

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

**NOMINATION OF KURT D. ENGELHARDT, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA**

The ACTING PRESIDENT pro tempore. The Senate will proceed to the nomination of Kurt D. Engelhardt, of Louisiana, which the clerk will report.

The bill clerk read the nomination of Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Mr. LEAHY. Madam President, I understand both of the Senators from Louisiana have returned blue slips in support of this nominee and I support the nominee.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana?

The nomination was confirmed.

Mr. LEAHY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

**NOMINATION OF JULIE A. ROBINSON, OF KANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF KANSAS**

The ACTING PRESIDENT pro tempore. The Senate will proceed to the nomination of Julie A. Robinson, of Kansas, which the clerk will report.

The bill clerk read the nomination of Julie A. Robinson, of Kansas, to be United States District Judge for the District of Kansas.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Madam President, both of the distinguished Senators from Kansas have returned blue slips indicating their support for this nominee. The nominee is extraordinarily well qualified. And with their support, I also support the nominee and urge the Senate to confirm her.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. BROWNBACK. Madam President, Julie Robinson is extraordinarily well qualified. She is the right person for the job. She has served as a bankruptcy judge. I have known of her and her work for a long period of time. Her family even years ago came to Kansas as Exodusters, freed slaves. So she really has had an extraordinary life. She is going to be an extraordinary judge.

I urge all my colleagues to support her nomination.

Thank you.

The ACTING PRESIDENT pro tempore. Is there further debate?

If not, the question is, Will the Senate advise and consent to the nomina-

tion of Julie A. Robinson, of Kansas, to be United States District Judge for the District of Kansas?

The nomination was confirmed.

Mr. LEAHY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

**LEGISLATIVE SESSION**

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

Under the previous order, the Senate will now resume consideration of S. 1731, which the clerk will report.

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

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

**UNANIMOUS-CONSENT REQUEST—  
S. 1499**

Mr. KERRY. Madam President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may, at any time, at his selection, in conjunction with the minority leader, move to the consideration of Calendar No. 186, S. 1499; and that the bill would then be considered under limitations to be established in consultation between the two leaders.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. I object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Massachusetts.

Mr. KERRY. Madam President, I ask to be permitted to proceed for a moment to discuss the unanimous-consent request I just made.

Mr. KYL. Madam President, may I ask the Senator to withhold until I propound a unanimous-consent request.

Mr. KERRY. Madam President, I understand the Senator is asking me if I would simply yield for the purpose of his propounding a unanimous-consent request.

Mr. KYL. That is correct.

Mr. KERRY. I am happy to do so.

The PRESIDING OFFICER. The Senator from Arizona.

**UNANIMOUS-CONSENT REQUEST—  
EXECUTIVE CALENDAR**

Mr. KYL. Madam President, as in executive session, I ask unanimous consent that the majority leader, after consultation with the Republican leader, proceed to executive session no later than December 14 to consider Cal-

endar No. 471, the nomination of Eugene Scalia to be Solicitor for the Department of Labor, and I further ask unanimous consent that there be 3 hours for debate, with the time equally divided in the usual form, with no other motions in order; and I ask unanimous consent that following the use or yielding back of time, the Senate proceed to the vote on the confirmation of the nomination, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. Madam President, I believe I have the floor after the request.

The PRESIDING OFFICER. That is the understanding of the Chair.

The Senator from Massachusetts.

Mr. KERRY. I thank the Chair.

Madam President, I ask my colleague from Arizona, without losing my right to the floor, if his propounding of that request indicates that somehow his denial of the ability to proceed forward on the small business bill is linked to the request he just made regarding the nomination.

Mr. KYL. Madam President, I would be happy to respond to my colleague. The answer to the question is no. As the Senator from Massachusetts is aware, there are ongoing negotiations with the Senator as well as the Senator from Missouri and representatives of the administration in an effort to reach a compromise on the legislation, and the Senator's request related to my unanimous-consent request related to the importance of considering Eugene Scalia as Solicitor for the Department of Labor, and I believed as long as we were making unanimous-consent requests to proceed to other business, I would take the opportunity to do so for that nomination.

Mr. KERRY. Madam President, I thank the Senator from Arizona. I would like to respond and say a few words, if I may, about the small business bill.

Mr. DASCHLE. Madam President, I ask the Senator if he will yield for a unanimous-consent request for just a moment.

Mr. KERRY. I am pleased to yield.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. I thank the Senator from Massachusetts very much.

**ORDER OF PROCEDURE**

Mr. DASCHLE. The pending business today is the farm bill, and we are awaiting the legislation to be introduced.

I ask unanimous consent that following the colloquy or the statement made by the Senator from Massachusetts, the Senate proceed to consideration of the bill itself for debate purposes only.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. Madam President, I thank the distinguished majority leader, and I thank the Chair.

### SMALL BUSINESS RELIEF

Mr. KERRY. I ask unanimous consent that an article from the front page of yesterday's New York Times regarding the ripples of September 11 widening in retailing and the extraordinary impact of September 11, not just at ground zero but broadly across the country on small businesses, be printed in the RECORD.

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

[From the New York Times, Dec. 10, 2001]

RIPPLES OF SEPT. 11 WIDEN IN RETAILING

(By Edward Wyatt)

On West Eighth Street in Greenwich Village, shoe salesmen stand forlornly on the sidewalk in front of Leather&Shoes.com, smoking cigarettes and staring blankly into the distance, wondering where all the customers have gone.

Down the block, Raja Chaani, the manager of India Imports, and two of his employees sit on stools in a sprawling space chock-full of leather jackets, silk scarves and Indian curios but devoid of customers.

Across the street, at Man Plus, Sonny Shahani and three other salesmen spend their time rearranging sweaters and calculating how much their commissions have fallen. And at House of Nubian, no one but a few Internet shoppers is buying Negro League jackets and hats, or buttons with pictures of black leaders like Malcolm X and Haile Selassie.

While it was expected that small businesses near the site of the World Trade Center would suffer from the terrorist attack on Sept. 11, which displaced 100,000 potential customers from office buildings in the area and thousands more from their homes, wider economic damage from the attack is still rippling outward from ground zero.

The national economy, of course, was already slowing before Sept. 11. But the attack sent shudders through small businesses, not only in New York City but also across the nation. Some economic forecasters say they believe a wave of business failures in New York and elsewhere could come soon after the first of the year, as retailers and other entrepreneurs succumb to the continuing lack of new business in what is traditionally their busiest season.

"I've been on this street for 15 years, and it's never been this bad," said Kawal Bhatia, whose family owns Leather&Shoes.com, a shoe and leather goods store at 22 West Eighth Street which, despite its name, does not have a Web site. "In past years, no matter how bad it was the rest of the year, at least you knew you would cover all your losses with the holiday shoppers." But on a recent Friday, he said, "I did \$25 worth of business."

Last week, Mr. Bhatia put up a new sign: "Store Closing."

Small businesses, including many retail establishments, account for two of every five jobs in New York City and roughly half of all jobs statewide, so the drought among small-business owners presages economic pain that is likely to spread far beyond Lower Manhattan. And while numerous grant and loan programs have sprung up to help small busi-

nesses recover from the disaster, business owners have complained, in a growing chorus, that the grants are too small to stem their losses and that loan agencies are not approving loans.

On Eighth Street between Fifth Avenue and Avenue of the Americas, for example, roughly two miles north of ground zero, businesses that depend on people who travel into the city to shop have been devastated. The block, the professed shoe district of Manhattan, has for decades served as a crucible for small businesses, a place where shoe and leather goods shops have mixed with funky clothing emporiums serving an eclectic mix of college students, tourists and New Yorkers in search of bargains. But tourists have stopped coming, and retail sales not just in the Village but across the city have been suffering.

Economists say it is too early to tell just how many small businesses are likely to end up closing or in Bankruptcy Court, but they say that the signs are not good.

"I think there is a strong likelihood that come the first quarter, small businesses that are holding on by the seat of their pants may not be able to hold on anymore without some outside assistance," said Ian E. Novos, senior director for economic consulting service of KPMG.

A report assessing the economic impact of Sept. 11 that was prepared for the New York City Partnership, by KPMG and SRI International, another consulting firm, predicted that for the next two years, small businesses' sales would continue to fall short of what was expected before the trade center attack. Employment among small businesses will continue to fall through the first quarter of next year, the report said.

During the recession of the early 1990's, in a downturn that was short-lived by historical standards, business failures in New York State peaked at more than 6,000 companies per year, according to Dun & Bradstreet. The failures involved less than 1 percent of the small businesses operating in the state. In 1997, the most recent year for which data is available, there were roughly 1.2 million small businesses operating in New York State, according to state statistics. (Federal data on small businesses, using different measurement criteria, put the number at about half that.)

The 1990's recession lacked some of the ingredients of today's problems—most important a cataclysmic event that sent jobs streaming away from Lower Manhattan, immediately closed off spigots of corporate spending and sent consumers into a kind of anti-spending shock. Since the disaster, the United States Small Business Administration has approved only about one in three applications for disaster loans. Those loans have provided \$164 million to more than 2,000 businesses so far, but the approval rate is well below the rates of 50 percent to 64 percent that have followed other major disasters over the past decade.

Hector V. Barreto, the administrator of the S.B.A., told the House Committee on Small Business on Thursday that the loan approval statistics were a result of what was a very different disaster. But he also agreed to review all loan applications that had been rejected in New York so far, to see if the agency's loan standards, which often rely on cash flow and the value of tangible property, had been applied too rigidly.

Unlike earthquakes, hurricanes and floods, which inflict property damage mostly on homes and homeowners, the World Trade Center attack did most of its property damage in a small area around ground zero. Most of the loans requested and made have been for economic injury to businesses in a far wider geographic area, stretching over several counties near New York City.

Economic disaster loans to businesses account for three-quarters of the disaster loans approved so far, compared with 20 percent after events like the flooding of the Red River of the North, in North Dakota in 1997, and Tropical Storm Allison in Texas and Louisiana earlier this year. Economic injury loans require more documentation of losses and of a borrower's ability to repay them than property damage loans do.

A bill that would ease eligibility rules for disaster loans as well as create a grant program to go with the loan program was recently sent to the full House of Representatives by the House Committee on Small Business.

Representative Nydia M. Velazquez, whose district includes parts of Brooklyn, Manhattan and Queens and who is the ranking Democrat on that committee, said the current loan program needed to be revised as the bill would require because the existing loan program "is not suitable for the new reality of this disaster."

Some businesses that have been turned down for loans say they cannot fathom whom the loan program is supposed to help, if not them. Carla Behrle, who designs, manufactures and sells custom-made leather clothing from a shop on Franklin Street in TriBeCa, said she was told by S.B.A. officials that her application would be rejected because her business did not have enough cash flow to make the loan payments of \$143 a month.

"Some people spend more than that on cigarettes," said Ms. Behrle (pronounced BURR-lee), who does not smoke. She said the agency did not seem to take into account her plans for the money, which included relocating her business, which had revenues of about \$125,000 last year, and shifting her focus to wholesale sales, eliminating her retail store.

"I spent hours and hours filling out all this paperwork," she said. "If I had known what I know now, I would have put my energies elsewhere."

Other entrepreneurs complain that the city and state efforts to restore the economy are tailored to the needs of large corporations rather than to small businesses. They note that when Gov. George E. Pataki and Mayor Rudolph W. Giuliani appointed members of the Lower Manhattan Redevelopment Corporation last month, corporate and political interests were well represented, but no representatives of small business from downtown Manhattan were included.

Asked what he would say to people who operate small downtown businesses that are ailing, John C. Whitehead, the newly appointed chairman of the group, said: "I don't know what we say to them, but we want to keep them and we don't want them to be discouraged. I think there is assistance available for them."

Carl Weisbrod, president of the Downtown Alliance, which represents businesses in the financial district and around the trade center site, said the redevelopment agency's "primary mission is going to be repairing the infrastructure" and creating a physical environment that will draw customers back to small businesses downtown.

Whether small businesses downtown can wait for those improvements, which could easily take years, is uncertain. On West Eighth Street, merchants up and down the block who are not covering their expenses say their landlords have so far refused to give them a break on their rents.

At Mofa Shoes, Moses, the manager, who would not give his last name, spoke woefully of the outlook. "This used to be the shoe capital of the world," he said. "We'd get customers who came to Eighth Street from Italy, Brazil, Spain. Now, well, you see. The street is empty."