

he was confirmed by the Senate. According to press accounts, even though his seat was a so-called "judicial emergency," Mr. Clark asked the President not to sign his commission for office until he finished his race and sat for another session in the Texas legislature so that he could help elect a Republican speaker of the house and vote on things like redistricting, and President Bush delayed signing Clark's appointment papers. After information surfaced about the White House's willingness to delay the appointment of Mr. Clark, he stepped out of the race but told voters that they could still vote for him, and he won. This was shocking and inappropriate behavior by a man confirmed to sit as a Federal judge.

In Judge Watson's situation we have heard that he is actively seeking donations for his State race while also telling donors that he expects to be confirmed shortly. In his written answers, he states that he has "informed [his] contributors that [he is] in the confirmation process." I was troubled by his initial response to my question about what he will do with the funds he has amassed if he is confirmed. He stated that he has not determined whether, if he is confirmed, he will return the money to donors, contribute it to charity or use the money to "purchase individual tickets to other political events." This option is clearly prohibited by Canon 7 of the Code of Conduct for United States judges, which applies to nominees, and bans such partisan activities as buying tickets to partisan events.

Judge Watson's friend subsequently wrote a letter to the Senate claiming that the Code of Conduct for United States judges does not apply to nominees, but anyone who reads Canon 1 of the Code would see that it says, "the Code is designed to provide guidance to judges and nominees for judicial office." That letter also asserts that nominees have one year "to come into full compliance with its terms," which is simply incorrect. There is a narrow exemption related to divesting from profit-sharing or deferred compensation arrangements that is wholly inapplicable to the mandate of Canon 7 prohibiting political activity. The letter is similarly misguided when it asserts a wholly new interpretation on the restriction against soliciting campaign funds, by claiming that Federal judges or nominees could solicit such funds as long as they did not do so "personally" and instead used agents to do so. This novel interpretation would create a gaping hole in the Federal prohibition against such partisan activity. Fortunately, the approach advocated by the letter has not been embraced or adopted by the Federal courts.

Admittedly, the ethical rules are rules of reason. In rare instances, like Judge Watson's, an individual is not required to choose between the possibility of a Federal judgeship and the possibility of a State judgeship. At the

same time, given the vital importance of the ethical constraints to the public confidence in the fairness of our courts, such a person must exercise extra caution to steer clear of conduct that could call into question his or her impartiality under the Federal rules. If Judge Watson were following the advice and interpretations offered in the letter of his friend, he would be unlikely to comport his conduct with the Code of Conduct for United States judges which expressly applies to nominees such as him.

I do appreciate that, despite the justifications offered by his friend, Judge Watson has informed Senator DEWINE that if he is confirmed he has decided to donate his campaign funds "to a charity dedicated to the protection of the health and welfare of children," in compliance with "State election laws." I am happy that Senator DEWINE has been able to get the nominee to make these assurances and promise that he and his campaign committee will disclose the names and amounts of his donors.

In addition to the assurances of Senator DEWINE, who I hold in high esteem, we have also heard positive things about the nominee from prominent members of the legal community in Ohio since a vote on his nomination in committee was postponed. Some came from unexpected sources. I remain troubled but given the support of the Senators from Ohio and lawyers from Ohio, I will not oppose this nomination.

I congratulate Judge Watson and his family on his confirmation. He is being given a position of great public trust, and I hope that he will live up to the assurances he has given to the Senate and be fair and non-partisan as a Federal judge.

The PRESIDING OFFICER. If there is no further debate, the question is, Will the Senate advise and consent to the nomination of Michael H. Watson, of Ohio, to be United States District Judge for the Southern District of Ohio?

The nomination was confirmed.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I ask unanimous consent the President be immediately notified of the Senate's action.

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

#### LEGISLATIVE SESSION

Mr. FRIST. I also ask unanimous consent that the Senate resume legislative session.

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

#### MORNING BUSINESS

Mr. FRIST. I ask unanimous consent there be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER RELIEF ACT, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate, that the Senate may receive from the House the supplemental appropriations bill, the text of which is at the desk; that the Senate then proceed to its immediate consideration; the bill be read the third time, and passed, and the motion to reconsider be laid upon the table.

Mr. DASCHLE. Reserving the right to object, Mr. President, I applaud the effort made by the majority leader and all Members of Congress to respond as quickly and as comprehensively as we can to the extraordinary disaster we have now witnessed in Florida. Our hearts and prayers go to all of those people who have experienced this remarkable set of circumstances.

There are other areas of the country which have not had the same degree of direct adverse weather but have suffered adversely the effects in many parts of the country with regard to drought, in particular, in certain areas. The two Senators from North Dakota, Senators DORGAN and CONRAD, in particular, have been very vocal about the extraordinary impact it has had. South Dakota has also been very adversely affected. We have had terrible drought. We have not been able to address it satisfactorily. There are some people now who are actually having to sell their farms and ranches because they are unable to cope any longer with the drought circumstances.

I ask that we might modify the consent to provide for a single amendment which would provide disaster assistance primarily to agricultural producers in Florida and throughout the country in an effort to address those needs, as well.

The PRESIDING OFFICER. Does the majority leader so modify?

Mr. FRIST. Mr. President, reserving the right to object, and then I think the Senator from Mississippi may want to comment, as we discussed earlier today, the \$2 billion supplemental is coming from the House later tonight, almost certainly later tonight or in the morning. The purpose of passing the bill as it comes from the House, which this will in effect do, will allow the President to sign it very quickly because, as we know, tomorrow FEMA is actually in deficiency and does not have the money. The purpose is for us to get this bill passed through the House, the Senate, and signed by the President tomorrow. Such modification would mean we would not be able to do that.

As we discussed earlier, there are going to be other opportunities. As I mentioned directly to the Senator from Florida, we do not know what the total cost will be, even for Florida; and there very likely will be another supplemental, at which time consideration of other Senators' interests could be expressed.

I will turn to the Senator from Mississippi who will be managing the bill. The PRESIDING OFFICER. Is there objection?

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, further reserving the right to object, the leader is absolutely correct when he suggests there may very well be another supplemental request submitted. This request that is being presented to the Senate tonight is in response to a direct request from the President for \$2 billion to replenish a fund that has run out of money, or will be exhausted in the morning.

The House is acting tonight to approve the request of the President for the additional \$2 billion. The Senate should act tonight also, without getting into discussions of additional funding for other disasters or other needs around the country, because this situation is an ongoing disaster in Florida. Without these funds being made available tonight, in response to the President's request, they will not be able to continue the debris removal, providing shelter and food for those disaster victims who need those benefits. The disaster relief fund will be exhausted.

So my hope is we can consider additional requests, such as the one being suggested by the distinguished leader from South Dakota. We will carefully consider any other requests, but tonight is not the time to get into the business of picking out which other amendments or additions should be included in this dire emergency request we are being called upon to make to the Senate.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I will quickly respond. It is certainly not my intention to object to this request. I think both Senators have spoken very accurately about the need to expeditiously consider this supplemental funding request. I will say, however, that the ongoing disasters—especially in the Dakotas but around the country—in areas affecting agriculture will have to be addressed. We cannot ignore it indefinitely. We can certainly understand the need for urgent action tonight on this particular request, but I do hope we can come back at a later date, in the not-too-distant future, to address in a more comprehensive way other disasters as well.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I object to the proposed modification.

The PRESIDING OFFICER. Is there objection to the original request?

The Senator from Minnesota.

Mr. DAYTON. Mr. President, reserving the right to object, may I ask the majority leader, what are the factors that decide whether a particular disaster merits this kind of expedited action and which ones do not? I certainly want to agree with what the Democratic leader just said because my

State, which is adjacent to his, has suffered for the last 4 years now from various disasters. After the first 2 years, we were finally able to get the administration to relent and allow for one of those 2 years to be covered for farmers, many of whom lost their entire crop in our State.

Last year, we had another round of natural disasters, and there was no disaster relief provided or authorized by the Congress or agreed to by the administration. Now, this year, my State has just experienced a frost that has cost \$190 million in damages, and it is likely to mount.

Again, when the majority leader—I respect his candor—says that further requests or supplementals may be forthcoming, that is not much consolation to my farmers and constituents; whereas, now in the State of Florida—and I share the Democratic leader's sympathies for that State because there are many Minnesota residents who are affected who have part-time residencies in the State of Florida—but on behalf of those who live all the time in Minnesota, they are not going to be as sympathetic when their needs continue to be ignored and right away Florida gets this kind of expedited assistance.

I wonder, again, what are the criteria and are they going to apply to any State other than Florida?

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will make a very brief response because I talked about it a couple times on the floor today. FEMA is out of money—FEMA is out of money—beginning in about 12 hours. So without trying to go through each request by each Senator, certain criteria can be applied. FEMA will be out of money tomorrow. We are talking about FEMA generally. That is why this \$2 billion is being expedited tonight at the request of the President of the United States. I understand there can be many individual requests, but the criteria are the agency in charge of emergency management broadly will be out of money tomorrow.

Mr. DAYTON. Mr. President, I do respect the majority leader.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Thank you, Mr. President.

The farmers in my State are out of money. There are farmers in my State who were out of money last year who have been forced into bankruptcy. How do they make the necessary appeal to the President to get on his list? Is it required that the Governor of the State be the brother of the President? How is this going to be handled? Because based on the most recent hurricane, Frances—again, I am sympathetic to those affected, which includes Minnesotans, but we are going to have another request. Can we have an assurance there will be an opportunity at that time, as the Democratic leader is

trying to obtain, so we can offer amendments to have the Senate consider other requests for disaster aid? Is that something on which we could get a concurrence?

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will sort of restate what to the Democratic leader we tried to say. There will be opportunities to consider individual States. Right now we have an emergency for the agency which responds to all of our emergencies—FEMA.

We have a deadline. The President made this specific request last night. There will be opportunities to talk about particular Senators' interests in representing their constituents as to what are legitimate concerns. But I do plead, for the sake of people around the country, including in Florida, as we speak, that we do not, in essence, defund our Federal Emergency Management Agency, FEMA, when we have this opportunity to take a bill that is coming from the House, going to the Senate floor, requested by the President of the United States, so people can have shelter and can have food and emergency services because the deficiency is that tomorrow they will be out of money.

Mr. President, let me just one more time propound the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

The Senator from Minnesota.

Mr. DAYTON. Mr. President, I reserve the right to object to say that I will not object in this case but with the understanding that the next time, as the majority leader said, there will be opportunities. If there is another supplemental request, I will insist on the opportunity to at least have these other requests considered. I will not object.

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

(The text of the bill (H.R. 5005) is printed in today's RECORD under "Message from the House during Adjournment.")

UNANIMOUS-CONSENT  
AGREEMENT—H.R. 4567

Mr. FRIST. Mr. President, I ask unanimous consent that on Wednesday, September 8, at 11:30 a.m., the Senate proceed to the consideration of Calendar No. 588, H.R. 4567, the Homeland Security appropriations bill; provided that all after the enacting clause be stricken and the text of S. 2537 be inserted in lieu thereof and considered as original text for the purpose of further amendment; provided further that no points of order be waived by virtue of this agreement. I further ask consent that the only first-degree amendments in order be related to the text of the bill, homeland security, natural disasters, or Government security contracts, and that they be subject to relevant second-degree amendments to