not include nonproliferation information, as defined in section 602(c) of the Nuclear Non-Proliferation Act of 1978. Based on my review of DOD's special access programs, I believe that the Department of Defense does not now have special access programs which include such nonproliferation information. I have

been assured that, in the future, DOD will provide nonproliferation information to the appropriate committees of Congress.

Mr. HELMS. I thank my colleague, the chairman of the Armed Services Committee. I too have been assured by the Department that it will not use special access program status to deny the Foreign Relations Committee access to the nonproliferation information required by section 602(c).

Mr. WARNER. I am concerned that some might interpret section 1134 of the State Department Authorization Act as requiring expanded access to sensitive DOD intelligence sources and methods, as contrasted with nonproliferation information itself. I believe that section 1134 would not require DOD to change its current procedures for protecting such sensitive sources and methods. Is this also the understanding of the chairman of the Foreign Relations Committee?

Mr. HELMS. I believe that is correct. If the Department's assurances are accurate, then this provision would not modify DOD's current policies regarding the protection of sensitive sources and methods. The Foreign Relations Committee has no intention of seeking expanded access to such sources and methods, or to DOD special access programs, so long as DOD lives up to its reporting obligations under existing law. DOD's policy of not handling nonproliferation information within special access channels certainly provides a significant reassurance in that regard. Our concern is only to ensure that DOD policy regarding special access programs or intelligence sources and methods not be seen as obviating its long-standing legal obligations to inform appropriate committees of Congress.

Mr. WARNER. That is the case now, and I am pleased that DOD has assured both of us that the prerogatives of the Foreign Relations Committee will be protected. I thank my distinguished colleague, the chairman of the Foreign Relations Committee.

Mr. HELMS. I appreciate these assurances and thank my colleague, the chairman of the Armed Services Committee.

Mr. SHELBY. I am concerned with section 1134 which requires the DCI to provide certain information, including information contained in special access programs, to the chairman and ranking member of the Foreign Relations Committees. I note that this language on special access programs was added after the bill was passed by the Senate. I wish to clarify that the legislative intent of this provision does not wish to clarify that the legislative intent of this provision does not include expanded information relating to intelligence operational activities or sensitive sources and methods.

I ask for the chairman of the Foreign Relations Committee's clarification regarding the companion section in the State Department Authorization bill,

section 1131. Am I correct in understanding that this provision does not levy the same requirement upon the Director of Central Intelligence that is required of the Secretaries of Defense, State, and Commerce?

Mr. HELMS. That is correct, Mr. Chairman. Unlike the other Secretaries you have mentioned, the Director of Central Intelligence is required only to disclose information covered under subparagraph (B). That information relates to significant proliferation activities of foreign nations. The Director is exempt from reporting information under subparagraph (A) and (B) which relates to the agency's operational activities. The Foreign Relations Committee understands that intelligence operations fall within the jurisdiction of the Intelligence Committee, and therefore did not include such activities in this reporting requirement.

Mr. SHELBY. I thank the Chairman for that explanation and yield the floor. I look forward to fully reviewing those provisions in the Intelligence Committee next year.

UNANIMOUS CONSENT  
AGREEMENT—H. CON. RES. 236

The PRESIDING OFFICER. Under the previous order, H. Con. Res. 236 is agreed to.

The motion to reconsider is laid upon the table.

The concurrent resolution (H. Con. Res. 236) was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I am prepared to ask unanimous consent to be recognized for 5 minutes as in morning business, but I would certainly defer to the minority leader or majority leader if either has anything to address at this time.

The PRESIDING OFFICER. Without objection, the Senator from Oklahoma.

RECESS APPOINTMENTS

Mr. INHOFE. Mr. President, first of all I applaud the White House—this is probably the first time I have done that in 7 years—for responding to an issue that is very critical, probably one of the most critical issues we will be facing.

Going back in the history of recess appointments, the Constitution provided for recess appointments to be allowed, thereby avoiding the constitutional prerogative of the Senate of advice and consent in certain conditions. The major condition was that a vacancy would occur during the course of the recess. This goes back to the horse-and-buggy days when we were in session for 2 or 3 months at a time and then we were gone. So if someone such as the Secretary of State would die in office, it would allow the President to replace that person without having to go through the advice and consent.

Throughout the years, both Democrat and Republican Presidents have

abused this. They have made recess appointments. In 1985, President Reagan made quite a few of them. The majority at that time, the Democrats, under the majority leadership of Senator BYRD from West Virginia, made the determination that he was making too many recess appointments.

He challenged the President to submit a letter that would outline future recess appointments during the Reagan administration. In 1985, a letter was sent from President Reagan to then-majority leader, Senator BYRD from West Virginia that stated no more recess appointments would take place unless the names of the individuals who were considered for recess appointment were submitted in writing in sufficient time in advance that the majority or minority leaders could take some type of action.

For example, if they were going to have someone recess appointed for the express purpose of avoiding the advice and consent of the Senate, then they would just not go into recess; they would go into pro forma, where they would have someone in the Chair all the time to make sure that did not happen. Also, it would be an opportunity to make sure they were not doing it for the express purpose of avoiding advice and consent.

Last May, there was an appointment during the recess of James Hormel to be Ambassador to Luxembourg. There were several people who were opposed to his appointment and had holds on his appointment. The major reason was not that he was a gay activist, but he had not submitted the appropriate financial information to the appropriate committee for consideration. The President went ahead and appointed him.

Consequently—that was already done, and there was no attempt to undo it even though it was contrary to the Constitution—I sent a letter to the President asking him if he would agree to the same thing Ronald Reagan agreed to back in 1985. Of course, I did not get a very favorable response. However, I said: In the event I do not do that, I will put a hold on every non-defense or nonmilitary appointment or nominee from the President. And I did so.

The weeks went by, and finally I got a letter from the President that said:

I share your opinion that the understanding reached in 1985 between President Reagan and Senator Byrd cited in your letter remains a fair and constructive framework which my administration will follow.

I have been concerned because this President has a long history of doing things he says he is not going to do and not doing things he says he will do. Consequently, I sent a letter to the President which I submitted for the RECORD last Wednesday. The letter was dated November 10, signed by myself and 16 other Senators, that said: Make sure you comply with the spirit of this agreement, this letter you have sent; we are going to serve notice right now

that in the event you have recess appointments that do not comply with the spirit of the letter, we will put holds for the remaining of the term of your Presidency on all of the judicial nominees. A very serious thing. I repeated this several times last Wednesday to make sure there was no misunderstanding.

Since that time, the White House has cooperated and submitted a list of 13 names. I will read these names and the positions for which they have been nominated: Cliff Stuart, EEOC; Delmond Won, Commissioner of the Federal Maritime Commission; Leonard Page, general counsel for the Labor Relations Board; Luis Laurado, Development Bank; Mark Schneider, Peace Corps; Frank Holleman, Deputy Secretary of Education; Mike Walter, Veterans Administration; Mr. Jeffers, whose first name I do not have, J-E-F-F-E-R-S; Bill Lann Lee, Assistant Attorney General for Civil Rights; Sally Katzen, Deputy Director of OMB; John Holum, Under Secretary for Arms Control and International Security of the Department of State; Carl Spielvogel, Ambassador to the Slovak Republic; and Jay Johnson—not to be confused with the military Jay Johnson—a nominee for the U.S. Mint.

Of this list of 13, there are 5 who either have holds on them or there are intended holds on these individuals. Consequently, I make the statement at this time—and I think it is very important the RECORD reflect this accurately and everyone understands it thoroughly—that anyone other than the names I will read off—Cliff Stuart, Delmond Won, Leonard Page, Luis Laurado, Mark Schneider, Frank Holleman, Mike Walker, Mr. Jeffers—if there are any names that are submitted and are sought to be appointed during this recess, recess appointments, we, who undersigned the letter on the 10th of this month, will put a hold on every judicial nominee who comes before the Senate during the entire remainder of the term of President Clinton.

I am going to repeat that because it is very important. Any name, other than these eight names I just read, who is recess appointed, if anyone other than these eight individuals is recess appointed, we will put a hold on every single judicial nominee of this President for the remainder of his term of office. That means specifically we will not agree to Bill Lann Lee, Sally Katzen, John Holum, Carl Spielvogel, and Jay Johnson.

I will conclude with that. I reemphasize, if there is some other interpretation as to the meaning of the letter, it does not make any difference, we are still going to put the holds on them. I want to make sure there is a very clear understanding, if these nominees come in, if he does violate the intent as we interpret it, then we will have holds on these nominees.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, what is the pending business?

---

BANKRUPTCY REFORM ACT OF 1999—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 625) to amend title 11, United States Code, and for other purposes.

Pending:

Hatch/Torricelli amendment No. 1729, to provide for domestic support obligations.

Wellstone amendment No. 2537, to disallow claims of certain insured depository institutions.

Wellstone amendment No. 2538, with respect to the disallowance of certain claims and to prohibit certain coercive debt collection practices.

Feinstein amendment No. 1696, no limit the amount of credit extended under an open end consumer credit plan to persons under the age of 21.

Feinstein amendment No. 2755, to discourage indiscriminate extensions of credit and resulting consumer insolvency.

Schumer/Durbin amendment No. 2759, with respect to national standards and homeowner home maintenance costs.

Schumer/Durbin amendment No. 2762, to modify the means test relating to safe harbor provisions.

Schumer amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable.

Schumer amendment No. 2765, to include certain dislocated workers' expenses in the debtor's monthly expenses.

Dodd amendment No. 2531, to protect certain education savings.

Dodd amendment No. 2753, to amend the Truth in Lending Act to provide for enhanced information regarding credit card balance payment terms and conditions, and to provide for enhanced reporting of credit card solicitations to the Board of Governors of the Federal Reserve System and to Congress.

Hatch/Dodd/Gregg amendment No. 2536, to protect certain education savings.

Feingold amendment No. 2748, to provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed.

Schumer/Santorum amendment No. 2761, to improve disclosure of the annual percentage rate for purchases applicable to credit card accounts.

Feingold amendment No. 2779 (to Amendment No. 2748), to modify certain provisions providing for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed.

Mr. LOTT. Mr. President, the Senate has been considering this bankruptcy bill as the main Senate business since November 4, 1999, after a failed cloture