

WITHDRAWAL OF NOMINATION OF FREDERICA MASSIAH-JACKSON

Mr. LOTT. Mr. President, back to the withdrawal of the nomination of Frederica Massiah-Jackson, I note that this is at her request in writing, and the President has, therefore, officially withdrawn her nomination. I think it is the right decision on the part of the nominee, and I think certainly it is the right decision for the President to accept that withdrawal and notify the Senate. This nominee had been given a considerable amount of time to clarify the record with regard to the objections that have been heard by the district attorney in the Philadelphia region in which this judge would have resided, and also from the Pennsylvania District Attorneys Association. Clearly, this nomination was in jeopardy. It probably would have been defeated. I think that would have been the right vote. All concerned have been spared further problems by this withdrawal. So, I am pleased that the nomination has been withdrawn.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the period for the transaction of morning business be extended under the same terms as previously ordered.

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

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF SUSAN GRABER

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that at 5:20 p.m. today, the Senate proceed to executive session, with 10 minutes of time to be equally divided between the chairman and the ranking member of the Judiciary Committee, and an immediate vote then occur after that time on the confirmation of the nomination of Executive Calendar No. 530, which is Susan Graber, of Oregon, to be U.S. Circuit Judge for the Ninth Circuit. I further ask unanimous consent that following the vote, the President be immediately notified of the Senate's action and that the Senate then return to legislative session.

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

Mr. LOTT. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the nomination, and I therefore ask for the yeas and nays.

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

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. BYRD. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. The Senate is in morning business. Each Senator will be recognized for up to 10 minutes.

Mr. BYRD. I ask unanimous consent I may proceed in an uninterrupted manner through the completion of my remarks which will last no longer than 20 minutes.

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

Mr. BYRD. I thank the Chair.

SENATOR WENDELL FORD: THE LONGEST-SERVING KENTUCKIAN IN THE HISTORY OF THE SENATE

Mr. BYRD. Mr. President, the Commonwealth of Kentucky has provided the United States Senate with some of its finer members. Take John Breckinridge, who in the early 1800's became his party's most effective spokesman and legislative leader during his first term in the Senate, and who would doubtless have achieved further greatness had he not succumbed to typhus fever at the age of 46. Despite this early death, Breckinridge did achieve a form of posthumous success when his son, John C. Breckinridge was elected first Senator and then vice-President. (It was, incidentally, the younger Breckinridge who, in 1859, provided such a moving tribute to the "consecrated character" of the old Senate chamber, before leading the Senators in procession to their new, and current home.)

Or consider the great Henry Clay, who promoted the American system, whose powerful oratory and forceful personality made him one of the dominant figures during the Senate's golden age of the 1830's, 1840's and 1850's. And what of Alben Barkley, Majority Leader during the 1940's, whose booming baritone and vast repertoire of humorous anecdotes made him one of the more popular Senators of his time?

Not to mention John Sherman Cooper, who sat right here on the floor during the year that we served together. John Sherman Cooper was a former Ambassador to India. I first met him in 1955, at which time I was a Member of the House of Representatives and was traveling with a subcommittee of the House Foreign Affairs Committee to the Pacific and the Far East. On that occasion we traveled 68 days. We went around the world in an old constellation. That would have been called a "junket" in these times. John Sherman Cooper was Ambassador to India when I and my House colleagues stopped there for a short time.

John Sherman Cooper also played an outspoken role in the debates on the war in Vietnam. The list of outstanding Senators from Kentucky is a long list indeed.

Mr. President, today Kentucky has another native son of whom it can be equally proud. That man is WENDELL FORD, who on Saturday last, March 14, became the longest serving Kentuckian in the history of the State.

It seems only fitting that Senator FORD should hold this record, for few other politicians have served the great Commonwealth of Kentucky as ably or as successfully as has WENDELL FORD. After service in World War II, Senator FORD returned to his home state and in short order became a state Senator, then a lieutenant governor, then Governor, before his election to the Senate in 1974.

When WENDELL FORD came to the U.S. Senate, I was the majority whip. Since that date in 1974, Senator FORD has earned acclaim as a smart and savvy legislator, particularly during his excellent chairmanship of the Rules Committee from 1986 to 1994. I count it a great privilege and honor and a pleasure to have served on the Rules Committee during those years of WENDELL FORD's chairmanship. He did well. He was a mighty protector of the rules of the Senate and is one of the best chairman of any committee on which I have served. Senator FORD has also been prominent in the party leadership. He chaired the democratic senatorial campaign committee from 1976 to 1982 and he has served with distinction as party whip since 1990.

As a Senator, WENDELL FORD has endeared himself to colleagues and staffers alike with his warm personality and his vibrant sense of humor. He has also distinguished himself as a devoted and vigilant defender of the interests of his native Kentuckians. I should say of all Kentuckians, native or otherwise. I have always felt a kinship with Kentucky, which borders my own mountain II state. I have felt a kinship with the people of eastern Kentucky, whose rugged, mountainous terrain resembles that of West Virginia. And, as a fellow United States Senator representing another less well-off state whose needs have often been overlooked for too long, I have the utmost respect and admiration for Senator WENDELL FORD's courageous and tenacious efforts to serve the interests of his state and its noble people. In this regard, Senator FORD may be seen as an heir to the legacy of Henry Clay, whose "American system" favored federal spending on communications, transportation and other internal improvements. As a matter of fact, the Old Cumberland Road, as it is sometimes referred to, the Old National Road, began at Cumberland, MD, and went westward to Wheeling, WV and on to Vandalia, IL. The work on that road began in 1811, and by the year 1838 the Federal Government had invested the astounding sum of \$3 million in that highway.

That was the highway which many settlers traveling from the east and going to the west, took, as they made their way to the Ohio River. I should say that Henry Clay was one of the foremost supporters of appropriations for the Old Cumberland Road, and we who live in the mountainous terrain of West Virginia, and particularly in the northern part of the State, have not forgotten that nor shall we forget it. Few Senators have been as dedicated to serving the needs of their constituents as the able senior Senator from Kentucky, and I salute him for that.

At the same time, Senator FORD has also done much good work on a national level. As a member of the Commerce Committee, Senator FORD has become a national leader on aviation issues, a leader who played key roles in shaping the 1994 Federal Aviation Administration Authorization Act and the 1987 Airport and Airways Capacity Expansion Act. On the Energy Committee, Senator WENDELL FORD has worked tirelessly to lessen our country's dependence on foreign oil and to support clean, environmentally friendly coal technologies. And whether fighting for campaign finance reform or sponsoring the motor voter bill, Senator FORD has been a valiant soldier in the ongoing struggle to make this country's political system as fair, as open, and as representative as possible.

Mr. President, the same words spoken by Senator Clay in his farewell address to the Senate 156 years ago could just as well be attributed to Senator FORD's career in the Senate. Senator Henry Clay declared in part:

... that I have been actuated by no personal motives—that I have sought no personal aggrandizement—no promotion from the advocacy of those various measures on which I have been called to act—that I have had an eye, a single eye, a heart, a single heart, ever devoted to what appeared to be the best interests of the country.

Senator FORD's good work has not gone unappreciated by his constituents. The host of state records that he holds testifies to his popularity with Kentuckians. After all, Senator FORD was the first candidate to carry all 120 counties against opposition and, he did this in 1980. In 1992, he won the highest number of votes cast for any state candidate. And in 1996, he surpassed Alben Barkley's record of having the longest consecutive service of any Kentucky Senator. Now, with this latest accomplishment to his name, there can be no doubting that Senator FORD's position is as one of the most successful and popular politicians in the state's history.

Mr. President, although Senator FORD has announced that he will not stand for re-election this fall, he may rest assured as he prepares to leave this chamber that his contributions and accomplishments have earned him a place in the Senate's and Kentucky's honor rolls. I am sure that I can speak for all of my colleagues when I say that

Senator FORD will be sorely missed. His combination of personal charm and legislative skill is a rare one, and whoever fills his seat will have much to live up to.

My wife, Erma, and I shall regret to see him and his lovely wife go.

WENDELL FORD in his service here and in his service to the people of Kentucky, reminds me of a bit of verse by John G. Holland, entitled "God Give Us Men":

God give us men!

A time like this demands strong minds,
great hearts, true faith, and ready hands.
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie.
Men who can stand before a demagogue
And brave his treacherous flatteries without
winking.

Tall men, sun-crowned;
Who live above the fog,
In public duty and in private thinking.
For while the rabble with its thumbworn
creeds,
It's large professions and its little deeds,
mingles in selfish strife,
Lo! Freedom weeps!
Wrong rules the land and waiting justice
sleeps.

God give us men!

Men who serve not for selfish booty;
But real men, courageous, who flinch not at
duty.

Men of dependable character;
Men of sterling worth;
Then wrongs will be redressed, and right will
rule the earth.
God Give us Men!

Mr. President, I yield the floor and I suggest he absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. FORD. Mr. President, as has been obvious last Friday and today, this Senator succeeded the service of the distinguished Kentucky statesman, Alben Barkley. It is an extraordinary gift that the people of my State have given to me, because it is a gift only they have to give; that is, through their votes. If there is any significance to this period of service, it is that I have served my people well, have voted the way they would have hoped I would vote, and they understand that I work hard even though I do not accomplish everything that I hope to.

Mr. President, on Friday, one of the finest young men that I have known in a long time, Senator DASCHLE, said some very kind words about me and our association. I am grateful to him. JOHN GLENN, whom everybody knows—and you want to stand close to him so you can get your picture made—JOHN and his wife Ann and Mrs. Ford and I have become very close personal friends. JOHN is going to do what he feels he can still make a contribution to, and that is how we can prevent

aging. I wish him all the success in the world. After I leave here, I intend to form the Government Education Center in my hometown for high school students. The JOHN GLENNs of this world will do what they can do best. I hope that WENDELL FORD can do what he does best and try to encourage young people to take an interest in government, whether it is local, State, or Federal. Maybe we can find another Henry Clay, or Henrietta Clay, as the times would dictate, in the class of high school students. We will begin that in January of next year when I leave the Senate.

HARRY REID, who talked about Searchlight, NV, a very small community, reminds me of Yellow Creek, KY, where I came from; the little town of Thruston.

Senator KENNEDY, for the remarks he made on Friday, I am grateful to him.

We have just listened to some words from the distinguished Senator from West Virginia, ROBERT BYRD. As he said, he was the whip when I came to the Senate, and he was almost a "third Senator" for Kentucky, because we had so much in common between West Virginia and Kentucky, particularly in eastern Kentucky.

I thought I knew the love of this institution until I met Senator ROBERT BYRD and understood his love for this institution. I thought I understood "to defend and support the Constitution" of these United States until I met ROBERT C. BYRD and saw his tenacious support of the Constitution and how sometimes he would stand alone in his defense of it. So the years with Senator ROBERT BYRD have been very meaningful to me. We need people such as him to give us the legislative history not only of our beginning and prior to that but so that we understand why we are here and how we work.

Mr. President, I may have formal remarks later on in this session before we leave, but I could not let this time pass without thanking my friends for their kind words and hope that somehow I may be able to develop and encourage young people to come and be a future ROBERT C. BYRD or a TOM DASCHLE or a HARRY REID or a TED KENNEDY.

I thank all of them for their kind words, and particularly the people of my State who have been so kind to me in the years we have worked together for its betterment. Maybe I ought to apologize to some of my colleagues for being so tenacious at times in trying to serve the people in my State, whom I love so much. A lot of them I love I have never seen or met, but the relationship is still there. As we go through this trying time as it relates to support for the farmer in my State, I probably have been more tenacious than I have ever been because it is the largest political problem I have had since I have been in politics some 35 years.

Mr. President, I thank you for the opportunity to speak. There being no

Senator wishing to be recognized, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair thanks the senior Senator from Kentucky, the longest serving Senator from the great State of Kentucky, and joins in the admiration of those who spoke of him.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. McCONNELL. Mr. President, today marks another milestone in the extraordinarily successful tenure of my friend and colleague from Kentucky, WENDELL FORD. He becomes the longest serving Senator in Kentucky history. I remember well when Senator FORD got his start; I was in law school at the University of Kentucky. I remember reading a story about a State Senate primary in Owensboro, KY, in which the Senate majority leader of the Kentucky State Senate was upset in the primary by an impressive young man named WENDELL FORD, who had been involved in politics some time and had been in fact national president of the Jaycees.

Then in my senior year in law school, I remember this young State senator, who obviously didn't want to stay in the State senate too long, running for Lieutenant Governor and defeating the attorney general of Kentucky in that primary.

Then that November, an unusual thing happened in Kentucky—they elected a Republican Governor. It has not happened since. It is a fairly rare occurrence in our State. But State Senator Wendell Ford was elected Lieutenant Governor, so he beat one of those rare Republican tides in our State.

Then, as if that were not enough, 4 years later everybody in Kentucky thought that former Gov. Bert Combs, who subsequently had a distinguished career as a U.S. court of appeals judge, was a lead pipe cinch to be the next Governor of Kentucky and at the very least to win the Democratic primary. But Lt. Gov. Wendell Ford defeated, against everybody's expectations, former Governor Combs in the primary, and the rest is, as they say, history.

He came to the Senate, beating a Republican incumbent in 1974, and is into the final days of his fourth term. He has served Kentucky long and well, having had an extraordinarily successful public career. I join with all of my colleagues in congratulating him for his not only lengthy service but his excellent service on behalf of the Commonwealth of Kentucky and the people of the United States.

Mr. President, I suggest the absence of a quorum.

Mr. FORD. Will the Senator withhold?

Mr. McCONNELL. I withhold.

Mr. FORD. Mr. President, it is hard to take all these kind words that are being said about me, and I think I will notify my grandchildren to listen in. But I do thank my colleague for a bit of history as it relates to my political career. His is somewhat akin to mine. When he ran for office, he was not expected to win, and he did. So I think we can relate to those periods in our lives and our political tenure. I do thank him for his kind words today, and I look forward to working with him to accomplish things for our Commonwealth and this country in the next few months we will serve together. I am grateful to him.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

UNANIMOUS-CONSENT AGREE- MENT—NOMINATION OF JEREMY D. FOGEL

Mr. McCONNELL. Mr. President, on behalf of the Republican leader, as in executive session, I ask unanimous consent that at 5:20 today the Senate proceed to executive session and there be 10 minutes of debate in the usual form on Executive Calendar No. 505, the nomination of Jeremy D. Fogel, of California, to be U.S. district judge.

I further ask unanimous consent that immediately following the debate, the Senate proceed to a vote on the confirmation of the nomination, and following the vote, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

Mr. McCONNELL. I now ask unanimous consent that it be in order at this time to ask for the yeas and nays on the nomination.

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

Mr. McCONNELL. I therefore ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. McCONNELL. All Senators should now be aware that at 5:30 today there will be a rollcall vote on Jeremy Fogel to be U.S. district judge.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

NOMINATION OF JUDGE MASSIAH- JACKSON

Mr. HATCH. Madam President, Judge Massiah-Jackson has made the right decision in withdrawing her nomination to the Federal bench, given the strong bipartisan opposition from law enforcement groups, her demonstrated leniency in sentencing convicted criminals, and the Judiciary Committee's concerns about her lack of candor throughout the nomination process. I believe withdrawing the nomination was the right thing for her to do. Despite the fact that the committee afforded two hearings for this nominee, and gave her ample opportunity to answer criticisms of her record, her responses were found to be unconvincing. After having heard the nominee's testimony and having considered the information provided to the committee by law enforcement officials about her treatment of police officers in court and her flawed judicial rulings, I would not have voted to confirm this nominee to a lifetime appointment to the Federal bench.

The events surrounding Judge Massiah-Jackson's nomination demonstrate the need for the Senate to scrutinize the President's nominees carefully. That is what we have been doing. This is not a numbers game. We have to look at these people very carefully. They are nominated and, if confirmed, are confirmed for lifetime positions. Some people say the closest thing to God put in this life is being put on the Federal bench, because nobody can criticize you under those circumstances once you make it there. So this particular nomination does demonstrate the need for scrutiny of any President's nominees.

Unfortunately, I think many in the legal community do not understand the Senate's role in the confirmation process. The Constitution obligates the Senate to advise the President with respect to his choice in nominees and ultimately consent to their appointment. No one has the right to a Senate confirmation anymore than he or she has the right to be nominated by the President. Federal judges serve for what amounts to life terms. They wield enormous power in our society, power that must be exercised fairly and impartially. When the President sends us nominees who lack the necessary qualifications to be elevated to the Federal bench, the Senate's duty is to bring these deficiencies to light.

In this case, given the bipartisan opposition of law enforcement and the nominee's problematic record, I believe withdrawal of the nominee was appropriate. But let me add, had this nominee come to a vote today, she would have been overwhelmingly defeated by both sides of the aisle. There were many Democrats who were going to vote against Massiah-Jackson, and I think most all Republicans were going to vote against her as well. And there were reasons to do so with regard to this nomination.