

The assistant legislative clerk read as follows:

A bill (S. 2006) to clarify the intent of Congress with respect to the Federal carjacking prohibition.

A bill (S. 2007) to clarify the intent of Congress with respect to the Federal carjacking prohibition.

A bill (H.R. 2391) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for all employees.

Mr. LOTT. Mr. President, I object to further consideration at this time.

The PRESIDING OFFICER. Objection is heard. The bills will be placed on the calendar.

The PRESIDING OFFICER. The majority leader.

#### THE SENATE'S SCHEDULE

Mr. LOTT. Mr. President, I know that Senators are waiting to see what might be the schedule for the remainder of the evening. There are a number of discussions underway now on a number of issues that we would like to get completed before we leave this week-end.

I want to say again tonight, as I did this morning, I really think that the last 2 days have involved a lot of tremendous legislative good work by Members on both sides of the aisle. I do not ever recall having ever seen as many bipartisan conferences in as many places at one time as yesterday.

Yesterday morning, I really didn't think it would be possible to reach an agreement on the conference report on health insurance reform, on safe drinking water, and, of course, we already reached agreement on welfare reform, and before the night was out, even the small business tax relief package and minimum wage. It looks like there will be an agreement also on illegal immigration.

I don't know exactly when all of those will move, but it is my fervent hope that all that work will not be for naught before we leave. We would like to be able to bring up some appropriations conference reports that have been completed. The legislative appropriations conference report is ready. We hope to be able to get to the military construction appropriations conference report, if not tonight, tomorrow.

That probably will require a vote, since we didn't vote on it when it went through earlier, and the District of Columbia appropriations conference report will also probably require a vote.

We would like to do those either tonight or in the morning. And we would like to also get the conference reports that have been agreed to: the health insurance conference report, the safe drinking water conference report, the small business tax relief package with minimum wage, and if there are other conference reports that could become available later on. The Department of Defense authorization conference report is available, too.

So we have several conference reports that we could get done tonight or

tomorrow with just a little cooperation. There are some nominations that we think we can move forward. We have been working on those today. I think we can get some of those moved. So it is my hope that we could get those done.

Also, I would want to move to the HUD-VA appropriations bill. I know the chairman is here, Senator BOND, who has been very patiently waiting his appropriations opportunity. The Senator from Maryland is here ready to go. So if we could have a few unanimous-consent requests and work through those, then we would try to go to the HUD-VA appropriations bill.

I just want to make the Members aware of that. We need to have some additional discussions here in the next few minutes. If we could come to some agreements, then we should be able to notify the Members within 30 minutes what they can expect for the remainder of the evening and whether or not there would be any recorded votes tonight.

I would be prepared to yield the floor and observe the absence of a quorum, Mr. President, where we could work on a couple issues, and we would let the Members know as soon as possible thereafter. I yield the floor, Mr. President, and 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. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LOTT. Mr. President, I do not believe we have been able to come to a satisfactory resolution of some of our concerns that Senators have on both sides of the aisle. We have had a very productive week and a good day. It is already 20 until 9. I know several Senators have had other things on their minds today, so I do not see any sense in pressing the point too far tonight.

I do feel constrained to ask for at least two unanimous-consent requests. We will see what happens. Then, depending on that, we will be able to make some further announcement.

#### UNANIMOUS-CONSENT REQUEST— CONFERENCE REPORT TO AC- COMPANY H.R. 3754

Mr. LOTT. Mr. President, with regard to the legislative branch appropriations conference report, I ask unanimous consent that the Senate now turn to the conference report to accompany H.R. 3754, the legislative branch appropriations bill, that the conference report be considered as having been read and agreed to, and the motion to reconsider be laid upon the table.

Mr. WELLSTONE. Mr. President, reserving the right to object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. You did object? All right.

Mr. President, we have been hoping to go to the HUD-VA appropriations bill for over a week now, but because we were assured on various bills that they would take just a short period of time, we have been able to move through eight appropriations bills. I appreciate the success we have had with that. But this is the one that we need to go to and get done so that we do not have to have a Saturday session. It is my intent to complete this bill even if it does involve going to a Saturday session.

It would be nice if we could put that down tonight so that the chairman and the ranking member could get some work done. But we can do that tomorrow, and then we can finish up or we can work on that on Saturday. It is already in my mind that we are going to be here Saturday. So I have been feeling all day that this is really kind of Wednesday, and so tomorrow is only Thursday by my body clock.

#### UNANIMOUS-CONSENT REQUEST— H.R. 3666

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the HUD-VA appropriations bill, H.R. 3666.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object, and the majority leader has been working in very good faith. I appreciate it.

I just let my colleagues know that this is not my first choice, but month after month after month I have been very patient. The last several weeks I have been very patient. I think the majority leader would be the first person to say I have worked through the process.

We have a very gifted judge, Hennepin County Judge Ann Montgomery. I thought there was a clear agreement that she would be cleared last night. That did not happen. It is not my choice that somebody objected. I have heard no substantive reasons given to that objection, and that is why I object to moving forward.

I am going to fight very hard for Ann Montgomery because she is an immensely talented, gifted judge, with broad support in Minnesota, broad support in the legal community. What has been going on here is just or fair to her. That is why I object.

Mr. LOTT. Mr. President, if I could respond, first, let me announce that was the last vote tonight. There will be no further votes tonight. We will begin tomorrow morning at 10:30 on Friday morning.

I think all the Members know I have been trying to work through these judges. We have, I think, cleared 16 judges from across the country. Some of them had some problems. We were able to look into those problems, and

Senators have spent time working through those lists. That is how we have been able to move 16 of them. We are working on another one right now. I think maybe it will be cleared.

Let me emphasize this: Judges quite often are somewhat controversial. Senators have different views on that. Senators have a right to express themselves on it. The time may come when we will have to move some of these judges. My approach is always to see what the problems are and see if we can work through them. We will keep working on this one. I am hoping maybe tomorrow we can satisfy concerns.

Sometimes what happens with these, it is not just the judge, but it gets involved with other issues, other legislative issues, and you have to deal with those problems before you can deal with the next problem.

We worked on that. I think we made real progress. The Senate, I think, would have to acknowledge that I have worked steadily at it. I think we have approved an average of at least one a day for the last 3 weeks.

Mr. NICKLES. Will the Senator yield?

Mr. LOTT. I am happy to yield to the Senator.

Mr. NICKLES. I have been here a little while, and I cannot remember anybody objecting to moving to an appropriations bill because they did not get a judge confirmed.

I will give one example. I remember we had a judge in Oklahoma that I was trying to get confirmed in 1992 and the Democrats were in control of the Senate. George Mitchell was the majority leader. I kept trying to get the judge moved, the nomination moved. The nominee was Frank Keating. There was no opponent, but we kept having a hold. To make the story short, we never could get his nomination placed before the Senate. He would have been an outstanding judge. There was kind of a roving hold on it, primarily inspired by my good friend and colleague from Ohio, Senator Metzenbaum, who is no longer with us.

The point being, we had an outstanding person, but we did not hold up any appropriations bill. We did fuss about it, and we groaned about it, and maybe griped about it, but I want to thank Senator Metzenbaum for putting a hold on Frank Keating because he is now the Governor of Oklahoma.

Judges have been held for different reasons, maybe good reasons, maybe bad reasons, but a lot of times it happens. However, I am not familiar with the holding of major pieces of legislation, particularly appropriations bills, hostage. I hope we are able to work through this and do our bills. We know we have to do the appropriations bills, and I am hopeful we will be able to move forward.

I congratulate the majority leader and the minority leader. I think this week has been a very constructive week. The welfare bill that just passed

is certainly historic, and the legislation that we will have before the Senate tomorrow dealing with health care, dealing with small business tax relief, is also very important. I hope we will be able to complete that as well.

Mr. LOTT. I yield to the distinguished chairman of the HUD, VA Appropriations Subcommittee, if he would like to make a comment.

Mr. BOND. Mr. President, I appreciate very much the efforts of the majority leader. I assure you that the ranking member, Senator MIKULSKI, and I have worked long and hard with many Members to accommodate the interests Members have. We were prepared to negotiate time agreements so we could move this expeditiously.

The matters involved in this bill include the funding for the Veterans Administration, the funding for the Housing and Urban Development, funding for EPA—there seems to be a great deal of concern about drinking water facilities; those funds are appropriated in this bill—Environmental Protection Agency, NASA, National Science Foundation. It had been our hope that by working with and being responsive to the concerns of Members on both sides of the aisle, with respect to what is, frankly, a very complicated bill, that we could wrap this up so we would not have to impinge upon any Saturday or Sunday activities that our colleagues may have.

Mr. President, that is why I am deeply disappointed. The ranking member and I have been ready since last Wednesday to go forward on this bill. It is a complicated bill. I had hoped we would be able to go tonight. I am very disappointed, personally, and for the agencies and the people working with us.

Let me say at this point that we have worked together prior to the bill coming to the floor. The ranking member and I have agreed that we can accept a significant number of amendments that have been presented to our staff. If there are other amendments, we ask Senators to bring them to us or to our staffs tonight so we may determine if we can accept them or work with the Members to gain accommodation on them.

I have approved, as has my colleague, a number of colloquies that will be ready to go if we are able to move to this bill tomorrow. I think there are perhaps three or four issues which would require a vote, and we would like to work with the leadership and get short-time agreements on these votes, reserving everybody the right to submit additional comments for the RECORD so we can handle this in an expeditious manner. We understand how controversial the issues can be. We think we can deal with it in a timely fashion.

I ask that people who do have amendments, questions, colloquies, please contact us tonight and perhaps we can move expeditiously tomorrow.

I share the leader's disappointment that we are not able to do this tonight.

With cooperation in bringing the amendments to us tonight, perhaps we can deal with the issues in a timely fashion tomorrow.

I thank the majority leader, and I thank the Chair.

Mr. WELLSTONE. I will take just 1 minute. I know the minority leader wants to speak on this.

Let me just say I heard the word "controversial" used. Judge Ann Montgomery has the support of both Senators from Minnesota. She has the broadest possible support in the legal community, the highest possible marks from the ABA. She is imminently qualified.

I would be more than pleased for someone to move this. I do not ask for unanimous consent, although I think that is the best way to do it. I would be willing to debate this nominee with anybody.

Just to be very clear, as far as the delay, I was not the one that put the hold on Judge Montgomery. I am not the one that has objected to moving forward. Other Senators have. I am just doing what any Senator would do from any State, which is that I am fighting hard for a woman who richly deserves to be Federal district judge. There is no reason in the world why anybody should be trying to stop this. This woman came out of committee back in March. She has been waiting and waiting and waiting, and I have patiently worked through the process.

I am absolutely convinced the majority leader is working in good faith, and I look forward to working this out tomorrow. I apologize to my colleague from Missouri, who is a friend whom I respect. I am not the one that has delayed this.

Mr. DASCHLE. Mr. President, we don't need to rehash all the history on this. I think it is fair to say that there has been a tremendous amount of cooperation this month. I pledged my efforts to the new majority leader when he became leader and indicated that I wanted to work with him. I think that fact has now been well-documented. The distinguished Senator from New Hampshire was in the chair last night, and I applaud him for his willingness to preside at late hours. As he was presiding last night, it seems to me that the cooperation stopped.

Before last night, we had another indication of the degree to which we were going to work on both sides to move things along, with the clear understanding on both sides that we had to finish the executive calendar on judge-ships this month. The distinguished majority leader said that he would try to help us get that done. I said I would try to work with you to accommodate all of the specific pieces of legislation that need to be addressed so long as we can continue to work in good faith toward those ends. Last night, it stopped.

So, Mr. President, we have no choice but to continue to find a way with which to resolve this impasse. We need to finish the four circuit court judges,

plus the other district judges that remain on the executive calendar this week.

The distinguished Senator from Oklahoma made a good point that there have been holds in the past on individual judges. I will not deny that. But I think it is important that we emphasize that, in 1992, under similar circumstances, the majority at that time, the Democratic majority, confirmed 66 district and circuit judges. On July 1 of this year, not one, zero judges had been confirmed. Now we have confirmed, I believe, 16. So we are making progress. But we can't be expected to allow the balance that we had agreed to to be disrupted. If we can continue to find ways to cooperate and work together, all of the pieces of legislation that the distinguished majority leader mentioned, I think, are possible. Realistically, I don't think we are going to be able to do the VA-HUD bill this week, but I do believe that all of the conference reports and things that the majority leader mentioned are things we ought to be able to work together to achieve before we recess. But we have to get those judges done, as we earlier agreed to do. If we can do the judges, we can do the legislation. That balance is something that I think we have made very clear from the beginning. I hope we can work together to make that happen.

I yield the floor.

#### JUDICIAL NOMINATIONS

Mr. LEVIN. Mr. President, I wonder if the majority leader would help us out a bit with this question. It was my understanding that, early in July, the majority leader had indicated an intention to work through all of the judges on the calendar, and that if there was an objection, the objection would be required to be stated, and then the majority leader would attempt to move to the confirmation of each of the judges on this calendar. I am particularly interested in a court of appeals judge, Eric Clay, from Michigan, who has the support of both Senators from Michigan. I know the majority leader has spoken to my colleague, Senator ABRAHAM, and me about Mr. Clay.

My question is this: Is it still the hope of the majority leader to call each of the names of the judges that are on the calendar and see if there is an objection, and if there is, to move to the confirmation of each of the circuit court judges, as well as district court judges, on this calendar? Is that still the intention of the majority leader before we recess?

Mr. LOTT. It is my intent to continue to try to work through these matters. I never indicated, in any way, that I could guarantee that we would get them all done. There are objections to some of them, and multiple objections to some of them. But I will continue to work on them one at a time, because you can't work six or seven at a time. It has worked pretty well. And

I am working on that one. I have talked to the other Senator from Michigan, Senator ABRAHAM, about this judge. We are looking into what might be the problems and what might be done. Let me say this. Circuit judges are viewed very differently than district judges for a lot of reasons, and we can discuss that some other night. But that is not to say that we will not continue to work on it.

Mrs. BOXER. Will the Senator from Michigan yield to me for a question?

Mr. LEVIN. Yes. I yield the floor.

Mrs. BOXER. I really want to thank the majority leader for doing all this. I want to make the point to the Senator from Texas, and others who have problems with this, that you are talking about real people when you stand here late at night and object. Sometimes we forget that. I think Senator WELLSTONE was very real last night when he came back and he was on the phone ready to tell this particular nominee that all was well.

I happen to know two judges on that list from California. Their lives are on hold. They are human beings, just as we are. Many have been waiting for months and months. I say to the majority leader, please, do all you can, because pretty soon we are going to come down here with photographs of the families that are in limbo. They don't know. Some of them are closing other practices up. It is a hardship on the families. These are wonderful people. These are people who came out of those committees, many of them without one objection. These are people who have support of both Senators, in many cases, Republican and Democrat alike. So we really changed course here when many of us understood it was going to go a certain way. It is very hard, I think, on the people whose lives are affected, their children and their spouses.

So I hope we can work together for the good of, frankly, these people and their families and the criminal justice system. I don't think it does any good to have these judgeships vacant. Justice needs to be done, and it is hard to serve it when you don't have the judgeships filled.

I yield the floor.

Mr. LOTT. Mr. President, I am going to have to respond to some of that. There are real people, also, whose lives would be affected by these appointments. These are not administration appointees who will serve at the pleasure of the President for a year or 4 years. These are lifetime appointments to the Federal judiciary, and it is very important who these people are—

Mrs. BOXER. Yes, it is.

Mr. LOTT. And how they are going to rule. We should look not only at their education, background, and qualifications, but also—particularly when it comes to circuit judges—what is their philosophy with regard to the judiciary and how they may be ruling. We have a legitimate responsibility to ask those questions. I have to tell you, we have all been through this. I have had a cou-

ple of judges that I have been interested in, one from the Fifth Circuit Court of Appeals. He is a great guy, a great lawyer, Harvard educated, with all the credentials. He did not make it in 1992. That is the way it goes. Some people did not like him because he was a very conservative lawyer. I think the philosophy does make a difference when it comes to the circuit.

I want to emphasize here that, when we start painting this mosaic about this person and the family going to be affected, we have a right to think about all the families whose lives will be affected by some of the ridiculous decisions we see in the Federal judiciary, and the activism where they start writing laws, which is our job. I never intended to infer, in any way, or imply that I could guarantee that all these would be done or that I would even vote for all of them. All I said was that I would work through this list and I would try, because I didn't know any of them, not a single one of them, when I started out.

I started down the list, at the direction of my predecessor, I got to know some of them and worked through them. I tried to move four en bloc one night, and because we did not have all of them on the list, it was objected to by a Senator. I thought we had worked it out. Later, I tried to move the same four judges again that nobody objected to, except when I brought it to the floor, a Democratic Senator objected because his judge was not on the list. And then the majority leader left, and I said, well, maybe I can work through more of them. I got it up to nine judges. One night, I came to the floor and we had 10 that had cleared on the hotline. I even talked to a couple Senators as they hit the ground at the airport trying to get them done. At the last minute, one of those dropped by the wayside. I tried nine judges, and I had an objection from a Democrat when I was trying to clear nine judges. I think at least five or six of those were supported by Democrats. So I said, OK, that hasn't worked. In an abundance of good faith, I said I will do them one-by-one.

I brought up one. It was objected to. But then I started working it with the minority leader. He started working it with his people. And then we started to move with the ones that were really not controversial. We got four or five done. Then we got five more done. And I think it is 15 or 16—16 that we are working through the process.

I really must say that the minority leader was fair in his remarks of how we talked about it. We work together on it. We will just keep moving through the process.

But again these are not insignificant. These are big-time, lifetime, high-paid jobs that are going to affect our lives, and, if we do not know who they are, if we do not ask questions, then we will be shirking our responsibilities.

But we will continue working on these judges. Just like the Senator