

business with Senators permitted to speak for up to 10 minutes each.

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

MEDICAL NUTRITION THERAPY

Mr. CRAIG. Mr. President, I rise this afternoon to call attention to some unfinished business from the Balanced Budget Act of 1997. In this landmark legislation, Congress directed the Secretary of Health and Human Services to work with the National Academy of Sciences Institute of Medicine to study medical nutrition therapy as a potential benefit to the Medicare program.

In December of last year, the Institute of Medicine released their study. They found that nutrition therapy has been shown to be effective in the management and the treatment of many chronic conditions which affect Medicare beneficiaries, including high cholesterol, high blood pressure, heart failure, diabetes, and kidney disease. They also found that Medicare beneficiaries undergoing cancer treatment may benefit from nutrition therapy aimed at controlling side effects or improving food intake. They recommended that medical nutrition therapy—with physician referral—be covered as a benefit under the Medicare program.

I have been working with my friend and colleague from New Mexico, Senator BINGAMAN, for the last several years on medical nutrition therapy legislation. The bill we introduced establishes a new Medicare outpatient benefit that would allow our senior citizens to work with a registered dietitian or nutrition professional to learn how to manage chronic diseases such as diabetes, cardiovascular disease, and kidney disease.

This legislation, S. 660, has been co-sponsored by 35 of our colleagues. Its House companion, sponsored by Representative NANCY JOHNSON, has been supported by two-thirds of the House Members.

As Congress considers additional refinements to the Balanced Budget Act, we must be certain that we keep our focus on the beneficiary. In addition to providing health care providers with needed relief, we must seize the opportunity to give our Nation's seniors access to medical nutrition therapy.

I urge my colleagues to join with Senator BINGAMAN and I to take care of this unfinished business before this Congress ends. We must make certain that action on medical nutrition therapy coverage occurs this year.

I hope my colleagues will join with me on this issue.

Mr. President, I yield the floor.

RECESS APPOINTMENTS

Mr. INHOFE. Mr. President, in 1985, when we had a conservative Republican in the White House by the name of

Ronald Reagan, we had a Senate that was dominated by the Democrats. At that time, the Senate majority leader was a very distinguished Senator from West Virginia, Senator BOB BYRD.

We found Ronald Reagan was violating the Constitution with recess appointments. Let me go back and give a little background of this. In the history of this country, back when we were in session for a few weeks and then they got on their horse and buggy and went for several days back to wherever they came from, if some opening occurred during the course of a recess, such as the Secretary of State dying, the Constitution provides that a President can go ahead and make a recess appointment and not rely on the prerogative of the Senate to confirm, for confirmation purposes. This is understandable at that time.

Since then, Republicans and Democrats in the White House have, when they were philosophically opposed to the philosophy of the prevailing philosophy in the Senate, made recess appointments.

Ronald Reagan was doing this. I loved him, but he was violating the Constitution.

Senator BYRD read and studied the Constitution. He sent a letter to the White House that said: If you continue to do this, then I can assure you we will put holds on all of your nominations. It wasn't just judicial nominations but all of them. I read from Senator BYRD:

In the future, prior to any recess breaks, the White House will inform the majority leader and (the minority leader) of any recess appointments which might be contemplated in the recess. They would do so in such advance time to sufficiently allow the leadership on both sides to perhaps take action to fill whatever vacancies might take place during such a break.

Those were for anticipated vacancies. President Reagan agreed with this and sent a letter back to Senator BYRD saying he would do it.

In June of 1999, the President made a recess appointment of someone who had not even gone through the committee process, had not given all their information to the appropriate committee in order to become an ambassador. He went in and appointed him anyway. I felt that was a violation every bit as egregious as anything Ronald Reagan had done.

I took the same letter that Senator BYRD had sent to Ronald Reagan, and I sent it to President Clinton.

I got no response until finally he realized I was putting holds on all these nominations. On June 15, 1999, President Clinton wrote a letter saying:

I share your opinion that the understanding reached in 1985 between President Reagan and Senator Byrd cited in your letter remains a fair and constructive framework which my administration will follow.

I wrote a letter back thanking him and was very complimentary to him for taking this action.

A short while later—we were going into recess—along with 16 other Senators, I sent a letter to the President because we had heard rumors he was going to make several appointments, recess appointments. In fact, that is exactly what happened.

I ask unanimous consent to have printed in the RECORD all this in more detail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECESS APPOINTMENTS—CHRONOLOGY

1985 Byrd-Reagan Agreement: "In the future, prior to any recess breaks, the White House would inform the majority leader and (the minority leader) of any recess appointment which might be contemplated during such recess. They would do so in advance sufficiently to allow the leadership on both sides to perhaps take action to fill whatever vacancies that might be imperative during such a break." (Emphasis added)—Sen. Robert Byrd (D-W.V.), 10/18/85.

June 4, 1999 Recess Appointment: Without sufficient notice in advance of the recess, President Clinton, on the last day of the brief 5-day Memorial Day recess, granted a recess appointment to controversial political and social activist James Hormel to be U.S. Ambassador to Luxembourg.

June 7, 1999 Inhofe Places Holds: Sen. Jim Inhofe (R-Okla.) announced "holds" on all non-military nominees, demanding Clinton's promise to abide by the Byrd-Reagan agreement on all future recess appointments.

June 15, 1999 Clinton Letter to Lott: "I share your opinion that the understanding reached in 1985 between President Reagan and Senator Byrd cited in your letter remains a fair and constructive framework, which my administration will follow."

June 16, 1999 Inhofe Lifts Holds: Inhofe lifted his holds on nominees, praising the President for agreeing to abide by the Byrd-Reagan agreement in the future.

Nov. 10, 1999 Senators' Letter to Clinton: "If you do make recess appointments during the upcoming recess which violate the spirit of our agreement, then we will respond by placing holds on all judicial nominees. The result would be a complete breakdown in cooperation between our two branches of government on this issue which could prevent the confirmation of any such nominees next year. We do not want this to happen. We urge you to cooperate in good faith with the Majority Leader concerning all contemplated recess appointments."—Inhofe and 16 senators.

Nov. 17, 1999 Inhofe Floor Speech: "I want to make sure there is no misunderstanding and that we don't go into a recess with the President not understanding that we are very serious . . . It is not just me putting a hold on all judicial nominees for the remaining year of his term, but 16 other senators have agreed to do that . . . I want to make sure it is abundantly clear without any doubt in anyone's mind in the White House—I will refer back to this document I am talking about right now—that in the event the President makes recess appointments, we will put holds on all judicial nominations for the remainder of his term. It is very fair for me to stand here and eliminate any doubt in the President's mind of what we will do."

Nov. 19, 1999 Clinton Notifies Senate of Contemplated Recess Appointments: In compliance with the Byrd-Reagan agreement, Clinton provides a list—prior to the recess—

of 13 possible recess appointments under consideration for the Nov. 20–Jan. 24 intersession recess. Inhofe and others object to five on the list who have holds or prospective holds on their nominations. Eight are considered acceptable.

Nov. 19, 1999 Inhofe Floor Speech 10 Minutes Before Adjournment: "If anyone other than these eight individuals is recess appointed, we will put a hold on every single judicial nominee of this President for the remainder of his term in office . . . I reemphasize, if there is some other interpretation as to the meaning of the (Nov. 10) letter, it does not make any difference, we are still going to put holds on them. I want to make sure there is a very clear understanding: If these nominees come in, if he does violate the intent (of the agreement) as we interpret it, then we will have holds on these nominees."

Nov. 23, 1999 Inhofe Letter to Clinton: In a spirit of cooperation, Inhofe acknowledges one additional acceptable appointment has been added to the list. "I hope this makes our position clear. Any recess appointment other than the nine listed above would constitute a violation of the spirit of our agreement and trigger multiple holds on judicial nominees."

Dec. 7, 1999 Inhofe Privately Urges White House Not to Violate Agreement: Notified by the Majority Leader's office that the President was contemplating at least two recess appointments (Weisberg and Fox) which were not included on the list submitted in advance of the recess, Inhofe reiterated that making these appointments would trigger a hold on all judicial nominees.

Dec. 9, 1999 Clinton Violates Agreement—Appoints Stuart Weisberg to OSHA Review Commission: Name was not included on list submitted in advance of the recess. Weisberg appointment was strongly opposed by the U.S. Chamber of Commerce and the National Association of Manufacturers. Weisberg is a liberal advocate of expanded regulatory authority who had compiled a controversial record of decisions consistently unfavorable to employers.

Dec. 17, 1999 Clinton Violates Agreement—Appoints Sarah Fox to NLRB: Name was not included on list submitted in advance of the recess. Fox is a stridently pro-labor former Ted Kennedy staffer whose policy decisions were consistently pro-union on such key issues as striker replacements, Davis-Bacon wage laws and the Beck decision of compulsory union dues.

Dec. 20, 1999 Inhofe Responds by Announcing Effort to Block Judges: "I am announcing today that I will do exactly what I said I would do if the President deliberately violated our agreement."

Jan. 25, 2000 Inhofe Places Hold on All Judicial Nominees: "It is in anticipation of just such defiance that I and my colleagues warned the President on at least five separate occasions exactly what our response would be if he violated the agreement. We would put on hold on all judicial nominees. So today it will come as no surprise to the President that we are putting a hold on all judicial nominees. We are simply doing what we said we would do to uphold Constitutional respect for the Senate's proper role in the confirmation process."

Feb. 10, 2000 Inhofe Hold is Overruled by Majority Leader Trent Lott: Inhofe thanked the 19 Republican senators who, in a key procedural vote, supported his effort to demand presidential accountability. Those Senators were: Shelby (Ala.), Murkowski (Alaska), Allard (Colo.), Craig (Idaho), Crapo (Idaho), Grassley (Iowa), McConnell (Ky.), Bunning

(Ky), Grams (Minn.), Burns (Mont.), Smith (N.H.), Gregg, (N.H.), Domenici (N.M.), Helms (N.C.), Inhofe (Okla.), Thurmond (S.C.), Gramm (Texas), Thomas (Wy.), and Enzi (Wy.).

August 3–31, 2000 Clinton Grants 17 Recess Appointments in Defiance of the Senate: Rejecting his commitment to cooperate with the Senate, Clinton grants appointments to Bill Lann Lee and other whom the Senate specifically said were unacceptable as recess appointments. Clinton's action was a deliberate affront to the Senate, a violation of the spirit of the Byrd-Reagan agreement and an abuse of power undermining the "advise and consent" clause of the Constitution.

Mr. INHOFE. I would like to say we made it very clear to this President on two of the recesses since that time, that if he did not live up to the standards as were put in the letter by Ronald Reagan and to which he agreed, that we would put holds on all these nominations.

Obviously, I had holds on these nominations. I have to admit it was not the Democrats; Republicans were not a lot of help to me at that time. They voted and overruled the hold that I had.

I would say the Senators who voted with me at that time to uphold the Constitution were Senators SHELBY, MURKOWSKI, ALLARD, CRAIG, CRAPO, GRASSLEY, MCCONNELL, BUNNING, GRAMS of Minnesota, BURNS, SMITH of New Hampshire, GREGG, DOMENICI, HELMS—as I said, INHOFE—THURMOND, GRAMM of Texas, THOMAS, and ENZI.

In spite of the fact that that happened, they went ahead, the President went ahead and has continued to make recess appointments. The last time he did was during our August recess between the 3rd and 31st. He granted 17 recess appointments in just an arrogant defiance of the Senate's prerogative of advise and consent for confirmation purposes.

Even though it is kind of an empty threat now, I will do it—I am announcing tonight I am going to put a hold on all judicial nominations for the rest of his term, not that there are that many, because if we stopped right now, there would still be fewer vacancies than were there at the end of the Bush administration. But when we took office, we swore to uphold the Constitution and the Constitution is very specific. Today I am making this announcement that we are going to hold up all judicial nominations. I am doing exactly what Senator BYRD would do under the same circumstances. I yield the floor.

JUDICIAL NOMINATIONS

Mr. HARKIN. Mr. President, I would like to talk today about the need to move through a number of important judicial nominations. This process has been dragging on for too long.

Pending before the Judiciary Committee are dozens of federal appeals court nominations, including that of my Iowa constituent, Bonnie J. Camp-

bell for the Eighth Circuit U.S. Court of Appeals.

There are 22 vacancies in our federal appeals courts. With the growing number of vacancies in the federal courts, these positions should be filled with qualified individuals as soon as possible. And so I urge the Republican leadership to take the steps necessary to allow the full Senate to vote up or down on these important nominations.

Ms. Campbell, who received a hearing by the Judiciary Committee in June, would serve on the 8th Circuit with honor, fairness, and distinction.

Bonnie Campbell has a long and distinguished history in the field of law. She began her career as a private practice lawyer in Des Moines in 1984. She worked on cases involving medical malpractice, employment discrimination, personal injury, real estate, and family law.

She was elected as Iowa's Attorney General in 1990—the first woman ever to hold that office in Iowa. During her tenure, she received high praise from both ends of the political spectrum for her outstanding work enforcing the law, reducing crime, and protecting consumers.

In 1995, she was appointed as the Director of the Violence Against Women Office in the Department of Justice. In that position, she played a critical role in implementing the Violence Against Women provisions of the 1994 Crime Act.

Again, she won the respect of individuals with a wide range of views on this issue. She has been, and still remains, responsible for the overall coordination and agenda of the Department of Justice's efforts to combat violence against women.

Mr. President, I've known Bonnie Campbell for many years. She is a person of unparalleled integrity, keen intellect, and outstanding judgment. She is fair, level-headed, and even-handed.

These qualities, and her significant experience, make her an ideal candidate for this important position.

Her nomination has been strongly supported by many of her colleagues, including the current Iowa Attorney General and the President of the Iowa State Police Association. Her nomination has also been approved by the American Bar Association. And Bonnie Campbell has the solid support of both myself and my Iowa colleague, Senator GRASSLEY.

Mr. President, I view the Senate's "advise and consent" responsibility on judicial nominations in the Senate to be on par with our annual responsibility to move appropriations bills. And, as such, the Senate's schedule between now and adjournment should be adjusted to assure adequate time for their consideration.

We have the time if we have the will. Again, Mr. President, we have a backlog of judicial vacancies, and it is