

Snowe	Thompson	Warner
Specter	Thurmond	Wellstone
Stevens	Torricelli	Wyden
Thomas	Voinovich	

NOT VOTING—2

Baucus

McCain

The nomination was confirmed.

NOMINATION OF GEORGE B. DANIELS, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

The PRESIDING OFFICER. The clerk will now report the second nomination.

The legislative clerk read the nomination of George B. Daniels, of New York, to be United States District Judge for the Southern District of New York.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of George B. Daniels, of New York, to be United States District Judge for the Southern District of New York? On this question, 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 Arizona (Mr. McCAIN), is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), is necessarily absent.

The result was announced, yeas 98, nays 0, as follows:

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 14 Ex.]

YEAS—98

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Mikulski
Bayh	Gorton	Moynihan
Bennett	Graham	Murkowski
Biden	Gramm	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Reed
Boxer	Hagel	Robb
Breaux	Harkin	Roberts
Brownback	Hatch	Rockefeller
Bryan	Helms	Roth
Bunning	Hollings	Santorum
Burns	Hutchinson	Sarbanes
Byrd	Hutchison	Schumer
Campbell	Inhofe	Sessions
Chafee, L.	Inouye	Shelby
Cleland	Jeffords	Smith (NH)
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Lautenberg	Torricelli
Dodd	Leahy	Voinovich
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lincoln	Wyden
Edwards	Lott	
Enzi		

NOT VOTING—2

Baucus

McCain

The nomination was confirmed.

The PRESIDING OFFICER (Mr. BUNNING). Under the previous order, the Senator from Vermont is recognized for 2 minutes.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I ask unanimous consent to speak for 20 seconds in advance of the Senator from Vermont.

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

Mr. MOYNIHAN. Mr. President, I rise to express great appreciation on my part to my revered friend and colleague, Senator SCHUMER, and to Senator LEAHY, Chairman HATCH, Senator LOTT, Senator DASCHLE, and all Senators for their vote confirming the nomination of Judge Daniels unanimously. It is much appreciated. I assure you, he will perform a service to the Republic for many years ahead.

I yield the floor.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I ask unanimous consent to address the body for 30 seconds.

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

Mr. SCHUMER. Mr. President, I join in the thanks given by my esteemed, wise, senior colleague, Senator MOYNIHAN, to Senators LOTT, HATCH, and LEAHY. This is an outstanding jurist who will make us all proud. I thank the Senate for confirming him.

LEGISLATIVE SESSION

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

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. If the Senator from Vermont will withhold briefly, I would like to go ahead and make this request. I believe we have a leadership Senator here.

I would like to first ask, what is the pending question?

The PRESIDING OFFICER. We are in morning business until 2 o'clock.

AFFORDABLE EDUCATION ACT OF 1999—Resumed

Mr. LOTT. Mr. President, I believe we did not actually get morning business put in place. But I ask unanimous consent the clerk report the bill on education savings loans.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1134) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

Mr. LOTT. Mr. President, before I put forward this request, we have been working to develop an agreement as to how to proceed on this legislation. I think we are close to getting that done, but we may still need a little more time to work on it. In that effort,

I ask unanimous consent that all amendments be relevant to the subject matter of education and/or education-related taxes.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Reserving the right to object, I say to the leader, we appreciated very much the minority having the opportunity yesterday to speak about education. We believe this is a time we should be talking about education; it is that important to the American people. But this is the first amendable vehicle we have had this session. I respectfully suggest to the majority, on behalf of the minority let's have the opportunity to have a vehicle we can amend.

We hope that very shortly the majority will understand we are trying to move education along. We have no great plan in mind to move off education into some other area. But we would like to do that. If the leader believes that cannot be done, we are willing to continue working to see if we can come up with some reasonable effort to move forward on this legislation.

Mr. LOTT. Mr. President, I understand there will be an objection.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. We will continue to work to get an agreement developed. Certainly amendments on education or education-related taxes would be something we would want to have and with which we would have no problem. We were hoping it would not run far afield to all kinds of unrelated issues that would delay a bill that has overwhelming support.

The support for this idea of being able to save a little for your own children's education—up to \$2,000 per year per child, kindergarten through the 12th grade—has a lot of support, especially when you realize we can do it for our children's college education but not for our children's needs in the 4th grade. I hope we can work it out. I think maybe we can. We will keep working on that.

I now ask unanimous consent, after Senator LEAHY has spoken, the Senate proceed to a period of morning business, with the first 8 minutes under the control of Senator THURMOND, the succeeding 30 minutes under the control of Senators TORRICELLI and SPECTER, the succeeding 10 minutes under the control of Senator CAMPBELL, the following hour under the control of Senators CLELAND and ROBERTS, and following that time the Senate resume consideration of the pending legislation and I be immediately recognized.

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

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

NOMINATIONS

Mr. LEAHY. Mr. President, I am very pleased the Senate voted 98-0 on Kermit Bye to be United States Circuit Court Judge for the Eighth Circuit and Justice George Daniels to be United States District Court Judge for the Southern District of New York.

Kermit Bye is an outstanding attorney from North Dakota. I will put his full record in the RECORD later. Justice Daniels is a distinguished New Yorker, with the strong support of the two distinguished Senators from New York—Senators MOYNIHAN and SCHUMER—in the same way Kermit Bye had the strong support of the two distinguished Senators from North Dakota—Senators CONRAD and DORGAN.

I wish to thank both the Republican leader and the Democratic leader for helping us get these nominations up. They had been reported last year. For some inexplicable reason, they were held up. We see that the Senate, in voting on them, has voted 98-0. I mention this because many times we have judges, who are judicial nominations, where it takes a long time to get their nominations to the floor, and then they are passed by overwhelming margins. Out of a sense of justice towards the people we are putting on our Federal courts, we, the Senate, should do a better job.

Many wait too long. The most prominent current examples of that treatment are Judge Richard Paez and Marsha Berzon. We have waited too long to vote on them. I understand, finally, after 4 years, we are going to vote on Judge Paez, who has one of the most distinguished records anybody has ever had who has come before the Senate. He is strongly supported by law enforcement, strongly supported by the bar, strongly supported by the Hispanic community. He is certainly proud of his Hispanic background, as well he should be. He has accomplished more than most people accomplish of any background. I hope that after 4 years he will be voted on.

Finally, I had hoped we would reach a vote on Timothy Dyk today. He was first nominated to a vacancy in the Federal Circuit in April of 1998. For anybody who is keeping track, that was well in the last century. After having a hearing and being reported favorably by the Judiciary Committee to the Senate in September of 1998, his nomination was left on the Senate calendar without action and then returned to the President 2 years ago as the 105th Congress adjourned. He was renominated in January 1999 and reported favorably in October 1999.

So he has been waiting for all these years. He has clerked for three Supreme Court Justices, including the Chief Justice. He has a remarkably distinguished career. He has represented people across the spectrum, including the U.S. Chamber of Commerce, which strongly backs him. I hope we can get him confirmed this week or next. They need him on the Federal Circuit Court

of Appeals. He is one of the most qualified people we have ever seen. We should do it.

Mr. Dyk has distinguished himself with a long career of private practice in the District of Columbia. From 1964 to 1990, he worked with Wilmer, Cutler & Pickering as an associate and then as a partner. Since 1990, he has been with Jones Day Reavis & Pogue as a partner and Chair of its Issues and Appeals Section.

Mr. Dyk received his undergraduate degree in 1958 from Harvard College, and his law degree from Harvard Law School in 1961. Following law school, he clerked for U.S. Supreme Court Justices Reed, Burton, and Chief Justice Warren. Mr. Dyk was also a Special Assistant to the Assistant Attorney General in the Tax Division. His has been a distinguished career in which he has represented a wide array of clients, including the United States Chamber of Commerce. I look forward to the confirmation vote on this highly-qualified nominee.

Kermit Bye is an outstanding attorney from North Dakota. From 1962 to 1966, Mr. Bye was the Deputy Securities Commissioner and Special Assistant Attorney General for the State of North Dakota. And from 1966 to 1968, he was an Assistant U.S. Attorney in the District of North Dakota. Since 1968, he has been a member and partner with the Fargo law firm of Votel, Kelly, Knutson, Weir, Bye & Hunke, Ltd. Mr. Bye received his undergraduate degree in 1959 from the University of North Dakota, and his law degree from the University of North Dakota Law School in 1962.

Mr. Bye's nomination is another of those that was favorably reported last year by the Judiciary Committee but which was not acted upon by the Senate. He is strongly supported by Senator DORGAN and Senator CONRAD, who are to be commended for their efforts on his behalf and on behalf of the people of North Dakota that has finally brought us to this day.

Justice George Daniels is a distinguished New Yorker. He has distinguished himself with a long career of service in the New York federal and state court systems. He was an Assistant U.S. Attorney in the Eastern District of New York from 1983 to 1989. From 1989 to 1990, and again from 1993 to 1995, he was a Judge in the Criminal Court of the City of New York. And from 1990 to 1993, he was a counsel to the Mayor of the City of New York. Since 1995, Mr. Daniels has been a Justice of the Supreme Court of the State of New York.

Justice Daniels received his undergraduate degree in 1975 from Yale University, and his law degree from the University of California at Berkeley, Boalt Hall School of Law in 1978.

He has the strong support of Senator MOYNIHAN and Senator SCHUMER and the ABA has given him its highest rating. Although he was reported favorably by the Judiciary Committee last

year, his was one of the nominations not acted upon by the Senate. I congratulate the Senators from New York and Justice Daniels and his family on his consideration today.

I thank the majority leader and commend the Democratic leader for scheduling the consideration of these judicial nominations. The debate on judicial nominations over the last couple of years has included too much delay with respect to too many nominations.

The most prominent current examples of that treatment are Judge Richard Paez and Marsha Berzon. With respect to these nominations, the Senate has for too long refused to do its constitutional duty and vote. I am grateful that the majority leader agreed last year to bring each of those nominations to a Senate vote before March 15. Nominees deserve to be treated with dignity and dispatch—not delayed for two or three or four years. The nomination of Judge Paez has now been pending for over four years. He has the strong support of his home State Senators and of local law enforcement.

His has been a distinguished career in which he has served as a state and federal judge for what is now approaching 19 years. His story is a wonderful American story of hard work, fairness and public service. He and his family have much of which to be proud. Hispanic organizations from California and around the country have urged the Senate to act favorably on his nomination without further delay.

Within the next two weeks the Senate will be called upon to vote on this outstanding nomination, and I trust that we will do the right thing. I recall when Judge Sonia Sotomayor, another outstanding District Court Judge, was nominated to the Second Circuit and her nomination was delayed. Reportedly, she was so well qualified that some feared her quick confirmation might have led her to be considered as a possible Supreme Court nomination and that was why Senate consideration of her nomination was delayed through secret holds. Ultimately, she was confirmed to the Second Circuit.

After all the delay in that case, I was struck that not a single Senator who voted against her confirmation and not a single Senator who had acted to delay its consideration uttered a single word to justify such opposition.

Of course it is every Senator's right to vote as he or she sees fit on all matters. But I would hope that in the case of Judge Richard Paez, where his nomination has been delayed for over four years, for the longest period in the history of the Senate, those who have opposed him will show him the courtesy of using this time to discuss with us any concerns that may have and to explain the basis for any negative vote against a person so well qualified for the position to which he has been nominated by the President.

Mr. DORGAN. Will the Senator yield?

The PRESIDING OFFICER. The Senator's time has expired.