

By analyzing carbon dioxide in ice cores, scientists have been able to create reliable measurements of atmospheric carbon dioxide going back over hundreds of thousands of years. The measurements of carbon dioxide at Clean Air Station provide a reliable comparison to document the impact of human activity on increasing carbon dioxide concentrations in recent years compared to the last hundreds of thousands of years. The melting is even more dramatic in the Northern Hemisphere. In the last 30 years, the Arctic has lost sea ice cover over an area 10 times as large as the State of Maine, and at this rate will be ice free by 2050. In 2005 in Barrow, AK, I witnessed a melting permafrost that is causing telephone poles, planted years ago, to lean over for the first time ever.

I also learned about the potential impact of sea level rise during my trips to these regions. If the West Antarctica Ice Sheet were to collapse, for example, sea level would rise 15 feet, flooding many coastal cities. In their 2007 report, the IPCC found that due even just to gradual melting of ice sheets, the average predicted sea level rise by 2100 will be 1.6 feet, but could be as high as 1 meter, or almost 3 feet. In Maine a 1-meter rise in sea level will cause the loss of 20,000 acres of land, include 100 acres of downtown Portland—including Commercial Street, a major business thoroughfare along the water. Already in the past 94 years, a 7 inch rise in sea level has been documented in Portland.

The time has come to take meaningful action to respond to climate change. My colleagues worked tirelessly in recent months to develop legislation that will preserve our environment for future generations while providing reasonable emission reduction goals, offsets, and incentives for the industries covered by the bill.

I applaud the leadership of my colleagues from Virginia, Connecticut, and California in bringing this bill to the floor this week.

RURAL COOPERATIVES

Mr. NELSON of Florida. Mr. President, I rise to engage in a colloquy with my friend, the junior Senator from Connecticut. I was pleased to co-sponsor the Lieberman-Warner Climate Security Act shortly after it was introduced last October, and I followed its progress through the Environment and Public Works Committee with interest.

Today, the full Senate will begin considering that bill, and Senator BOXER, the chairman of the Environment and Public Works Committee, will offer a substitute amendment that she has worked out with Senators LIEBERMAN and WARNER. I have a question for my friend from Connecticut regarding this substitute amendment.

As the Senator from Connecticut knows, many rural electric cooperatives in this country serve the role of local distribution companies. The committee-reported version of the Climate Security Act included rural electric cooperatives among the local distribution

companies that receive emission allowances over the entire 42-year life of the program. In Florida, electric cooperatives serve more than 1,000,000 Floridians in 58 of our 67 counties. Most of these rural electric cooperatives own fossil fuel-fired powerplants.

I was recently in Florida and held a series of town hall meetings across the State and heard from rural cooperatives that are concerned about the way emission allocations are distributed under the substitute amendment.

Can my friend from Connecticut address their concern and explain how allowances are available to rural cooperatives under the Boxer-Lieberman-Warner substitute amendment?

Mr. LIEBERMAN. Mr. President, I thank my friend, the senior Senator from Florida, for his question.

I would be glad to address the concern that rural electric cooperatives in Florida have brought to him.

Let me reassure him, and them, that the substitute amendment does include rural electric cooperatives among the local distribution companies that receive free emission allowances over the entire 42-year life of the program.

And let me reassure him, and them, that the substitute amendment does include rural electric cooperatives among the fossil fuel-fired powerplant owners that receive free emission allowances over a transitional period that lasts from 2012 through 2030. As in the committee-reported version of the bill, the separate allocation of free emission allowances that is exclusive to rural electric cooperatives in the substitute amendment is additional to the free emission allowances that rural electric cooperatives receive as local distribution companies and as fossil-fuel-powerplant owners. Under the substitute amendment, as under the committee-reported bill, rural electric cooperatives in Montana and Virginia are the only rural electric cooperatives in the country that receive free emission allowances solely from an exclusive allocation and not also from the bill's local-distribution-company and fossil-fuel-powerplant allocations. Indeed, there is a provision in the substitute amendment, section 552(c)(2)(C) that would be mere surplussage if the case were otherwise.

Mr. NELSON of Florida. Mr. President, I thank my friend from Connecticut for the clarification.

CONSUMER-FIRST ENERGY ACT OF 2008—MOTION TO PROCEED

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 743, S. 3044, the Consumer-First Energy Act of 2008, at a time to be determined by the majority leader, following consultation with the Republican leader.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. I object.

CLOTURE MOTION

Mr. REID. Mr. President, in light of that objection, I now move to proceed

to Calendar No. 743, S. 3044, and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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 debate on the motion to proceed to S. 3044, the Consumer-First Energy Act of 2008.

Harry Reid, Barbara Boxer, Charles E. Schumer, Sheldon Whitehouse, Robert P. Casey, Jr., Patty Murray, Debbie Stabenow, Benjamin L. Cardin, Daniel K. Akaka, Jack Reed of Rhode Island, Claire McCaskill, Christopher J. Dodd, Amy Klobuchar, Patrick J. Leahy, Barbara A. Mikulski, Frank R. Lautenberg, Carl Levin.

Mr. REID. Mr. President, I ask unanimous consent that the cloture vote occur on Tuesday, June 10, at 12 noon with 20 minutes immediately prior to the vote equally divided and controlled by the two leaders or their designees, with the majority leader controlling the final 10 minutes.

Mr. MCCONNELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. I now ask that the cloture motion be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered. The cloture motion is withdrawn.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I have already expressed my appreciation to the staff for all their hard work. I have been informed by the minority that we need not be around here tonight having to vote on our ability to adjourn, so Senators, if they wish, can leave now and the two of us will terminate business. I thank everybody for their patience. I am sorry they had to come back tonight.

UNANIMOUS-CONSENT AGREEMENT—H.R. 6124

Mr. REID. Mr. President, I ask unanimous consent that at 4 p.m. on Thursday, June 5—that is tomorrow—the Senate proceed to the consideration of

Calendar No. 753, H.R. 6124; that there be 60 minutes of debate divided in the following manner, and upon the use or yielding back of the time, the Senate vote on passage of the bill: Senator DE MINT, 30 minutes; Senator COBURN, 20 minutes; 10 minutes total to be controlled by the bill managers, Senator HARKIN and Senator CHAMBLISS; further, that no amendments be in order to the bill.

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

Mr. REID. Mr. President, let me explain, this is the never-ending farm bill. We are going to try it again. Tomorrow we hope we can pass it and send it to the President quickly. We hope to send it to the White House in the next day or so. The House has already approved it. This will take care of the clerical error we had previously.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I hardly know where to start, but let me start with the issue of judges.

The reason it was necessary to make our hard-working and dedicated clerical staff here read the amendment today was to make the Senate understand that commitments are important. The most important thing Senators have—the currency of the realm, if you will, in the Senate—is their word. When you give your word, you are supposed to keep your word.

On the issue of judicial confirmations, my good friend the majority leader and I discussed this matter publicly at the beginning of this Congress, and we agreed that President Bush, in the last 2 years of his term, should be treated as well as President Reagan, Bush 41, and President Clinton were treated in the last 2 years of their tenures in office because there was one common thread, and that was that the Senate was controlled by the opposition party.

What has become contentious around here in recent years is the confirmation of circuit judges. So we agreed we ought to try to hit the average for each of those Presidents in the last 2 years of their terms, and the average was 17. The low number was President Clinton, with 15. That was the goal. It was clear by April of this year that there was no intent to meet that goal, and so we had a skirmish here on the floor over going to a bill. We reached an agreement. The majority leader indicated we would do three circuit judges before the Memorial Day recess. We did one. That commitment was not kept.

Now, the Senate is not the House. The minority does have rights in the Senate. Most things that are accomplished in the Senate are accomplished on a bipartisan, cooperative basis. Members of the Republican conference believe strongly that commitments ought to be kept. So by the reading of the amendment today, people got a chance to think about the importance of commitments in this body that can only function when our word is kept.

Other efforts will be made to drive that point home.

And just keeping the commitment that was made for May—that was not kept—is not enough. We are seven judges away from equaling President Clinton in the last 2 years of his term—15. Time is ticking away. That commitment should be kept for the good of this institution.

I think it is important to remind our good friends on the other side of the aisle that the shoe might be on the other foot. They might be making the nominations. Why would they want to set a precedent such as this that could come back to bite them so quickly? There is a growing sense of anger on this side of the aisle over this issue, and what tends to go around comes around in the Senate. This is a precedent we ought not to set, and I think the adults on the other side of the aisle understand that this is a precedent that ought not to be set for the good of either party. So we will be continuing to look for opportunities to make the point that commitments ought to be kept.

Now, with regard to the underlying bill, let me disabuse our colleagues or anyone else who may be listening of the notion that members of the Republican conference are not interested in having amendments on this bill. This is the most massive reorganization of the American economy since the 1930s—some believe a \$6.7 trillion tax increase. Looking at Kentucky alone, it could mean up to \$6,000 a year for my people, and the GAO says a 53-cents-a-gallon gas tax increase over the next 20 years.

No matter how you look at this—my good friend the majority leader says this is necessary to save the planet—no matter how you look at it, it is an important bill. This is an important bill. This is no small bill, and we are being put in the position, with the tree being filled tonight and with cloture being filed, to have this massive, significant bill in effect voted on without any amendments.

An interesting parallel—and I see my good friend the Senator from Virginia, who is actually a supporter of this bill and a cosponsor of it, sitting here in the Chamber. He and I were here in 1990, as was the majority leader, when we did the clean air amendments, which was a major piece of legislation. It was not as big as this bill but a big, important bill. The Democrats were in control of the House and Senate. There was a Republican in the White House. How did we handle the clean air amendments of 1990 under George Mitchell, then the Democratic leader? We had 5 weeks of debate on the floor of the Senate and we had 180 amendments. Everybody knew it was an important measure. It deserved the attention and the participation of 100 Members of the Senate, not 1 Member—the majority leader—determining which amendments would get to be offered and in the end asking the Senate to ac-

cept a procedure under which no amendments would be offered. Now, Mr. President, by any objective standard, that is not a serious effort to legislate. You can't cram a measure of this magnitude down the throat of the Senate or the American people with that little scrutiny or observation.

With regard to the notion that somehow everybody had a chance to look at this bill, we got it at 11:15 this morning—the substitute at 11:15 this morning. You could argue that the vast majority of the Members on this side of the aisle were reading it for the first time along with the clerks. So this hasn't been laying around for months. The idea that we would go to such a measure may have been around for a while, and it was—and the majority leader did indicate we would go to this bill after the Memorial Day recess, but what was going to be in it? We learned about that this morning.

Thirdly, with regard to nominations, we were prepared to move a nominations package tonight, but the nominations package that was presented was basically negotiated between the Democratic majority and the White House. There is another entity, and that is the Republicans in the Senate. We sought to make some adjustments to the nominations package, which, interestingly enough, included some district judges who are on the Executive Calendar. Now, district judges have not typically been controversial. Are we now to believe that even district judges who have come out of the committee and are on the calendar are a matter of controversy? Is there nothing on which we can agree? Is that the Senate today?

Somebody needs to—and I think it is incumbent upon the majority leader and myself—to restore a certain level of comity around here so we can function. How in the world did the situation deteriorate to the point where district judges who have been reported out of the committee and are sitting here on the calendar are a matter of controversy?

That is where we are as of the evening of June 4, and I think we need to have some serious discussions off the floor of the Senate as to how we can unravel the problems that have been created by the mistreatment of the circuit judge nominations of the President of the United States. I think we need to remind ourselves that when we make commitments to our colleagues here in the Senate, they need to be kept. And it is time to stop this sort of spiral downward that has developed as a result of the apparent refusal to make any serious effort to keep commitments which have been made, which colleagues depend on, and which are essential to the Senate functioning the way it needs to function.

Mr. President, one final observation about the underlying bill. We have enjoined the debate on this bill and would love to be able to amend it. We think it is not a 1-week bill; we think it is

clearly a multiweek bill. If the Clean Air Act of 1990 was a 5-week bill, this is certainly at least a month bill. And at whatever point the majority gets serious about climate change legislation, then we need to set aside enough time to give the entire Senate an opportunity first of all to read it and, second, to offer serious amendments to the measure.

I think probably enough has been said today about where we are. Hopefully, tomorrow, after a good night's sleep, we can take a look at all these matters and see if we can get the Senate back on track to develop a level of comity necessary for us to function in the way in which the Senate has historically functioned.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I would hope my friend the distinguished Republican leader would stay on the floor a brief time. The chairman of the Judiciary Committee is here, the Democratic assistant leader is here, and they have a few things to say and I have a few things to say.

Mr. President, let me say, first of all, with all due respect to my friend the distinguished Republican leader, the substitute has been around for 2 weeks. The summary has been around. Anyone who had a question about this, all they had to do was call Senator BOXER, Senator LIEBERMAN, or Senator WARNER. They know this bill upside and downside. So to say they just got it today, that is how we do things here; the summary has been around a couple of weeks. Anyone who wanted to see the guts of the bill could look at it.

Mr. MCCONNELL. Would the leader yield just for an observation?

Mr. REID. I will in a short time, but let me also say this. I only point this out to show how Orwellian my friend's statements are. They wish they could offer amendments on the bill? Now, think about that for a minute. Why aren't we offering amendments on the bill? Because they won't let us. We have tried working, as I have indicated, in every possible way—two amendments, germane, relevant, five amendments. No.

So I would also say, with judges, let the world understand that there is no crisis in the judiciary. The Federal judiciary vacancy rate is the lowest it has been in decades—not a few days, weeks, months, years—decades.

I, with the consent and understanding of my friend, PAT LEAHY, the chairman of the Judiciary Committee, pledged that I would use my good faith to have the Senate consider three court of appeals nominees before the Memorial Day recess. I didn't say who they would be. And we tried very hard.

I stated explicitly that we couldn't guarantee—and that is in the record—I couldn't guarantee the outcome because it depended on factors beyond my control. The Senate did in fact confirm Virginia Supreme Court Judge Steven

Agee to the Fourth Circuit Court of Appeals in May. In addition, Chairman LEAHY expedited Judiciary Committee consideration of two seats to the Michigan Sixth Circuit Court of Appeals in light of the pledge I made. These nominations were the result of many years of negotiations between the White House and Michigan Senators. This has been going on for 6 years.

Unfortunately, Republicans on the Judiciary Committee objected to expedited consideration of the Michigan nominees. One of them had already been approved to be a Federal district court judge. This is now to be a circuit court judge. He already had an ABA approval of high ranking, high approval. They said: No, we want the ABA findings again before we are allowed to do anything. As a result, it was impossible to have the Senate consider these two additional nominees before the recess, despite my best efforts.

We have treated President Bush's judicial nominations with far greater deference than President Clinton was afforded by a Republican-controlled Senate. Mr. President, 70 Clinton nominees were denied hearings or floor consideration. Three-quarters of President Bush's court of appeals nominees have been confirmed while only half of President Clinton's appellate nominations were confirmed. My friend says what goes around comes around. We are not following that because we believe we should not treat them like they treated us. I said that a long time ago, and we have not. We have been generous in what we have done. The lowest vacancy rate in the Federal system for decades is what we now have.

Last year the Senate confirmed 40 judges, more than during any of the three previous years with Republicans in charge. Let me say to my friend, and I am going to yield to the chairman of the Judiciary Committee—let me say to my friend, the distinguished Republican leader: Everyone knows, even though it sometimes has been painful for all of us, that the chairman of the Judiciary Committee wants a recorded vote on these judges. That has been a standard rule that we have had.

We have three on the calendar, and I understand two more you reported out today, or very recently. We have five district court judges. I say to my friend, the Judiciary Committee member who takes as much guff as any Member of the Senate because of this committee, he has the most sensitive issues that come before this body, and he holds up very well and is a patient man. But as I say, I ask the question through the Chair to my friend: Has anyone come to you in the last week and said they wanted to do a district court judge?

Mr. LEAHY. If the Senator will yield without losing his right to the floor, nobody has. In fact, as I listen to this colloquy, I was wondering what was going on until I read in the Washington Times the Republican fixation on

judges is part of an effort to bolster Senator JOHN MCCAIN's standing among conservatives—which is unfortunate; to bring in the judiciary, the independent Federal judiciary, and make them a political tool.

I was reminded once when my children were young, one of them asked me, they said: Dad, what is the expression "crocodile tears"? I tried to explain to them what crocodile tears are, and I couldn't help but think tonight, listening to our good friends on the other side—if my children were still young, I would say: There, now you understand what crocodile tears are.

We had, last year—and the distinguished leader has referred to this; the Democrats were in charge, me as chairman, Senator REID as majority leader—we reported 40 judicial nominations to the Senate, and all 40 were confirmed each of the 3 years prior, with a Republican majority, Republican chairman. That is more than they did.

It is interesting, in fact, since President Bush has been in office this is the third time we have been in the majority—one of those times very briefly. Republicans have been in the majority three times. Guess who moved—

Mr. MCCONNELL. Did the majority leader yield for a question?

Mr. LEAHY. If I can answer my question—

Mr. MCCONNELL. Parliamentary inquiry: Is it permissible to yield for a statement?

Mr. LEAHY. To further answer the question.

Mr. MCCONNELL. Is it permissible to yield—

The PRESIDING OFFICER. The Senator may only yield for a question.

Mr. MCCONNELL. Is a question being asked by the Senator from Vermont?

Mr. LEAHY. Mr. President, I will not ask how the distinguished Senator from Kentucky would define crocodile tears, but I ask this question of the distinguished majority leader: Was he aware that during the time when Democrats have been in charge, during President Bush's tenure, we have confirmed judges at a faster pace than when the Republicans were in charge? Was the distinguished majority leader aware of that?

Mr. REID. There is no question about that.

Mr. LEAHY. Mr. President, just one other point, if I might. Was the majority leader aware that on at least a couple of occasions, for circuit court of appeals judges, when I came back from Vermont during a recess to hold a hearing at the request of Republicans because they were anxious to get these court of appeals judges through, that the Republicans then criticized me for coming back and holding the hearings and getting them confirmed? Is the leader aware of that?

Mr. REID. I very definitely am.

Mr. President, let me say this. I would say through the Chair to my friend, the distinguished Republican leader, the district court judges, the

first I heard about them was tonight, whatever time it was—late this evening. Senator LEAHY and I are happy to take a look at these district court judges. We will work together and see what can be done with them. But I say to my friend, I would hope that you would reconsider taking us at our word. We will take a look at the district court judges. Senator LEAHY has said he has never been talked to about it. I never have been. We focused on the circuit court judges. I say to my friend, you want to talk about “let’s get back to doing things the way we used to,” let’s do the Executive Calendar. And the district court judges, we will take a look at those.

Mr. MCCONNELL. Will the majority leader yield for a question?

Mr. REID. I will be happy to.

Mr. MCCONNELL. I am aware of the rules of the Senate. Three judges on the calendar have been there since April 24. These are not people who just popped out of the committee yesterday.

Mr. REID. Mr. President, I have been here for a long time—with Senator Daschle, I was here on the floor for 6 years. I have been here for almost 4 years now in my capacity as Democratic leader. The standard operating procedure—and this is in the hearing range of the distinguished chairman of the committee who was the ranking member during part of that time—it always happened. Somebody brings to our attention: We have a judge. Can you help me with it? We don’t automatically do the judges.

Nobody asked me. We never worked that way with the judges. We have a very heavy calendar, and Senator LEAHY—and I support it every step of the way. We don’t do it in wrap-up. We have votes on these judges.

I say to my friend, the Republican leader, we will be happy to look at the district court judges. In the entire conversations we have had dealing with circuit court judges—I understand why they are probably more important than district court judges. They are all lifetime appointments, a pretty good deal.

I hope he would take us at our word, and we will work to try to move through these at some reasonable fashion and get these done because if we don’t do it tonight, tomorrow somebody is going to object to something else. I don’t think you lose one—

Mr. MCCONNELL. Can I further inquire of the majority leader, what does “take a look at” mean?

Mr. REID. First of all, I literally mean that. I don’t know what States they are from. I don’t know whether the Senators are Democrats, Republicans, States with both. We have not let that stand in our way in the past with district court judges, but there may be somebody who doesn’t like one of them for some reason. You know how things go around here. I can’t imagine it would be all of them.

Mr. MCCONNELL. I would ask my friend further, are district judges now

controversial, too, particularly those who have been reported out of the committee and been on the calendar for 6 weeks or so?

Mr. REID. Mr. President, it was just shown to me by my valiant staff—we have a judge from Virginia. We have Warner and we have Webb from Virginia. They get along very well. I am sure that is something we will take a look at. Missouri, the Senators there work well together. We have another Senator from Mississippi—these are things we can take a look at. I can say—we are not here under oath, but I never heard of these judges until just now. We will take a look at them. I can’t see why we can’t work out something and get them approved in the next little bit.

Mr. LEAHY. Will the distinguished majority leader yield for a question?

Mr. REID. Yes.

Mr. LEAHY. Is the leader aware this is the first I heard that anybody wanted to? Not a single member of the Senate Judiciary Committee on the Republican side even raised to me that they wanted to move forward with them. Is the distinguished majority leader aware that when the Republicans were in the majority, when they had judges they wanted moved they usually waited to put them on until after the request had come from our side to put them on? Was the leader aware of that? Was the leader aware of the fact that nobody—nobody—has raised this? In fact, the first I heard about it was an hour ago.

Mr. REID. I say to my friend, the Republican leader, we have no intention of stalling, not taking care of district court judges. But let us take a look at them. I don’t know if there is some—I don’t know. They are reported out of the committee, they are on the floor, there should be no problems with them, and we will do our best to look at them. But I say to my friend, these things I want to get done tonight—this is a Cabinet officer. We have a man, Jim Glassman, Under Secretary of State, who—the President’s Chief of Staff says he is going to withdraw his name. He is tired of waiting. He has to get a job someplace. I want to get these done.

As I say, there are some 80 of them or more. We will work on these. I tell you I would even give my friend, the Republican leader—Senator LEAHY and I will work on these three district court judges. I read the names. We will try to do them in the next week or so. OK?

Mr. LEAHY. As I said, at least I would like to discuss them with the ranking member.

Mr. MCCONNELL. Will the leader yield for a question?

Mr. REID. Of course.

Mr. MCCONNELL. My assumption is if they are on the calendar and made it out of the committee, they are not controversial. How about scheduling a vote? We don’t have to do it tomorrow. Can we even schedule one?

Mr. REID. The Republican leader said we want to work the way we used

to in the Senate. Take our word for it. We are not trying to deep six these people. This is the first time I ever heard about it.

Mr. SESSIONS. Will the majority leader yield for a question?

Mr. REID. I will be happy to yield for a question.

Mr. SESSIONS. I appreciate the many challenges the majority leader has, and a lot of difficult people. Sometimes cats are hard to herd, as Trent Lott used to say. But the deal and the concern was so great—if I could ask the majority leader—what about the understanding we thought existed that there would be confirmed an average number of circuit court of appeals judges this Congress, which would be 17 or so nominees? Is that still afoot or is that somehow being forgotten? We hear talk that maybe few if any more circuit judges will be confirmed. That is what has caused a great deal of angst on this side of the aisle.

Mr. REID. We committed to do the three judges. We got one done. We will do our best to get two done. But we have been held up doing that as the member of the Judiciary Committee understands. We had to wait for the ABA report to come in again. I don’t know where that stands, but we are moving forward on those, and we are going to try to do our very best to get those done as soon as we can.

Mr. SESSIONS. If the majority leader will yield, that wasn’t precisely my question. The overall question is—and there are quite a number of judges pending, and more should be moved out of committee if there is not a blockage going on. Are we going to reach—is it the majority leader’s intention to reach the average as we thought an understanding existed to do?

Mr. REID. Mr. President, I try to be a very patient man. I know my friend, whom I complimented publicly on the floor, didn’t mean what he said this morning about me.

I am sure if that were brought to his attention, he would ask that to be taken from the RECORD because it is in violation of the rules; basically, that I was clueless. I am sure he did not mean that, but that is what he said. And people said it is a violation of rule XIX.

I say first to my friend from Alabama, he said that. Was it something he did not really mean, that I was clueless? Because that is an insult. I would ask my friend, did you really mean that I was clueless?

Mr. SESSIONS. If I was violating a rule or saying anything to insult the majority leader, I would apologize because I do respect the majority leader. He always treated me fairly, as I think he does most people in the Senate. I think he is so recognized.

But we have a difficult challenge. But my response, the reason I was a little bit aggressive on that was because the majority leader knows that on Monday afternoon in his speech, he was very hard on the Republican leader, Senator MCCONNELL, and he said

some things about him that I thought went too far because I guess we were involved in some big important issues and we are all a little bit tense about that.

Mr. REID. I want to be careful. It is late tonight. I certainly do not want to get involved in any friction. I appreciate what my friend said because even though he and I disagree on a lot of things, I do not know of a Member of the Senate who is more sincere in what he does than the Senator from Alabama.

Mr. MCCONNELL. Can I ask a question, and maybe we can make some progress here? If we can schedule some of these I think completely non-controversial district judges—the chairman of the Judiciary Committee is here. We would like to move the nominations package.

Mr. REID. Let me say to my friend the Republican leader—

Mr. MCCONNELL. We are not talking about clearing the judges in connection with this package, we are talking about scheduling votes, and the man you have to clear it with is right there.

Mr. REID. They are on the calendar. Let me say this one thing to my friend. We have a Judiciary Committee member here. I pride myself in not running my committees. Some leaders have tried to do that; I do not do that. I want to do the best I can in moving circuit court judges, and we have done fairly well in very trying circumstances.

So I say to my friend the Senator from Alabama, I have made a commitment to do three circuit court judges. I will live up to that to the best of my ability. I said prior to the May recess: I cannot guarantee that, but I am going to do my best. I think that it is something Senator LEAHY and I have to move forward on.

I ask my friend and I say to the Republican leader, trust us on this. I said publicly here that we will do something to try to schedule these within the next week. We have a few important things, but that does not take long to do that—an hour, an hour and a half.

I ask my friend the Judiciary Committee chairman whether we can work to try to get some votes scheduled on these three whom I noted in the next week.

Mr. LEAHY. Well, Mr. President, to answer the distinguished leader, as I always assume the Republican leader to do because this has been the practice, certainly as long as he has been in the Senate—perhaps he has forgotten—is that the chairman of these committees sets a time for a vote, and it is almost always, as a matter of courtesy, at least, discussed with the ranking minority member. I realize the hour is late and the Republican leader may have forgotten that. But it has been my practice to always discuss the time of the vote with the ranking member, as he did with me when he was chairman.

To answer the majority leader's question, of course I will be happy to talk with the distinguished ranking member of the committee and find time when they might be scheduled. I might point out, each one of those was expedited.

I would ask two brief questions—and then I will leave—of the distinguished majority leader. Was he aware that, when talking statistics, I committed not to follow the precedent of the Republicans when President Clinton was the President, their precedent of pocket filibustering over 60 of President Clinton's nominees? Was the distinguished majority leader aware that I will not follow that precedent and we will not pocket filibuster 60 or anywhere near that?

Mr. REID. I would answer my friend in addition to that, the Thurmond Rule is after June 1. There is no Thurmond Rule, is there?

Mr. LEAHY. He is right.

I ask the leader one last question on why I mentioned the Washington Times story about the motivation for this. Was he aware that one of the circuit court nominees whom we held up for a number of appropriate reasons—that even after that nominee was convicted of criminal fraud that occurred while his nomination was pending, we were still criticized for holding up that nominee? It is kind of you are damned if you do and damned if you don't.

Mr. REID. I say, we will get this done.

Mr. MCCONNELL. I think we are close to an understanding here that allows us to clear this nominations package. You have your chairman here, and I am authorized to speak for the ranking member on this issue.

Did the majority leader say, in consultation with his chairman, that we could expect to schedule these votes within the next week or so on these noncontroversial district court judges?

Mr. REID. That is what I said.

Mr. MCCONNELL. Then I think we have reached an understanding that would certainly lead me to think we ought to go forward with the nominations package you have been working on with the administration.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 376, 405, 462, 571, 572, 573, 575–581, 583–591, 593, 595–598, 600–601, except BG Thomas Lawing; 602–611, except CPT Donald E. Gaddis; 612–623; that the Banking Committee be discharged of the nomination of Steven C. Preston to be Secretary of HUD, PN1646; that the following be discharged from the HELP Committee; Institute of Peace: Stephen Krasner, PN1450; Dr. Ikram Khan, PN1449; J. Robinson West, PN1447; Nancy Zirkin, PN1446; and Kerry Kennedy, PN1448.

Corporation for National and Community Service: Eric Tannenblatt,

PN1033; Layshae Ward, PN1322; and Hyepin Christine Im, PN1321; the nominations on the Secretary's Desk in the Air Force, Army, Foreign Service, and Navy; that the nominations be confirmed, en bloc, the motions to reconsider be laid upon the table, en bloc, that no further motions be in order; provided further that the President be immediately notified of the Senate's action and the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Can I have a brief quorum call?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, difficult day. Tomorrow is not going to be that easy either. We are almost into the morrow, in another minute or so. Hopefully, tomorrow will be less contentious. There are some difficult things we have to work through tomorrow. But hopefully we will get the farm bill passed again, we will have some good debate on global warming.

Everyone knows I have moved to the Energy bill to see what is with that. I would hope we can move forward—we have 3 more weeks left in this work period—and get some things done. We have some extremely important things to get done, not only the global warming thing, we have the bill that the Democrats and Republicans want to do extending a number of tax extensions which has to be done. Part of it includes things related to global warming and renewable energy. We have a doctor's Medicare fix and some other things that are extremely important we have to do this work period. Senators SHELBY and DODD have worked out an agreement on housing and reported it out of the Banking Committee on a 9-to-2 vote. So I would hope we can move forward. I am disappointed in today. But I have learned, being in the Senate, to put today behind you and move on to tomorrow.

The PRESIDING OFFICER. There is a unanimous consent request on the floor. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

UNITED STATES POSTAL SERVICE

Ellen C. Williams, of Kentucky, to be a Governor of the United States Postal Service for a term expiring December 8, 2014.

DEPARTMENT OF STATE

James K. Glassman, of Connecticut, to be Under Secretary of State for Public Diplomacy with the rank of Ambassador.

POSTAL REGULATORY COMMISSION

Nanci E. Langley, of Virginia, to be a Commissioner of the Postal Regulatory Commission for a term expiring November 22, 2012.