

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we have received now a letter from the Chairman of the Joint Chiefs of Staff representing all of the chiefs urging the Senate to continue their unequivocalness to continue the 2005 round of base realignment and closures as authorized by Congress. They are pleading with us not to leave this issue unresolved because the savings which are essential for the transformation of our military are savings they want to achieve. They are working very hard on the transformation of our military. They clearly intend there be a global posture review, and there will be a global posture review, taking into account the closing of bases overseas.

There is a commission that must be created this year and is required to report to us on the review of the overseas military facility structure. This is referred to in the amendment. As I understand it, they have not yet been appointed, but it is required that the leadership appoint that commission, and it is required, obviously, that the Secretary of Defense and Department of Defense next year, in making their recommendations, take into account the very report this amendment says should be taken into account.

So we have a global posture review which is underway. It will be completed. We have a commission to review overseas military facilities. That is all in place. It is all ongoing. It is all in order. There is a logic to it all in terms of looking at the overseas bases first.

I could not agree more with the Senator from Mississippi and the Senator from North Dakota. Of course, you will look at overseas bases first. That is what is going on now. That is the global posture review. That is the commission on the review of the overseas military facility structure which is in the process of being appointed and will report this year.

But to disrupt all that and to leave every base in the United States in limbo for another 2 years is not doing a favor either to our military structure or to the bases around our country. We all have bases. Are we going to leave them nervous? Are we going to leave them in limbo for 2 more years? That is not doing them a favor and it is doing a significant disfavor to our military posture and the requirement that we transform, as the chief said, the combat capability of the Department of Defense.

I hope this amendment would be rejected.

Mr. WARNER. I simply add that right in this letter, and I ask unanimous consent this letter be printed in the RECORD at this point, a comprehensive overseas basing review is nearly complete. It is significant.

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

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 18, 2004.

Hon. JOHN WARNER,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing this letter to emphasize our continued and unequivocal support for conducting a 2005 round of base realignment and closure (BRAC), as authorized by the Congress. The convergence of ongoing strategy and overseas basing actions, the transformational direction in all the Services and force structure changes together afford us a once-in-a-generation opportunity to truly transform the Department's combat capability in an enduring way. A delay of this BRAC round, or a modification of the legislation that limits the Department's flexibility to execute it, will seriously undermine our ability to fundamentally reconfigure our infrastructure to best support the transformation of our forces to meet the security challenges we face now and will continue to face for the foreseeable future.

A comprehensive overseas basing review is nearly complete. The continued concentration of forces in Cold War locations highlights the need for a global repositioning to locations that best support our strategic goals. In order to ensure that the Department examines its entire infrastructure, the rationalization of our domestic infrastructure as conducted by the BRAC process must closely follow the Global Posture Review. Both efforts are necessary for a genuine capabilities-based infrastructure rationalization and to further transformation of our warfighting capabilities.

We ask for your careful consideration of the importance we place on conducting a 2005 BRAC round as currently authorized. BRAC has proven to be the only comprehensive, fair, and effective process for accomplishing this imperative. We assure you that the Department will conduct BRAC 2005 in a way that ensures it maintains force structure and infrastructure that is flexible enough to surge and respond to changing threats to our national security.

PETER PACE,
General, USMC, Vice
Chairman of the
Joint Chiefs of Staff.

RICHARD B. MYERS,
Chairman of the Joint
Chiefs of Staff.

PETER J. SCHOOMAKER,
General, U.S. Army,
Chief of Staff, U.S.
Army.

VERN CLARK,
Admiral, U.S. Navy,
Chief of Naval Operations.

JOHN P. JUMPER,
General, USAF, Chief
of Staff, U.S. Air
Force.

MICHAEL W. HAGEE,
General, U.S. Marine
Corps, Commandant
of the Marine Corps.

Mr. WARNER. I yield the floor.
Mr. DORGAN. How much time remains?

The PRESIDING OFFICER. There is 1½ minutes.

Mr. DORGAN. I will respond, of course.

I must point out, to proceed as current law anticipates, we should anticipate it will cost us money in the short term. We are struggling around here to find money but we will actually expend

more money in the short term with respect to the 2005 BRAC round, and we do not propose we obliterate this entire process.

What we propose is to establish an order that makes sense. The order that would make sense would be to evaluate where we would house overseas troops, given the new realities of the world, and then from that understand what our domestic needs are. That seems to me to be the logical and right approach. I don't think it poses any additional risk for anyone.

The current 20-year plan, the unclassified portion of the 20-year forecast for the threat and for basing, apparently assumes the same size force as we now have and apparently assumes the same forces that are based overseas, which largely remain based overseas. I don't think that is likely to be the case.

We are proposing a structure which would put the horse in front of the cart. That is the amendment we have offered.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 5 minutes, not on this subject.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. No objection.

Mr. WARNER. First, Mr. President, I yield back all time on our side. I believe that completes the debate, at this point, on this side.

The PRESIDING OFFICER (Ms. SNOWE). All time has expired.

Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Madam President, I thank my dear colleagues for allowing me this time. I apologize for taking a little extra time today, but I think it is important.

(The remarks of Mr. HATCH are printed in today's RECORD under "Executive Session.")

Mr. HATCH. Madam President, I appreciate your patience and I appreciate this extra time. I yield the floor.

RECESS

The PRESIDING OFFICER. The Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:46 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Nevada.

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

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

The majority leader.

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, earlier today Senator DASCHLE and I had a

productive meeting with Andy Card, the President's chief of staff. At that meeting, Mr. Card committed that there would be no further circuit and district judicial recess appointments during the remainder of the President's term, and the Democratic leader committed to vote on, by the end of June, 25 judicial nominations now pending on the Executive Calendar.

I ask Senator DASCHLE if I have correctly summarized where we now stand on these nominations.

Mr. DASCHLE. Mr. President, the majority leader is correct. With these 25, we will have confirmed 198 of the President's judicial nominees, 100 of which were confirmed thanks to the efforts of Senator LEAHY and the other members of the Judiciary Committee while the Democrats controlled the Senate. In return for the President's commitment, which Mr. Card has conveyed to us, that there will be no further judicial recess appointments for the remainder of his term, we have committed to confirm now 25 of the judicial nominations currently on the Executive Calendar by the end of June. Some may entail more floor time than others, but there will be a vote on each of the 25 nominations and, if necessary, I will support cloture on any of these 25 that should be necessary.

EXECUTIVE SESSION

NOMINATION OF MARCIA G. COOKE TO BE UNITED STATES DISTRICT JUDGE

Mr. FRIST. I ask unanimous consent that the cloture vote be vitiated and the Senate proceed to executive session for the consideration of Calendar No. 606, the nomination of Marcia Cooke to be a United States district judge for the Southern District of Florida.

I further ask that the Senate proceed to vote on the nomination and that following the vote the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Marcia G. Cooke, to be United States District Judge for the Southern District of Florida.

Mr. HATCH. Mr. President, I want my remarks to be thought of as constructive remarks rather than not constructive.

Yet another week has gone by without this body confirming a judicial nominee. That makes more than 9 weeks since the last judicial confirmation. Only four judges have been confirmed this year, and that is hardly a record of progress.

It is not enough for the minority to point out how many nominees were confirmed under their watch 2 years ago. We must also look at what is going on now, and this is a dismal

record even for a Presidential election year.

Over the last six Presidential election years, both Republicans and Democrats won the White House and both Republicans and Democrats controlled the Senate. On average, the Senate has confirmed 45 judicial nominees in the six most recent Presidential election years, and continued confirmations until October in four of the last six Presidential election years. At this same point in the last six Presidential election years, the Senate confirmed, on average, 21 judicial nominees by now. I repeat, so far this year we have confirmed just four judges.

This is not for any lack of activity on the part of the Judiciary Committee. The committee is actually one-third ahead of the average for recent Presidential election years in voting out judicial nominees to the full Senate. We have held 10 nomination hearings this year alone.

Yet 32 nominees languish on the Senate calendar in a minority-imposed limbo despite the fact that we all know that if we took the simple up-or-down votes on each and every one of these nominees that the Constitution contemplates, it is probable that virtually all 32 of these nominees would be confirmed.

Fully 22 of the 32 nominees on the calendar were reported out of the Judiciary Committee without even one negative vote in the Judiciary Committee. And that is saying something because our committee is known to be the home of some of the most vigorous debates and debaters in the Senate. As anyone who has ever attended one of our markups can verify, no one on the Judiciary Committee is shy about expressing an opinion on most any subject or reticent to reflect or register a dissenting point of view.

When a nominee goes through the Judiciary Committee without opposition, the nominee is truly a consensus candidate of high qualifications and deserves prompt consideration by the full Senate.

For me and many others, a nominee's American Bar Association rating is a factor to consider. I do not think it is the be all and end all of the confirmation process, but it is something that can be helpful in evaluating a nominee's qualifications. During the Clinton administration, I can recall that some of my friends on the other side of the aisle took the position that the ABA rating was the "gold standard" with respect to judicial confirmations.

Well, where are they now when 24 of the 32 nominees on the Executive Calendar have received the highest rating, "well qualified," by the ABA? And what is more, 14 of the 24 nominees rated "well qualified" by the ABA received this "well qualified" rating by a unanimous vote of the ABA evaluators.

The Constitution requires, and this body has traditionally provided, a vote for every judicial nominee reaching the full Senate. Every Clinton nominee

that reached the Senate floor got a vote, and President Clinton nearly broke the all-time confirmation record set by President Reagan who set this record with 6 years of a Republican-controlled Senate, while President Clinton only had 2 years of a Democratic-controlled Senate to help him. President Bush's nominees should receive the same treatment and get a vote on the floor.

I remain hopeful that this body will not abandon past practice and extend the recent spate of unprecedented filibusters of appellate court nominees to district court nominees. That is why I have continued to encourage the leadership on both sides of the aisle and the White House to arrive at an acceptable compromise on the 32 judges on the Senate Calendar.

I fully support the nomination of Ms. Marcia Cooke to serve as a District Judge on the Southern District of Florida.

Before the Senate votes on the Cooke nomination, it is only appropriate that we spend a few minutes considering her qualifications. Currently serving as Miami Dade County's Assistant County Attorney, Ms. Cooke is one of those nominees who received the ABA's highest "well-qualified" rating. Her experience includes service as both a public defender and prosecutor, a plaintiff's attorney and defense counsel, a private practitioner and public servant, and both an advocate and a jurist. I might add that Ms. Cooke is a graduate of Georgetown University and is an active leader in that fine school's alumni association.

Marcia Cooke served for 8 years as a Federal magistrate in Michigan. She has been an Assistant U.S. Attorney in Michigan and Florida. She has served as Florida's Chief Inspector General. Both of Florida's Democrat Senators support her. The position to which she has been nominated has been vacant so long it is now considered a judicial emergency. If confirmed she would be the first African-American woman to serve as a Federal judge in the Southern District of Florida.

It is no wonder why the Judiciary Committee approved her without a single dissenting vote. Today, the full Senate should act to support her.

I am pleased that a more reasonable and responsible atmosphere has returned to the Senate and this cloture vote has been vitiated as part of a larger agreement on judges.

We should all recognize that a cloture vote on a highly qualified, highly respected district court nominee such as Marcia Cooke is not a positive sign. It indicates that our friends across the aisle may be prepared to extend their policy of delay and filibusters to even district court nominees.

Many believe that the true target of these unprecedented filibusters of judicial nominees is to set the stage for the next Supreme Court vacancies. What