

"(vi) in the case of the Secretary of the Interior only, processing and shipping of eagles and other migratory birds, and parts of migratory birds, for Native American religious purposes."

#### ORDERS FOR MONDAY, SEPTEMBER 14, 1998

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. on Monday, September 14. I further ask that when the Senate reconvenes on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the time until 1 p.m. be equally divided for debate relating to the motion to proceed to S. 1981, the Truth in Employment Act, with the time divided between Senator HUTCHINSON and Senator KENNEDY or his designee.

I further ask consent that at 1 p.m. the Senate resume consideration of the Interior appropriations bill. And I want to emphasize at this point that it would be my intent, the early part of next week, to be on the Interior appropriations bill Monday afternoon, Tuesday, Wednesday—until we complete action. I know there have been other issues that have necessarily been offered this week on the Interior bill, and cloture votes, but I think next week it is important that we do get a focus on the Interior appropriations and complete action on that so that we can go to the remaining two appropriations bills.

I further ask consent that at 5 p.m. there be 30 minutes of debate equally divided, again related to S. 1981, with the vote occurring on the motion to invoke cloture on the motion to proceed to S. 1981 at 5:30 p.m. on Monday.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, but there is some phraseology in the majority leader's request that I wish to inquire about. And I have noted the same phraseology in the requests from time to time lately, but at this moment, since we are both on the floor, I will ask the question.

What does the majority leader mean when, in his request, he uses these words, "the routine requests through the morning hour be granted"? What does that mean?

Mr. LOTT. Mr. President, if I could respond, that would mean that the routine business such as the reading of the Journal, things of that nature, would be deemed to have expired.

Mr. BYRD. Mr. President, I will not object on this occasion, but I think—I am not trying to create any problems for the majority leader.

Mr. LOTT. Sure.

Mr. BYRD. I have been in that position and I know I never liked other Members to create problems for me—but they did, often.

That phraseology includes several items, especially for a Monday.

Mr. LOTT. It does.

Mr. BYRD. So I would like, in the future, if the distinguished majority leader would find it appropriate and agreeable to do so, that that particular verbiage be a little clearer, as to just exactly what is meant.

Mr. LOTT. I believe in the past, if I might respond to the Senator, that perhaps there had been a longer explanation as to what was included. Perhaps that is the way the Senator from West Virginia did it when he was majority leader. I think probably I may have caused this by indicating or asking if we couldn't do that in a little shorter phraseology. But I will go back and take a look at the best way to say that, so that Members' rights are protected and so that they will understand what is being asked for there.

Mr. BYRD. Mr. President, if I may—

The PRESIDING OFFICER. The majority leader has the floor.

Mr. LOTT. I yield to the Senator from West Virginia.

Mr. BYRD. If I may ask the majority leader to yield, and I won't take long, but having been majority leader myself, I know that there are a number of things involved there, and there may be one particular item on a particular occasion, and for a particular reason, that Senators would want to have operative according to the usual rules.

I urge that we not—Mr. President, that we not speed the operation up to the point that Senators' rights may be eclipsed. And I am not suggesting that the majority leader intends that. He has already indicated—and I knew what he was doing—he was trying to speed the operation up in a way that would be more efficient. But there are things involved in that particular phraseology which might take 30 minutes to discuss here if we started to do so.

I just hope that the distinguished Senator will have his staff look at that language and that we might be able, Senators, to reserve their rights while even agreeing to such a request, if the circumstances required it.

Mr. LOTT. Mr. President, certainly I will review that again. I remembered, when we made a modification in the language—and I do have it before me here—on February 10, 1997, I did point out what the intent was here, the phrase "the routine requests through the morning hour" are deemed to include the approval of the Journal to date, the waiving of resolutions coming over under the rule, the waiving of the call of the calendar, and the expiration of the morning hour.

Because I was aware that this was a change and a shortening of that. But we will take another look at it. We always certainly respect Senator BYRD's suggestions and requests, and we will do so.

Mr. BYRD. Mr. President, I thank the distinguished leader. It is not my point here to quibble or to find fault with the leader. I appreciate the spirit in which he has accepted this. I can see

that someone who really understands these rules, like myself, and I have forgotten probably more than I will ever know again, I just want to protect the rights of all Senators, and I know that the leader wishes to do that. So I hope that there is no connotation of what I am saying that appears to be sinister. I have no objection.

#### PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, on Monday, the Senate will debate the motion to invoke cloture on the motion to proceed to S. 1981, the truth in employment legislation.

In addition, the Senate will resume consideration of the Interior appropriations bill, a very important bill for our country and one I hope we can move through the regular process and get into conference so an agreement can be worked out. It is hoped Members will make themselves available Monday afternoon if they intend to offer amendments to this very important bill. I am hoping, I believe maybe there is one very important amendment that can be offered Monday afternoon. I hate to point it out, but I think we have one that could take a good bit of time, and we could have a vote on it late in the afternoon on Monday.

All Senators should be on notice that the first rollcall vote will occur on Monday beginning at 5:30, and that vote will be on invoking cloture on the motion to proceed to the truth in employment bill. Additional rollcall votes are possible following the 5:30 vote hopefully relating to possible amendments to the Interior appropriations bill. I thank my colleagues for their cooperation in that.

#### ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senators KENNEDY, DORGAN, HATCH, and HUTCHINSON, and that, of course, is after Senator BYRD completes his statement.

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

Mr. LOTT. I yield the floor. I thank Senator BYRD very much for his courtesy.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I always appreciate the problems that the distinguished majority leader has, and I have a feeling of sympathy for him. It is never my desire to throw up any roadblocks or attempt to create any problems for him unless I have very good reasons to do so. I think there is a fine relationship between us, and I want that to continue. I hope the leader has a great weekend.

Mr. President, I know that Senator DORGAN is waiting to get the floor.

I believe I will need just a few more minutes. I ask unanimous consent that I may proceed for an additional 15 minutes.

Mr. DORGAN. Reserving the right to object, and I shall not object, what I would like to do is ask consent that following the remarks of Senator BYRD, I be recognized for 20 minutes, and I also ask, on behalf of Senator KENNEDY, that he be recognized for 30 minutes following my remarks.

The PRESIDING OFFICER. Does the Senator from West Virginia make that part of his request?

Mr. BYRD. I do.

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

Mr. BYRD. Mr. President, I thank all Senators and, again, I thank the distinguished majority leader.

#### THE EPA'S PENDING NO<sub>x</sub> EMISSIONS RULE

Mr. BYRD. Mr. President, on July 16, 1997, President Clinton directed the Environmental Protection Agency (EPA) to review its nitrogen oxide (NO<sub>x</sub>) transport standards under the Clean Air Act. Subsequently, on November 7, 1997, the EPA announced a proposed ozone transport rule to reduce the regional transport of ground-level ozone across a 22-state region of the eastern United States, and the agency is now poised to announce its final ruling on NO<sub>x</sub> emissions and ozone transport. The 22 states that have been targeted by this rule are some of the nation's most heavily populated, and include a large concentration of major industries, utilities, and automobiles.

Based on past experience, it is not surprising that the Environmental Protection Agency has, once again, decided to pursue a heavy-handed and arbitrary approach toward its regulation of NO<sub>x</sub> emissions. While the EPA argues that its recommendations reflect the cooperative work of 37 states through the Ozone Transport Assessment Group (OTAG) process, OTAG actually recommended a range of options to be considered on a state-by-state basis. The EPA, in its proposed rule, has chosen the most extreme of those recommendations—an 85% reduction in NO<sub>x</sub> emissions within the 22-state region. Far from being a flexible, tailored reduction for individual states based on their own contributions to the problem of ozone and air quality, this is a draconian, one-size-fits-all, command-and-control approach and does not take into account regional differences. I am concerned that this plan, which is apparently based on insufficient scientific information, poses potentially substantial harm to the economies of the affected states without delivering on the substantial environmental benefits it claims.

A key concern with the EPA's recommendation is that it is based on modeling results that are inconsistent with modeling conducted by OTAG. The EPA has made a finding that Mid-

west and Appalachian states significantly contribute to nonattainment in the downwind states. The OTAG modeling actually concluded that the airborne transport of ozone is only a major concern within a radius of 150 miles of the emission source. Using the OTAG results, emissions of nitrogen oxide from the Midwest and Ohio Valley simply do not affect ozone levels in the Northeast at a significant level, and the suggestion that emissions from the Mississippi area affect the eastern seaboard is even more unjustified by the empirical evidence. The OTAG modeling indicates that the greatest contributions to the ozone problem in the Northeast are emissions from sources in the Northeast and, particularly, from the growing numbers of automobiles congesting the roads and filling the air with their fumes. As my colleague, the senior Senator from Rhode Island and Chairman of the Environment and Public Works Committee, said in an April 16, 1997, letter to EPA Administrator Carol Browner, "Contrary to a public belief too readily accepted without any evidentiary foundation, our problem does not come primarily from distant smokestacks in the Ohio River Valley."

Recommendations based on OTAG's modeling ranged from targeted reductions only in specified non-attainment locations to the EPA's extreme choice of an 85% reduction across the board in all states. If the EPA forces the so-called "upwind" states like West Virginia, Ohio, Tennessee, Kentucky, and Virginia to reduce their emissions by the recommended 85%, the effect will be economically harmful, yet will do little in the long run to reduce the Northeast's ozone problem or improve its overall air quality. This recommendation is neither equitable nor cost-effective.

The consequences of the EPA's decision for the Midwest and Appalachian states will be severe. For example, my own state of West Virginia is currently in compliance for ozone. West Virginians are proud of this record and are working hard to maintain a clean environment. Unfortunately, however, despite this commendable record of compliance, the EPA is proposing that West Virginia reduce its NO<sub>x</sub> emissions by a whopping 44%. This is a huge overnight shift in policy—from compliance to gross under-compliance in the twinkling of an eye—which would force significant, costly changes to industries and utilities in my state, but for what purpose? For what purpose?

Mr. President, studies conducted by industry officials estimate that it will cost \$500 billion for every 10% decrease in NO<sub>x</sub> emissions, costs that will be passed onto consumers. If the EPA's proposal is implemented, electricity rates will climb precipitously in States like West Virginia, but this sacrifice reportedly will do little to improve air quality in the Northeast. According to a recent study by the Alliance for Clean Air Policy (ACAP), the EPA's

85% reduction will require an initial investment of \$6 billion and an annual compliance cost of \$1.2 billion by utilities in the 22-State region. Other industry cost estimates are even larger. Businesses and consumers in the Midwestern, Appalachian, and Southeastern States will bear the bulk of these costs. Electric power utilities will be forced to install selective catalytic reduction equipment on a large number of existing plants, but there is little experience in the United States with the use of this type of technology. What we do know is that selective catalytic reduction, SCR, technology is extremely costly and will require difficult retrofitting for many powerplants over a period of several years in order to meet the EPA's recommended reductions. By all appearances, the emissions reductions mandated by the EPA in the Midwestern and Appalachian region are unjustified and they are unfair.

We sometimes forget that, too often, bureaucratic rules have major impacts on a personal level. Electricity rates in West Virginia and the Midwest are considerably lower than those of the Northeast. If the EPA issues its rule forcing States to reduce nitrogen oxide emissions by 85%, Midwest and Appalachian utility rates will rise significantly. Meanwhile, as much of the United States is enjoying the benefits of a strong economy, the Appalachian region is still struggling to pull itself, in some areas, out of poverty. In recent years, West Virginia has aggressively sought out and won new business opportunities.

Toyota is making a very important announcement even today, within the next hour, of additional plans that it has for its plant in Putnam County, WV.

West Virginians who previously had to leave the State for career opportunities are now able to come back home to well-paying jobs that can comfortably support their families. If this stiff new rule goes into effect, families in West Virginia will find it harder to pay their electric bills; retirees on small pensions will face choices that could threaten their health and well-being; and companies, facing narrower profit margins, may consider moving their operations elsewhere because they would no longer receive the benefits of low-cost electricity. Further, communities that have invested in new infrastructure and have strained to help grow new and existing businesses could see their economic base dwindle. I am weary of regulations that lead to unnecessary economic dislocation. I want to be sure that the citizens of Appalachia can afford to heat and light their homes, and that they can receive reliable, consistent service from their utilities. I also want to be sure that each State recognizes and takes responsibility for its own air quality standards. But, I do not believe that a few States should have to shoulder the economic burdens for the EPA's hypothetical air quality improvements.