

after community know they can't take any more on the property tax burden. Seniors who want to live out their years in the house they paid for can't see the property tax go up. Young families with a fixed stream of income who bought into their first home can't see the property tax go up. However, we fund our education system as if we were still the agrarian society which set up the entire structure for property tax in the first place.

Our obligation is to find a way to release the creative energies and learning capacities of our Nation. If we were to find a bipartisan consensus and reach across the aisle to end this wasted debate about saving a few kids rather than saving all of the kids, it seems to me we would have the ability in the Congress to achieve something that would truly be a long and lasting legacy. It would be a great beginning for this millennium.

Education is the No. 1 issue in America. It deserves more than a penny, a dollar. That, it seems to me, is the mission we should embark on over the course of these next months.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. It is such pleasure to see the distinguished Senator from Kansas in the chair. I know the Chamber will be kept in order, and we will make real progress.

#### PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND HOUSE OF REPRESENTATIVES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 80, the adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 80) providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the 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. 80) was agreed to, as follows:

#### S. CON. RES. 80

*Resolved by the Senate (the House of Representatives concurring), That when the Sen-*

ate recesses or adjourns at the close of business on Thursday, February 10, 2000, or Friday, February 11, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, February 22, 2000, or until such time on that day as may be specified by its 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; and that when the House adjourns on the legislative day of Wednesday, February 16, 2000, Thursday, February 17, 2000, or Friday, February 18, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 12:30 p.m. on Tuesday, February 29, 2000, for morning-hour debate, 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 and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

#### MOTION TO PROCEED TO EXECUTIVE SESSION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations en bloc: Executive Calendar Nos. 408 and 410. I further ask unanimous consent that the nominations be confirmed, en bloc, the motions to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection to the request?

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, in light of that objection, I move to proceed to executive session to consider Executive Calendar No. 408. There is a request for a vote by our distinguished colleague, Senator INHOFE. Therefore, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. Mr. President, before the Chair puts the question, I understand following this vote there will be some debate by my colleague from Oklahoma with respect to these two judges. I further understand, following the Senator's statement, we will proceed to two further rollcall votes on the confirmation of these judicial nominees. Senators should, therefore, be notified that a rollcall vote will begin on the pending motion and that after some time for debate, two additional votes will occur today.

The PRESIDING OFFICER. The distinguished Democratic leader.

Mr. DASCHLE. Reserving the right to object, I ask the majority leader, may we have an understanding that vote will not occur prior to 1:45 p.m.? Let me clarify. The motion to proceed can take place now, but if there are subsequent votes, those votes not take place—

Mr. LOTT. Is the Senator asking consent?

Mr. DASCHLE. I ask unanimous consent.

Mr. LOTT. Mr. President, I have no objection to that.

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

Mr. LOTT. Mr. President, before we do go to a vote on the motion, I want to have a colloquy with the distinguished Senator from Oklahoma. The vote then on the motion will occur immediately following this colloquy, which should not take very long. Then the vote on the two nominees will not occur before 1:45 p.m. It may be later than that; I emphasize that.

The Senator from Oklahoma may want to talk for a while, and others may want to comment on this. We want to accommodate, as we always do, Senators who wish to be heard on important nominations. I yield the floor to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the majority leader for yielding to me.

Last year, at the end of the session, I came to the floor and informed the White House, as well as my colleagues, that of a list of 13 proposed appointments, 8 were acceptable. I did this by checking with my colleagues to find out who would be placing holds on which of those 13 nominees. There were five that would have had holds on them.

I further stated that if anyone other than the eight were appointed, I would put a hold on all judicial nominations for the 2nd session of the 106th Congress. This policy was the result of an exchange of letters with the administration last summer in which the White House agreed to provide a list of potential recess appointments prior to adjournment so that the Senate could act on these appointments and avoid contentious action on recess appointments. The 8 to which I agreed were from a list of 13 that was provided by the White House, and I read those into the RECORD.

On December 9 the White House gave a recess appointment to Stuart Weisberg to the OSHA Review Commission, and on December 17 the White House gave a recess appointment to Sarah Fox to the National Labor Relations Board. They were not on the list of 13 that was received on November 18 and to which I referred on November 19. Based on these actions, I believe the White House violated their commitment by making these recess appointments. Therefore, I said I would put a hold on every judicial nomination this year. I believe this is the correct reaction to the action taken by the White House.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. INHOFE. Yes.

Mr. LOTT. First of all, I appreciate sincerely the efforts of the Senator from Oklahoma to limit the recess appointment power of the Executive. Over a period of years, Executives of both parties have probably abused this authority. It is one that has been used by President Bush, President Reagan, as well as President Carter and President Clinton. I know in the past Senator BYRD, as a matter of fact, worked on this area of concern of the Senate and worked out an agreement, with the cooperation, as I recall, of Senator Dole and President Reagan, who was in the White House at that time.

Because of the Senator's concern and insistence about this matter, my colleagues will recall that last year, once again, we went through a process that led to a similar agreement in writing between the Senate and this President about how these recess appointments would be handled. It is important that we make every effort to live up to the letter of that agreement, as well as the spirit.

I emphasize that Senator INHOFE has already helped in bringing that about. There is no doubt in my mind that his efforts and his comments last year and this year had an impact on the number of recess appointments with which the administration did, in fact, go forward.

I know for sure—in fact, the President indicated as much to me—that they had wanted to do more, but they showed restraint and they realized that it could cause even more serious problems. So he has had an impact, there is no question about that. It is very helpful.

Indeed, Senator INHOFE did inform me of his intentions last November before he made his speech on the floor—I remember, I walked over to this area and talked with him. I admit, I was dealing with a lot of different issues at the time and perhaps should have paid a little bit more attention to exactly the exchange that was occurring and the lists that were being discussed—after I had shared with him the list of possible recess appointees provided by the White House on November 19 in compliance with a similar Byrd-Reagan agreement. There is no question his memory of that discussion and his efforts did take place, and I appreciate that.

As majority leader, I must also say I worked with the White House to limit their use of these recess appointments through these negotiations both now and in the past. I am quick to say, on more than one occasion I thought they made a mistake and I told them so. I remember one ambassadorial appointment in particular.

On many occasions, we have been able to resolve differences. With regard to the appointment of a person during the recess, sometimes there were problems, but concerns were worked out after further consideration. I do ac-

knowledge that they have worked on a regular basis with me as majority leader and with my staff when I have been absent and in my own State or in other States.

I have great sympathy for the Senator's plan to object to these judicial nominations. I have said before, I am not one who gets all weepy-eyed about having more Federal judges of any kind anywhere. However, as majority leader, I must take some other factors into account.

Using the Sarah Fox example, she had previously been confirmed to a position on the NLRB by a vote of the full Senate. I believe she would have been confirmed to a full term if her nomination were brought to the floor of the Senate again. It probably would have eventually because, in this case, it is not a judicial nomination.

If the Chair will excuse me and my colleagues a moment of partisanship, I hope to have a Republican in the White House next year to succeed President Clinton. So, therefore, I hope this Republican will be able to name a majority of the members of boards and commissions as soon as possible. I did not want Sarah Fox serving a full NLRB term, which would have extended until 2004. I thought a 1-year appointment allowing, then, for her to be replaced by the next President—whichever party that President may be from—made some sense.

Maybe that contributed to a violation of the letter or the spirit of the agreement, but it was after a lot of discussion with colleagues on our side of the aisle. I thought it made sense to go ahead and do that.

I am also concerned very much about the Senate getting into the possibility of filibustering judicial nominations. It is a bad precedent. The Senate has generally not done that. Once again, I hope we will be having nominations suggested by the Senator from Kansas next year. I would be greatly concerned about the idea that a nomination would be filibustered.

As a matter of fact, you may recall last year when the Democrats did filibuster a nominee from Utah, I complained loudly that it was a mistake, should not be done. As you recall, the better part of judgment prevailed, and we backed away from that. We, in fact, confirmed that nominee. So that is another factor I have to inject.

I do not think we should or would be able to go all year without confirming any nominees. Some of these nominees are good men and women. Some of them have already waited a long time. Some of them are supported by Governors and Democrats and Republicans in the Senate and should not be held.

In some of these States there truly is a need for more judges, as bad as that may sound to some of us. Florida is a State with a growing docket of cases. Even hard-working Federal judges cannot cope with it.

So all of these are matters I have to consider as majority leader. It is one of

those burdensome, delicate balances for which the majority leader has to assume the responsibility.

So based on that—my concern about how long these appointments would be for; my feeling that, in fact, the White House did try to work with us; my feeling that we should not start filibustering these nominations—these and other concerns lead me to the conclusion that I will honor a Senator's hold for a reasonable period of time and will certainly honor a hold by the Senator from Oklahoma and will inform him when nominations will be brought to the floor so that he can take whatever action he is compelled to take—and I will honor that also—but, nevertheless, I think we should move forward and bring these nominees to a vote on the floor.

I thank the Senator from Oklahoma for yielding.

Mr. REID. Will the leader yield?

Mr. LOTT. I do not believe I have the floor.

The PRESIDING OFFICER. The majority leader does have the floor.

Mr. LOTT. I thank the Chair.

I would be glad to yield. And then I will yield back to the Senator from Oklahoma for his remarks.

Mr. REID. In addition to what has been said, I also think it is important to say that we have started this session off on a good note.

Mr. LOTT. Thanks to the efforts of the whip, we have made good progress.

Mr. REID. We have gone through two very big, complicated pieces of legislation: The bankruptcy bill, with over 300 amendments, and the nuclear waste bill, with the potential of well over 100 amendments. Those have gone through now.

I appreciate, commend, and applaud the leader for being a man of his word, as we knew he would be. I hope the Senator from Oklahoma, recognizing how strongly he feels about the issue, would understand it is not only the State of Florida. In Nevada, we are four judges short. We do not want the bandits to take over the town.

We appreciate very much the majority leader's efforts to move these four. We hope the Senator from Oklahoma will understand the personal situations in States such as Nevada, where we are desperate for new judges.

Mr. LOTT. Mr. President, if I could comment briefly on that, I meant it sincerely when I said there has been good, hard work done on both sides of the aisle: Senator GRASSLEY and Senator HATCH on the bankruptcy bill; Senator MURKOWSKI, obviously, and others on the nuclear waste bill. But Senator REID has done excellent work on his side of the aisle in helping us move this legislation through in a positive way.

The fact is, already this year we have passed bankruptcy reform; we have passed a bill that would provide for a minimum wage increase and tax relief for small business men and women, and for a nuclear waste repository. These

are important issues. They are complicated and difficult to deal with substantively and politically. I think the Senate can feel good. I hope we can continue to work our way through important issues and that we will be able to do it as much as possible in a bipartisan way.

I yield further to the Senator from Oklahoma.

Mr. INHOFE. I thank the majority leader.

I hate to interrupt this love-in, but I want an opportunity to explain my actions. First of all, I want to say to the majority leader that I appreciate his acknowledgement of the accuracy of what happened on November 19. That is important to me. There have been some erroneous statements made in various newspapers reflecting the existence of other lists, and all that.

The bottom line is this: We made a request, the list came forward, and 10 minutes before we adjourned on November 19 we read from the list.

I believe there were strong reasons why the two particular nominees, Weisberg and Fox, would have been unacceptable. There are several Senators I have spoken with who would have found them unacceptable—frankly, I am one of them—and who would have been placed holds on those two individuals had they known that recess appointments were imminent. Some would have placed holds or at the very least insisted that hearings be held to explore the important policy matters surrounding these two appointments.

I think that is irrelevant. The fact is, the names were not on the Nov. 19 list. If the names had been on that list, that would have been totally different. Maybe some would have objected to them so they would not have been brought forward. The point is, appointments were made, and they violated the statements and the intent of the letter that we received from the White House vowing to honor their commitment.

I say to the majority leader, it is my intention, if we go forward at some point to vote on the two particular nominations to which you referred, that I will want to be heard and go back and maybe talk a little bit about what happened to bring us to the point where we are today.

I add that the President is not keeping his commitments. I think when I read his letter there is no question in my mind. I made it abundantly clear on the floor what the consequences would be.

I say, also, that I am in a position, I say to the majority leader, that while the President does not keep his commitments, I do keep my commitments. My commitments are to do what I can to try to block judicial nominations.

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

Mr. INHOFE. No, not now.

I just say this. In following through with my commitment to try to block the confirmations, while it is not my

intention—if the handwriting is on the wall—to just arbitrarily lay down blanket filibusters, I do intend to consult with my colleagues and reserve my rights under the rules to assess what actions, if any, can succeed in this effort.

I want to make one other comment about this, too; that is, you hear a lot of yelling and screaming about: Oh, what are we going to do without these appointments that we have to have? I remind you, back in 1993, at the end of the Bush administration—he was ready to go out of office—there were 109 vacancies in the Federal judiciary. In other words, the Democratic controlled Congress failed to fill these vacancies.

Right now, there are 74 vacancies in the Federal judiciary. If you determine where we would be if normal history takes its course through deaths or resignations, at the most there would be another 25 vacancies. That means, at the most, we would have about 100 vacancies at the end of President Clinton's term. Compare that to the 109 vacancies left after the Bush administration. I make that comment to offset the argument before it is made as to what type of judicial crisis will come about if we ended up without judicial nominees being confirmed.

Mr. LOTT. I thank the Senator for his comments.

We have Senators who I believe are about to leave the Chamber. Are we ready to put the question? And then we would go ahead with the debate on the judges.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to executive session to consider Executive Calendar No. 408, the nomination of Thomas L. Ambro, of Delaware, to be United States Circuit Judge for the Third Circuit. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "aye."

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—79

Abraham	Chafee, Lincoln	Frist
Akaka	Cleland	Gorton
Ashcroft	Cochran	Graham
Baucus	Collins	Hagel
Bayh	Conrad	Harkin
Bennett	Coverdell	Hatch
Biden	Daschle	Hollings
Bingaman	DeWine	Hutchinson
Bond	Dodd	Hutchinson
Boxer	Dorgan	Inouye
Breaux	Durbin	Jeffords
Brownback	Edwards	Johnson
Bryan	Feingold	Kerrey
Byrd	Feinstein	Kerry
Campbell	Fitzgerald	Kohl

Kyl	Murray	Smith (OR)
Landrieu	Nickles	Snowe
Lautenberg	Reed	Specter
Leahy	Reid	Stevens
Levin	Robb	Thompson
Lieberman	Roberts	Torricelli
Lincoln	Rockefeller	Voinovich
Lott	Roth	Warner
Lugar	Santorum	Wellstone
Mack	Sarbanes	Wyden
Mikulski	Schumer	
Moynihan	Sessions	

NAYS—19

Allard	Gramm	Murkowski
Bunning	Grams	Shelby
Burns	Grassley	Smith (NH)
Craig	Gregg	Thomas
Crapo	Helms	Thurmond
Domenici	Inhofe	
Enzi	McConnell	

NOT VOTING—2

Kennedy McCain

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Florida has asked that he be recognized to make a unanimous consent request, and I yield to him for that purpose.

Mr. GRAHAM. Mr. President, I ask unanimous consent that upon the completion of the two votes which are currently scheduled to commence at 2 p.m. I be granted 20 minutes as in morning business for the purpose of a bill introduction.

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

The Senator from Oklahoma.

#### EXECUTIVE SESSION

#### NOMINATION OF THOMAS L. AMBRO, OF DELAWARE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

Mr. INHOFE. Mr. President, I yield to the Senator from Georgia for a couple of unanimous-consent requests.

Mr. COVERDELL. I appreciate the courtesy of the Senator from Oklahoma.

Mr. President, I ask consent at 2 p.m. today the Senate proceed to a vote on the confirmation of Executive Calendar No. 408. I further ask consent that following that vote the Senate proceed to a vote on the confirmation of Executive Calendar No. 410. I finally ask consent following those votes the President immediately be notified of the Senate's action and the Senate then resume legislative session.

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

Mr. INHOFE. Mr. President, I would like to make a couple of statements about the vote that just took place, the reason for it, the history behind it, where we are today, and where we are going from here.

First of all, I suggest during the 5-day Memorial Day recess there was a pending nominee on whom there had been several holds. It is my understanding the appropriate committee had not received the financial information on that individual and there were