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Senate

EXECUTIVE SESSION

NOMINATION OF JAMES C. DEVER, III, OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE

NOMINATION OF ROBERT J. CONRAD, JR., OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session.

The clerk will report.

The assistant legislative clerk read the nominations of James C. Dever, III, of North Carolina to be United States District Judge for the Eastern District of North Carolina; and Robert J. Conrad, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina.

Mr. SPECTER. Mr. President, parliamentary inquiry: Are we now taking up the nominations of Robert J. Conrad and James C. Dever to be U.S. district judges in North Carolina?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. I am glad to hear that because I couldn't hear the clerk report it.

Mr. President, I am pleased to report that the Senate Judiciary Committee has recommended to the full Senate on reports filed that Robert J. Conrad, Jr., should become U.S. district court judge for the Western District of North Carolina. Mr. Conrad comes to this position with a very distinguished record. He is a former U.S. attorney for North Carolina. As assistant U.S. attorney, he made a name for himself in the prosecution of terrorism financing cases and campaign finance. Attorney General Ashcroft named Mr. Conrad to the Advisory Committee on Terrorism Financing, and Mr. Conrad testified before the Judiciary Committee on that subject. He was instrumental in prosecuting supporters of the Hezbollah terrorist cell in North Carolina in a very highly celebrated case.

Prior to his appointment as U.S. attorney, he served as an assistant U.S. attorney for 12 years. I can tell you, with some experience in that kind of position, you really learn a lot as assistant prosecuting attorney. Sometimes I am asked what is the best job I ever had, Senator or district attorney, and I say assistant district attorney. That is where there is a great deal of experience.

He has had bipartisan support from Democrats. The North Carolina attorney general, Roy Cooper, and former Attorney General Janet Reno praised him very highly.

I would now like to make a comment about the other nominee, James C. Dever, III, who has been recommended by the Judiciary Committee to be the U.S. district court judge for the Eastern District of North Carolina. Mr. Dever is a U.S. magistrate judge in the Eastern District. He comes to this position as a highly respected attorney, a magistrate judge, recommended to be promoted to the district court by the bipartisan Merit Selection Panel of district court judges of the Eastern District. He has a very distinguished academic record. He served in the Air Force for 4 years, from 1988 to 1992. He was a member of the Air Force General Counsel's Honors Program. He served with great distinction. He has been an adjunct professor at the Norman Adrian Wiggins School of Law at Campbell University since 1997. He clerked for Judge Clifford Wallace on the Court of Appeals for the Ninth Circuit. He is rated in the highest category among lawyers by Martindale-Hubbell. I recommend that my colleagues support both of these meritorious nominees, and I yield the floor.

Mr. LEAHY. Mr. President, these confirmations will be the 207th and 208th of 218 nominees brought before the full Senate for a vote to be confirmed. The Senate will have confirmed four more lifetime appointments to the Federal courts this year. With the year being almost one-third concluded, the Republican majority is gaining on the pace it set in 1999 when Senate Republicans allowed President Clinton to appoint only 17 district court judges and not a single nominee to the circuit courts that entire session.

These 208 judicial confirmations mean that even with the slow start this year because the President has refused to nominate consensus nominees, or anyone for 29 judicial vacancies, we are currently within 37 confirmations of the 6-year total achieved under the Senate Republican majority during the Clinton administration. That means if the Senate confirms another dozen judges this year and 30 next year, we will have equaled the total of which Senate Republicans were so proud during the Clinton years. The year I chaired the Judiciary Committee, the Senate confirmed 72 of President Bush's nominees. If the President and Senate Republicans would work with us rather than foment conflict and confrontation, we could easily surpass their record.

Of the 45 judicial vacancies that will remain after these confirmations, President Bush has not even sent nominees for 29 of those vacancies. I have been encouraging the Bush administration to work with Senators to identify qualified and consensus judicial nominees. The Democratic leader and I sent the President a letter in this regard on April 5, but we have received no response. Indeed, to date the President has only sent the Senate one new judicial nominee all year.

Despite the efforts of the Senate Republicans to create a crisis, the truth is that in President Bush's first term, the 204 judges confirmed were more than were confirmed in either of President Clinton two terms, more than during the term of this President's father,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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and more than in Ronald Reagan's first term when he was being assisted by a Republican majority in the Senate. By last December, we had reduced judicial vacancies from the 110 vacancies I inherited in the summer of 2001 to the lowest level, lowest rate and lowest number in decades, since Ronald Reagan was in office.

The two district court nominees being confirmed today, Robert Conrad and James Dever, are nominees who have raised concerns. When they were first nominated their home-State Senator had serious questions about them. A home-State Senator's views on a Federal court nominee has a long history of importance in the Senate. The Constitution says we should give the President advice on judicial appointments, and the views of home-State Senators have been very important. Candidly, I wish the White House had heeded Senator Edwards' advice and reconsidered these nominations.

After reading some of Mr. Conrad's more inflammatory writings, I do not wonder at Senator Edwards' objections. In particular, I am concerned about what some of the things he has written say about his ability to be a fair judge, and to give all who come before him a fair hearing. Listen to what he wrote about Sister Helen Prejean, one of the bravest and most caring people I have ever met. He calls her book, ''Dead Man Walking,'' ''liberal drivel,'' and shows nothing but contempt for her compassionate work with condemned prisoners. The rhetoric he uses is heated, and his bias for the death penalty is clear. Will any defendant in a capital case who comes before a Judge Conrad feel that they will get a fair hearing from him? Will he feel that a Judge Conrad can put aside personal prejudices and preconceptions? I hope so.

Another example is the not-too-subtly titled article, ''Planned Parenthood, A Radical, Pro-Abortion Fringe Group.'' Mr. Conrad's view of the well-respected family planning organization is that it is a ''most radical legal advocate of unfettered abortion on demand,'' and argues they do nothing to reduce teen pregnancy. The Planned Parenthood organization that I know, both in Vermont and nationally, works hard to reduce crisis pregnancies and to preserve families' rights to plan their own futures. His statements make me wonder whether any person going before a Judge Conrad in a case involving reproductive rights, or indeed any issue related to personal privacy, will feel their arguments have been fairly heard. Will he be able to follow the law as written? Again, for the sake of future litigants and the independence of our judiciary, I hope so.

I have similar concerns about Judge Dever. I see why Senator Edwards wanted better consultation on these district court nominees. Judge Dever's only two Supreme Court briefs argued against State legislative redistricting action designed to comply with the Voting Rights Act of 1965. When I asked Judge Dever to give me some assurance that he would be impartial when called upon to hear a redistricting case, he could only state that he believed he would be fair.

Much of Judge Dever's experience is in the area of representing Republican clients. While employed at a law firm, he provided legal services to several Republican campaigns and has been listed on the Republican National Lawyers Association webpage as an affiliated lawyer. I would like to believe that Judge Dever was nominated based on his own merits, and that his personal relationships will not affect his ability to rule impartially if he is confirmed. I have concerns.

I take seriously the views and support of the current North Carolina Senators. I hope that their support of these nominees is justified and that these nominees will serve in accordance with their oath to treat all who come before them fairly.

Today, again, Senate Democrats are demonstrating their willingness to work with the President and Senate Republicans.

I regret that in spite of all of our actions, the Republican majority seems intent on forcing a confrontation and breaking the Senate Rules in order to change them. The majority leader has apparently cast his lot with those who would alter the role of the Senate as a check and a balance on the choices of a powerful President. The Federal judiciary should not become an extension of the executive or a wholly-owned subsidiary of his political party.

Today, Republicans are threatening to take away one of the few remaining checks on the power of the executive branch by their use of what has become knows as the nuclear option. This assault on our tradition of checks and balances and on the protection of minority rights in the Senate and in our democracy should be abandoned. Eliminating the filibuster by the nuclear option would destroy the Constitution's design of the Senate as an effective check on the Executive. The elimination of the filibuster would reduce any incentive for a President to consult with home-state Senators or seek the advice of the Senate on lifetime appointments to the Federal judiciary. It is a leap not only toward one-party rule but to an unchecked executive.

Rather than blowing up the Senate, let us honor the constitutional design of our system of checks and balances and work together to fill judicial vacancies with consensus nominees. The nuclear option is unnecessary. What is needed is a return to consultation and for the White House to recognize and respect the role of the Senate appointments process.

The American people have begun to see this threatened partisan power grab for what it is and to realize that the threat and the potential harm are aimed at our democracy, at an independent and strong Federal judiciary and, ultimately, at their rights and freedoms. As we proceed to confirm two more lifetime appointments to the Federal courts, I urge Senate Republicans to reconsider and not to head down the destructive path represented by the nuclear option.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. I yield the remainder of time on this side to the Senators from North Carolina, Senator DOLE and Senator BURR, to be divided equally.

Mrs. DOLE. Mr. President, it is my privilege to support Jim Dever for a seat on the U.S. district court in Eastern North Carolina. This seat has been vacant for 6 years and is considered a judicial emergency by the Judicial Conference. In fact, a vote for Jim Dever will end the longest district court vacancy in the United States. Jim Dever, who is an outstanding editor in chief of the Duke University law Journal, lives in Raleigh and currently serves as U.S. magistrate judge in the Eastern District of North Carolina.

Raleigh, the State's capital and the district's largest city, is without a resident district court judge. Elevating Jim to the district court will end this problem. Not one objection has been raised about Jim Dever's qualifications. He has broad bipartisan support. Robinson Everett, a Duke law professor and former Chief Judge of the Court of Appeals for the Armed Forces, describes Jim Dever as having ''all the requisite qualities.'' ''He will be a 'superb jurist.'''

I am also delighted to support Bob Conrad, nominated in April 2003, to be U.S. district judge for the Western District of North Carolina. Bob is sorely needed. As our courts confront the ramifications of the Supreme Court's recent decision on the Federal minimum sentence guidelines, it is reasonable to expect we will have even higher caseloads and need more judges to deal with them.

Bob Conrad is known for his prosecution of the cigarette smuggling ring funding the terrorist group Hezbollah, and in 1999, Bob Conrad was appointed by then-Attorney General Janet Reno to head the U.S. Justice Department's investigation into campaign fundraising abuses.

Bob is a graduate of Clemson and the University of Virginia Law School. He served as a Federal prosecutor in Charlotte, starting in 1989. From 2001 until 2004, he was the U.S. attorney for the Western District of North Carolina. Currently he is in private practice at one of the largest law firms in the world as a partner in its Charlotte office.

Both of these North Carolina nominees come with tremendous credentials, and it is my privilege to give them my strong support.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina

Mr. BURR. Mr. President, I also rise in support of two fine and highly qualified individuals to be confirmed to the

Federal bench, Robert Conrad to be a U.S. District Court Judge for the Western District of North Carolina and James Dever to be U.S. District Court Judge for the Eastern District of North Carolina.

Bob Conrad was nominated by the President on April 28, 2003. Bob Conrad is now a partner at the law firm of Mayer, Brown, Rowe, and Maw in Charlotte, North Carolina. He has served as a U.S. Attorney for the Western District of North Carolina. He is a graduate of Clemson University and the University of Virginia Law School.

Bob Conrad possesses the qualities necessary to serve as a U.S. District Court Judge. He is fairminded, evenhanded, and treats all with respect. He has repeatedly demonstrated a commitment to public service and a spirit of impartiality and cooperation. Bob is also a devoted husband to his wife Ann, and he is a loving father to his five children.

Today, we consider his nomination for the Western District Court judgeship for the great State of North Carolina. I believe Bob Conrad's integrity, compassion, and intelligence have earned him strong bipartisan support, and he will again serve ably as a representative of our country. I am pleased that almost 2 years since his nomination, Bob Conrad will be confirmed by the Senate.

President Bush has also nominated James Dever to be U.S. District Court Judge for the Eastern District of North Carolina on May 22, 2002. After almost 3 years, James Dever's nomination is now reaching the floor for a vote. He served as U.S. Magistrate Judge on the U.S. District Court for the Eastern District for North Carolina since 2004. Prior to that, the judge was a member of the Raleigh law firm of Maupin Taylor, and Judge Dever graduated with high honors from Notre Dame, where he attended on a 4-year ROTC scholarship. Judge Dever also graduated with high honors from Duke University Law School, where he was editor and chief of the Duke Law Journal. Judge Dever also served his country in the U.S. Air Force.

The Eastern District post to which Judge Dever has been nominated is the longest district court vacancy in the nation. In fact, it has been vacant since 1997. In 1999, the Administrative Office of the Courts declared the district as a judicial emergency, and it has been categorized that way for the last 6 years.

For some time, the State of North Carolina has felt the absence of U.S. District Court Judges. However, the Eastern District in particular, which comprises almost half of the counties in North Carolina and has over 3 million people, has arguably suffered the most.

James Dever will bring to this post the qualities and character that will continue to make North Carolinians proud of him. James Dever is highly regarded by his colleagues and he has a record of public service. He is a bright, accomplished individual with a proven record. His supportive family includes his loving wife Amy and their three children.

Today I urge my colleagues to vote in favor of these two esteemed attorneys. North Carolina, and the United States as a whole, will benefit substantially from the confirmation of these well-respected men to the Federal bench.

I yield back all time and call for the question.

The PRESIDING OFFICER. If all time is yielded back, the question is, Will the Senate advise and consent to the nominations en bloc of James C. Dever, III, to be United States District Judge for the Eastern District of North Carolina, and of Robert J. Conrad, Jr., to be United States District Judge for the Western District of North Carolina.

The nominations were confirmed, en bloc.

The PRESIDING OFFICER. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

PROVIDING FOR ADJOURNMENT

Mr. MCCONNELL. I ask unanimous consent the Senate now proceed to the consideration of S. Con. Res. 29, the adjournment resolution; provided that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 29) was agreed to, as follows:

S. CON. RES. 29

Resolved by the Senate (the House of Representatives concurring): That when the Senate recesses or adjourns at the close of business on Thursday, April 28, 2005, Friday, April 29, 2005, Saturday, April 30, 2005, or Sunday, May 1, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until Monday, May 9, 2005, at a time to be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate or his designee, after consultation with the Minority Leader, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

The PRESIDING OFFICER. The Senator from Washington.

ENERGY

Ms. CANTWELL. Mr. President, I rise to discuss a matter of grave importance to our economy and national security. The issue is energy policy and what it will take to put us on a path toward energy diversification and away from our overdependence on foreign oil.

Tonight we will hear from the President about how he plans to lower gas prices. In the State of Washington we have seen a rise of almost 50 cents a gallon in 1 year. I look forward to hearing what the President has to say about lowering those gas prices. I do not believe his plan to drill in the Arctic National Wildlife Refuge will help make any difference in the prices in the near term.

I will address what is a broader energy debate this Senate is about to start. Energy is the lifeblood of our economy. It keeps our cars running, our companies competitive, our citizens safe, and our Nation secure. It is the future source of job growth for America.

The House has passed an energy bill and the Senate will start shortly on its own plan. We need to tell America where we are going on this important journey to set about an energy policy in America that we can be proud of.

We are at a critical juncture. The pain being felt at the gas pump by Americans is a wake-up call to all of us that we need to take action. Now is the moment our Nation must make a conscious choice to tackle the challenges ahead in a straightforward and serious manner, and get to the heart of what is a very enormous problem.

What our country needs is an energy policy that bets on American ingenuity and investment rather than gambling our future on the good will of the Saudi Royal Family or the OPEC cartel. There is no doubt in my mind, and history shows this, when this Nation devotes its tremendous resources and innovative spirit to confronting a threat such as that posed by the high cost of energy and overdependence on foreign supply, we can succeed. History has shown in our country, we have made significant shifts in investment when our national goals were set in the right direction.

Americans are familiar with the ambitious goals set by President John F. Kennedy when he challenged this Nation to put a man on the moon within a decade. But it was not just rhetoric. President Kennedy tripled the budget for the space program between 1961 and 1962. He also asked us to double the number of scientists and engineers working on the project over a 5-year period. President Kennedy recognized the importance of this investment and America won an international race to put a man on the moon.

A less recounted story, but nonetheless significant to our country's history, was the shift in gears this country made when we embarked on the Manhattan Project. In 1942, President Franklin Roosevelt authorized $85 million for what would become the Manhattan Project. Within 2 years, our entire national budget for atomic research grew from $6,000 to $85 million. In the midst of World War II, the President had decided it was in our Nation's