

handful of front-office personnel are leaving Federal employment, which is not at all uncommon when a senior leader leaves an Agency or one comes into an Agency. But a small handful—maybe counted on one hand, maybe two hands. He also said that a few dozen—around 45 or 50—career officers are, in fact, returning to their home Agencies. I think that is a step in the right direction. It is less than 5 percent of the DNI's personnel. I might put a zero after that 5. I might put a 7 in front of that 5 in terms of how many personnel need to go back to their home Agencies.

A second point, if Director Pulte can, in fact, take these steps in the right direction, I think that can benefit Jay Clayton, once he is confirmed. Mr. Clayton will be able to inherit an organization that has already been downsized, and he can hit the ground running on day one to continue that work and to ensure that the DNI is promoting our intelligence community's important work, not hindering it.

A third point, as President Trump has said, Jay Clayton is a patriot, and he will make a great DNI once confirmed. I intend to hold a hearing for Mr. Clayton in the weeks ahead. As the vice chairman knows, it is not just our committee that moved at a very rapid pace to confirm Mr. Clayton to this new post. I want to thank President Trump and the Trump administration for moving at lightning speed as well. The FBI finished its background check in record time. The intelligence community and the Department of Justice helped Mr. Clayton through hundreds of advanced policy questions in record time. Even the President's own White House Counsel's Office completed Mr. Clayton's work in record time.

Of course, the backdoor here is the lapse in authorization for section 702 of the Foreign Intelligence Surveillance Act. The vice chairman and I have worked well together to craft a bill that can get 60 votes in the Senate, 218 or more votes in the House. I wish we could simply pass that bill. I think it is regrettable that Minority Leader SCHUMER and Minority Leader JEFFRIES have linked together reauthorization of section 702 with the confirmation of an official to a position that really has very little to do with section 702 or, for that matter, with operational activities of the intelligence community at large.

So with those observations, I do, in fact, object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Virginia.

Mr. WARNER. Mr. President, just a few closing comments.

The chairman and I are working very well together. I know he has probably taken some heat, so I don't want to say too many good things about him on the floor for working so well together.

I would simply point out the part he left out about Mr. Clayton, when we were trying to move fast and the White

House was moving fast and everything—all the paperwork—was done. We had a scheduled hearing for Mr. Clayton. I was even getting some of our most ferocious opponents to 702 to probably waive some of their objections.

And at the last minute, with no notice to our committee or even to Mr. Clayton, the President pulled his nomination. I have never heard of a President complaining about moving too quickly on one of his nominees.

On the size of the DNI, the chairman and I, we are working together. I even am open to the notion that the office could be obliterated or removed or potentially repurposed somewhere else. Again, that makes sense. But it ought to be done in an orderly fashion. It ought to be done by somebody with national security experience. It ought to be done not in a way where he comes in on the first day—how did he even know whom to fire?

So, again, we will agree to disagree on that, but—boy oh boy—let's do it the right way.

And, again, I do hope—I look forward to asking Mr. Clayton questions. But I know him, and I think he is—I know he respects the Constitution, which is my first question to anybody. And I would point out—and I am absolutely in favor of renewing 702 quickly—the good news, though, is that the communication providers are still working with us; we have not gone dark.

But I agree with the chairman that we need to move as quickly as possible. But everybody has been pretty clear on this: We have to get a real DNI in that office before we get that reauthorization.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. COONS. Mr. President, I ask unanimous consent that I be allowed to speak for 1 minute on the upcoming vote.

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

NOMINATION OF JOHN GEORGE EDWARD MARCK

Mr. COONS. Mr. President, I serve on the Senate Judiciary Committee. I am a proud member of the Delaware bar. I clerked for a Federal court. And in a recent confirmation hearing, I asked four different nominees to serve as Federal district court judges a simple question: What does the 22nd Amendment to the U.S. Constitution provide?

None of them could answer, so I helped them. In summary, it says you can't serve three terms as President. Once elected twice, you may not serve a third term—adopted after Franklin Delano Roosevelt served four terms. Its text and intent are simple and clear.

I questioned all four: Can you tell me whether President Trump can serve a third term, given the language of the 22nd Amendment?

All four refused. They could not find the courage to say: Yes, as a simple matter of fact and constitutional law, on the plain text, President Trump is

in his second term; he cannot serve a third.

Why? Why would anyone fail to answer this simple question? I believe it is because they were terrified, if they did, President Trump would pull their nomination.

No one should be confirmed—no one should be confirmed—to a lifetime judicial appointment who cannot summon the most simple courage to apply the text of the Constitution.

I will vote against all the nominees before us today because of their failure to answer simple textual questions about the meaning and purpose of our Constitution. If you are too afraid of the President to answer whether the 22nd Amendment, by its plain text, means he can't run and win a third time, how will you be an independent judge, and how could you possibly deserve a lifetime appointment?

I urge my colleagues to stand up to this and to insist on an independent Federal judiciary.

With that, I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant executive 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, do hereby move to bring to a close debate on the nomination of, Executive Calendar No. 780, John George Edward Marck, of Texas, to be United States District Judge for the Southern District of Texas.

John Thune, Tim Sheehy, John Barrasso, Ashley B. Moody, James Lankford, Todd Young, Ted Budd, Pete Ricketts, Jon A. Husted, Mike Crapo, Mike Rounds, Tim Scott of South Carolina, Bernie Moreno, John Cornyn, Chuck Grassley, James C. Justice, Eric Schmitt.

The PRESIDING OFFICER. Under the previous order, the mandatory quorum call under rule XXII has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of John George Edward Marck, of Texas, to be United States District Judge for the Southern District of Texas, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. BARRASSO. The following Senator is necessarily absent: the Senator from Kentucky (Mr. MCCONNELL).

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET) and the Senator from California (Mr. SCHIFF) are necessarily absent.

The yeas and nays resulted—yeas 52, nays 45, as follows:

[Rollcall Vote No. 185 Ex.]

YEAS—52

Armstrong	Barrasso	Boozman
Banks	Blackburn	Britt

Budd Hawley Paul
 Capito Hoeven Ricketts
 Cassidy Husted Risch
 Collins Hyde-Smith Rounds
 Cornyn Johnson Schmitt
 Cotton Justice Scott (FL)
 Cramer Kennedy Scott (SC)
 Crapo Lankford Sheehy
 Cruz Lee Sullivan
 Curtis Lummis Thune
 Daines Marshall Tillis
 Ernst McCormick Tuberville
 Fischer Moody Wicker
 Graham Moran Young
 Grassley Moreno
 Hagerty Murkowski

NAYS—45

Alsobrooks Hickenlooper Reed
 Baldwin Hirono Rosen
 Blumenthal Kaine Sanders
 Blunt Rochester Kelly Schatz
 Booker Kim Schumer
 Cantwell King Shaheen
 Coons Klobuchar Slotkin
 Cortez Masto Luján Smith
 Duckworth Markey Van Hollen
 Durbin Merkley Warner
 Fetterman Murphy Warnock
 Gallego Murray Warren
 Gillibrand Ossoff Welch
 Hassan Padilla Whitehouse
 Heinrich Peters Wyden

NOT VOTING—3

Bennet McConnell Schiff

The PRESIDING OFFICER (Mr. RICKETTS). On this vote, the yeas are 52, the nays are 45.

The motion is agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:33 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. BANKS).

EXECUTIVE CALENDAR—Continued

VOTE ON MARCK NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Marck nomination?

Ms. HASSAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. BARRASSO. The following Senator is necessarily absent: the Senator from Kentucky (Mr. MCCONNELL).

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET) and the Senator from California (Mr. SCHIFF) are necessarily absent.

The result was announced—yeas 52, nays 45, as follows:

[Rollcall Vote No. 186 Ex.]

YEAS—52

Armstrong Cassidy Daines
 Banks Collins Ernst
 Barrasso Cornyn Fischer
 Blackburn Cotton Graham
 Boozman Cramer Grassley
 Britt Cramo Hagerty
 Budd Cruz Hawley
 Capito Curtis Hoeven

Husted Moody Scott (SC)
 Hyde-Smith Moran Sheehy
 Johnson Moreno Sullivan
 Justice Murkowski Thune
 Kennedy Paul Tillis
 Lankford Ricketts Tuberville
 Lee Risch Wicker
 Lummis Rounds Young
 Marshall Schmitt
 McCormick Scott (FL)

NAYS—45

Alsobrooks Hickenlooper Reed
 Baldwin Hirono Rosen
 Blumenthal Kaine Sanders
 Blunt Rochester Kelly Schatz
 Booker Kim Schumer
 Cantwell King Shaheen
 Coons Klobuchar Slotkin
 Cortez Masto Luján Smith
 Duckworth Markey Van Hollen
 Durbin Merkley Warner
 Fetterman Murphy Warnock
 Gallego Murray Warren
 Gillibrand Ossoff Welch
 Hassan Padilla Whitehouse
 Heinrich Peters Wyden

NOT VOTING—3

Bennet McConnell Schiff

The nomination was confirmed. The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's actions.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior 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, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 777, Michael J. Hendershot, of Ohio, to be United States District Judge for the Northern District of Ohio.

John Thune, Tim Sheehy, John Barrasso, Ashley B. Moody, James Lankford, Todd Young, Ted Budd, Pete Ricketts, Jon A. Husted, Mike Crapo, Mike Rounds, Tim Scott of South Carolina, Bernie Moreno, John Cornyn, Chuck Grassley, James C. Justice, Eric Schmitt.

The PRESIDING OFFICER. Under the previous order, the mandatory quorum call under rule XXII has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Michael J. Hendershot, of Ohio, to be United States District Judge for the Northern District of Ohio, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. BARRASSO. The following Senator is necessarily absent: the Senator from Kentucky (Mr. MCCONNELL).

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET) and the Senator from California (Mr. SCHIFF) are necessarily absent.

The yeas and nays resulted—yeas 52, nays 45, as follows:

[Rollcall Vote No. 187 Ex.]

YEAS—52

Armstrong Fischer Moreno
 Banks Graham Murkowski
 Barrasso Grassley Paul
 Blackburn Hagerty Ricketts
 Boozman Hawley Risch
 Britt Hoeven Rounds
 Budd Husted Schmitt
 Capito Hyde-Smith Scott (FL)
 Cassidy Johnson Scott (SC)
 Collins Justice Sheehy
 Cornyn Kennedy Sullivan
 Cotton Lankford Thune
 Cramer Lee Tuberville
 Crapo Lummis Tillis
 Cruz Marshall Tuberville
 Curtis McCormick Wicker
 Daines Moody Young
 Ernst Moran

NAYS—45

Alsobrooks Hickenlooper Reed
 Baldwin Hirono Rosen
 Blumenthal Kaine Sanders
 Blunt Rochester Kelly Schatz
 Booker Kim Schumer
 Cantwell King Shaheen
 Coons Klobuchar Slotkin
 Cortez Masto Luján Smith
 Duckworth Markey Van Hollen
 Durbin Merkley Warner
 Fetterman Murphy Warnock
 Gallego Murray Warren
 Gillibrand Ossoff Welch
 Hassan Padilla Whitehouse
 Heinrich Peters Wyden

NOT VOTING—3

Bennet McConnell Schiff

(Mr. MORENO assumed the Chair.) (Mrs. CAPITO assumed the Chair.)

The PRESIDING OFFICER (Mr. MORENO). On this vote, the yeas are 52, the nays are 45.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant executive clerk read the nomination of Michael J. Hendershot, of Ohio, to be United States District Judge for the Northern District of Ohio.

The PRESIDING OFFICER. The Senator from Indiana.

AMERICA²⁵⁰

Mr. BANKS. Mr. President, next week, the country will be celebrating an incredible milestone, the 250th birthday of the United States of America, which is the greatest country founded in the history of the world.

I just wanted to come to the floor today, before we leave for a 2-week recess over the holiday, to talk about what I love most about America.

Two hundred fifty years ago, a group of brave men and women risked life and limb in pursuit of the American experiment, and 13 small Colonies of farmers, merchants, tradesmen, and families of different religions and classes declared what was then a radical idea, that "all men are created equal, endowed by their Creator, with certain unalienable Rights."

Together, this small group of people took on a mighty empire, and they won. In doing so, they changed the course of history.