

Yippee.

And the bipartisan cooperation keeps rolling on. This week, the Senate confirmed Judge Adalberto Jose Jordan to a seat on the federal Court of Appeals for the 11th Circuit in Atlanta. A visitor from another country might not have appreciated the proportions of this achievement, given the fact that Jordan, who was born in Cuba and who once clerked for Sandra Day O'Connor, had no discernible opposition.

But Americans ought to have a better grasp of how the Senate works. The nomination's progress had long been thwarted by Mike Lee, a freshman Republican from Utah, who has decided to hold up every single White House appointment to anything out of pique over . . . well, it doesn't really matter. When you're a senator, you get to do that kind of thing.

This forced the majority leader, Harry Reid, to get 60 votes to move Judge Jordan forward, which is never all that easy. Then there was further delay thanks to Rand Paul, a freshman from Kentucky, who stopped action for as long as possible because he was disturbed about foreign aid to Egypt.

All that is forgotten now. The nomination was approved, 94 to 5, only 125 days after it was unanimously O.K.'d by the Judiciary Committee. Whiners in the White House pointed out that when George W. Bush was president, circuit court nominations got to a floor vote in an average of 28 days.

No matter. Good work, Senate! Only 17 more long-pending judicial nominations to go!

Meanwhile, the House named a post office in Missouri for a fallen Marine.

Mr. LEAHY. I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1633, of a perfecting nature.

Reid amendment No. 1634 (to amendment No. 1633), to change the enactment date.

Reid motion to recommit the bill to the Committee on Environment and Public Works, with instructions, Reid amendment No. 1635, to change the enactment date.

Reid amendment No. 1636 (to (the instructions) amendment No. 1635), of a perfecting nature.

Reid amendment No. 1637 (to amendment No. 1636), of a perfecting nature.

The PRESIDING OFFICER. The assistant Republican leader is recognized.

Mr. KYL. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes and that I be followed by the Senator from Texas, Mr. ALEXANDER.

The PRESIDING OFFICER. From Tennessee.

Mr. KYL. What did I say? From Tennessee. Whatever I said, I apologize. I said Texas. I apologize.

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

#### THE BUDGET AND OUR NUCLEAR ARSENAL

Mr. KYL. Mr. President, I need to speak for a few minutes this morning about two important news events of this week: the budget that was submitted by the President and the news reports that the President is considering reducing our nuclear arsenal to dramatically lower levels than they are today. Let me speak to both those subjects briefly this morning, and then I will have more to say about them as time goes on.

In the President's budget, there is a specific part for the Department of Energy that funds the nuclear weapons program. Despite promises of the President that he would follow what is called the 1251 study over the course of his Presidency and request in the budget the sums of money for the Department that is called the NNSA—part of the Department of Energy—he reduced that this year by \$372 million less than the target. The net result of that over 5 years is going to be \$4.3 billion.

I know my colleague from Tennessee is very interested in this. Before the START treaty was debated, there was a big debate about whether the funding for the NNSA in the nuclear modernization program was adequate.

On the Veterans Day recess, before we began the debate on START, General Chilton, former head of STRATCOM, and Dr. Miller, the Assistant Secretary of Defense, flew to Phoenix and said to me: You were right. We were wrong. We have underfunded this by over \$4 billion. We are going to add that to our 5-year budget profile.

This was the argument we had been making all along: You have underfunded the nuclear modernization program. You need to add between \$4 billion and \$5 billion to it. They agreed and that is what went into the revised 1251 report.

As a result of the budget request this year, we are right back where we started from before the revision—\$4.3 billion below—and that is where we were when the administration came forward and said: You were right. We were wrong. Our previous figure was not enough.

So we have a problem, and it is going to cause some real disruptions.

One of the things we have to do is extend the life of one of our old weapons called the B-61. This is a 2-year delay now on that, a 2-year delay on another warhead called the W-76, at least a 5-year delay in the construction of the plutonium processing facility at Los Alamos Laboratory called the CMRR facility.

Why is that important? We knew prior to commitments the President made before the START treaty was debated that the CMRR was critical. We do not have a production capacity. Unlike Russia and China, for example, we cannot produce new nuclear weapons. We have to go back and revise the ones we have. One of the facilities that would enable us to do that is this

CMRR facility. In fact, that is where a great deal of the work would be done.

What we were told was that the President was fully committed to constructing this facility on a timetable set out in the 1251 report. Some of us were a little dubious. The President's representative said: We will put it to you in writing. So he did. What he said in his message on the New START treaty to the Senate with regard to this facility—I will quote it; the letter related to his intent to modernize and replace the triad:

[To] accelerate to the extent possible, the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF)—

That is the facility for uranium processing at Oak Ridge, TN—

[and to] request full funding, including on a multiyear basis as appropriate, for the CMRR building and the UPF upon completion of the design and engineering phase for such facilities.

We were concerned he would not request the funding in the outyears and that they would not accelerate the construction of these facilities. So he said he would. He would accelerate it to the extent possible and request full funding, including on a multiyear basis.

The budget he submitted this year breaks that commitment to the Senate, and those Senators who voted for the treaty based upon these commitments are obviously going to be re-evaluating their support for the treaty. There are things that can be done by the Congress, including our power of the purse, to deal with the issue, which I will hope to have time to speak to in a moment.

Former Secretary Gates reflected on the Senate's reliance on these commitments when he said:

This modernization program was very carefully worked out between ourselves and the Department of Energy; and, frankly, where we came out on that played a fairly significant role in the willingness of the Senate to ratify the New START agreement.

For those who relied on the administration's commitment, they have been broken. We are right back to where we started from before the treaty was taken up.

If you want to know specifically what the problems are, Dr. Charles McMillan, the Los Alamos Director said:

Without CMRR, there is an identified path to meet the Nation's requirement of 50 to 80 pits per year . . . the budget reduction in FY13 compounds an already difficult set of FY12 budget challenges and raises questions about whether we can meet the pace of the modernization path outlined in the 2010 Nuclear Posture Review.

So we have a problem. Unless the President is willing to work with Members of Congress, and unless Members of Congress are willing to recognize that the Senate acted based upon some commitments the administration made and we have to keep our end of the bargain as well, we are going to find a huge problem with our modernization program, with our nuclear weapons