

feel really good when you are determined to trade only within your own tribe, but if you are going to increase your wealth, you are going to have to start trading with another tribe, and that means that artificial borders have to start coming down.

The Smoot-Hawley tariff demonstrated the foolishness of trying to keep trade entirely within the borders of a single country. But there are those, whether they are at Seattle or Genoa or, frankly, some on the floor of the Senate, who still want to do that, who still want to say: We will not trade outside our borders.

They fail to stop the treaties that say we will trade outside our borders, so they are saying: All right, if we cannot stop the treaty, we can at least stop the implementation of the treaty by adopting regulations that make it impossible for the treaty to work.

The fact is, in the United States we produce more than Americans can consume. That comes as a great surprise to many husbands and wives who think their spouses can consume all there is to consume, but it is true. We produce more than Americans can consume. We produce more food than Americans can eat. No matter how fat Americans seem to get in all of the obesity studies, we still cannot eat all the food we produce. We have to sell this food to somebody other than Americans, and that means we have to deal with the borderless economy. As we have taken steps to do that, we have entered into these free trade agreements.

We have to allow other people to come into our country with their goods and their food if we are going to send our goods and our food into their country. It is just that fundamental. I wish I could sit down with the demonstrators at Seattle and Genoa and elsewhere and explain that to them because, as nearly as I can tell, they do not understand that it is in their best interests to allow the borderless economy to grow, just as Senator Smoot did not understand, in his well-intentioned attempt to help the economy of the United States, that his protectionist stance was against his own best interests.

We found that out in the United States. We paid an enormous price for the protectionist attitudes that dominated this Chamber and both parties in the 1930s. Understand that the Smoot-Hawley tariff was not jammed down the throats of a recalcitrant Democratic Party by a dominant Republican Party. It was adopted as proper policy all across the country: Let's not trade outside our own borders. Let's protect what we have here and not expose it to the risk that foreigners might, in some way, profit at our loss.

As I say, the Smoot-Hawley tariff guaranteed that the Great Depression would go worldwide. We are smarter than that. We have treaties that are better than that. Frankly, I believe if Reed Smoot were still in this Chamber, he would endorse that; he would say:

Learn from the mistakes of the past and move forward. He was that kind of a forward-thinking individual. But there are those, with regulations in this bill, who say: No. Since we couldn't defeat NAFTA, we will have to stop NAFTA another way.

The administration has made its position very clear. They intend to live up to the requirements of the treaty that has been signed. They intend to see to it that the United States discharges its responsibilities. They have said the language in this bill does not do that. And the President, if absolutely forced to do it—which he does not want to do—if absolutely forced to, has said he will veto this bill and send it back to us to rewrite.

I know of no one on either side of the aisle who wants that to happen. I know of no one who wants to have a veto. So under those circumstances, why aren't we getting this worked out? Why aren't we saying: All right, the President said he would veto it. The Mexicans have said they believe it violates NAFTA. Let's sit down and see if we can't work this out.

We cannot be that far away. I understand meetings have gone on all night trying to work it out: Nope, we can't do it. We won't budge. I am told: Well, go ahead, vote for this. It will be fixed in conference. In my opinion, that is a dangerous thing to try to do. I hope that is what happens. That is what many of the senior members of the Appropriations Committee have told me: Go ahead, vote for it. Let it go through without a protest. We will fix it in conference. I hope they are correct, but I want to make it clear that as the bill gets to conference the process is going to be watched. There are people who are going to pay attention to what goes on.

If indeed, by the parliamentary power of the majority, this gets to conference in its present language, let's not have it go to conference without any protest; let's not have it go to conference without any notification of the fact that in the minds of many of us, who are free trade supporters, this bill is a modern-day regulatory reincarnation of Smoot-Hawley.

I do not mean to overemphasize that. It is not going to cause a worldwide depression. It is not going to do the damage that Smoot-Hawley did. But it is crafted in the same view that says: A special interest group in the United States, that has power in the political process in the Senate, that is opposed to implementation of NAFTA, can, by getting Senators to stand absolutely firm on language that clearly violates NAFTA, have the effect of preventing NAFTA from going into effect on this issue.

So I hope everyone will understand the posture that I am taking.

This bill, in my view, clearly violates NAFTA. The vote that was taken against the Gramm amendment signals that people understand that it violates NAFTA or the Gramm amendment

would have been adopted overwhelmingly.

I congratulate President Bush for saying, as the Executive Officer of this Government, charged by the Constitution with carrying out foreign policy: I will defend the foreign policy posture taken by the signers of NAFTA, and I will veto this bill, if necessary.

My being on the floor today is simply to plead with all of those who are in charge of the process of the bill and the language of the bill, to understand that they have an obligation, as this moves towards conference, to see to it that the effect of the Gramm amendment that was defeated takes place; that the bill is amended in conference in such a way that it does not violate NAFTA and that we do not go back on our international commitments; that we do not return to the days of my predecessor, Senator Smoot, and export protectionism around the world.

Mr. REID. Will the Senator yield?

Mr. BENNETT. I am happy to yield. Might I inquire of the time I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

#### EXECUTIVE SESSION

#### NOMINATION OF JOHN THOMAS SCHIEFFER, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of John Schieffer to be Ambassador to Australia, reported earlier today by the Foreign Relations Committee, the nomination be confirmed, the motion to reconsider be laid on the table, that any statements be printed in the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? The Senator from Idaho.

Mr. CRAIG. Mr. President, reserving the right to object, and I will not object, I would like to engage the assistant majority leader. I am extremely pleased to see that one of our nominees is moving this evening, Mr. Schieffer, to become Ambassador to Australia. I do know that the assistant Republican leader and the assistant majority leader have been working for the last several days to get us to a point of a definable number of nominees that might be considered before we go out today and before we go out for the August recess and some time line as it relates to the consideration of others that are before us.

The Senator from Nevada understands some of our frustration. I am looking at a gentleman now before the Judiciary Committee who has not been

given a time for hearing and consideration. He has been there since May 22, Assistant Attorney General for Natural Resources of the Environment. Yet I am told that he has been told that maybe sometime in November or December the Judiciary Committee might find time to get to his nomination.

Clearly the Senator from Nevada, as I understand, is working on this issue. Although he and the assistant Republican leader have attempted to refine it and define it, that is not a way to treat our President and the people he needs to run the executive branch of Government.

My question to the assistant majority leader is, To his knowledge, where are we now in the possibility of numbers as it relates to what we would finish before the August recess and some time line as to others that we could expect to deal with, let's say when we got back in early September, following the Labor Day period and on into October?

Mr. REID. I say to the Senator from Idaho, I have had a number of long discussions with my counterpart, Senator NICKLES. I think progress is being made. We have exchanged lists. We are exchanging scores of nominees. I think we are making good progress. There has been a little slowdown because of what has been going on on the floor the last few days. Not only have Senator NICKLES and I met on several occasions, but the majority and minority leaders have also met and discussed this. We have done very well. We certainly try not to do anything other than let the chairmen move as they believe their committee should move. We have had tremendous movement in most every committee—in fact, all committees.

As I said, we have exchanged with Senator NICKLES scores of nominees. And at the appropriate time, we are happy to sit down and discuss further with him, as the two leaders have indicated. Once we decide we have something to present to them, we will do that.

Mr. CRAIG. I thank the assistant majority leader.

Mr. President, as I have said, I will not object. It is important that we move these nominees along. I understand that the new Ambassador headed to Australia must get there for the ASEAN conference that is about to convene in the Asian, sub-Asian area which is critical to us and to our country as it relates to climate change and that whole debate, along with the trade debate and the relationships we have with Australia and New Zealand and other nations within that area.

I must also say to the assistant majority leader, clearly the debate on Mexican trucks and the Transportation bill, in my opinion, are an issue separate from the nominees.

Mr. REID. I agree with the Senator.

Mr. CRAIG. I know you had referenced some slowing down of the process. This process must not slow down.

We have decisions that need to be made in the field. We have citizens waiting for decisions to be made by agencies of our Government who now are not making them or are making them not with Bush appointees but with former Clinton appointees. I don't think that is the way either of us want that to happen.

I hope that clearly we can confirm a substantial number before the August recess. We are going to pursue this and work certainly with you, and I and my colleague from Arizona will work with our leadership and with the assistant Republican leader. Time lines are critical.

I must tell the Senator that if what I am told is true, that when a nominee engages the staff of one of the committees to ask when he might be scheduled—and he has been there since May 22—and he is told, in essence, when we get around to it in November or December, that sounds to me like something other than timely scheduling. That sounds to me like a great deal of foot dragging on the part of the Judiciary Committee, its chairman, and its staff. If that is the case, and that can be determined, my guess is, there will be less work done here than might otherwise be done in the course of the next number of weeks, if we can't determine to move these folks ahead with some reasonable timeframe both for hearing and for an understanding of when they can come to the floor for a vote.

With that, I do not object.

Mr. REID. Let me say to my friend, we believe nominees should be approved as quickly as possible. I say respectfully to my friend from Idaho, this is not payback time. We have indicated, and I have indicated to the Senator personally, the majority leader has indicated to the minority leader—I spoke to my counterpart, Senator NICKLES—this is not payback time. We will not compare what happened to President Clinton to what has happened to President Bush.

We are going to do our very best. We are working as rapidly as we can.

I think what we have done is quite commendable. You are going to have to work with your side because a number of the holds on some of these important nominations are on your side.

We are doing the best we can. We appreciate your interest. I have taken the assignment given to me by my leader, as Senator NICKLES has by his leader, as being serious. We are doing our very best to come up with a product that will satisfy the body.

The PRESIDING OFFICER. Is there objection to confirmation of the nominee? Without objection, it is so ordered.

Mr. KYL. Mr. President, reserving the right to object.

Mr. REID. I have a parliamentary inquiry. I want to make sure the time is running against the cloture motion. If it is not, then we are not going to bother with this nomination because we don't have the time. Is this counting?

The PRESIDING OFFICER. The time is being charged to the 30 hours under the cloture motion.

Mr. KYL. I don't mean to take any time.

Mr. REID. We have a lot of time.

Mr. KYL. That is not the object. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I want to ask the assistant majority leader one, maybe two questions. This nomination is a great nomination, as the Senator from Nevada pointed out. It would not be my intention to object. What it demonstrates is, my understanding is that the President, or someone on his behalf, called and said can't we shake this nominee loose, for the reason the Senator from Idaho indicated. It illustrates the fact that we have held up the nominations so long that really important things are beginning to happen that require that we put these people in place.

Therefore, I think it is commendable to bring this nominee to the floor now. I ask the distinguished assistant majority leader—there are also some important efforts at the United Nations which require the attendance of John Negroponte, the nominee for Ambassador of the U.N. The President deserves to have his Cabinet filled out finally. John Walters, the nominee for drug czar, is somebody of great importance to the White House. I spoke yesterday with the Attorney General who asked if we could please get Tom Sansonetti, an assistant from the Department of Justice, confirmed as quickly as possible.

I ask the assistant majority leader, since there are 15 nominees who I think are on the Executive Calendar now, we can do all of those right now if he would agree not only that we could ask unanimous consent on this one nominee, but the others who are at least pending on the Executive Calendar before us.

Mr. REID. I don't think you can list in order of priority which of these nominations are more important than another. If you asked people before the committee, the Environment and Public Works Committee, it may not be, in the minds of some, as important to some under the auspices of the Judiciary Committee because that person is changing their lives to have a new assignment in life. It is very important. So we are doing everything we can to move through these quickly. We want to make sure that the chairmen and the chairwomen of these committees and subcommittees have the opportunity to do whatever they need to do to make sure it is brought before the Senate in the fashion they believe appropriate.

I say to my friend, in answer to the question, Senator NICKLES and I have been working and at an appropriate time we will report to the two leaders as to what we expect to happen on both sides in the next few hours.

Mr. KYL. Mr. President, then I will ask for a second question with the indulgence of the Senator. With all due respect, the answer is a nonanswer. It doesn't tell us when we might consider these nominees. The distinguished assistant majority leader said phrases such as "as quickly as possible" and "as rapidly as we can accommodate." Is it not true that there are 15—if I am incorrect, please give the correct number—15 people pending on the Executive Calendar who don't await anything except our action? We can do it now or at the end of the day. Nothing stands in the way—no committee chairmen, no further vote, nothing. As far as I know, there is no controversy with respect to any of these.

Is there any reason that this number, whether it be 14 or 15, could not be agreed to today?

Mr. REID. We hope before the day's end there are more than that on the calendar. Some will be reported today.

This is not quite as easy as the Senator from Arizona has indicated. The Department of the Treasury—these four people who have been reported out by the committee, by Senator GRASSLEY and Senator BAUCUS, are really important, we think—the Deputy Secretary, Assistant Secretary, Under Secretary, and another Under Secretary. These are being held up on your side. We are trying to work our way through this. I say to my friend that we are trying to do our best. We are acting in good faith. That is why we interrupted the proceedings for Mr. Schieffer.

Senator NICKLES and I have been given an assignment. I know you will accept what I say. He and I have been working hard, but I ask you to meet with him. We have had a number of discussions relating to the nominations. I am confident it is going to bear fruit very quickly.

Mr. KYL. I will not object. I appreciate the response of the assistant majority leader, although it suggests to me that these nominees are being held hostage to the legislative process. I hope we can get these confirmations as quickly as possible.

The PRESIDING OFFICER. Is there objection to the confirmation?

Without objection, it is so ordered.

The nomination was confirmed.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

#### DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

The PRESIDING OFFICER. The Senator from Utah is recognized for his remaining 9 minutes 30 seconds.

Mr. BENNETT. Mr. President, I thank the Chair and the assistant majority leader for his courtesy. I want to conclude by commenting once again on

the importance of the United States keeping its international commitment, a commitment made to Canada and Mexico to allow a free trade area to occur on the North American continent. It is in our own interest. It is the intelligent thing to do, and historically it will see to it that the economies of all three of these countries will benefit.

Here is the first test we have of whether or not the actual regulations of NAFTA will be allowed to work in a way that benefits our neighbors to the south, even though it discomfits a powerful political group in the United States. If we fail that test, we will send a message to the Mexicans that says we didn't really mean it; we don't think you really should have equal status with the Americans. I can think of no more corrosive a message to send to the Mexicans than that one. That is why I think we must be as firm as we are trying to be in this debate of making it clear that we are going to hang on to this issue until it is resolved satisfactorily.

Mr. GRAMM. Will the Senator yield for a question?

Mr. BENNETT. I am happy to yield for a question.

Mr. GRAMM. Mr. President, it is not often we get an opportunity to have someone speak in the Senate who has built a successful business, who has been engaged in international commerce, who has negotiated contracts for millions of dollars. I would like to take this opportunity, since he has a few minutes left, to pose some questions to the Senator about the debate before us.

As the Senator is aware, we entered into a free trade agreement with Canada and Mexico in 1994. A Republican President signed the agreement in San Antonio, TX—George Bush. The agreement was ratified with the vigorous support of a Democrat President, Bill Clinton. We are in the process of implementing it under another Republican President. So this is an agreement that was supported on a bipartisan basis by three Presidents.

In that agreement, in the section having to do with the question before us, we have chapter 12, which is on cross-border trade and services. The language of the trade agreement is very simple. I would like to read it to you, and I would like to ask you some questions.

First of all, the language says very simply what America's obligation is under what it calls "national treatment." It is very simple. Our obligation to Canada, our obligation to Mexico, and their obligation to us is the following:

Each party shall accord to service providers of another party treatment no less favorable than that it accords in like circumstances to its own service providers.

First of all, with regard to trucking companies, if you had to convert that legal statement of obligation into English, what do you think it would say?

Mr. BENNETT. I say to the Senator from Texas, I think it would say that Mexican trucks coming into the United States, Canadian trucks coming into the United States, or American trucks going into Mexico would all have to comply with the requirements of the States in which they were operating, but that in the process of thus complying, they would not have to change their procedures to a situation different from the procedures that were considered acceptable on both sides.

This is something that would require the Americans to say we will honor the Mexican Government's procedures just as we expect the Mexican Government to honor the American Government's procedures.

Mr. GRAMM. We would treat them the same. Whatever requirement we would have, they would have.

Mr. BENNETT. I say to the Senator, that would be my understanding of the part of the treaty which he has read.

Mr. GRAMM. Let me raise some issues in the time we have and see if the Senator believes that these issues violate the provision.

The Murray amendment says that under the Motor Carrier Safety Improvement Act of 1999, which we adopted and which has to do with motor safety in America, in general, Canadian trucks can operate in America. Let me explain the problem.

We have not yet implemented this law. Under President Clinton and now under President Bush, the difficulty in writing the regulations this bill calls for are so substantial that the provisions of this law have not yet been implemented.

Even though they have not yet been implemented, a thousand Canadian trucks are operating in the United States under the same regulations American trucks are operating. Many thousands of American trucks are operating. But under the Murray amendment, until the regulations for this law are written and implemented, no Mexican trucks can operate in the United States on an interstate commerce basis.

Would the Senator view that to be equal treatment?

Mr. BENNETT. I would not, and I say to the Senator from Texas that I am familiar with the American legislation to which he refers because I have had, as I suppose the Senator from Texas has had, considerable complaints from my constituents about the regulations proposed under that bill and have contacted the administration, both the previous one and the present one, to say: Don't implement all aspects of this bill until you look at the specifics of these regulations; some of the things you are asking for in this bill would, in my opinion, and in the opinion of the constituents who have contacted me, make the American highways less safe than they are now.

To say we must wait until that is done before we allow Mexican trucks