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## Senate

The Senate met at 9:15 a.m. and was called to order by the Presiding Officer, the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Loving Father, we want to know You so well, trust You so completely, seek Your wisdom so urgently, and receive Your inspiration so intentionally that we will be people attentive to the guidance of Your Spirit. May we be totally available for the influence of Your Spirit. Help us to be as receptive to Your direction. Alarm us with disquiet in our souls if what we plan is less than Your best. With equal force confirm any convictions that will move forward what You think is best for us. Place Your hand on the Senators' shoulders today. Remind them that You are with them and will guide them. You are Jehovah Shamah: You will be there! Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JON S. CORZINE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 20, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,  
*President pro tempore.*

Mr. CORZINE thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### EXECUTIVE SESSION

NOMINATION OF ROGER L. GREGORY TO BE UNITED STATES CIRCUIT JUDGE

NOMINATION OF SAM E. HADDON TO BE UNITED STATES DISTRICT JUDGE

NOMINATION OF RICHARD F. CEBULL TO BE UNITED STATES DISTRICT JUDGE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session to consider en bloc Executive Calendar Nos. 250, 245, and 246, which the clerk will report.

The legislative clerk read the nominations of Roger L. Gregory, to be United States Circuit Judge for the Fourth Circuit; Sam E. Haddon, to be United States District Judge for the District of Montana; and Richard F. Cebull, to be United States District Judge for the District of Montana.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask unanimous consent that whatever time I consume not be charged against the two managers of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, there will be 30 minutes of debate in relation to the three judicial nominations, followed by three rollcall votes beginning at approximately 9:50 a.m.

Mr. President, the first vote will be under the regular order. The next votes will be 10 minutes each. These are the only rollcall votes today. The next rollcall votes will occur Monday at approximately 5:45 p.m.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 30 minutes for debate, to be equally divided between the Senators from Vermont and Utah or their designees.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair. I see my good friend from Utah is here, as well as the Senators from Montana and Virginia.

Mr. President, it took the Senate the entire month of June to pass S. Res. 120, a very simple resolution in which we organized our committees. As one Senator, I am sorry we lost the month of June to the process of reorganizing the Senate, but I am proud of the very quick start of the Judiciary Committee on holding hearings and reporting nominees.

I sent out official notice of the committee's first hearing on judicial nominations within 10 minutes after the majority leader announced an agreement had been reached on reorganization. The hearing on judicial nominations was held the very first day after committee membership assignments were completed earlier this month.

We expedited committee consideration of the nominees by urging all Senators to propound such followup written questions as they thought necessary as soon as possible after the hearing. I included them on the committee agenda for our business meeting this week.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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At that meeting yesterday, the Judiciary Committee voted unanimously to report each of the judicial nominations. Each vote was 19-0, and the other nominations on the calendar were voice voted.

These are the first judicial nominations heard before the committee, the first judicial nominations considered by the committee, and they will now be the first judicial nominations considered by the Senate this year.

I have only served as chairman of the Judiciary Committee since June 5, the Senate did not adopt its reorganizing resolution until June 29, and committee assignments were not made until July 10. So we have been moving pretty rapidly since the Senate allowed us to go forward.

There were no hearings on judicial nominations and no judges confirmed by the Senate during the months in which I was privileged to serve as the ranking Democrat. I chaired the first hearing on July 11. That was the first hearing on judicial nominations all year.

The first judge we confirm today will be the first judge confirmed in the 107th Congress. I heard the rumors that those on our side of the aisle would not hold hearings and would not consider any of President Bush's judicial nominations. We even heard some words that the Democrats might block all judges. Of course, we demonstrated very clearly that is not the case.

We set a pace, one of the fastest paces I have seen in my 25 years on the committee under both Democratic and Republican Chairs. We held a hearing noticed minutes after the Senate's reorganization. We proceeded with nominees of both the court of appeals and district court the day after committee assignments were made. We proceeded with expedited committee consideration yesterday. We are proceeding today with Senate consideration of what I hope will be the confirmation of the first of President Bush's nominations.

First is the nomination of Judge Roger Gregory. I know Judge Gregory, his family, and indeed all the people who live in the area covered by the United States Court of Appeals for the Fourth Circuit, have been waiting a long time for this day.

Judge Gregory was first nominated for this position in June 2000—more than a year ago. He has the strong bipartisan support of both his home State Senators, John Warner and Chuck Robb, but no hearing was ever scheduled on President Clinton's nomination of Roger Gregory.

President Clinton's attempts to fill a number of vacancies on the Fourth Circuit met with resistance, delaying the inevitable integration of the court. Judge Beaty, a U.S. district court judge for the Middle District of North Carolina, was nominated by President Clinton 6 years ago, in December of 1995, but he never received a hearing. Judge Beaty was renominated in 1997.

Again, the committee scheduled no hearing for him. Judge Beaty waited a period of 34 months without a hearing.

President Clinton tried again in 1999, nominating another African-American, James Wynn. Judge Wynn, a North Carolina Court of Appeals judge, was also denied a hearing before the committee, but President Clinton sent him back to the Senate one more time to give the Senate one more opportunity to hear him at the start of the 107th Congress in January of this year. After pending for a total of 16 months without a hearing, Judge Wynn's nomination was among those withdrawn by President Bush in March of this year.

Roger Gregory was initially nominated, as I noted, over a year ago. Like the others, his nomination languished without a hearing. Because there was no action taken by the Senate on Mr. Gregory's nomination, President Clinton used his powers of recess appointment to make Roger Gregory the first African-American judge to sit on the Fourth Circuit and sent his nomination for a permanent position on that court back to the Senate at the beginning of this year.

President Bush initially withdrew Judge Gregory's nomination in March, but after careful reconsideration, President Bush—and I applaud him for this—sent Judge Gregory's name back to us in May. Again, he had the strong support of both Senators from Virginia.

During this time, Virginia was represented by three different Senators, two of whom I am privileged to serve with today—one Democrat, two Republicans. All three strongly supported Judge Gregory. To their credit, all three resisted political importuning from either side.

This makes Judge Gregory actually one of the few nominees ever to be nominated for the same position by Presidents of different parties. He is in the unique position of serving by means of an appointment whose term expires at the end of this session of the Senate unless his nomination to a full lifetime appointment is acted upon before we adjourn this year.

Judge Gregory received his B.A. in 1975 from Virginia State University and his juris doctorate from the University of Michigan in 1978. Prior to his appointment to the Fourth Circuit, he was active in private practice in Virginia.

His law practice was a mix of civil and criminal in both State and Federal courts, including criminal defense, personal injury, domestic cases, real estate, work as general counsel for an urban school district, and defense cases for large insurance companies and large corporations such as General Motors and K Mart. He was an active litigator.

He also taught as adjunct professor of constitutional law at Virginia State University. He was a member of the faculty of the Virginia State Bar Ethics and Professional Responsibility

Committee for all recent admittees to the State bar.

Judge Gregory was very active in community and bar activities before he took the bench, including service on the board of directors of the Central Virginia Legal Aid Society, the Richmond Bar Association, and the Virginia Association of Defense Attorneys.

His life and career have been exemplary and his qualifications for this position are stellar. His service on the bench since his appointment has been uniformly praised. He conducted himself with distinction at his confirmation hearing this month.

Based on all these considerations, it seems appropriate that Judge Gregory's nomination be the first considered by the committee and the Senate this year.

As I said before, I commend my good friend, the senior Senator from Virginia, Mr. WARNER, as well as the distinguished Senator, Mr. ALLEN, and Representative BOBBY SCOTT when they appeared before the committee earlier this month to urge Judge Gregory's confirmation, giving him their bipartisan stamp of approval.

At our hearing, Senator WARNER, who is truly the gentleman of the Senate, as we all know, was characteristically generous in praising Senator Robb and Governor Wilder for their efforts on behalf of Roger Gregory as well.

I add my praise of both Presidents, one a Democrat and one a Republican. I praise President Bush for doing the right thing in this case. President Bush deserves great credit for renominating Judge Gregory and allowing the Senate a third chance to consider and confirm this outstanding nominee. Senator ALLEN served with distinction both as Governor of the State of Virginia and now as U.S. Senator from Virginia and knows well the qualifications.

Then we have two nominees to the district court in Montana. They are both well qualified and well respected. My two friends from Montana, the two Senators from Montana, came to me and asked if we could move these judges forward. I thought they had done what is a model. They worked together with the White House to get two well-qualified judges. Senator BAUCUS and Senator BURNS both told me the same thing on different occasions: They had a desperate need for judges. They had one judge handling far more than they should have to, sort of home alone. They said, please send somebody to help.

Recommended to the President, and the President to us, Richard Cebull is currently a United States Magistrate for the District Court of Montana. He spent his career in private practice before his appointment as a magistrate. Judge Cebull received a unanimous well-qualified rating from the ABA Standing Committee on the Federal Judiciary, where the ABA has been helpful to us, to Senators BAUCUS and BURNS, as well as the White House.

Judge Cebull is a native of Billings, Montana. He received his B.S. from Montana State University in 1966, and his J.D. from the University of Montana Law School in 1969. Before his appointment as a magistrate, Judge Cebull spent his career in private practice in Billings, litigating civil cases with an emphasis on insurance defense and medical malpractice defense.

He was active in trial lawyer associations and a speaker at CLE programs on practical litigation issues. He also served as a member of the Montana Pattern Jury Instruction Commission, which wrote civil jury instructions for Montana courts, and was Chairman of the Civil Justice Reform Act Advisory Group, which wrote the District of Montana Local Rules. For a short time in the 1970's, he served as a Trial Judge in the Northern Cheyenne Tribal Court, presiding over criminal trials of tribal members charged with violating tribal ordinances. He has also served as a settlement master in a variety of civil cases. Judge Cebull received a unanimous "Well Qualified" rating from the ABA's Standing Committee on the Federal Judiciary.

Sam Ellis Haddon is an attorney in private practice in Missoula, Montana. Mr. Haddon is a 1959 graduate of Rice University and received his J.D. in 1965 from the University of Montana School of Law. He was an immigration patrol inspector for the U.S. Border Patrol, and a criminal investigator for the Federal Bureau of Narcotics. His legal career has been spent in private practice, focusing primarily on civil litigation in a variety of areas of law.

He has been very active in bar activities and Montana Supreme Court commissions over the years. His many memberships include the ABA, the American College of Trial Lawyers, the American Academy of Appellate Lawyers, the American Judicature Society, the American Law Institute, and he is a fellow of the American Bar Foundation.

As a young attorney he was active in the Montana State Bar, and later on served on an advisory commission making recommendations to the State's Supreme Court about the standards for admission to practice in Montana. He was also chair of a commission to study and suggest revisions to the State's laws of evidence, and since 1986 has served on the Montana Supreme Court's Commission on Practice, screening and hearing ethics complaints against attorneys admitted in the State.

For the last five years he has served as the chair of this Commission. Mr. Haddon has been an adjunct instructor at the University of Montana Law School for nearly 30 years, teaching contracts, professional responsibility and trial practice. Like Judge Cebull, Mr. Haddon also received a unanimous "Well Qualified" rating from the ABA's Standing Committee on the Federal Judiciary.

Judge Cebull and Sam Haddon are both strongly supported by their home-

state Senators, MAX BAUCUS and CONRAD BURNS, who each testified enthusiastically on behalf of these nominees at their July 11 hearing. The Senators from Montana also echoed the plea we had heard from Chief Judge Molloy, who is the only active Judge for the District of Montana, to quickly confirm these nominees.

I hope the Senate will respond to their plea and approve these nominations today. Confirmation of these nominations for Montana will demonstrate that the Senate can act promptly on consensus nominees with broad bipartisan support. When the White House works closely with home-state Senators of both parties, with both Democrats and Republicans, Senate consideration is made much easier. I commend Senators BAUCUS and BURNS for their constructive approach to filling the vacancies that were plaguing their District Court.

I am happy to support these two nominees for the District Court in Montana as well as Roger Gregory for the U.S. Court of Appeals for the Fourth Circuit, and hope to be able to support many more of the President's judicial nominees.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I know there is tremendous interest in these nominees involving two States and a number of Senators. However, we have received a number of inquiries and we will not be able to extend the time. People are waiting. If there is a request to extend the time for additional speakers this morning, I will have to object.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I am extremely pleased that the Senate today will consider the first of President Bush's nominees for the federal judiciary. The three nominees are Judge Roger Gregory for the United States Court of Appeals for the Fourth Circuit, and Judge Richard Cebull and Mr. Sam Haddon for the United States District Court for the District of Montana.

My review of these nominees has convinced me that they will serve the judiciary with competence, fairness, and honor. Judge Gregory's extensive legal experience, character, and good judgment make him an excellent choice for the Fourth Circuit Court of Appeals. His nomination by President Bush—with the hard work and support of Senators WARNER and ALLEN—is well deserved. It is also, by the way, a clear gesture of bipartisanship by President Bush, which is unprecedented in modern times.

The two nominees for the District of Montana also demonstrate the rewards of bipartisanship. Judge Cebull and Mr. Haddon enjoy the support of both Montana senators—Republican Senator BURNS and Democrat Senator BAUCUS. And it's easy to see why. Judge Cebull has an outstanding record as a lawyer with 28 years of experience in private

practice and as a federal magistrate judge. Mr. Haddon has also developed considerable expertise in a broad range of litigation topics—both at the trial and appellate levels. These judges will not only perform their duties with distinction, but also will help ease the excessive caseload currently being handled by Montana's single full-time federal district judge.

So, Mr. President, we have three solid nominees before the Senate, and I hope and expect that all of them will be confirmed today. I also want to take this opportunity to thank Chairman LEAHY for moving these nominees. I must note, however, that there are ten other judicial nominees who have been pending before the committee for more than two months without even a hearing. I urge Senator LEAHY to move forward expeditiously on these and the remaining 26 judicial nominees pending before the committee.

I ask unanimous consent the distinguished senior Senator from Virginia be permitted to speak for 5 minutes, and then the distinguished Senator from Virginia, Mr. ALLEN, be permitted to speak for 5 minutes, and the remaining time be given to the distinguished Senator from Montana.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished managers. Indeed, we are fortunate here in the Senate to have two such outstanding Senators to head up the very important Judiciary Committee because the third branch of our government is the Federal judiciary.

Throughout the nearly 23 years I have been privileged to serve as a United States Senator, I have taken a very active and conscientious role in making recommendations to our Presidents for nominees to serve on the Federal judiciary.

We are at a historic moment here today with Judge Gregory, as we are about to confirm the first African-American Judge to the United States Court of Appeals on the Fourth Circuit. Virginia, and indeed all the States within the Fourth Circuit, is diverse in its citizenry. Our Judiciary should reflect the broad diversity of the citizens it serves.

Accordingly, I had the privilege and the honor of recommending to President Reagan the first African-American in the nearly 200 year history of the Commonwealth of Virginia to serve on the Federal bench. That judge, Judge James Spencer, a United States district judge, has served with great distinction.

I also had the privilege and honor of recommending to the first President Bush, the first woman to serve on the United States District Court in the Commonwealth of Virginia, Ms. Rebecca Smith. Judge Smith, likewise, has served with great distinction.

And, today, the Senate will confirm Judge Gregory and another chapter of

history is documented between the Commonwealth of Virginia and the Federal judiciary.

I remember very well when Roger Gregory's name first came to the United States Senate. I had not known him directly, and shortly after he was nominated, I quickly made arrangements to confer with him.

Soon, we established a close professional relationship and personal friendship; I have stood by his side ever since through a rather challenging and unusual process of confirmation.

Judge Gregory is eminently qualified for a lifetime judgeship on the Fourth Circuit.

Former Governor of Virginia, Governor Douglas Wilder, the only African-American in the history of the United States in this century to serve as chief executive of one of our States, addressed a letter to me, my colleague Senator ALLEN, and Congressman SCOTT, in support of Judge Gregory. I would like to read portions of this letter into the RECORD. I submit the letter in its entirety for the RECORD. Although the House of Representatives is not directly involved in the judicial confirmation proceedings, Members do play an active role. I thank Congressman SCOTT for his strong support throughout the Gregory confirmation process. And, I also submit a letter of support from Congressman SCOTT to be printed in the RECORD.

Governor Wilder stated:

Gentlemen: I first want to thank you for the strong and unwavering support relative to the nomination of Roger L. Gregory for a position on the United States Fourth Circuit Court of Appeals. It has been invaluable in the process.

I also want to thank the Chairman of the Judiciary Committee, Senator Leahy . . . as well as the former Chairman, Senator Hatch, for the courtesies extended to the nominee.

I also commend Senator Charles S. Robb for starting the process by recommending Judge Gregory to President Clinton for the bench. Needless to say, there are a number of persons who have played a pivotal role in bringing this nomination to this point; but none more outstanding than the nominee himself. I have long felt confident that once a hearing was in place, others would more widely see the sterling qualification of the individual . . .

I have known the judge since his college days at Virginia State University through the present. I have known him as a student, law partner and friend. I know that he enjoys a splendid reputation with the bench and bar, as well as, being an integral part of the community at state and local events. His devotion to family and civic responsibilities is outstanding and his character is beyond reproach. Impartiality, integrity and resourcefulness will guide him in his decision making.

I am confident he will make a very lasting contribution . . .

Mr. President, over the history of the Fourth Circuit, there has been a total of 41 judges who have served on the court. Throughout my 23 years in the United States Senate, I have had the honor of participating in the Senate's "advise and consent" constitutional role for 16 of these judges.

In fact, of the 11 active judges currently on the court, I have participated in and supported the confirmation of 10 of these judges. Only Judge Widener, who was confirmed in 1972 and who is a jurist I have come to know and greatly respect, has a confirmation that preceded my Senate service.

Roger Gregory has been a respected member of the Virginia bar since 1980. He has worked for one of Virginia's most respected law firms, Hunton & Williams, and he co-founded his own firm in 1982 with Governor Doug Wilder. Judge Gregory is well known as a skilled litigator.

Judge Gregory, I believe, also has the requisite judicial temperament. Many, if not all Senators are concerned about judicial activism. The Judiciary's role is to interpret the law, not to make law. Judge Gregory assured me he will follow this traditional, constitutional, role.

From my conversations with Judge Gregory, and based on his judicial questionnaire, I am confident that he recognizes the importance of the separation of powers laid out in our Constitution.

Mr. President, Judge Roger Gregory is obviously a very accomplished American. He is well qualified to continue service on this important court, and I am certain that he will continue to serve on this court with honor, integrity, and distinction.

It is time to confirm Judge Gregory to a lifetime appointment. I urge my colleagues to support this fine nominee for confirmation.

I ask unanimous consent that the letter from former Governor Doug Wilder and a letter from Congressman BOBBY SCOTT be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LAURENCE DOUGLAS WILDER,  
Richmond, VA, July 6, 2001.

Hon. JOHN WARNER,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

Hon. GEORGE ALLEN,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

GENTLEMEN: I first want to thank you for the strong and unwavering support relative to the nomination of Roger L. Gregory for a position on the United States Fourth Circuit Court of Appeals. It has been invaluable in the process.

I also want to thank the Chairman of the Judiciary Committee, Senator Leahy, for scheduling the hearings as well as the former Chairman, Senator Hatch, for the courtesies extended the nominee.

I also commend Senator Charles S. Robb for starting the process by recommending Judge Gregory to President Bill Clinton for the bench. Needless to say, there are a number of persons who have played a pivotal role in bringing this nomination to this point; but none more outstanding than the record of the nominee himself. I have long felt confident that once a hearing was in place, others would more widely see the sterling qualification of the individual. I regret very much that due to a previously scheduled vacation starting last Saturday, I will not be in the country to witness and attest in this regard.

I have known the judge since his college days at Virginia State University through the present. I have known him as a student, law partner and friend. I know that he enjoys a splendid reputation with bench and bar, as well as, being an integral part of the community at state and local events. His devotion to family and civic responsibilities is outstanding and his character is beyond reproach. Impartiality, integrity and resourcefulness will guide him in his decision making.

I am confident he will make a very lasting contribution to his state and country and again many thanks for making this happen.

Sincerely,

L. DOUGLAS WILDER,  
Former Governor of Virginia.

JULY 20, 2001.

Hon. JOHN W. WARNER,  
Senator, U.S. Senate,  
Russell Senate Office Building, Washington,  
DC.

DEAR SENATOR WARNER: I am very pleased to see that the Senate has Scheduled a vote on confirming Judge Roger Gregory's appointment to the United States Court of Appeals for the Fourth Circuit. I want to take this opportunity to express my great appreciation for all of your dedication and commitment to getting Judge Gregory appointed, reappointed, considered and confirmed.

As you know, Judge Gregory is from Richmond, Virginia—a part of which is in the Third Congressional District which I represent. His nomination to the Fourth Circuit Court of Appeals is a source of pride for all Virginians.

Judge Gregory has stellar professional and legal credentials. He is a summa cum laude graduate of Virginia State University and a graduate of the University of Michigan School of Law. After practicing with two law firms, he became a founding member and managing partner of the law firm of Wilder and Gregory in Richmond.

Judge Gregory is truly a consensus candidate for a permanent appointment to the Fourth Circuit Court of Appeals. He has bipartisan support from members of the Virginia Congressional Delegation, the Governor and other political leaders from Virginia. He also has the support of many organizations and individuals across Virginia and beyond. And as a judge sitting on the Fourth Circuit Court of Appeals for the past several months, he has earned the respect of his colleagues on the bench.

I have known Judge Gregory for over 20 years and have worked with him in several organizations, including the Old Dominion Bar Association. I am confident that he will distinguish himself and Virginia as a member of the Court.

With your continued able leadership, Judge Gregory will have an excellent chance for confirmation, and, again, I thank you.

Very truly yours,

ROBERT C. "BOBBY" SCOTT,  
Member of Congress.

The ACTING PRESIDENT pro tempore. The junior Senator from Virginia.

Mr. ALLEN. Mr. President, I thank my colleague, JOHN WARNER, for his remarks. I reflect on the first statement I made on this Senate floor on January 25 when I rose to address the appointment of Roger Gregory to the United States Court of Appeals for the Fourth Circuit. When I spoke, I asked my colleagues to move the nomination of Judge Gregory on the basis of his qualifications. I asked my colleagues, and indeed the President, to not view

Roger Gregory based upon the former President's political manipulations.

Fortunately, President Bush has heeded my advice and the advice of my good friend and colleague, Senator JOHN WARNER, who stood with me on that first speech back in January. Fortunately, President Bush has acted.

As a Virginian and as an American, I am proud to rise again today in support of the confirmation of Judge Roger Gregory. I am also proud to see that Members of both parties in the Senate and President Bush have risen above the past procedural aggravation and have acted in a statesmanlike manner. It is my belief that in Roger Gregory the Fourth Circuit and indeed America have a well-respected and honorable jurist who will administer justice with integrity and dignity. He will, in my judgment, decide cases based upon and in adherence to duly adopted laws and the Constitution.

He is the first African-American to serve on the Fourth Circuit Court of Appeals. This is a good and historic vote we are about to take. I share the salient reasons I support Roger Gregory, whom we are about to vote to confirm. We hear a lot of inspirational stories. Yesterday, in the Small Business Administration hearings on the nomination of Hector Barreto Jr., JOHN ENSIGN and I thought what an inspirational story about that young man and his father who came to this country. What a success story.

Roger Gregory is an inspirational story, as well. Judge Roger Gregory is a testament to what can be achieved in America through hard work and personal determination. He is the first person in his family to finish high school. He went on to graduate summa cum laude from Virginia State University, where his mother had once worked as a maid. Before his investiture as a judge, he was a founding partner of the firm of Wilder & Gregory, a highly respected litigator representing municipal and corporate clients in the Richmond area. He has been active in civic and community affairs. He and I both served together on the board of the Historic Riverfront Foundation in Richmond. He has an AV rating in Martindale-Hubbell, which is the highest combined legal ability and general recommendation rating given to lawyers.

What is most important to me, what truly impressed me, is he has a proper judicial philosophy. He understands that the role of the judiciary is to administer the law based on the facts and the evidence, administering the law, not legislating from the bench. He will follow the rule of law, not participate—in his words—in an activist court as result-oriented judges are very dangerous.

In particular, I also think it is important he understands, and stated to me an understanding of our Federal system, that the States have broad prerogatives and you apply the Constitution and you do not easily overrule the

laws enacted by legislators which ought to be upheld and respected by the courts.

I commend the chairman, Chairman PATRICK LEAHY, the Senator from Vermont, and Senator HATCH for the dispatch in which they have moved the nomination of Roger Gregory. Let me congratulate President Bush for the confidence and good judgment he has shown in nominating Judge Gregory to be the first African-American to hold a permanent seat on the Fourth Circuit U.S. Court of Appeals.

Judge Roger L. Gregory is an exemplary citizen of the Commonwealth of Virginia. He has a sense of the properly restrained role of the judiciary and is eminently qualified to serve with distinction for many years, many decades to come.

I respectfully ask my colleagues to join me in confirming Judge Gregory to the U.S. Court of Appeals for the Fourth Circuit.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, first I thank the President of the United States for his selection, moving the two judges from Montana; I thank Senator LEAHY, my good friend; we have served together in a lot of different capacities, it seems, over the last 12 years; and my good friend Senator HATCH, on the Judiciary Committee, for having the hearings and moving them very quickly. Also, I thank my good friend from Montana, Senator BAUCUS. We worked together in order to get these two judges appointed and confirmed because the workload of the one judge in Montana is very high right now.

I had the honor of presenting both Sam Haddon and Richard Cebull to the Judiciary Committee, and now I have the high honor of speaking for them here on the floor of the Senate. They are without a doubt among Montana's finest. They are men of the land, but they are also men of the law. They come with the highest ratings from their peers, and they fully understand equal justice under law.

Both are outdoorsmen. Both have labored in the vineyards, so to speak, of their profession, and I highly recommend their confirmation. I thank them for their willingness to serve the judiciary system, and I congratulate them and wish them well in their endeavors.

I have no doubt in my mind, and neither should anyone in this body or the President of the United States, that these two men will serve in the highest traditions of the American judiciary. I congratulate them.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent I may speak for 30 seconds.

Throughout this procedure I worked hard in this case for Roger Gregory, of

course, but I want to extend special recognition to my staff member, Christian Yiahilos, who has been untiring in his efforts in research and other matters relating to this nomination. I think we ought to recognize the valuable support we get from staff, including my chief of staff, Susan Magill.

Mr. REID. Mr. President, this is truly a historic day for the Senate.

For the first time in our history, this body will confirm an African American to serve on the United States Court of Appeals for the Fourth Circuit.

The fact that the Fourth Circuit is home to the highest percentage of African American residents than all of the Circuit Courts of Appeals makes this day even more historic.

More importantly, however, the man that the Senate has confirmed to the Fourth Circuit is truly deserving of this honor.

Roger Gregory is not only a fine legal jurist, he is a good, decent man.

I commend President Clinton for having the courage to make a recess appointment of Roger Gregory last year.

I also commend President Bush for showing leadership by reappointing Judge Gregory earlier this year.

I congratulate the Senate Judiciary Committee for its quick and unanimous action with respect to this nomination.

Last year, I had the privilege and honor of recommending the first African American woman to serve on the U.S. Court of Appeals for the Ninth Circuit.

Judge Johnnie Rawlinson has served the Ninth Circuit with distinction, and I cannot begin to tell you how proud I am, as are so many other fellow Nevadans.

Roger Gregory will also bring honor and distinction to the United States Court of Appeals, and I wish him and his family all the best.

I also congratulate Sam Haddon and Richard Cebull on their confirmation to the United States District Court for the District of Montana.

The Haddon and Cebull nominations were also reported out of the Senate Judiciary Committee by a unanimous vote.

Mr. President, this is so important, because it highlights what the nomination and confirmation process should be—bipartisan.

There are too many vacancies in the Federal judiciary, and Democrats and Republicans—the Senate and the White House—must work together in a bipartisan fashion for the benefit of the federal judiciary and, ultimately, the American people.

That is precisely what happened with these two highly qualified judges from Montana, a State that boasts a Democratic Senator in MAX BAUCUS and a Republican in CONRAD BURNS.

These two Senators, working closely with President Bush and the White House, put aside party differences for the benefit of the federal judiciary in Montana—and ultimately the people of Montana.

They should be commended.

The relationship between Senator BAUCUS and Senator BURNS reminds me of what Senator ENSIGN and I have committed to do for the benefit of Nevada's federal bench.

Recently, Senator ENSIGN recommended to President Bush several candidates for the federal bench in Nevada: State District Judges Mark Gibbons and Jim Mahan, Las Vegas attorney Walter Cannon, and former Washoe County District Attorney Larry Hicks.

Senator ENSIGN and I discussed every candidate before they were recommended to President Bush, and I fully support his selections.

It has truly been a bipartisan approach with respect to the Federal bench in Nevada.

Mr. President, that is how it should be.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. I am prepared to yield the remainder of my time. I know we are committed to a vote.

Mr. LEAHY. Mr. President, I will yield back whatever time I may have, but first I ask unanimous consent it be in order to ask for the yeas and nays on the three judicial nominations and ask for the yeas and nays on all three of them en bloc now.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. I yield my time.

The ACTING PRESIDENT pro tempore. All time is yielded back. Under the previous order, the Senate will now proceed to vote on Executive Calendar No. 250.

The question is, Will the Senate advise and consent to the nomination of Roger L. Gregory, of Virginia, to be United States Circuit Judge for the Fourth Circuit? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX) and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mrs. LINCOLN) would vote "aye."

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would vote "yea."

The PRESIDING OFFICER (Ms. STABENOW). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 244 Ex.]

#### YEAS—93

Akaka	Durbin	McConnell
Allard	Edwards	Mikulski
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Fitzgerald	Nelson (NE)
Bingaman	Frist	Nickles
Boxer	Graham	Reed
Bunning	Gramm	Reid
Burns	Grassley	Roberts
Byrd	Gregg	Rockefeller
Campbell	Hagel	Santorum
Cantwell	Harkin	Sarbanes
Carnahan	Hatch	Schumer
Carper	Helms	Sessions
Chafee	Hollings	Shelby
Cleland	Hutchinson	Smith (NH)
Clinton	Hutchison	Smith (OR)
Cochran	Inouye	Snowe
Collins	Jeffords	Specter
Conrad	Johnson	Stabenow
Corzine	Kennedy	Stevens
Craig	Kerry	Thomas
Crapo	Kohl	Thompson
Daschle	Kyl	Thurmond
Dayton	Landrieu	Torricelli
DeWine	Leahy	Voinovich
Dodd	Levin	Warner
Domenici	Lieberman	Wellstone
Dorgan	Lugar	Wyden

#### NAYS—1

Lott

#### NOT VOTING—6

Bond	Brownback	Lincoln
Breaux	Inhofe	McCain

The nomination was confirmed.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Madam President, I understand the next two votes are 10-minute votes.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. This Senator will ask for regular order as soon as the 10 minutes is up.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on Executive Calendar No. 245.

The question is, Will the Senate advise and consent to the nomination of Sam E. Haddon, of Montana, to be a U.S. District Judge for the District of Montana? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

I further announce that if present and voting, the Senator from Oklahoma (Mr. INHOFE) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 245 Ex.]

#### YEAS—95

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feingold	Murkowski
Bayh	Feinstein	Murray
Bennett	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Boxer	Gramm	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carnahan	Helms	Schumer
Carper	Hollings	Sessions
Chafee	Hutchinson	Shelby
Cleland	Hutchison	Smith (NH)
Clinton	Inouye	Smith (OR)
Cochran	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Corzine	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
Dayton	Leahy	Torricelli
DeWine	Levin	Voinovich
Dodd	Lieberman	Warner
Domenici	Lincoln	Wellstone
Dorgan	Lott	Wyden
Durbin	Lugar	

#### NOT VOTING—5

Bond	Brownback	McCain
Breaux	Inhofe	

The nomination was confirmed.

Mr. LEAHY. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on Executive Calendar No. 246.

The question is, Will the Senate advise and consent to the nomination of Richard F. Cebull, of Montana, to be United States District Judge for the District of Montana? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from Louisiana (Mr. BREAUX), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from Arizona (Mr. MCCAIN), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 246 Ex.]

#### YEAS—93

Akaka	Bennett	Byrd
Allard	Biden	Campbell
Allen	Bingaman	Cantwell
Baucus	Bunning	Carnahan
Bayh	Burns	Carper

Chafee	Gregg	Nelson (FL)
Cleland	Hagel	Nelson (NE)
Clinton	Harkin	Nickles
Cochran	Hatch	Reed
Collins	Helms	Reid
Conrad	Hollings	Roberts
Corzine	Hutchinson	Rockefeller
Craig	Hutchison	Santorum
Crapo	Inouye	Sarbanes
Daschle	Jeffords	Schumer
Dayton	Johnson	Sessions
DeWine	Kennedy	Shelby
Dodd	Kerry	Smith (NH)
Domenici	Kohl	Smith (OR)
Dorgan	Kyl	Snowe
Durbin	Landrieu	Specter
Edwards	Leahy	Stabenow
Ensign	Levin	Stevens
Enzi	Lieberman	Thomas
Feingold	Lincoln	Thompson
Feinstein	Lott	Thurmond
Fitzgerald	Lugar	Torricelli
Frist	McConnell	Voinovich
Graham	Mikulski	Warner
Gramm	Murkowski	Wellstone
Grassley	Murray	Wyden

## NOT VOTING—7

Bond	Brownback	Miller
Boxer	Inhofe	
Breaux	McCain	

The nomination was confirmed.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Madam President, I am sorry; I was absolutely unavoidably detained. I did miss the first vote this morning by about 20 seconds and would like to be on record in support of vote No. 244. Had I been here, I would have voted in the affirmative for the nomination of Mr. Gregory.

Mr. LEAHY. Madam President, I understand we are, by voice vote, going to do two other nominees: Ralph F. Boyd, Jr., to be the Assistant Attorney General in charge of the Civil Rights Division, and Eileen O'Connor to be the Assistant Attorney General for the Tax Division.

It took the Senate the entire month of June to pass S. Res. 120, a simple resolution reorganizing the Committees. I am sorry that we lost the month of June to the process of re-organizing the Senate, but I am proud of the very quick start that the Committee has gotten on holding hearings and reporting nominees.

I sent out official notice of the Committee's first hearing on judicial nominations within 10 minutes after Majority Leader DASCHLE announced that an agreement had been reached on reorganization. The hearing was held the day after Committee membership assignments were completed earlier this month.

We expedited Committee consideration of the nominees by urging all Senators to propound such follow-up written questions as they thought necessary as soon as possible after the hearing. I included them on the Committee agenda for our business meeting this week. At that meeting yesterday, the Judiciary Committee voted unanimously to report each of the nominations. Each vote was 19 to 0.

These are the first nominations heard before the Committee, the first nominations considered by the Committee and will now be the first judicial nominations considered by the Senate this year. I have only served as Chairman of the Judiciary Committee since June 5, the Senate did not adopt its reorganizing resolution until June 29 and Committee assignments were not made until July 10.

There were no hearings on judicial nominations and no judges confirmed by the Senate during the months in which I was privileged to serve as the Ranking Democrat. I chaired the first hearing on July 11. That was the first hearing on judicial nominations all year and one more than the Republican Majority had held. The first judge we confirmed today is one more than all the judges confirmed by the Republican Majority in the first six months of this year.

I had heard the rumors that Democrats would not hold hearings and would not consider any of President Bush's judicial nominations and would not allow the confirmation of any judges. The word was that Democrats in the Senate would block all the judges. Well, here we are, having held a hearing noticed minutes after the delay in the Senate's reorganization finally ended, having proceeded with nominees to both the Court of Appeals and the District Court the day after Committee assignments were made, having proceeded with expedited Committee consideration yesterday and proceeding today to Senate consideration and what I hope will be confirmation of the first of President Bush's judicial nominations.

## NOMINATION OF JUDGE ROGER GREGORY

I know that Judge Roger Gregory, his family, and indeed, all of the people who live in the area covered by the United States Court of Appeals for the Fourth Circuit have been waiting a long time for this day. Judge Gregory was first nominated for this position in June, 2000 more than a year ago. He had the bipartisan support of both his home-state Senators, JOHN WARNER and Chuck Robb. Unfortunately, no hearing was ever scheduled on President Clinton's nominations of Roger Gregory.

President Clinton's attempts to fill a number of vacancies on the Fourth Circuit met with resistance, delaying the inevitable integration of the court. James Beaty, a U.S. District Court Judge for the Middle District of North Carolina, was nominated by President Clinton in December of 1995, but he never received a hearing. Judge Beaty was renominated in 1997, and again, the Committee scheduled no hearing for him. Judge Beaty waited a period of 34 months without a hearing.

President Clinton tried again in 1999, nominating another African-American, James Wynn. Judge Wynn, a North Carolina Court of Appeals Judge, was also denied a hearing before the Committee, but President Clinton sent him

back to the Senate one more time, at the start of the 107th Congress in January this year. After pending for a total of 16 months without a hearing, Judge Wynn's nomination was among those withdrawn by President Bush in March of this year.

Roger Gregory was initially nominated, as I noted, over a year ago. Like the others, his nomination languished without a hearing last year. Because there was no action taken by the Senate on Mr. Gregory's nomination, President Clinton used his powers of recess appointment to make Roger Gregory the first African-American Judge to sit on the Fourth Circuit and sent his nomination for a permanent position on that Court back to the Senate at the beginning of this year. Unfortunately, President Bush withdrew Judge Gregory's nomination in March.

After careful reconsideration, the President sent Judge Gregory's name back to us in May, again with the strong support of both Senators from Virginia. This makes Judge Gregory one of the few nominees ever to be nominated by Presidents of different parties.

In addition, Judge Gregory is in the unique position of serving by means of an appointment whose term would expire at the end of this session of the Senate, unless his nomination to a full lifetime appointment had been acted upon before we adjourn this year.

Judge Gregory received his B.A. in 1975 from Virginia State University, and his J.D. from the University of Michigan in 1978. Until his appointment to the Fourth Circuit, he was in private practice in Virginia. Mr. Gregory's law practice was a mix of civil and criminal, in both State and federal courts, including criminal defense, personal injury, domestic cases, real estate, work as general counsel for an urban school district, and defense cases for large insurance companies and other corporations such as General Motors and KMart. He was an active litigator, trying several cases a year. He also taught as an adjunct professor of constitutional law at Virginia State University, and as a member of the faculty of the Virginia State Bar Ethics and Professional Responsibility course for all recent admittees to the State bar.

Judge Gregory was very active in community and bar activities before he took the bench, including service on the Board of Directors of the Central Virginia Legal Aid Society, the Richmond Bar Association, and the Virginia Association of Defense Attorneys. He had often spoken to students and churches. He has the strong endorsements of the National Bar Association, the Virginia Association of Defense Attorneys, the Maryland Defense Counsel Board of Directors, and many others.

His life and career have been exemplary and his qualifications for this position are stellar. His service on the bench since his appointment has been