

Would Senator McCANNELL be willing to give up 15 minutes of his time?

Mr. KYL. I say to the Senator from Nevada, Senator McCANNELL has asked me to represent him during this period of time. I would be happy to do that if that would be the preference of the Senator from Nevada and the Senator from Vermont.

#### EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I say that I do not see anyone in the Chamber wishing to speak on the Democrat side; I am sure there will be somebody shortly. Why not have until 5 o'clock set aside equally between the majority and minority for morning business, and at 5 o'clock Senator LEAHY and Senator McCANNELL will use their time as appropriate. I ask unanimous consent that be the order.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

Mr. KYL. I thank the Senator from Nevada.

#### JUDICIAL VACANCIES

Mr. KYL. Let me summarize where I was, Mr. President.

The point is, we are a country that relies upon our courts to administer the rule of law. At the Federal level that means we need to have a fully staffed Federal judiciary. We always know there are a certain number of vacancies at any given time. But we need to complete action on as many of the nominations pending before us as possible, certainly before we leave perhaps some time next month.

In the past, it has been the case that Members of both parties have expressed concern about the fact that we have vacancies and that we need to fill those vacancies. I will make note of that in just a moment because some of my colleagues on the other side have been eloquent about their commitment to try to get the process done.

My point is, with over 40 vacancies designated as emergencies by the Administrative Office of the Courts that characterizes vacancies as "emergency" or "nonemergency," with over 100 vacancies now, over 40 of which are emergencies, it is not business as usual. We cannot continue to have maybe one hearing a week, with maybe one or two judges being considered. We have only confirmed eight judges this entire year; most of them quite recently—only eight.

At that pace, we are clearly not going to be able to act even on the President's nominees that existed at the time we began the August recess. These are nominations made in May, in June, I believe, mostly—maybe a couple in July. Clearly, we ought to at least act on those nominations before we terminate our business this session.

But if we do not get about that task very soon, there will not be enough in

the pipeline coming from the Judiciary Committee to get that work done. That is why I have said we are going to have to have a timeout. If the argument is we just don't have time, we are too busy doing other things, then I am willing to say: Then let's call a timeout. Let's get to the nominations. And when there is a sufficient number of nominations completed, then we will go back to our other priorities.

We will continue to pass continuing resolutions to fund all of the various operations that are the subject of the appropriations bills. There will be nothing lost from that process.

We will pass the appropriations bills. No one suggests otherwise. But in terms of priorities, if we do not act soon on these judges, two things will happen: No. 1, we are not going to have enough time to complete the work on those before we quit; second, we will not fill these vacancies that have been declared emergency vacancies by the Administrative Office of the Courts.

So that is my reason for calling this timeout. It is my reason for urging people to vote against the motion to proceed to the foreign operations bill, which I very strongly support, incidentally.

I will represent to my colleagues that Senator McCANNELL, who is the ranking member of that subcommittee, did, indeed, ask me to represent him until he arrives this afternoon. He may be in the Chamber by 5 o'clock. He may not. But it is his view that this is an appropriate objection at this time to moving forward with action on that bill.

Since I see a couple of my colleagues are in the Chamber to speak, let me simply say, when I resume my comments, I will speak statistically to where we are in this current situation vis-a-vis past administrations and make the point that it pretty much does not matter how you cut it. By any statistical measure, we are far behind.

In the Reagan administration of 8 years, in the Clinton administration of 8 years, in the previous Bush administration of 4 years—in every case, with one exception, every single Presidential nominee for the courts that was made prior to the August recess was acted upon before Congress adjourned for the year.

There are 30-some vacancies for the courts now. I do not see, at the current pace at which we are operating, how we can come close to completing action on those nominations. Actually, if you were to compare the numbers through October 31, it would be a better measure, and that would make it virtually impossible for us to get all these nominations done when we are so far behind at this point.

I think an even more conservative proposal of just acting on those nominees the President sent to the Senate prior to August would be perfectly appropriate. I see no reason for us not to do it. That is why I am willing to say until we do that, we need to defer action on our other business so we can indeed get about this job.

With that, Mr. President, I reserve the time until we take up the motion to proceed to the bill.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I want to follow up a bit on what my friend from Arizona has talked about. Certainly, each of us recognizes that things have changed substantially since September 11.

I spent the weekend in Cheyenne, WY, and much of it with the National Guard. These great men and women are continuing to carry out their duties in protecting the country, as well as now doing the special things, such as airport security, and other requirements they have. Some have just returned from Bosnia, as a matter of fact.

I guess my point is, things changed for all of us; and special things come up at times such as we are in now. But it is also necessary for us, after we have done the things we have to do for those special times, to go ahead and do the things that we ordinarily have to do. Life goes on, and we have to continue to pursue that.

I think very much that is the case now with issues we have before us, special things such as airport security, special things such as the declaration, really, of war on terrorism, which we have done. Those things needed to be done.

Now, of course, we need to do appropriations. But we also have to do the mundane things such as the confirmation of judges, the seating of U.S. attorneys, many of whom have a very real role in this matter of domestic terrorism.

I, too, believe we have to work these two things out together. I understand the frustration of the leadership in the majority when they are seeking to move things, but I have to remind us, for example, that on July 21, 2000, while objecting to Majority Leader LOTT's attempt to proceed with the intelligence authorization bill, the minority leader—now majority leader—said this:

I hope we can accommodate this unanimous consent request for intelligence authorization. As does Senator Lott, I recognize that it's important. I hope we can address it. We must address additional appropriations bills. There is no reason that we can't. We will find a compromise if there is a will, and I am sure there is. But we also want to see the list of what we expect will probably be the final list of judicial nominees to be considered in hearings before the Judiciary Committee.

This is what he said as he held up that appropriations bill.

Our friend from Nevada, on July 24, while objecting to Senator LOTT's repeated attempt to move forward, said:

We believe there should be certain rights protected. Under this Constitution, we have a situation that was developed by our Founding Fathers in which Senators would give the executive branch, the President, recommendations for people to serve in the Judiciary. Once these recommendations are made, the President would send the names to the Senate and we would confirm them and

approve of those names. One of the problems we are having is it is very difficult to get people approved and confirmed. This has nothing to do with the energy and water bill. It does, however, have something to do with other bills.

That was as he objected to continuation.

We find ourselves in the same position. We need to move forward to do the things that must be done. We need to do the things that are ordinarily done. I suggest we can do those things at the same time.

The PRESIDING OFFICER. The Senator from Kansas.

(The remarks of Mr. ROBERTS pertaining to the introduction of S. 1546 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada.

#### JUDICIAL NOMINEES

Mr. REID. Mr. President, if I could take just a couple minutes to say a few words.

I have listened to my friend from Arizona, but he has to understand—the whole world has to understand—we, the Democrats, just took control of the Senate in June. For the first 6 months this year, the Republicans controlled the Senate Judiciary Committee. The chairman was ORRIN HATCH. During that period of time, there was not a single confirmation hearing or a single judicial confirmation.

They have to get real. They are not.

My friend from Arizona says we are going to have to take time out and do nothing here. That is what we will be doing because we have to finish the appropriations bills.

I also say what we have to do is very important. We have appropriation bills we must complete. No one is saying we will not confirm judges. Even though we didn't get many confirmations for President Clinton, this is not payback time. We are going to do the very best we can, and the Judiciary Committee has done the very best it can. There are hearings scheduled for this Thursday to report out a significant number of judges. They have known that. These hearings are not something we just planned. They have been planned for a long period of time.

There was talk from my friend from Wyoming that we have to do U.S. attorneys. I don't know how many U.S. attorneys we did the past week, but it was 10 or 15 U.S. attorneys.

Mr. LEAHY. Fourteen, I say to the Senator from Nevada. Not only 14, but we have been doing U.S. attorneys as fast as they have come in—26 so far for the year. At times when we have gone to a markup for U.S. attorneys, the White House wouldn't even send up their material. We had my staff working until 3 in the morning to help them complete—for President Bush's nominees, to help them complete their paperwork to get it through. We are still

waiting for them to send up the U.S. marshals. In 26 years, I have never known any President, Republican or Democrat, to take this long.

And as the Senator from Nevada said, during the half a year the Republicans controlled the Senate, of course, they didn't have a single judicial confirmation hearing. They didn't confirm a single judge. We are now, of course, confirming them much faster than they were confirmed during the first year of the Clinton term or the first year of former President Bush's term. Actually, as I recall, when the Republicans controlled the Senate during the Clinton years, we had 34 months that they didn't even have hearings on judges.

We have been doing hearings every single month, whether we are in recess or not. So I suppose I could take a partisan attitude and say we will go as slowly on judges as they did with President Clinton. I thought that was unfair then; of course it is unfair now. I have no intention of taking the irresponsible position my Republicans colleagues did during that time.

What we are doing is debating a motion to proceed to the foreign operations appropriations bill. Senators have asked me earlier: Is all our Middle East money in the foreign operations bill? Yes, it is.

Is money in there for such things as President Bush has talked about; for example, for aid to the Afghan people? Yes, some of that is in that bill.

Some have asked me if the money we provide to countries we have been calling on to stand up for the United States during this time—some of that money is in this bill that the other side wants to hold up. An amazing fact, Mr. President. Everywhere President Bush has said we want to help and work together, and we want your help; and we want to help you, I say to the leaders, that money the President is talking about, which he wants us to support him on, guess what. It is in this bill.

I suspect that all Democrats are going to vote to go forward. We want to give the President the money he needs to help in this effort against terrorism. I am amazed that some Senators want to stop the President from getting that money. If they vote against going forward, then he will not get it. That is why I am amazed to find—I read in one of the papers, Republican Senators would hold up this bill—the bill that funds our foreign policy—at a time when the President of the United States is going around the world asking for support. It makes no sense.

Every Senator has a right to vote the way he or she wants. But I can imagine what would be said if Democrats had ever done that to any President—Republican or Democrat. They would probably be calling for our impeachment.

Mr. REID. If the Senator will yield, I ask the chairman: Would the Senator agree that during this time of trouble

and strife we have been going through, two of our greatest allies have been Israel and Egypt?

Mr. LEAHY. Absolutely true.

Mr. REID. Now, as a result of the inaction of the Senate, as has been threatened by the Senator from Arizona, these two countries that have been such a stalwart friend of the United States, they won't be getting the aid we have set forth in this bill, will they?

Mr. LEAHY. No. In fact, we have a procedure when we pass the bill; a certain amount is provided upfront. That is not going to be there because we can't do it under a continuing resolution. It would be misleading to suggest otherwise. We have billions of dollars for our friends in the Middle East, held up, as the Senator said. We have military assistance for our European allies. We asked them to stand behind us. We have antiterrorism assistance in this bill.

Imagine that. This bill has \$38 million in antiterrorism assistance. I wonder how many Senators who would vote against sending this bill forward are willing to go back home and explain, well, even though the Democrats went a lot faster in judicial nominations than we did, we held up antiterrorism assistance. I would hate to have to make that argument back home, but they are going to have to.

We have assistance for refugees in Africa—the poorest of the poor. Are we going to hold up that money? We have victims of drought and earthquakes in Central America. Are we going to hold up that money? We have funding to combat HIV/AIDS, the worst public health crisis in half a millennium. Are we going to hold up that money? How about assistance for combating poverty around the world, which breeds the hopelessness and resentment that provides the fertile breeding grounds for terrorists?

President Bush spoke about that. The Secretary of State has made the same point. Do we want to hold up that money?

It is self-defeating and shortsighted, and it is irresponsible to hold up funding for foreign policy when anyone can see we have shortchanged foreign policy for years.

It is time to recognize that global leadership requires acting like a leader, not like petulant children in a school ground. It is about more than dropping bombs; it is about diplomacy and foreign assistance.

Let's stop holding up this bill and get on with the Senate's business. It is utterly lacking in judgment. It unfairly punishes the entire Nation to hold up this bill.

Think of the things that are being held back. Then look at the reason. They claim it is because judges are being held up.

I have a chart. I mention this because my friend from Nevada mentioned it earlier. He mentioned how Republicans—Republicans didn't hold a