

particularly the preemption with regard to the cosmetics, and the protection of the consumers on those issues, which I think is a travesty in protecting the American families, and primarily the American women, I am going to object to the elimination and vitiation of the cloture motion.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. In view of what I just heard the Senator say—he is right, that is the regular order. Of course, it is common practice, if you work things out you vitiate the necessity for a cloture vote. But, yes, I knew exactly what I was doing. And what I was doing was trying to carry out the will of the Senate, and not allow one Senator to any further delay the discussion of the merits of FDA reform.

In view of what the Senator said, I revise my unanimous-consent request to comply with what I thought I heard the Senator saying, the same unanimous-consent request all the way down the line, except that we would have the cloture vote in the morning at 9:45.

Would there be objection to that?

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I personally do not believe I would object to it, I say to the Senator. I do not know whether the amendments that have been included—I have not seen the list. I have had some amendments.

Mr. LOTT. It has been cleared—

Mr. KENNEDY. I have been given assurance by the staff—Mr. President, I object temporarily until I have a chance to talk to the minority leader.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. I object until I have a chance to talk to him.

Mr. LOTT. In an effort to try to get a reasonable agreement worked out here—I believe our list has been cleared on both sides. I think the Senator from Iowa has had a chance to review it. In the interest of trying to get something worked out here, I would be prepared to take a 5-minute quorum call so we can look over the list and discuss it. If we cannot get that worked out, then I would begin the process of taking up the two judges and voting here in a few minutes.

So in view of the Senator's comments, and the idea that maybe we could get an agreement, I would at this point—

Mr. LEAHY. Will the Senator yield for a question?

Mr. LOTT. Yes. By the way, this unanimous-consent request was worked out over a period of hours. I think it has been cleared on both sides by all Senators with the exception of one. Senator DASCHLE was intimately involved in it. And some of the things in the UC were at his request, including that we only have one vote at 5 o'clock on Monday. So, I mean, everybody cleared it except Senator KENNEDY.

Mr. FORD. Would the majority leader yield?

Mr. LOTT. I would be glad to.

Mr. FORD. Is there any doubt that we will have two votes as it relates to judges following whatever occurs on your unanimous consent request? I think that we need to alert your side and ours.

Mr. LOTT. That was not in the UC.

Mr. FORD. You mentioned you were going to have one.

Mr. LOTT. That is my intent. If we do not have any cooperation on other matters, we would vote.

Mr. LEAHY. If the leader would yield for a question.

Mr. LOTT. Yes.

Mr. LEAHY. Might, while you are trying to work this out, have one of those votes on the judges? We have to do them at some point anyway. Go ahead and do it.

Mr. LOTT. Mr. President, so that everybody will know we are on the verge of having a vote, I think it is in the interest of all of us to take 5 minutes, look at the list, and everybody could be called to notify them we are fixing to begin voting. And if the Senator was not here, we plan to vote on two judges tonight, and hope to get two more perhaps Monday or so.

Mr. FORD. There will be a rollcall vote on this?

Mr. LOTT. I have been requested to get rollcall votes.

Mr. President, 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. While both sides continue to check the amendment list and see if we can get an agreement on the UC, let's start our first recorded vote, that will be out of the way, and perhaps we can get a final agreement.

Mr. FORD. If the majority leader will yield, it is my hope that everyone has been notified that we are going to vote. I hope we would not start until such time as we feel like both sides have been notified.

This side is all right.

#### EXECUTIVE SESSION

#### UNANIMOUS-CONSENT AGREEMENT—NOMINATIONS OF HENRY HAROLD KENNEDY, JR., AND FRANK M. HULL

Mr. LOTT. As in executive session, I ask unanimous consent the Senate proceed to executive session to consider the following nominations on the Executive Calendar, and further the Senate proceed to an immediate vote on each nomination consecutively. I further ask unanimous consent that following the series of votes, and it is two votes on the nominations, the President be

immediately notified of the Senate's action and the Senate then proceed to return to legislative session.

The executive nominations at this time are as follows: Calendar No. 164, Henry Harold Kennedy, Jr. of the District of Columbia, to be U.S. District Judge for the District of Columbia, and Calendar No. 233, Frank M. Hull, of Georgia, to be U.S. Circuit Judge for the Eleventh Circuit.

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

Mr. LOTT. I further ask unanimous consent it now be in order to ask for the yeas and nays on each of these nominations with one show of hands.

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

Mr. LOTT. I now ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

#### NOMINATION OF HENRY HAROLD KENNEDY, JR., OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Henry Harold Kennedy, Jr., to be a U.S. District Judge for the District of Columbia? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska [Mr. MURKOWSKI], the Senator from North Carolina [Mr. HELMS], and the Senator from Rhode Island [Mr. CHAFEE] are necessarily absent.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 218 Ex.]

#### YEAS—96

Abraham	Dorgan	Kyl
Akaka	Durbin	Landrieu
Allard	Enzi	Lautenberg
Ashcroft	Faircloth	Leahy
Baucus	Feingold	Levin
Bennett	Feinstein	Lieberman
Biden	Ford	Lott
Bingaman	Frist	Lugar
Bond	Gorton	Mack
Boxer	Graham	McCain
Breaux	Gramm	McConnell
Brownback	Grams	Mikulski
Bryan	Grassley	Moseley-Braun
Bumpers	Gregg	Moynihan
Burns	Hagel	Murray
Byrd	Harkin	Nickles
Campbell	Hatch	Reed
Cleland	Hollings	Reid
Coats	Hutchinson	Robb
Cochran	Hutchison	Roberts
Collins	Inhofe	Rockefeller
Conrad	Inouye	Roth
Coverdell	Jeffords	Santorum
Craig	Johnson	Sarbanes
D'Amato	Kempthorne	Sessions
Daschle	Kennedy	Shelby
DeWine	Kerrey	Smith (NH)
Dodd	Kerry	Smith (OR)
Domenici	Kohl	Snowe

Specter	Thompson	Warner
Stevens	Thurmond	Wellstone
Thomas	Torricelli	Wyden

NOT VOTING—4

Chafee	Helms
Glenn	Murkowski

The nomination was confirmed.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, for the information of all Senators, the next recorded vote will be the last vote tonight. Unfortunately, we have not been able to work out an agreement that will allow us to vitiate the cloture vote on the FDA reform bill tomorrow morning. So there will be a vote at 9:45. After that, Senator KENNEDY, assuming cloture is invoked, would have 4 hours of debate on FDA reform. We could go back to the Labor-HHS appropriations bill tomorrow for other amendments to be offered, but no further votes, other than the 9:45 vote.

On Monday, we will have FDA debate from 12 until 1. Then we will go to the Labor-HHS at Monday at 1. We will have a vote at 5 o'clock on Monday on either the Nickles amendment or any other amendment that Senators have taken up during the day, or any other pending amendment. I believe the McCain amendment is pending. We will have one vote at 5 o'clock on Monday. And then, on Tuesday, we will have other amendment votes, if there are any pending, at 9:30. We would complete the list we have agreed on, all amendments, and final passage on Labor-HHS sometime Tuesday afternoon, and then we will go to the FDA reform package, but not earlier than 4 o'clock.

I had hoped we could get an agreement that would allow us not to have had a cloture vote in the morning and be able to vitiate that. Senator KENNEDY didn't feel he could agree to that. I hoped that we would not have to have votes on Monday, but we could not get all that worked out. So that is the outline of the UC that I would like to renew. I have discussed this with Senator DASCHLE. The list has been worked over by everybody. So I would like to renew my request with respect to the Labor-HHS appropriations bill that I made earlier and ask consent, if cloture is invoked Friday on the FDA reform package, that there be up to 8 hours divided between Senators JEFFORDS and KENNEDY for debate on S. 830 and an additional 4 hours of debate on Monday, divided in the same fashion, beginning at 11 a.m.

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

Mr. LOTT. I further ask that the Senate proceed to S. 830 following passage of the Labor-HHS appropriations bill, but not earlier than 4 p.m. on Tuesday, September 9.

Mr. WELLSTONE. Reserving the right to object, Mr. President. I want to ask a question. On Labor-HHS, amendments laid down by Monday, are you saying all amendments have to

then be dispensed with and voted on by Tuesday?

Mr. LOTT. By Tuesday afternoon. We don't have an exact time set. But looking at the list of amendments, we believe we can do that by 4 or 5 o'clock Tuesday afternoon.

Mr. WELLSTONE. That is not part of the agreement. I am sorry.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Let me repeat, we have, we believe, a finite list. All amendments have to be offered by the close of business Monday. Look, there is not a lot of really tough stuff on the list. We believe we can finish all amendments, and all amendments would have to have been offered by the close of business Monday. We believe we can be through at a reasonable hour Tuesday afternoon. We are not locking in final passage.

Mr. WELLSTONE. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators, again, there will be one vote at 9:50 on Friday. Any other votes ordered Friday or Monday before 5 will be stacked to occur on Tuesday morning, except for the one vote on Monday afternoon.

I yield the floor, Mr. President, and I ask that we proceed with the regular order.

NOMINATION OF FRANK M. HULL, OF GEORGIA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The PRESIDING OFFICER. The question is, will the Senate advise and consent to the nomination of Frank M. Hull, of Georgia, to be U.S. Circuit Judge for the Eleventh Circuit. The yeas and nays have been ordered.

The clerk will call the roll.  
The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska [Mr. MURKOWSKI], the Senator from North Carolina [Mr. HELMS], and the Senator from Rhode Island [Mr. CHAFEE] are necessarily absent.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 219 Ex.]

YEAS—96

Abraham	Brownback	Coverdell
Akaka	Bryan	Craig
Allard	Bumpers	D'Amato
Ashcroft	Burns	Daschle
Baucus	Byrd	DeWine
Bennett	Campbell	Dodd
Biden	Cleland	Domenici
Bingaman	Coats	Dorgan
Bond	Cochran	Durbin
Boxer	Collins	Enzi
Breaux	Conrad	Faircloth

Feingold	Kennedy	Reid
Feinstein	Kerrey	Robb
Ford	Kerry	Roberts
Frist	Kohl	Rockefeller
Gorton	Kyl	Roth
Graham	Landrieu	Santorum
Gramm	Lautenberg	Sarbanes
Grams	Leahy	Sessions
Grassley	Levin	Shelby
Gregg	Lieberman	Smith (NH)
Hagel	Lott	Smith (OR)
Harkin	Lugar	Snowe
Hatch	Mack	Specter
Hollings	McCain	Stevens
Hutchinson	McConnell	Thomas
Hutchison	Mikulski	Thompson
Inhofe	Moseley-Braun	Thurmond
Inouye	Moynihan	Torricelli
Jeffords	Murray	Warner
Johnson	Nickles	Wellstone
Kempthorne	Reed	Wyden

NOT VOTING—4

Chafee	Helms
Glenn	Murkowski

The nomination was confirmed.

STATEMENT ON THE NOMINATIONS OF FRANK M. HULL AND HENRY HAROLD KENNEDY

Mr. LEAHY. I am encouraged that the Senate is taking up two of the nine judicial nominations on the Executive Calendar.

I am delighted that the Senate majority leader has decided to take up the nomination of Judge Frank M. Hull to be a U.S. Circuit Judge for the Eleventh Circuit Court of Appeals. Since 1994, the nominee has been a United States district judge for the Northern District of Georgia and prior to that she was a judge for the Superior Court of Fulton, County in Georgia. The ABA has unanimously found her to be well-qualified, its top rating. With the strong support of Senator COVERDELL and Senator CLELAND, this nomination has moved expeditiously through the committee and is being confirmed by the Senate. I congratulate Judge Hull and her family and look forward to her service on the Court of Appeals.

I am also delighted that the Senate majority leader has decided to take up the nomination of Judge Henry Harold Kennedy, Jr. to be a U.S. district judge for the District of Columbia. Since 1979, the nominee has been an associate judge for the District of Columbia and prior to that he was a U.S. magistrate. The ABA has unanimously found him to be well-qualified, its top rating. With the strong support of Senator THURMOND and Delegate ELEANOR HOLMES NORTON, this nomination has moved expeditiously through the committee and is being confirmed by the Senate. I congratulate Judge Kennedy and his family and look forward to his service on the district court.

With these confirmations the Senate will raise to 11 the number of Federal judges confirmed this year and exceed, for the first time this year, the snail-like pace of confirming one judge per month. The Senate pace will rise to an anemic 1.2 judges per month. Meanwhile, vacancies have continued to mount and the delays in filling vacancies continue to grow.