

doubt, but apparently not those of President Obama. Their mantra when there was a Republican President nominating Republican activists was that they would be able to put aside those views or that they were merely doing their job or representing a client. Apparently that leeway only applies to Republican nominees.

I commend those Republican Senators who bucked their party to vote in favor of this fine young woman and well-qualified nominee.

I strongly supported the confirmation of Judge Demeo and regret that it has taken nearly a year for her nomination to receive an up-or-down vote in the Senate. I congratulate her on her confirmation to the Superior Court and have every confidence she will be a fair and thoughtful judge.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid on the table. The President will be immediately notified of the Senate's action, and the cloture motion on the nomination is withdrawn.

The Senator from North Dakota.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. DORGAN. Mr. President, I indicated yesterday, when I asked unanimous consent on a nomination, that I would be back on the floor today at 4:30. So following this vote I wanted to come to the floor to once again ask unanimous consent. I told my colleague from Louisiana, Senator VITTER, that I was going to do this. I told him last week when I came to speak about this. I said I don't, under any conditions, come to the floor of the Senate wanting to be critical of another Senator. That is not something I enjoy doing. In this case, I explained to Senator VITTER that I was going to be critical of something he has done and I felt it appropriate and as a matter of courtesy I should tell my colleague from Louisiana what I was going to do.

Let me describe the circumstance. It bothers me a lot. I am pretty unhappy about it and so should all of my colleagues be unhappy. There is a man named GEN Michael Walsh, a soldier who served this country for 30 years. He served in wartime. I know him, know him fairly well. I am not related to him. I don't have anything other than a professional relationship because I have seen his work in the U.S. Army Corps of Engineers. He is an extraordinary guy.

He was recommended unanimously by the Armed Services Committee, Senator LEVIN and Senator MCCAIN and the unanimous vote of the Armed Services Committee, to be promoted from a one-star general to a two-star major general. That was last year.

It has dragged on now for nearly 6 months and this soldier has not been promoted because the nomination to promote him, which came from the Armed Services Committee unanimously, has been held up by one Senator. That is Senator VITTER from Louisiana.

I understand that Senator VITTER is holding this nomination up all of these months because he is demanding certain things from the Corps of Engineers for his home State.

Regrettably, it represents a list of things, for the most part, that the Corps of Engineers cannot do—they don't have the legal authority to do, they don't have the funding, they don't have the authorization to do. In any event, the general we are talking about, General Walsh, doesn't make policy for the corps on whether to do these things, even if they have the authority. He does policy. That is what the job of this general is. He is the commander of the Mississippi Valley Division of the Corps of Engineers. He spent a tour in Iraq for this country. He has done a lot of work not only in a war zone but all around the country, has a distinguished 30-year career. Yet despite the fact that last October, he was to have been promoted to major general, this soldier's professional life is on hold because of the actions of one Senator.

I say to my colleague from Louisiana, this is fundamentally unfair to General Walsh. It is fundamentally unfair. It is not the way we should treat soldiers. The demands that are being made of the Corps of Engineers are demands the corps cannot meet. I put the exchange of letters in the CONGRESSIONAL RECORD. There are two letters from my colleague, Senator VITTER, and two responses from the Corps of Engineers. They make it clear that the Senator from Louisiana is asking something the corps cannot possibly do. He has made six or eight requests. I believe the corps has indicated they will proceed on two of them because they do have the authority. The others they cannot because they are not authorized. They don't have money, and they don't have the legal capability.

This is 1 out of 100 nominations that is being held up, 1 out of 100 on the Executive Calendar. This person is someone I know, a one-star general who deserves to be a two-star general. That is what Senator MCCAIN and Senator LEVIN believe. Unanimously, the Armed Services Committee reported this out last September. This soldier's career is on hold because one Senator is demanding of the corps something the corps cannot and will not be able to do. It does not have the legal authority and does not have the funding and does not have the authorization to do it.

I am here to make a unanimous consent request again. I ask of my colleague from Louisiana if at long last he might allow this nomination to proceed. This general should not be a one-star general. He should have, last September, been a two-star general because unanimously the Armed Services Committee believed he was owed that and deserved that promotion in rank. Months and months and months and months later, this general has had his career stalled by the actions of one Senator.

My hope is that today perhaps that Senator will tell us he will lift that hold and that we will be able to give the second star to General Walsh, a patriot, a soldier, someone who served this country in wartime and does not deserve what has happened to him in the Senate.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Michigan.

Mr. LEVIN. Madam President, let me join my colleague from North Dakota in making a plea to the Senator from Louisiana. As the Senator from Louisiana knows, I am chairman of the Armed Services Committee. Our committee operates on a bipartisan basis. I see one other member of the committee sitting on the floor; in fact, two other committee members are on the floor, including the Presiding Officer. I know they would confirm what I am saying. We should keep our uniformed military officers out of any kind of political crossfire. They don't make these decisions. They put on the uniform of the United States. They give their lives. Their families support them. The least we can do is give them bipartisan support. We do that on this committee.

This nomination was approved and put on the calendar on October 27. This is a document we call the Executive Calendar of the Senate. It is printed every day. This general has been sitting here now, MG Michael J. Walsh, since October 27. The Senator from Louisiana has expressed himself to the Corps of Engineers. He has made his arguments. This general cannot do what the Senator from Louisiana is asking for. No. 1, he can't do it because the corps has told the Senator they don't have the authority to do what he wants them to do in terms of these three projects. In any event, this general does not have the authority within the corps to make these kinds of decisions, even if the corps had the authority to approve these projects.

As chairman of the committee, I know I am speaking not only for myself, I am speaking for every member of the committee who has voted for this general's nomination. I know I am speaking for Senator MCCAIN, who has told me specifically that I can invoke his name in support of a plea to the Senator from Louisiana to no longer hold this nomination. It cannot achieve what the Senator from Louisiana wants to achieve. It is a terrible message to the men and women in uniform that a nomination such as this is obstructed because there is a request from one Senator for some projects for his State which the corps cannot approve, according to the letter which the corps has sent to the Senator from Louisiana.

I join my friend from North Dakota. On behalf of the Armed Services Committee, I make this plea. I spoke to the Senator from Louisiana a number of months ago. He indicated to me that he just needed a few more weeks. He thought he could straighten this out in a few more weeks. A couple months

have now passed since that conversation. I would make this plea as chairman of the Armed Services Committee, but I know, representing the unanimous view of the committee, that this man, this soldier, this general should not have his promotion held up for these kinds of reasons or any kind of reason, as far as I am concerned, but surely not a reason where he himself is personally involved. Once in a while we will disagree with a nomination, including of a uniformed officer, where we have problems with that uniformed officer's activities, something they may have done that we disapprove of—rarely, but it happens. But in this case, this has nothing to do with this officer. The objection or the effort of the Senator from Louisiana has nothing to do with this officer. It is not this officer who is blocking anything the Senator from Louisiana wants.

I join this plea the Senator from North Dakota has made. I know he will be making a unanimous consent request. I will be joining in that request when he makes it.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I do object. General Walsh today, before any promotion, is one of nine leading officers of the U.S. Army Corps of Engineers. He is part of that leadership. I am happy my two colleagues are satisfied with his leadership and the corps' leadership and how that agency is being run. I can tell them, as a Senator from Louisiana, I am absolutely not satisfied with their leadership and how that agency is being run at all.

Since Hurricane Katrina, there were 14 major report deadlines put on the Corps of Engineers, required of the corps. The corps missed all 14 of those major deadlines. Today, as we speak, the corps is still actively missing and has failed to respond to 13 of the 14, having accomplished 1 many months late.

I have brought nine significant issues before the Corps of Engineers in conversations with them, not minor projects, major issues with regard to hurricane recovery and hurricane and flood protection. I have outlined the authority they have to do constructive things under each of those categories. They have not responded in a positive or timely way on eight of those nine issues.

One of those issues is a particularly good example. That is the Morganza to the gulf hurricane protection project. That is a vital hurricane protection project that would protect significant portions of south Louisiana that was originally proposed in 1992. The Senators want to talk about authority from Congress. That project has been authorized by Congress three different times in three different water resources bills. Yet the corps continues to drag its feet and is still not moving forward toward full implementation of that project, after three specific authorizations by Congress, 18 years later.

I am sorry the corps leadership is frustrated with an 18-day delay or an 18-week delay. But I suggest they try 18 years on for size. That is how long the people of Lafourche and Terrebonne Parishes, many folks throughout Louisiana, have been waiting on the Corps of Engineers.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, let me say to my colleague from Louisiana, if he will stay in the Chamber—let the record note he has left the Chamber—there is no State, none that has received more help more consistently from this Chamber, from the American people, and, yes, from the Corps of Engineers in the aftermath of Hurricane Katrina. That State and the city of New Orleans were leveled. It was an unbelievable catastrophe for the Senator's State and for his city. But after billions and billions and billions of dollars that has come from this Congress and, yes, from my subcommittee, the subcommittee on appropriations I chair, I think it would be nice for a change to hear that maybe the Corps of Engineers, the Senate, and the American people have been a great help to New Orleans and to Louisiana.

Let me describe what my colleague just said on the floor, why this is such an unbelievable mistake for him to make. He says, just to pick an example: Well, the Morganza to the gulf issue is a perfect example of how the corps simply will not do what it is supposed to do. It has been authorized three times, he says, on and on.

Let me read what the Corps of Engineers says and let me tell my colleagues what I know as an appropriator. The Corps of Engineers is not authorized to construct the Houma lock, which is what he wants in this Morganza to the gulf—the Houma lock, as an independent, freestanding project—or separable elements of the Morganza to the gulf project. An additional authorization will have to be required to construct the Morganza to the gulf project in accordance with the new design criteria.

My colleague might not like that. I understand that. There are a whole lot of things he doesn't like. But it is a fact. He cannot possibly go to sleep believing that holding up the promotion of a soldier who has gone to war for his country because of something that soldier can't do that he demands be done, he cannot possibly sleep easy believing that is the right course of action. It is not the right course of action. This is but 1 of 100 names on the Executive Calendar to date, 100. This was put on the calendar nearly 6 months ago for a general who has an unblemished record, has served America for 30 years, gone to war for this country, and was told by the Armed Services Committee, Republicans and Democrats unanimously by Senator LEVIN and Senator MCCAIN: You deserve a promotion to the second star as a major general. But

6 months later, this is not a major general.

This soldier has lost his promotion for the last 6 months because of one Senator saying: I am going to use this soldier as a pawn in my concerns and demands about the Corps of Engineers.

I could go through the rest of these demands. In fact, let me go through a couple, if I might. Outfall canals and pump to the river. He is making demands about that. Let me tell you about that. We had a vote on this. He lost. He doesn't like it. The Appropriations Committee, the full committee, voted and he lost. Why did he lose? Because what he wants to do is the most costly approach that will provide less flood protection for New Orleans. So you want to spend more money for less protection? No, the Appropriations Committee voted on that. I led the opposition. The appropriations subcommittee voted no. He is demanding holding up, by the way, the promotion for this major general. He is demanding it be done. The Corps of Engineers says if Congress appropriates the funds for this study, we will do it. But there are no funds appropriated.

Why? Because we voted against it. That is why. Unbelievable. And the list goes on. Ouachita River levees. The authorization for this project specifies that the levee maintenance is a non-federal responsibility. Congress has not enacted a general provision of law that would supplant this nonfederal responsibility or that would allow the Corps to correct levee damages that are not associated with flood events.

That is just two. I mentioned three with Morganza. The fact is, we have a circumstance here where a soldier deserves a promotion, and that promotion is being held up because we have a Senator who is demanding things the Corps of Engineers cannot do. That is unbelievable to me. I do not come here very often getting angry about what a colleague does. Everybody here has their own desk. Everybody comes here with their own election and their own support. But I am saying this to you: These demands and using a soldier's promotion as a pawn in demands of the Corps that the Corps cannot do is just fundamentally wrong, and I do not know how someone can sleep doing it.

Madam President, I have not yet made the consent request. I would alert my—

Mrs. MCCASKILL. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield. But I do intend to make a unanimous consent request. I have not made it. So I would alert the folks who are here that I will be doing that momentarily.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. It is my understanding, through the Chair, that there are dozens and dozens of these holds that are secret and nobody knows what demands are being made or why. We do not know.

In this instance, it is my understanding that this Senator has proclaimed publicly why he is holding it. Is my understanding correct about that, I say to the Senator.

Mr. DORGAN. That is correct, I think perhaps boasting about it. He is saying: I have to do this for my State. But there is nothing he can gain for his State because the Corps of Engineers cannot move on these issues. They do not have the authority. They do not have the legal capability. The result is, this soldier, whose promotion he is holding up, meanwhile is wafting in the wind for 6 months and loses his promotion.

Mrs. MCCASKILL. That is the part I want to inquire about. Let's just say hypothetically, if the Army Corps of Engineers succumbed to what the Senator is asking and said: OK, you are going to hold up this brave soldier's promotion that he deserves because you want something for your State—if they did that, would that not be illegal?

Mr. DORGAN. Absolutely.

Mrs. MCCASKILL. So what he is saying is, he is asking the Army Corps of Engineers to do something that is illegal, and if they refuse to do something that is illegal, he is going to refuse to allow a soldier's promotion to go through? Am I actually getting that right?

Mr. DORGAN. I say to the Senator, I believe you have it pretty close to right. As I understand it, the Senator is demanding things of the Corps of Engineers that they do not have the legal authority to do. Until they do them, he is going to hold up the promotion of General Walsh, which I think—it is unbelievable to me that someone would do that.

Mr. LEVIN. If the Senator would yield further?

Mr. DORGAN. I am happy to yield.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Let me read to you from the March 19 letter from the Corps on this issue. The Senator from Louisiana said the example he wanted to use was something called the Morganza project. That is the example. He said, let me just give you one example. Three times, he says, this project has been authorized.

Well, this is what the Corps says relative to Morganza. OK. This is in writing, a letter to Senator VITTER:

The Corps does not have authority to implement the Houma Navigation Lock as an independent project. Section 425 of WRDA 1996 authorized a study of an independent lock, but did not authorize construction. Section 425 in part read . . . "The Secretary shall conduct a study of environmental, flood control, and navigation impacts associated with the construction of a lock structure in the Houma Navigation Canal as an independent feature of the overall damage prevention study being conducted under the Morganza,—

That is his project—

Louisiana, to the Gulf of Mexico feasibility study." The Corps conducted a study in re-

sponse to Section 425, but that study did not recommend construction of an independent Houma Navigation Lock feature due to uncertainties of benefits and concerns over justification of an independent lock structure.

That is their answer. They do not have the authority to do it.

Again, I know the Senator from Missouri is on the committee, so she understands that we act in a bipartisan way. We try to protect and defend and support the uniformed members of the U.S. military. We have unlimited bipartisan support for what they do for us, and this is the response—a hold on a nomination because the Corps will not do something they are not authorized to do?

I think it is so unacceptable, I made this unanimous consent request about 2 months ago. The Senator from Louisiana objected then. He said to give him a few more weeks. He thinks he could work it out. Those few weeks have long gone. So I very much support the effort of the Senator from North Dakota here.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, it is unbelievable to me that we have 100 of these. This is one I am particularly concerned about because I think it misuses a soldier's promotion in pursuit of something that really cannot be done by an agency, and I regret this is happening. This should not happen. And how on Earth are we going to find ways to work together in this place if this is the way we do business?

This makes no sense to me. It is not fair to a soldier. People listening to this would understand somebody demanding that an agency do something it cannot do in exchange for releasing a hold on a soldier's promotion? Is that what we have come to here? I hope not.

So my intention is to offer a unanimous consent request. My understanding is, someone is—

Mr. LEVIN. If the Senator will yield?

Mr. DORGAN. I am happy to yield.

Mr. LEVIN. I think the Senator from Delaware has a unanimous consent request which has been cleared. I wonder, just to make sure the Senator from Louisiana does have notice—apparently, he has been notified there is going to be a unanimous consent request.

Mr. DORGAN. I would be happy to have the Senator from Delaware do his request. I would say, however, that the Senator from Louisiana was on the floor, and I would have hoped he would have stayed on the floor to object to something that deals with the holdup he has made on this nomination. But apparently he has left the floor.

So let me yield to the Senator from Delaware for his unanimous consent request, and then I will propound a unanimous consent request on the subject just discussed.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Madam President, I thank the Senator from North Dakota.

Madam President, I ask unanimous consent that on Wednesday, April 21, following a period of morning business, the Senate proceed to executive session to consider Executive Calendar No. 699, the nomination of Christopher Schroeder to be an Assistant Attorney General; that there be 3 hours of debate with respect to the nomination; that upon the use or yielding back of time, the Senate proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid upon the table; further, that the cloture motion with respect to the nomination be withdrawn; provided that upon disposition of the Schroeder nomination, the Senate then proceed to Executive Calendar No. 578, the nomination of Thomas Vanaskie to be a U.S. circuit judge for the Third Circuit; that there be 3 hours of debate with respect to the nomination; that upon the use or yielding back of time, the Senate proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid upon the table; that the cloture motion with respect to the nomination be withdrawn; provided further that on Thursday, April 22, following a period of morning business, the Senate proceed to executive session to consider Executive Calendar No. 607, the nomination of Denny Chin to be a U.S. circuit judge for the Second Circuit; that there be 60 minutes for debate with respect to the nomination; that upon the use or yielding back of time, the Senate proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid upon the table; with the cloture motion withdrawn, and the President be immediately notified of the Senate's action with respect to the above-referenced nominations; with all time covered under this agreement equally divided and controlled between Senators LEAHY and SESSIONS or their designees; finally, the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Under the previous order, the cloture motions on the Schroeder, Vanaskie, and Chin nominations are withdrawn.

Mr. KAUFMAN. Madam President, I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. DORGAN. Madam President, I ask unanimous consent that the Senate proceed to Executive Calendar No. 526, the nomination of BG Michael J. Walsh; that the nomination be confirmed and the motion to reconsider be considered made and laid upon the table; that any statements related to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action.