

The PRESIDING OFFICER. All time is yielded back.

The question is, will the Senate advise and consent to the nomination of Joseph F. Bataillon, of Nebraska, to be U.S. District Judge for the District of Nebraska. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 236 Ex.]

YEAS—100

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Breaux	Gregg	Reed
Brownback	Hagel	Reid
Bryan	Harkin	Robb
Bumpers	Hatch	Roberts
Burns	Helms	Rockefeller
Byrd	Hollings	Roth
Campbell	Hutchinson	Santorum
Chafee	Hutchison	Sarbanes
Cleland	Inhofe	Sessions
Coats	Inouye	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Johnson	Smith (OR)
Conrad	Kempthorne	Snowe
Coverdell	Kennedy	Specter
Craig	Kerrey	Stevens
D'Amato	Kerry	Thomas
Daschle	Kohl	Thompson
DeWine	Kyl	Thurmond
Dodd	Landrieu	Torricelli
Domenici	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden
Enzi	Lieberman	
Faircloth	Lott	

The nomination was confirmed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. LOTT. Mr. President, I ask unanimous consent that the remaining two votes in this sequence be limited to 10 minutes in length.

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

Mr. LOTT. Mr. President, I believe we are ready to proceed to the next vote.

NOMINATION OF CHRISTOPHER F. DRONEY, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT

The PRESIDING OFFICER (Mr. INHOFE). The clerk will report.

The legislative clerk read the nomination of Christopher F. Droney, of Connecticut, to be United States District Judge for the District of Connecticut.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. The Senate is not in order.

Mr. President, I understand that we have a minute on each side.

Mr. LOTT. That is correct.

Mr. LEAHY. I ask the Chair to call the Senate to order before my time begins.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I do not intend to start until the Senate is in order.

The PRESIDING OFFICER. Will the Senate please come to order.

The Senator from Vermont.

Mr. LEAHY. Mr. President, we will confirm three judges this afternoon.

I ask my colleagues to look at the chart, which indicates the shameful lack of progress of this Senate in considering judicial nominations. We still have approximately 100 judicial vacancies. When we adjourned last year there were 64 vacancies and when we began this Congress there were about 74 vacancies. We are confirming judges far slower than the vacancies are occurring through death, attrition, retirements, and so forth. Even with the three judges we are confirming today, there has been a net increase in vacancies of over 30 in the last year. In fact, vacancies on the federal courts around the country have increased by more than 50 percent over the last year.

I ask, as I have many, many times, that the majority leader, whose caucus has held back these judges, allow them to go forward. We see what happens when we have a vote on them. It is unanimous. You keep hearing that there are concerns about these judges, and then no Senator votes against them.

Let us bring them forward. I ask that one of the first we proceed to consider be Margaret Morrow, who seems to be held up only because she is a woman—only because she is a woman. There is no reason to hold up that judicial nomination. Let it be voted. If people do not want her, vote against her. If they want her, vote for her. But let's have a vote on this.

We are not helping the independence—in fact, we are diminishing the independence—of the Federal judiciary.

Mr. President, I am encouraged that the Senate is taking up three of the six judicial nominations from the Executive Calendar.

I am delighted to see the Senate confirm Joseph F. Bataillon to be a U.S. District Judge for the District of Nebraska. He served as deputy public defender for Douglas County, NE before entering private practice as a trial attorney in Omaha. He is supported by Senator KERREY and Senator HAGEL. The ABA found him to be qualified for this judicial appointment. Mr. Bataillon's nomination was first received by the Senate in March 1996 over 17 months ago. Unfortunately, this was

one of the nominations caught up in the election year slowdown last year. I congratulate Mr. Bataillon and his family and look forward to his service on the district court.

I am also delighted that the Senate majority leader has decided to take up the nomination of Christopher F. Droney to be a U.S. District Judge for the District of Connecticut. The nominee has served as U.S. Attorney in Connecticut since 1993. The ABA has unanimously found him to be qualified for this judicial appointment. With the strong support of Senator DODD and Senator LIEBERMAN, this nomination has moved through the Committee and now to confirmation. I congratulate Mr. Droney and his family and look forward to his service on the district court.

Likewise, I am delighted to see the Senate moving forward to consider Janet C. Hall to be a U.S. District Judge for the same district. Since 1980, this nominee has practiced law in Hartford and prior to that she had served as a special assistant U.S. attorney and trial attorney for the Antitrust Division of the Department of Justice. The ABA unanimously found her to be well qualified, its highest rating. This nomination also has the strong support of Senator DODD and Senator LIEBERMAN. I congratulate Ms. Hall and her family and look forward to her service on the district court.

In spite of the progress we have made over the last week in confirming six judicial nominations, we still have some 40 nominees among the 65 nominations sent to the Senate by the President who are pending before the Judiciary Committee and 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. 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 for more than a year, including seven who have been pending since 1995.

So, while I am encouraged that the Senate is today proceeding with the longstanding nomination of Joseph Bataillon and those of Chris Droney and Janet Hall, 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 favorably reported last year. Judge Paez and Ms. Aiken had hearings last year but have been passed over so far this year.

Thus, even with the increased activity of the last week in which the Senate has confirmed six nominees and raised by 67 percent the number of judges confirmed all year, we continue to lag well behind the pace established by the 104th Congress. By this time 2 years ago, the Senate had confirmed 36 Federal judges. With today's actions, the Senate will have confirmed only 15 judges. We still face almost 100 vacancies and have 50 nominees yet to consider.

For purposes of perspective, let us also recall that by August 1992, during the last year of the President Bush's term, a Democratic majority in the Senate had confirmed 53 of the 65 nominees sent to us by a Republican President. That, too, is a far cry from this year's 15 out of 65.

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 dozens of emergency districts, in particular, are growing taller by the day.

I have spoken often about the crisis being created by the vacancies that are being perpetuated on the Federal courts around the country. At the rate that we are going, we are not keeping up with attrition. When we adjourned last Congress there were 64 vacancies on the Federal bench. After the confirmation of 15 judges in 9 months, there has been a net increase of 33 vacancies. The Chief Justice of the Supreme Court 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 second and eighth circuit judges 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.

Judges from the Second Circuit Court of Appeals testified, for example, that over 80 percent of its appellate court panels over the next 12 months cannot be filled by members of that Court but will have to be filled by visiting judges. This is wrong.

We ought to proceed without delay to consider the nomination of Judge Sonia Sotomayor to the second circuit and move promptly to fill vacancies that are plaguing the second and ninth's circuits. We need to fill the 5-year-old vacancy in the Northern District of New York and move on nominations for judicial emergency districts.

In choosing to proceed on these three nominees, the Republican leadership has chosen for the third time in a week

to skip over the nomination of Margaret Morrow. I, again, urge the Senate to consider 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 of 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 nominations 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, time and again without explanation or justification.

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 wringer—including at one point being asked her private views, how she voted, on 160 California initiatives over the last 10 years.

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. 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 and Katherine Hayden Sweeney to be district court judges.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I hear these cries of hysteria all the time on judges. Let's be honest about it.

So far this year we processed out of committee 24 nominees. Fifteen have been confirmed. Three will be left after this, and six are pending in the committee. We will have another hearing within a week on another five or six, and another hearing after that. So we are moving ahead quite well.

Let's understand something. There are more sitting judges today than there were throughout virtually all of the Reagan and Bush administrations, as of right now. As of August 10, we had 742 active Federal judges.

Let's just be honest about it. In the 101st Congress and the 102d Congress by contrast, when a Democrat controlled Congress was processing President Bush's nominees, there were only 711 and 716 active judges. The fact of matter is that we have not had a White House processing these people very fast. And there are some who have problems.

Mr. President, we received 13 new nominees just before the August recess, and a few more just a short while ago. They have not even been processed yet.

We are doing our best. All I can say is that there is room here to realize that we are doing a fairly good job. We can do a better job. But the White House has not been doing its job in a full effect. And, frankly, we still have something like 53 total pending out of the 98 vacancies.

Mr. DODD. Mr. President, I consider my role in making recommendations to the President on judicial nominees to be one of the most important parts of my job as a Senator. It is imperative that we fill these lifetime positions

with the most able and talented individuals available. That is why I am very pleased that President Clinton chose to nominate Mr. Droney to serve on the Federal bench.

Chris Droney is a man of strong character, and I believe that his skills and intellect will enable him to serve the country with honor and integrity as a Federal judge. Since 1993, Mr. Droney has served as the U.S. attorney for Connecticut. During his tenure, he has been well-received by the judiciary and law enforcement agencies and has played a key role in the State's crack-down on street gangs. The Justice Department's last evaluation of his office concluded that Mr. Droney is, and I quote, "strongly committed to the Department's law enforcement priorities and has demonstrated significant leadership in the law enforcement community, as witnessed by the remarkable cooperation among the law enforcement agencies through the District." We are proud that the Justice Department has recognized what we in Connecticut already know: Chris Droney is an outstanding lawyer and public servant.

Prior to becoming U.S. attorney, Mr. Droney was in private practice in Hartford specializing in civil litigation. He also served as mayor of West Hartford from 1985 to 1989, where he did an excellent job.

He has been very active in a number of charitable organizations, and his community service has earned him several honors and awards. In particular, he was named Citizen of the Year by the Connecticut division of the Boy Scouts of America, and he received the Distinguished Law Enforcement Award from the Hartford Police Union.

Christopher Droney is an honest, forthright, and intelligent individual, who is highly qualified to serve on the Federal bench. I am confident that he will serve Connecticut well as a district judge for many years to come, and I strongly urge all of my colleagues to support his nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Christopher Droney, of Connecticut, to be U.S. District Judge for District of Connecticut. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 237 Ex.]

YEAS—100

Abraham	Byrd	Dorgan
Akaka	Campbell	Durbin
Allard	Chafee	Enzi
Ashcroft	Cleland	Faircloth
Baucus	Coats	Feingold
Bennett	Cochran	Feinstein
Biden	Collins	Ford
Bingaman	Conrad	Frist
Bond	Coverdell	Glenn
Boxer	Craig	Gorton
Breaux	D'Amato	Graham
Brownback	Daschle	Gramm
Bryan	DeWine	Grams
Bumpers	Dodd	Grassley
Burns	Domenici	Gregg

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

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

NOMINATION OF JANET C. HALL OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read the nomination of Janet C. Hall, of Connecticut, to be U.S. District Judge for the District of Connecticut.

The PRESIDING OFFICER. There will be 2 minutes of debate equally divided. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I support this judge. I would like to make a comment.

Mr. LEAHY. Mr. President, the Senate is not in order. The Senator should be allowed to be heard.

The PRESIDING OFFICER. The Senator is correct.

CAMPAIGN FINANCE REFORM

Mr. MCCAIN. Mr. President, I noted several of my colleagues, a number of my colleagues from the other side of the aisle, signed a letter this morning concerning campaign finance reform and a number of them came and spoke about the urgency of the issue. Obviously, we welcome that activity. But I want to point out, and point out in the strongest possible terms, that this issue has to be brought up in a bipartisan fashion. It is not 51 votes that are necessary in order to pass any legislation through this body on an issue of this importance, it is going to be 60 votes.

I have been working with the majority leader in a most cooperative fashion on this issue. I believe that we can reach an agreement which would be satisfactory to all parties. I do not believe it will be helpful, in any way, to divide up on party lines on this issue.

I again thank the majority leader but I also thank my colleagues on the other side of the aisle. I am confident we can move forward on this issue.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, A question has been raised about statistics. I would point out that during President Bush's last year, with the Democrats in the control of the Senate, by August we had confirmed 53 of the 65 nominees sent to us by the Republican President, notwithstanding the "Thurmond rule" which calls for a slowdown in confirmations during a Presidential year—53 out of 65.

In this the first year of President Clinton's second term, the Republican-controlled Senate confirmed only 9 out of 61 judicial nominees sent by the President to the Senate by August. So the relevant statistical comparison is 53 out of 65 when Democrats were helping Republicans, but when Republicans are in control and there is a Democratic President, only 9 out of 61.

I yield the remainder of my time to the distinguished senior Senator from California.

Mrs. FEINSTEIN. I thank the distinguished ranking member.

Mr. President, while I am pleased that we are voting today on three judicial nominees and I am supporting them, I am concerned about those whom we are not voting upon—in particular two fine nominees from California.

I am also concerned about what appears to me to be a plan to force the splitting of the U.S. Court of Appeals for the Ninth Circuit by crippling its ability to do its work.

Ten of the twenty-eight judgeships on that court are now vacant—36 percent of the bench.

I will ask unanimous consent that a table showing the status of each vacancy within the ninth circuit be placed in the RECORD following my remarks.

I believe that proponents of the ninth circuit split wish to keep these seats vacant as long as possible, so that the vacant judgeships can then be transferred to the new twelfth circuit, and filled by judges who they hope will be more in line with their own political philosophy.

Unfortunately, this plan is substantially impairing the ability of the ninth circuit to do its job, and impeding justice for the millions of Americans who live within the ninth circuit—creating what the Honorable Proctor Hug, chief justice of the ninth circuit, has called a vacancy crisis.

The time has come for the Senate to end this death by attrition, and act upon these nominations, so that the ninth circuit can get on with its work.

These votes we are taking today will clear out all the judicial nominees who remain on the executive calendar, except for three, two of whom, as I have mentioned, are from California.

These two nominees, Margaret Morrow and Anthony Ishii, have had their nominations pending longer, both in the Senate and on the floor of the Senate, than have two of the three nominees upon whom we are voting today.

Margaret Morrow was first nominated almost a year and a half ago, on