of the unanimous consent request, an opportunity to speak?

Mr. HARKIN. If I can follow the Senator from Utah for 10 minutes, yes, I request to speak.

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

Mr. HATCH. Mr. President, I thank my colleague, and I apologize. I did not realize he had been standing here all this time.

NOMINATION OF TED STEWART TO BE DISTRICT JUDGE FOR THE DISTRICT OF UTAH

Mr. HATCH. Mr. President, it is a great pleasure for me to support the confirmation of a judicial candidate who is the epitome of good character, broad experience, and a judicious temperament.

First, however, I think it appropriate that I spend a moment to acknowledge the minority for relenting in what I consider to have been an ill-conceived gambit to politicize the judicial confirmations process. My colleagues appear to have made history on September 21 by preventing the invocation of cloture for the first time ever on a district judge's nomination.

This was—and still is—gravely disappointing to me. In a body whose best moments have been those in which statesmanship triumphs over partisanship, this unfortunate statistic does not make for a proud legacy.

My colleagues, who were motivated by the legitimate goal of gaining votes on two particular nominees, pursued a short-term offensive which failed to accomplish their objective and risked long-term peril for the nation's judiciary. There now exists on the books a fresh precedent to filibuster judicial nominees with which either political party disagrees.

I have always, and consistently, taken the position that the Senate must address the qualifications of a judicial nominee by a majority vote, and that the 41 votes necessary to defeat cloture are no substitute for the democratic and constitutional principles that underlie this body's majoritarian premise for confirmation to our Federal judiciary.

But now the Senate is moving forward with the nomination of Ted Stewart. I think some of my colleagues realized they had erred in drawing lines in the sand, and that their position threatened to do lasting damage to the Senate's confirmation process, the integrity of the institution, and, of course, the judicial branch of Government.

The record of the Judiciary Committee in processing nominees is a good one. I believe the Senate realized that the Committee will continue to hold hearings on those judicial nominees who are qualified, have appropriate judicial temperament, and who respect the rule of law. I had assured my colleagues of this before we reached this temporary impasse and I reiterate this commitment today.

This is not a time for partisan declarations of victory, but I am pleased that my colleagues revisited their decision to hold up the nomination. We are proceeding with a vote on the merits on Ted Stewart's nomination, and we will then proceed upon an arranged schedule to vote on other nominees in precisely the way that was proposed prior to the filibuster vote.

Ultimately, it is my hope for us, as an institution, that instead of signaling a trend, the last 2 weeks will instead look more like an aberration that was quickly corrected. I look forward to moving ahead to perform our constitutional obligation of providing advice and consent to the President's judicial nominees.

And now, I would like to turn our attention to the merits of Ted Stewart's nomination. I have known Ted Stewart for many years. I have long respected his integrity, his commitment to public service, and his judgment. And I am pleased that President Clinton saw fit to nominate this fine man for a seat on the United States District Court for the District of Utah.

Mr. Stewart received his law degree from the University of Utah School of Law and his undergraduate degree from Utah State University. He worked as a practicing lawyer in Salt Lake City for 6 years. And he served as trial counsel with the Judge Advocate General in the Utah National Guard.

In 1981, Mr. Stewart came to Washington to work with Congressman JIM HANSEN. His practical legal experience served him well on Capitol Hill, where he was intimately involved in the drafting of legislation.

Mr. Stewart's outstanding record in private practice and in the Legislative Branch earned him an appointment to the Utah Public Service Commission in 1985. For 7 years, he served in a quasi-judicial capacity on the Commission, conducting hearings, receiving evidence, and rendering decisions with findings of fact and conclusions of law.

Mr. Stewart then brought his experience as a practicing lawyer, as a legislative aide, and as a quasi-judicial officer, to the executive branch in State government. Beginning in 1992, he served as Executive Director of the Utah Departments of Commerce and Natural Resources. And since 1998, Mr. Stewart has served as the chief of staff of Governor Mike Leavitt.

Throughout Mr. Stewart's career, in private practice, in the legislative branch, in the executive branch, and as a quasi-judicial officer, he has earned the respect of those who have worked for him, those who have worked with him, and those who were affected by his decisions. And a large number of people from all walks of life and both sides of the political aisle have written letters supporting Mr. Stewart's nomination.

James Jenkins, former President of the Utah State Bar, wrote, ''Ted's reputation for good character and industry and his temperament of fairness, objectivity, courtesy, and patience [are] without blemish.''

Utah State Senator, Mike Dmitrich, one of many Democrats supporting this nomination, wrote, ''[Mr. Stewart] has always been fair and deliberate and shown the moderation and thoughtfulness that the judiciary requires.''

I understand that the American Bar Association has concluded that Ted Stewart meets the qualifications for appointment to the federal district court. This sentiment is strongly shared by many in Utah, including the recent president of the Utah State Bar. For these reasons, Mr. Stewart was approved for confirmation to the bench by an overwhelming majority vote of the Judiciary Committee.

To those who contend Mr. Stewart has taken so-called anti-environmental positions, I say: look more carefully at his record. Mr. Stewart was the director of Utah's Department of Natural Resources for 5 years, and the fact is that his whole record has earned the respect and support of many local environmental groups.

Indeed, for his actions in protecting reserve water rights in Zion National Park, Mr. Stewart was enthusiastically praised by this administration's Secretary of the Interior.

Consider the encomiums from the following persons hailing from Utah's environmental community:

R.G. Valentine, of the Utah Wetlands Foundation, wrote, ''Mr. Stewart's judgment and judicial evaluation of any project or issue has been one of unbiased and balanced results.''

Don Peay, of the conservation group sportsmen for Fish and Wildlife, wrote, ''I have nothing but respect for a man who is honest, fair, considerate, and extremely capable.''

Indeed, far from criticism, Mr. Stewart deserves praise for his major accomplishments in protecting the environment.

Ultimately, the legion of letters and testaments in support of Mr. Stewart's nomination reflects the balanced and fair judgment that he has exhibited over his long and distinguished career. Those who know Ted Stewart know he will continue to serve the public well.

On a final note, Ted Stewart is needed in Utah. The seat he will be taking has been vacant since 1997. So I am deeply gratified that the Senate is now considering Mr. Stewart for confirmation.

I am grateful to my colleagues on both sides of the aisle who helped get this up and resolve what really was a very serious and I think dangerous problem for the Senate as a whole and for the judiciary in particular.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Iowa for up to 10 minutes.

AIR TRANSPORTATION IMPROVEMENT ACT—Continued

Mr. HARKIN. I thank the President for this time and his indulgence while

I take my 10 minutes when I know we are supposed to be recessing for our luncheon caucuses. I appreciate the indulgence of the Senator from Wyoming.

I want to take a few minutes to talk about the managers' amendment, the slot amendment that provides for a two-step process for the elimination of airline slots for landing and takeoff rights at O'Hare, Kennedy, and LaGuardia Airports.

Senator GRASSLEY and I have been working on this for quite awhile together. I am pleased we have been able to work closely with Chairman MCCAIN, with Senator ROCKEFELLER, Senator GORTON, and others on the development of this proposal.

It is an important step toward eliminating a major barrier to airline competition. Not only must we eliminate the barrier, but we have to do it in a way that mitigates against the long-term effects of a Government-imposed slot rule. Under the current rules, most smaller airlines have, in effect, a far more difficult time competing, in part, because of the slot rule.

In the first phase of the proposal, in the managers' amendment, small airlines will be allowed immediate expanded access to the airports. Again, this will help stimulate increased competition and lower ticket prices. Turboprop and regional jet aircraft will also be allowed immediate slot exemptions when they serve smaller markets. This will increase airline service available to smaller cities, especially cities west of the Mississippi, such as the Presiding Officer's cities in Wyoming, or Nebraska or the Dakotas or Iowa, or places such as that.

The two-step mechanism in the bill has the support of 30 attorneys general, the Business Travel Coalition, and the Air Carrier Association of America which represents many of the smaller airlines.

After that first phase, in the final step—after a number of years when the new competitive airlines might get a chance to establish a foothold and smaller cities would have established better service—the slot rules will be ended at O'Hare, Kennedy, and LaGuardia Airports.

Again, I commend Chairman MCCAIN for working so closely with us on this issue. Chairman MCCAIN had a field hearing in Des Moines on April 30 of this year to hear firsthand how the current system affects small- and medium-sized cities. Senator MCCAIN has worked hard to move forward a proposal which I believe will significantly increase competition.

I also thank Senator GORTON, and my colleague, Senator ROCKEFELLER from West Virginia, for their considerable efforts. These Senators have shown a keen interest in the problems unique to smaller cities and rural areas where adequate service is a paramount issue.

The provision has a number of items that address the noise implications of eliminating the slot rule near the three airports. I believe this final language is an excellent compromise. I am pleased that the structure of our original proposal is largely intact. I was also pleased that the House moved in June to eliminate the slot rule at these airports. I think the Senate provision improves on that.

Access to affordable air service is essential to efficient commerce and economic development in States with a lot of small communities. Again, Americans have a right to expect this. Airports are paid for by the traveling public through taxes and fees charged by the Federal Government and local airport authorities. Unfortunately, when deregulation came through in 1978, there was no framework put in place to deal with anticompetitive practices. A lot of these outrageous practices have become business as usual.

What happened? We went through deregulation in 1978; and then in 1986 the DOT gave the right to land and take off under these slots to those that used them as of January 21, 1986. So what happened was, when the Secretary of DOT, in 1986 said, here, airlines, these are your slots, it locked them into those airports, and it effectively locked out competition in the future. It was, in fact, a give-away. I always said this was a give-away of a public resource. These airports do not belong to the airlines. They belong to us. They belong to the people of this country.

So what has happened is that over the years these airlines have been able to lock them up. So we have this slot system. The slot system came in in the late 1960s because the air traffic control system was getting overwhelmed with the number of flights then being handled. So they had a slot system.

Just the reverse is true today. With the modernization of our air traffic control system—with global positioning satellites, GPSs, all of the other things we have, the communications systems, our air traffic control system, and the ongoing modernization of it—we can handle it. We do not need the slots any longer.

However, rather than just dropping them right away, we need to mitigate against the damage that has been caused by the slots. That is why we need to have a phaseout, a two-step phaseout—a phaseout that would both phase out the slots but at the same time include, in that first phase, turboprops that serve smaller cities, new airlines that would start up with small regional jets that would serve some of the smaller cities that have been cut out of this for the last almost 20 years—well, I guess 14 years now since 1986.

So, again, many airlines have monopolies in markets, especially if they control a hub airport. Local airport authorities at major hub airports do very little to encourage small carriers to use hub airports. It is no surprise that big airlines would rather see gates empty than lease them to competitors. Dominant carriers flood the market with cheap seats to destinations served by small carriers. They maintain the low price until the day the small carrier is gone.

This happened in Des Moines with Vanguard Airlines. We had a new airline that started. What happened? United and American, flying to Chicago, dropped their fares by over half, dropped their fares down to below what Vanguard could do. The travelers were happy, but Vanguard could only afford to do that for so long, and then they went out of business. As soon as they went out of business, what did United and American do? They upped their fares 83 percent. That is what they were doing to stifle competition.

I believe that allowing new entrant carriers, such as Vanguard, Access Air, and others that may be coming along, easier access to O'Hare from cities such Des Moines, and the Quad Cities—Moline, Rock Island, Bettendorf, and Davenport and others, will be a step in the right direction toward helping economic development and growth and providing for lower airfares for our people.

The amendment of the managers opens up the opportunity for direct service into LaGuardia, important to cities such as Des Moines and Cedar Rapids and the Quad Cities.

Again, the Quad Cities recently lost American Airlines' service to O'Hare because of the slot rule. American Airlines decided to fly their new regional jet between Omaha and O'Hare. Normally, this would not have had an impact on Quad Cities' service to O'Hare, but under the slot rule, Quad Cities lost American Airlines' service entirely. They entirely lost it.

Without the slot limitation, Quad Cities would be a profitable market for American or any other airline. But the area did not make the cut with a limited number of landing rights available under the existing slot rule. Again, economic decisions are not based upon what they can expect to get from a market; it is based upon the slot rule. That is skewing the economic decisions made by airlines and by small community airports.

So again, for our area, for Iowa, for areas west of the Mississippi—I am sure for Wyoming and for West Virginia—we need to change this system, but we need to do it in a way that does not lock in the past anticompetitive activities of the larger airlines.

Right now, Sioux City, IA, does not have service to O'Hare. It is the No. 1 destination of its business travelers. So, again, what is this doing? It hurts economic development and stifles competition in Sioux City.

Again, I urge the Senate to support the managers' amendment. Doing so will lower airfares, it will improve air service to small- and medium-sized cities across the Nation, and it will allow for economic decisions to be based on economics and not upon an outdated, outmoded, anticompetitive slot rule.

I thank the Chair.