

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Just to clarify what was said, Senator HARKIN said that there will be more votes tonight. That is not what Senator DASCHLE said. He said this does not preclude that. We have our normal rights for full debate, and we have to work out agreements to when we would vote, ordinarily. So I am not saying there will not be votes, but I just do not want to leave the wrong impression.

Mr. HARKIN. So I guess what I read into that, if the Senator will yield, is that it is the Senator's intention not to have any votes tonight?

Mr. LOTT. I don't want to make any more profound statement on this subject than Senator DASCHLE did. I would want to consult with him. No final decision or announcement has been made on that.

Mr. MCCAIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I reserve the right to object. Because of intentional and unintentional parliamentary procedures, I have not been allowed to propose my amendment before the vote on cloture. If cloture is invoked, then I may not be able to have this amendment be germane.

So I ask unanimous consent that that unanimous consent agreement be amended that my amendment be made in order to the Daschle substitute, as several other amendments have been made in order, in the event of the invocation of cloture.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object.

Mr. MCCAIN. Then I object to the unanimous consent request. I think I should be allowed to propose and have debate on an amendment to the bill.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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.

#### CLOTURE MOTION

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, hereby move to bring to a close the debate on the Daschle for Harkin substitute amendment No. 2471 for Calendar No. 237, S. 1731, the farm bill:

Tim Johnson, Harry Reid, Barbara Boxer, Tom Carper, Zell Miller, Max Baucus, Byron

Dorgan, Ben Nelson, Daniel Inouye, Tom Harkin, Kent Conrad, Mark Dayton, Debbie Stabenow, Richard Durbin, Jim Jeffords, Tom Daschle, and Blanche Lincoln.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the substitute amendment No. 2471 to S. 1731, a bill to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, 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 clerk called the roll.

Mr. REID. I announce that the Senator from Washington (Mrs. MURRAY) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

The PRESIDING OFFICER. 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. 368 Leg.]

#### YEAS—53

Akaka	Dodd	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Miller
Boxer	Feinstein	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Hutchinson	Rockefeller
Carper	Inouye	Sarbanes
Chafee	Jeffords	Schumer
Cleland	Johnson	Snowe
Clinton	Kennedy	Stabenow
Collins	Kerry	Torricelli
Conrad	Kohl	Wellstone
Corzine	Landrieu	Wyden
Dayton	Leahy	

#### NAYS—45

Allard	Fitzgerald	Murkowski
Allen	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Cochran	Hutchison	Specter
Craig	Inhofe	Stevens
Crapo	Kyl	Thomas
Daschle	Lott	Thompson
DeWine	Lugar	Thurmond
Ensign	McCain	Voinovich
Enzi	McConnell	Warner

#### NOT VOTING—2

Domenici Murray

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

Mr. DASCHLE. I move to reconsider the vote.

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

Mr. President, I withdraw my motion.

The PRESIDING OFFICER. The motion is entered.

#### ORDER OF PROCEDURE

Mr. DASCHLE. There has been a good deal of discussion during the vote on how to proceed. I think we may have reached an agreement, a consensus on how to complete the agreement that would be in most people's interests and accommodating most schedules; that is, if we voted on the defense authorization conference report right now.

As I understand it, the chair of the committee, the chair of the Appropriations Committee, as well as the chair of the defense authorizing committee and ranking member are prepared to speak about the conference report for the record and share with Members its many component parts immediately following the vote.

I ask unanimous consent that the defense authorization conference report be brought before the Senate and the Senate vote on its final adoption.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object—I do not intend to object—I want Senators to know I intend to vote against this conference report, and I will explain why because I understand the problems that confront the leader and I am very willing to wait until after the vote to make that statement.

Mr. MCCAIN. Reserving the right to object, is it the intention of the majority leader to return to consideration of the agriculture bill?

Mr. DASCHLE. The Senator from Arizona is correct.

Mr. MCCAIN. I ask that, following the Wyden-Brownback amendment, the McCain-Gramm amendment be considered.

Mr. DASCHLE. For clarification, we will have the discussion about the defense authorization conference report. Immediately following that, it will be my intention to go back to the farm bill. I think there was some understanding that we recognize the Senator from Kansas and the Senator from Oregon for a brief period of time for an amendment that I think has been agreed to, and then it would be our intention to move to the amendment offered by the Senator from Arizona.

Mr. LOTT. Reserving the right to object, if I could, just for one clarification, if Senator DASCHLE would clarify, will we have the vote on the judge that had been scheduled in this back-to-back vote?

Mr. DASCHLE. That would be my intention, that we would.

Mr. LOTT. I withdraw.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. I ask, in addition to the current unanimous consent request, that immediately after debate on the amendment of the Senator from Arizona, we then turn to the debate on the amendment as offered by Senator SMITH of New Hampshire and Senator TORRICELLI of New Jersey.

Mr. DASCHLE. That will be made part of the request.

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Oregon.

Mr. WYDEN. Mr. President, I want to be clear as to what the Senator from Florida is asking. Senator BROWNBACK and I intend to be very brief. Is it the understanding of the Senator from Florida that we can dispose of that very quickly and then go back?

Mr. GRAHAM. As I understand it, if this unanimous consent agreement is accepted relative to the farm bill, the Senator from Oregon would be first, the Senator from Arizona would be second, and then consideration of the Smith-Torricelli amendment would be third.

Mr. WYDEN. I withdraw my reservation.

Mr. WARNER. Have the yeas and nays been ordered on the defense authorization conference report?

The PRESIDING OFFICER. The conference report has not yet been put before the Senate. The yeas and nays are not in order at this point.

Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, prior to the time we move to the conference report, there is one other housekeeping matter. It is always in keeping with our practice that the intelligence authorization and the defense authorization are considered jointly. I am told that I need to make the following request: That the conference report to accompany H.R. 2883, the intelligence authorization, be considered agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, provided that H. Con. Res. 288, the concurrent resolution providing for a technical correction in the enrollment of S. 1438, be considered agreed to, and the motion to reconsider be laid upon the table without intervening action or debate.

I would just say, for the information of all my colleagues, this is done as we take up the Defense authorization bill. I made this request earlier, and I am simply repeating it now for the colloquy.

Mr. President, I ask unanimous consent when the Senate considers the Executive Calendar nominations, the first vote occur on Calendar No. 590, to be followed by Calendar No. 589 and Calendar No. 592, and that their consideration occur following this next vote.

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

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002—CONFERENCE REPORT

The PRESIDING OFFICER under the previous order, the clerk will report the conference report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1438) "to authorize appropriations for fiscal year 2002 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," having met, have agreed that the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

(The report is printed in the House proceedings of the RECORD of December 12, 2001.)

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the Conference report. The clerk will call the roll.

Mr. REID. I announce that the Senator from Washington (Mrs. MURRAY) is necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mrs. MURRAY) would vote "aye."

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

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

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 369 Leg.]

#### YEAS—96

Akaka	Durbin	Lott
Allard	Edwards	Lugar
Allen	Ensign	McConnell
Baucus	Enzi	Mikulski
Bayh	Feingold	Miller
Bennett	Feinstein	Murkowski
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Helms	Schumer
Carmanan	Hollings	Sessions
Carper	Hutchinson	Shelby
Chafee	Hutchison	Smith (NH)
Cleland	Inhofe	Smith (OR)
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Corzine	Kerry	Thomas
Craig	Kohl	Thompson
Crapo	Kyl	Thurmond
Daschle	Landrieu	Torricelli
Dayton	Leahy	Voinovich
DeWine	Levin	Warner
Dodd	Lieberman	Wellstone
Dorgan	Lincoln	Wyden

#### NAYS—2

Byrd McCain

#### NOT VOTING—2

Domenici Murray

The conference report was agreed to. Mr. WARNER. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report.

The legislative clerk read as follows:

The committee on conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2883) "authorizing appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

(The report was printed in the House proceedings of the RECORD of December 6, 2001.)

The PRESIDING OFFICER. Under the previous order, the conference report on H.R. 2883, the intelligence authorization bill, is adopted, the motion to reconsider is laid on the table; and H. Con. Res. 288, correcting the enrollment of S. 1438, is adopted and a motion to reconsider that action is laid upon the table.

#### EXECUTIVE SESSION

#### NOMINATION OF FREDERICK J. MARTONE, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The PRESIDING OFFICER. The Senate will now go into executive session and proceed to the nomination of Frederick J. Martone, of Arizona, which the clerk will report.

The legislative clerk read the nomination of Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, this nominee has the support of both Senators from his home State. Blue slips have been returned by both of them. We have had the hearing. He did very well.

The Senator from Arizona, Mr. KYL, is a valued member of the Judiciary Committee, and I would like to yield to him, as he is one of those who has proposed and supported this nominee.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Vermont, the chairman of the committee, and thank him for having Justice Fred Martone as one of the judicial nominees we will be voting on this evening. I understand the only rollcall vote will be on Justice Fred Martone.

Why do I call him Justice Fred Martone, when we are going to be voting on his confirmation to become a