

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

#### JUDICIAL NOMINATIONS

Mr. LOTT. Mr. President, with regard to the judicial nominations, I have a unanimous-consent request I will propound. I am sure the distinguished Democratic leader would like to engage in a colloquy. Before I do that, I want to point out what has occurred with regard to these nominations.

Some time ago, when I was still serving as majority whip, I did try to get a unanimous consent to move a block of four nominees to the Judiciary. Objection was heard on that on behalf of, I believe, the Senator from Montana, who had a judge that was not on the list, that he wanted to make sure was considered.

Subsequent to that, I tried a second time to get those four cleared, and an objection was heard from the Senator from Montana because he still was not satisfied with the assurances with regard to his own judge for district court position in Montana. I assured him at the time we would continue to work to try to get clearance on that nominee, that there were some objections, some holds that had been lodged against that nominee, and therefore it could not be included in that group.

Once I was elected majority leader, in fact, I did continue to work on those four and others. On the Friday before the Fourth of July recess, we were able to get, preliminarily, 10 judges cleared. There was some last-minute problem with one of those 10, so we still had a group of nine judges that we had cleared on this side of the aisle, but, again, there was an objection heard on the Democratic side of the aisle.

In an abundance of good effort to try to see if we cannot move some of these nominations where there are not, and, in fact, should not be objections, I have decided now I will try to bring up a judge each day over the next several days to see if we cannot get them cleared. I think it is a legitimate way. I have tried to do them in a group of four. I have tried to do them in a group of nine. Now I will try to do them one-by-one. Some of these judges—three or four—are supported by Republicans. The others are Democratic nominees. I would go back and forth for a while. But, overall, there will be several more that are being actively supported by the Democrats than by the Republicans.

Once again, I am trying to be fair in how we do that. My intent would be to begin today with the nominee from Missouri, and go then, on Wednesday, with a nominee from Louisiana, because this particular nominee is a person that serves in the court system—I guess she may be a supreme court judge in Louisiana—and there is a qualifying deadline between Wednesday

and Friday of this week for her to either seek reelection or to know whether she is going to be confirmed by the Senate or not. I am trying to move forward in recognition of that particular problem that she has and within the timeframe. Then we would go down the line.

I have submitted to the Democratic leader a list of nine judges that I would intend to do over this week and next week. And then beyond that, I would continue to work and see basically how things go. If we are getting some of these done, we will continue to try to do them. If we hear objections every day, I do not know what else to do. I have tried a group of four, a group of nine, and I am trying them one at a time. I feel like my hands would be clean, and I do not see how there could be objection to us not moving these judges.

I wanted to lay that predicate and explain what is happening. Some feel that none of these judges should be confirmed. Others, including myself, feel like several of them have been pending for a good long while, and unless there is a serious problem with the education, or qualifications, or ethics, we ought to try to move them. That is what I have been working assiduously to do. I am not doing it just by picking a name out of the hat. I am carefully looking at the judges and finding out if there are any problems, and as we get them cleared we can move down the line. Then I will move to the next judge or judges to see if they are, in fact, qualified.

There is no question that, philosophically, I have problems with a lot of them. I am not using that as a basis or a guide stick. I am trying to take them up in a logical order to try to get the calendar acted on in this regard.

#### UNANIMOUS-CONSENT REQUEST

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider Executive Calendar No. 514, the nomination of Gary Fenner, to be a U.S. district judge for the western district of Missouri.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and that any statements relating to the nomination appear at the appropriate place in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

Mr. DASCHLE. Mr. President, reserving the right to object. First, let me commend the majority leader for his effort to try to resolve this impasse. I believe that he has attempted to act in good faith. He and I have had innumerable conversations about this and have tried to find ways in which to address it in a meaningful way and a satisfactory way to both sides.

He mentioned the effort the day we left prior to the July 4 break. Through

no fault of his, necessarily, we were left with trying to clear this list while everybody was on airplanes going in about 15 different directions. So it was not our lack of effort or some concerted desire on the part of Democrats to oppose the list. But given the fact that after the Chamber had cleared and people had gotten on airplanes, as we attempted to reach people to see whether we could clear it, it was virtually impossible from a practical point of view.

He mentioned the fact that he has tried to bring up small groups and has found that it is difficult to get an agreement on even a small group, and so he is going to take them individually. Mr. President, the issue is not the size of the group, whether it is one, four, or nine. The issue is, what assurance do those who are not on the list, whether it is 1 of the remaining 22, or 1 of the remaining 19, or 1 of the remaining—in this case it would be 12—that they, too, will have an opportunity to have their judge considered?

So, earlier today, I discussed with the distinguished majority leader whether or not it would be possible at least to lay out a calendar, whereby every judge could be assured that on a given day during this work period that particular nomination would be considered. The distinguished leader is not able to do that this afternoon. So then we talked about whether or not it would be possible to at least have the assurance that all 23 would be considered between now and the August recess. The majority leader again was unable to give me that assurance.

Well, then, he did indicate to me that he would be willing to do the first 17. But I notice on Tuesday, July 16, Mr. Lawrence Kahn of New York, Calendar No. 678, is one of those beyond the first 17. It is in that group that was just passed out of committee in the final six. So if he is not willing to do all 23, but is willing then to do 100 percent of the Republican nominees—and there are only 3 or 4—and leave all of the balance on the Democratic list to be taken up at some uncertain time, with no commitment that we are ultimately going to at least be able to try to deal with these issues between now and the August recess, our colleagues have indicated to me as late as just a few minutes ago that, on that basis, on that limited assurance, they are not satisfied that they are going to be able to address their judgeships as well, and they are not convinced that this is a satisfactory way to go.

I applaud the majority leader for his innovation. I do not think that it is necessarily the fact that they were in small groups that was the problem. So taking them up one-by-one may not solve the matter, so long as we find the uncertainty about what happens after July 19 and we have dealt with the first nine.

So, Mr. President, based upon those concerns and the reservations expressed to me by my colleagues, as I