

Specter	Thompson	Warner
Stevens	Thurmond	Wellstone
Thomas	Torricelli	Wyden

## NOT VOTING—4

Chafee	Helms
Glenn	Murkowski

The nomination was confirmed.

## UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, for the information of all Senators, the next recorded vote will be the last vote tonight. Unfortunately, we have not been able to work out an agreement that will allow us to vitiate the cloture vote on the FDA reform bill tomorrow morning. So there will be a vote at 9:45. After that, Senator KENNEDY, assuming cloture is invoked, would have 4 hours of debate on FDA reform. We could go back to the Labor-HHS appropriations bill tomorrow for other amendments to be offered, but no further votes, other than the 9:45 vote.

On Monday, we will have FDA debate from 12 until 1. Then we will go to the Labor-HHS at Monday at 1. We will have a vote at 5 o'clock on Monday on either the Nickles amendment or any other amendment that Senators have taken up during the day, or any other pending amendment. I believe the McCain amendment is pending. We will have one vote at 5 o'clock on Monday. And then, on Tuesday, we will have other amendment votes, if there are any pending, at 9:30. We would complete the list we have agreed on, all amendments, and final passage on Labor-HHS sometime Tuesday afternoon, and then we will go to the FDA reform package, but not earlier than 4 o'clock.

I had hoped we could get an agreement that would allow us not to have had a cloture vote in the morning and be able to vitiate that. Senator KENNEDY didn't feel he could agree to that. I hoped that we would not have to have votes on Monday, but we could not get all that worked out. So that is the outline of the UC that I would like to renew. I have discussed this with Senator DASCHLE. The list has been worked over by everybody. So I would like to renew my request with respect to the Labor-HHS appropriations bill that I made earlier and ask consent, if cloture is invoked Friday on the FDA reform package, that there be up to 8 hours divided between Senators JEFFORDS and KENNEDY for debate on S. 830 and an additional 4 hours of debate on Monday, divided in the same fashion, beginning at 11 a.m.

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

Mr. LOTT. I further ask that the Senate proceed to S. 830 following passage of the Labor-HHS appropriations bill, but not earlier than 4 p.m. on Tuesday, September 9.

Mr. WELLSTONE. Reserving the right to object, Mr. President. I want to ask a question. On Labor-HHS, amendments laid down by Monday, are you saying all amendments have to

then be dispensed with and voted on by Tuesday?

Mr. LOTT. By Tuesday afternoon. We don't have an exact time set. But looking at the list of amendments, we believe we can do that by 4 or 5 o'clock Tuesday afternoon.

Mr. WELLSTONE. That is not part of the agreement. I am sorry.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Let me repeat, we have, we believe, a finite list. All amendments have to be offered by the close of business Monday. Look, there is not a lot of really tough stuff on the list. We believe we can finish all amendments, and all amendments would have to have been offered by the close of business Monday. We believe we can be through at a reasonable hour Tuesday afternoon. We are not locking in final passage.

Mr. WELLSTONE. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators, again, there will be one vote at 9:50 on Friday. Any other votes ordered Friday or Monday before 5 will be stacked to occur on Tuesday morning, except for the one vote on Monday afternoon.

I yield the floor, Mr. President, and I ask that we proceed with the regular order.

#### NOMINATION OF FRANK M. HULL, OF GEORGIA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The PRESIDING OFFICER. The question is, will the Senate advise and consent to the nomination of Frank M. Hull, of Georgia, to be U.S. Circuit Judge for the Eleventh Circuit. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska [Mr. MURKOWSKI], the Senator from North Carolina [Mr. HELMS], and the Senator from Rhode Island [Mr. CHAFEE] are necessarily absent.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 219 Ex.]

## YEAS—96

Abraham	Brownback	Coverdell
Akaka	Bryan	Craig
Allard	Bumpers	D'Amato
Ashcroft	Burns	Daschle
Baucus	Byrd	DeWine
Bennett	Campbell	Dodd
Biden	Cleland	Domenici
Bingaman	Coats	Dorgan
Bond	Cochran	Durbin
Boxer	Collins	Enzi
Breaux	Conrad	Faircloth

Feingold	Kennedy	Reid
Feinstein	Kerrey	Robb
Ford	Kerry	Roberts
Frist	Kohl	Rockefeller
Gorton	Kyl	Roth
Graham	Landrieu	Santorum
Gramm	Lautenberg	Sarbanes
Grams	Leahy	Sessions
Grassley	Levin	Shelby
Gregg	Lieberman	Smith (NH)
Hagel	Lott	Smith (OR)
Harkin	Lugar	Snowe
Hatch	Mack	Specter
Hollings	McCain	Stevens
Hutchinson	McConnell	Thomas
Hutchinson	Mikulski	Thompson
Inhofe	Moseley-Braun	Thurmond
Inouye	Moynihan	Torricelli
Jeffords	Murray	Warner
Johnson	Nickles	Wellstone
Kempthorne	Reed	Wyden

## NOT VOTING—4

Chafee	Helms
Glenn	Murkowski

The nomination was confirmed.

#### STATEMENT ON THE NOMINATIONS OF FRANK M. HULL AND HENRY HAROLD KENNEDY

Mr. LEAHY. I am encouraged that the Senate is taking up two of the nine judicial nominations on the Executive Calendar.

I am delighted that the Senate majority leader has decided to take up the nomination of Judge Frank M. Hull to be a U.S. Circuit Judge for the Eleventh Circuit Court of Appeals. Since 1994, the nominee has been a United States district judge for the Northern District of Georgia and prior to that she was a judge for the Superior Court of Fulton, County in Georgia. The ABA has unanimously found her to be well-qualified, its top rating. With the strong support of Senator COVERDELL and Senator CLELAND, this nomination has moved expeditiously through the committee and is being confirmed by the Senate. I congratulate Judge Hull and her family and look forward to her service on the Court of Appeals.

I am also delighted that the Senate majority leader has decided to take up the nomination of Judge Henry Harold Kennedy, Jr. to be a U.S. district judge for the District of Columbia. Since 1979, the nominee has been an associate judge for the District of Columbia and prior to that he was a U.S. magistrate. The ABA has unanimously found him to be well-qualified, its top rating. With the strong support of Senator THURMOND and Delegate ELEANOR HOLMES NORTON, this nomination has moved expeditiously through the committee and is being confirmed by the Senate. I congratulate Judge Kennedy and his family and look forward to his service on the district court.

With these confirmations the Senate will raise to 11 the number of Federal judges confirmed this year and exceed, for the first time this year, the snail-like pace of confirming one judge per month. The Senate pace will rise to an anemic 1.2 judges per month. Meanwhile, vacancies have continued to mount and the delays in filling vacancies continue to grow.

It is discouraging to once again have to call attention to the fact that of the 61 nominations sent to the Senate by the President some 40 nominees are pending before the Judiciary Committee—nominees who have yet to be accorded even a hearing during this Congress. Many of these nominations have been pending since the very first day of this session, having been renominated by the President after having been held up during last year's partisan stall.

The committee has not yet worked through the backlog of nominees left pending from last year. Several of those pending before the committee had hearings or were reported favorably last Congress but have been passed over so far this year, while the vacancies for which they were nominated over 2 years ago persist. The committee has 12 nominees who have been pending without action for more than a year, including 7 who have been pending since 1995.

There is no excuse for the committee's delay in considering the nominations of such outstanding individuals as Professor William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, Ms. M. Margaret McKeown, Ms. Ann L. Aiken, and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been reported last year. Judge Paez and Ms. Aiken had hearings last year but have been passed over so far this year.

We continue to fall farther and farther behind the pace established by the 104th Congress. By this time 2 years ago, Senator HATCH had held 8 confirmation hearings involving 36 judicial nominees, and the Senate had proceeded to confirm 35 Federal judges.

Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. We can pass all the crime bills we want, but you cannot lock up criminals if you do not have judges. The mounting backlogs of civil and criminal cases in the emergency districts, in particular, are growing taller by the day.

I have spoken often about the crisis being created by the 103 vacancies that are being perpetuated on the Federal courts around the country. At the rate that we are currently going this year, more and more vacancies are continuing to mount over longer and longer times to the detriment of greater numbers of Americans and the national cause of prompt justice. We are not even keeping up with attrition.

Chief Justice Rehnquist has repeatedly acknowledged the crisis being posed for the Federal judiciary and, I believe, for all Americans. The Chief Justice has called the rising number of vacancies "the most immediate problem we face in the federal judiciary." The Courts Subcommittee heard on Thursday afternoon from judges from the second and eighth circuits about

the adverse impact of vacancies on the ability of the Federal courts to do justice. The effect is seen in extended delay in the hearing and determination of cases and the frustration that litigants are forced to endure. The crushing caseload will force Federal courts to rely more and more on senior judges, visiting judges and court staff.

The Attorney General spoke recently about the "vacancy crisis that has left so many Americans waiting for justice" noting that vacancies are up at a time that filings are up, caseloads are increasing, backlogs are increasing, and we are experiencing an "unprecedented slowdown in the confirmation process" that has "very real and very detrimental impacts on all parts of our justice system. She spoke about the hundreds of appellate arguments being canceled, the Federal judges who go for entire years without hearing a single civil case. She said: "Quite simply without enough judges, our laws will become empty promises and 'swift justice' will become an oxymoron, and without the independence they need to uphold those laws, our judges will become hostages to politics instead of being the guardians of our principles."

In July I received a copy of a letter sent to President Clinton and the Republican leader of the Senate by seven presidents of national legal associations. These presidents note the "looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions" and the "injustice of this situation for all of society." They point to "[d]angerously crowded dockets, suspended civil case dockets, burgeoning criminal caseloads, overburdened judges, and chronically undermanned courts" as circumstances that "undermine our democracy and respect for the supremacy of law." I agree with these distinguished leaders that we must without further delay "devote the time and resources necessary to expedite the selection and confirmation process for federal judicial nominees." The President is doing his part, having sent us 61 nominations so far this year with more on the way. The Senate should start doing its part.

In choosing to proceed on these two nominees, the Republican leadership has chosen once again to skip over the nomination of Margaret Morrow and to delay action on six other outstanding nominees who were reported at the same time as those fortunate enough to be selected for consideration by the Senate this week.

I want to turn briefly to the long-pending nomination of Margaret Morrow to be a district court judge for the Central District of California. Ms. Morrow was first nominated on May 9, 1996—not this year but May 1996. She had a confirmation hearing and was unanimously reported to the Senate by the Judiciary Committee in June 1996. Her nomination was, thus, first pending before the Senate more than a year ago. This was one of a number of nomi-

nations caught in the election year shutdown.

She was renominated on the first day of this session. She had her second confirmation hearing in March. She was then held off the Judiciary agenda while she underwent rounds of written questions. When she was finally considered on June 12, she was again favorably reported with the support of Chairman HATCH. She has been left pending on the Senate Executive Calendar for more 3 months and has been passed over, again.

This is an outstanding nominee to the District Court. She is exceptionally well qualified to be a Federal judge. I have heard no one contend to the contrary. She has been put through the proverbial ringer—including at one point being asked her private views, how she voted, on 160 California initiatives over the last 10 years.

She has been forced to respond to questions about particular judicial decisions. I find this especially ironic in light of the Judiciary Committee's questionnaire in which we ask whether anyone involved in the process of selecting the nominee discussed with her "any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question." We try to ensure that the administration imposes no litmus tests and does not ask about specific cases.

The committee insisted that she do a homework project on Robert Bork's writings and on the jurisprudence of original intent. Is that what is required to be confirmed to the district court in this Congress?

With respect to the issue of "judicial activism," we have the nominee's views. She told the committee: "The specific role of a trial judge is to apply the law as enacted by Congress and interpreted by the Supreme Court and Courts of Appeals. His or her role is not to 'make law.'" She also noted: "Given the restrictions of the case and controversy requirement, and the limited nature of legal remedies available, the courts are ill equipped to resolve the broad problems facing our society, and should not undertake to do so. That is the job of the legislative and executive branches in our constitutional structure."

Margaret Morrow was the first woman president of the California Bar Association and also a past president of the Los Angeles County Bar Association. She is an exceptionally well-qualified nominee who is currently a partner at Arnold & Porter and has practiced for 23 years. She is supported by Los Angeles' Republican Mayor Richard Riordan and by Robert Bonner, the former head of DEA under a Republican administration. Representative James Rogan attended her second confirmation hearing to endorse her.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice of law and to

making lawyers more responsive and responsible. Her good works should not be punished but commended. Her public service ought not be grounds for delay. She does not deserve this treatment. This type of treatment will drive good people away from government service.

The president of the Woman Lawyers Association of Los Angeles, the president of the Women's Legal Defense Fund, the president of the Los Angeles County Bar Association, the president of the National Conference of Women's Bar Association and other distinguished attorneys from the Los Angeles area have all written the Senate in support of the nomination of Margaret Morrow. They write that: "Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties" and she "is exactly the kind of person who should be appointed to such a position and held up as an example to young women across the country." I could not agree more.

Mr. President, the Senate should move expeditiously to consider and confirm Margaret Morrow, along with Anthony Ishii, Katherine Hayden Sweeney, Robert F. Droney, Janet C. Hall, Joseph F. Bataillon, and Robert C. Chambers to be district court judges.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

#### FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNT- ABILITY ACT OF 1997

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of S. 830, the FDA reform bill.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. I object on behalf of Senator KENNEDY.

The PRESIDING OFFICER. Objection is heard.

#### MOTION TO PROCEED

#### CLOTURE MOTION

Mr. ENZI. I now move to proceed to S. 830, and send a cloture motion to the desk.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar 105, S. 830, the FDA reform bill:

Trent Lott, James Jeffords, Pat Roberts, Kay Bailey Hutchison, Tim Hutchinson, Conrad Burns, Chuck Hagel, Jon Kyl, Rod Grams, Pete Domenici, Ted

Stevens, Christopher Bond, Strom Thurmond, Judd Gregg, Don Nickles, and Paul Coverdell.

Mr. ENZI. I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

#### MORNING BUSINESS

Mr. ENZI. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

#### ANOTHER ACT OF TERRORISM SHOWS PEACE PROCESS SIMPLY IS NOT WORKING

Mr. HELMS. Mr. President, another tragedy struck the people of Israel today. Three Palestinian suicide bombers attacked a crowded pedestrian mall in the center of Jerusalem. At least three Israelis were killed; many more were wounded.

There was another bombing in the center of Jerusalem on July 30, in which 17 people were killed. Those murders were also claimed by the Palestinian terror group, Hamas.

As in July, all the requisite people will issue the required condemnations, and comfort themselves that they have responded adequately. But how can we pretend that enough is being done about Palestinian terrorism? How can we look at pictures of Yasser Arafat embracing a terrorist on the front page of the New York Times and still maintain the fiction that this is a man committed to fighting terror?

The answer, Mr. President, is simple: we cannot.

Last month, in the wake of the most recent Jerusalem bombing, Secretary of State Madeleine Albright said she would travel to the Middle East if the PLO took the necessary steps to crack down on terrorists. Those steps clearly have not been taken. More innocent civilians lie bleeding in the streets. But the administration still clings to the fiction of a peace process.

I have said many times, and I say again today: There is no peace in this process. How long will we be expected to play along with this charade, pretending that meetings, consultations, and formalities can substitute for genuine attempts to deliver peace and security to the people of Israel?

In the coming months, the Congress will reconsider the provision of assistance to the Palestinians. At that time, we must ask ourselves whether the PLO has complied with its commitments, not only to Israel, but to the United States. We must ask ourselves whether Palestinian territories have become a beachhead for terrorists. We must ask ourselves if the PLO and Yasser Arafat are partners worthy of the confidence of the United States.

Mr. President, all we need do is look at the pictures on our television

screens to see that the answer to each of those questions is no.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 3, 1997, the Federal debt stood at \$5,413,621,503,580.39—five trillion, four hundred thirteen billion, six hundred twenty-one million, five hundred three thousand, five hundred eighty dollars and thirty-nine cents.

One year ago, September 3, 1996, the Federal debt stood at \$5,226,657,000,000—five trillion, two hundred twenty-six billion, six hundred fifty-seven million.

Five years ago, September 3, 1992, the Federal debt stood at \$4,035,387,000,000—four trillion, thirty-five billion, three hundred eighty-seven million.

Ten years ago, September 3, 1987, the Federal debt stood at \$2,361,615,000,000—two trillion, three hundred sixty-one billion, six hundred fifteen million.

Fifteen years ago, September 3, 1982, the Federal debt stood at \$1,110,240,000,000—one trillion, one hundred ten billion, two hundred forty million—which reflects a debt increase of more than \$4 trillion, \$4,303,381,503,580.39—four trillion, three hundred three billion, three hundred eighty-one million, five hundred three thousand, five hundred eighty dollars and thirty-nine cents) during the past 15 years.

#### U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING AUGUST 29

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending August 29, the United States imported 8,513,000 barrels of oil each day, 1,786,000 barrels more than the 6,727,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 57.4 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 8,513,000 barrels a day.

#### LOUISIANA CONTESTED ELECTION

Mr. WARNER. Mr. President, periodically, I report to the Senate on the work of the Rules Committee investigation into alleged fraud and irregularities that may have affected the outcome of the 1996 Louisiana Senate