

(4) in paragraph (2), as so redesignated, by striking “paragraph (2)” and inserting “paragraph (1)”.
 Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent, as in executive session, that on Tuesday, November 13, at 2:15 p.m. the Senate proceed to executive session to consider Calendar No. 511, that the Senate vote immediately on confirmation of the nomination, that the President be immediately notified of the Senate’s actions, and the Senate return to legislative session.

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

Mr. REID. Mr. President, I ask unanimous consent that request be modified—that the chairman and ranking member of the Judiciary Committee be given 15 minutes equally divided, and the vote occur at 2:30 rather than at 2:15.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, and I will not object, I have a question for the majority whip. I was told that it might be the intention to take up the Internet tax issue; is that correct or incorrect?

Mr. REID. That decision has not been made as yet.

Mr. MCCAIN. I have no objection.

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

The Senator from Nevada.

EXECUTIVE SESSION

NOMINATION OF TERRY L. WOOTEN TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Terry Wooten to be U.S. District Judge, that the Senate vote immediately on his confirmation, that the President be immediately notified of the Senate’s action, and the Senate return to legislative session.

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

Mr. THURMOND. Mr. President, I rise to express my strong support for the nomination of Terry Wooten to be a judge on the District Court for the District of South Carolina. I was pleased to recommend him to President Bush for this esteemed position.

Just hours ago, Judge Wooten was favorably reported to the floor by the Judiciary Committee in an 19-0 vote. The Committee’s unanimous vote and the Senate’s speed in considering him

today is a testament to his qualifications, character, and ability.

Judge Wooten has spent almost all of his professional life in public service. He has served ably and diligently as a U.S. Magistrate Judge since 1999. Prior to that, he worked as a federal prosecutor for seven years. In the U.S. Attorney’s office, he served as the lead Task Force attorney for major drug and violent crime prosecutions.

Moreover, he was the Republican chief counsel on the Judiciary Committee while I was Ranking Member, and did an exceptional job in that capacity.

It is unfortunate that some allegations were raised during the committee’s consideration of his nomination. However, once the investigation of this matter was complete, it was clear that there was no merit to them whatsoever.

During the Judiciary executive business meeting earlier today, Chairman LEAHY and Senator BIDEN, who was chairman of the committee at the time Judge Wooten was a staff member, both spoke favorably of his nomination. I appreciated their remarks. I was also very pleased that all members of the committee supported his candidacy.

Judge Wooten is a man of honesty and integrity, and this process has simply reaffirmed that fact. I am confident that he will make an excellent addition to the District Court.

Mr. HOLLINGS. Mr. President, I rise today to congratulate my fellow South Carolinian, Terry Wooten, who will be confirmed today to the U.S. District Court for South Carolina.

Terry Wooten graduated Phi Beta Kappa from the University of South Carolina in 1976 where he continued on to law school. Following law school, he worked in a private two-man firm that focused on criminal defense and personal injury cases. Two years later, he served as Assistant Solicitor for Richland County where he handled hundreds of cases including murders, criminal sexual conduct, robberies, drug offenses, burglaries, and many other local offenses for 4 years. As a result of his notable service as a local prosecutor, Senator THURMOND invited him to move to Washington and work as the chief counsel of the U.S. Senate Judiciary Committee minority staff for 5 years. He then served with distinction as Assistant U.S. Attorney for South Carolina for 7 years. In this challenging position, he was assigned to the major drug and violent crime section. Judge Wooten excelled in this role and also served as the chief liaison between the relevant Federal agencies and the U.S. Attorney’s office on drug and violent crime cases in the state. He is well known and respected by all local law enforcement agencies for his hard work with violent crime and drug offenders. In 1999, this humble, yet very capable man was chosen to be a magistrate judge where he did a marvelous job.

Terry Wooten comes to the U.S. District Court for the District of South

Carolina judgeship with extensive experience as a State prosecutor in Richland County, as the Assistant U.S. Attorney, and as a Magistrate Judge. He was chosen for the position of Magistrate Judge by the judges of the Federal District Court for the District of South Carolina. I can think of no better testament to his character and qualifications and am pleased he will be joining their ranks. He will serve our judicial system well.

Mr. LEAHY. Mr. President, I congratulate the nominee and his family on his nomination and on what is soon to be his confirmation by the Senate and appointment by the President to the United States District Court for South Carolina. I thank all members of the Judiciary Committee for their attention to this nomination and thank the majority leader for his help in scheduling this vote.

Since July 2001, when the Senate was allowed to reorganize and the committee membership was set, we have maintained a strong effort to consider judicial and executive nominees. With the confirmation of Judge Wooten, we reach additional milestones. Judge Wooten is the 17th judicial nominee we have confirmed since July. That is more total judges this year than were confirmed in 1989, the first year of the first Bush administration, and as many as were confirmed in all of the 1996 session. Of course, in 1996, the Senate majority at that time did not proceed on a single nominee to a Court of Appeals and limited itself to confirming only 17 judges to the District Courts. We have this year already confirmed four nominees to the Courts of Appeals.

Thus, despite all the upheavals we have experienced this year with the shifts in chairmanship and, more importantly, the need to focus our attention on responsible action in the fight against international terrorism, we have matched or beaten the number of confirmations of judges during the first year of first Bush administration and the last year of the first Clinton term.

As a judge on the United States District Court, Judge Wooten will have a vital role to play in protecting and preserving our civil liberties in the days ahead. Our system of checks and balances requires that the judicial branch review the acts of the political branches.

Judge Wooten served as the Republican Chief Counsel of the Judiciary Committee when he worked for Senator THURMOND. Senator THURMOND has been an advocate for this nominee from the beginning. Earlier today the Judiciary Committee considered the Wooten nomination and voted without objection to report it to the Senate. Our bipartisanship in these matters was amply demonstrated by our moving as soon as possible in the wake of a serious allegation of wrongdoing to consider and report a former Republican staff member for the respected senior Republican in the Senate.

I held an expeditious hearing for Judge Wooten on August 27, during the

August recess of the Senate. On the morning of the hearing, we received serious allegations about him. These allegations raised questions about whether he had provided confidential materials to people outside the committee and the Senate with regard to the Clarence Thomas nomination. I asked Judge Wooten questions about the allegations and his actions, and he answered my questions.

Senator HATCH and I agreed that the best course of action would be to ask the FBI to investigate this situation fully. We had been awaiting the results of that investigation until just recently. Once members of the Judiciary Committee had a chance to review the FBI materials and all other materials surrounding this nomination, we brought it to a vote.

I believe that the allegations raised against Judge Wooten were serious and were worthy of inquiry. It appears to me from materials published in the aftermath of the confirmation battle that confidential committee materials were made available, contrary to our rules, to some outside the committee and the Senate. Having asked Judge Wooten about his involvement and having received his denials, I cannot say that there is a strong evidentiary basis on which to challenge his credibility or his denials with regard to his involvement in such matters.

I have taken Judge Wooten at his word and voted to report his nomination. This afternoon I will vote in favor of this nomination. This week we held our ninth hearing on judicial nominations since I became chairman, when the Senate was allowed to reorganize and this committee was assigned its membership on July 10, 2001. We held our fifth hearing on judicial nominations since September 11. Overall we have held hearings on 28 judicial nominees, including seven to the Courts of Appeals. Since September 11 we have held hearings on 21 judicial nominees, including four to the Courts of Appeals.

Within 2 days of the terrible events of September 11, I chaired a confirmation hearing for the two judicial nominees who drove to Washington while interstate air travel was still disrupted. Then on October 4, 2001 we held another confirmation hearing for five judicial nominees, which included a nominee from Nebraska who was unable to attend the earlier hearing because of the disruption in air travel.

On October 18, 2001, in spite of the closure of Senate office buildings in the wake of the receipt of a letter containing anthrax spores and Senate staff and employees were testing positive for anthrax exposure, the committee proceeded under extraordinary circumstances in the U.S. Capitol to hold a hearing for five more judicial nominees. The building housing the Judiciary Committee hearing room was closed, as were the buildings housing the offices of all the Senators on the committee. Still we persevered.

Two weeks ago, while the Senate Republicans were shutting down the Sen-

ate with a filibuster preventing action on the bill that funds our Nation's foreign policy initiatives and provides funds to help build the international coalition against terrorism, the Judiciary Committee nonetheless proceeded with yet another hearing for four more judicial nominees on October 25, 2001.

Yesterday we convened the fifth hearing for judicial nominees within eight extraordinary weeks—weeks not only interrupted by holidays, but by the aftermath of the terrorist attacks of September 11, the receipt of anthrax in the Senate, and the closure of Senate office buildings. Yesterday's hearing was delayed by another unfortunate and unforeseen event when one of the family members of one of the nominees grew faint and required medical attention. With patience and perseverance, the hearing was completed after attending to those medical needs.

In addition, during the time during which we held five hearings on judicial nominees, we devoted our attention and efforts to expedited consideration of anti-terrorism legislation. Far from taking a "time out" as some have suggested, this committee has been in overdrive since July and we redoubled our efforts after September 11, 2001.

With respect to law enforcement, I have noted that the Administration was quite slow in making U.S. Attorney nominations, although it had called for the resignations of U.S. Attorneys early in the year. Since we began receiving nominations just before the August recess, we have been able to report and the Senate has confirmed approximately 50 of these nominations. We have a few more with incomplete paperwork and we await approximately 35 nominations from the administration. These are the President's nominees based on the standards that he and the Attorney General have devised. I have asked for the standards and criteria they are using, but, as far as I am aware, have not received the courtesy of a reply.

I note, again, that it is most unfortunate that we still have not received even a single nomination for any of the U.S. Marshal positions. U.S. Marshals are often the top Federal law enforcement officer in their district. They are an important frontline component in homeland security efforts across the country. It now appears that we will end the year without a single nomination for these 94 critical law enforcement positions.

In the wake of the terrorist attacks on September 11, many of us have been disdaining partisanship to join together in a bipartisan effort in the best interests of the country. There were reports within 10 days of September 11 that some Republicans were disappointed because they would not be able to filibuster appropriations bills and contend that the Senate was treating Bush judicial nominees as badly as they had treated the Clinton nominees. Their initial disappointment apparently dissipated within days because

they did initiate a 3-week filibuster of the foreign operations appropriations bill. That is the bill that contains funding for our international antiterrorism coalition building activities as well as other essential military and humanitarian programs. Fortunately, cooler heads prevailed and that filibuster ultimately faded.

There have been other press accounts that some Republican operatives are trying to engage the White House and, even more unfortunately, the Department of Justice in a partisan effort to try to take political advantage of the aftermath of the September 11 attacks. Were those efforts to go forward, that would be disappointing. The bipartisan effort against terrorism is not something that Republicans should try to manipulate in such a way. Had the Senate moved more efficiently on nominations over the last 6 or 7 years, we would not have had so many vacancies perpetuated under their previous Senate majority. And finally, as the facts establish and as our actions today again demonstrate, we are moving ahead to fill judicial vacancies with nominees who have strong bipartisan support. These include a number of very conservative nominees. We have proceeded on nominees with mixed ABA peer reviews, including an Arizona nominee who was included in the hearing just yesterday. As I have noted, we have already confirmed more District Court judges since July of this year than were confirmed in the entire first year of the first Bush administration. Had the administration not changed the confirmation process from the precedents that had served us for more than 50 years, we might have been able to confirm a few more.

The President has yet even to nominate to 46 District Court vacancies. I hope that he will work with the Senate to make sure those nominations will be consensus nominees and that they can be considered promptly. Because the White House was slow to name District Court nominees this year, the bulk of those who have not had hearings do not even have ABA peer review ratings. When this administration unilaterally changed the process from that followed by all prior Presidents beginning with Eisenhower, it backloaded the process. There are still nine nominees, received since September 10, who do not have ABA peer reviews.

Several others have received mixed reviews that require additional time and study. I have noted that at our most recent hearing we included a District Court nominee from Arizona with a review that includes a minority of the peer review declaring the candidate "not qualified" to be a District Court judge. In addition, there are at least two more with those mixed ratings and at least one District Court nominee with a "not qualified" rating. Those ratings caution against rushing people through the confirmation process.

With this confirmation today, the Senate will have confirmed another

five District Court judges just this week. We held a hearing for five more District Court nominees yesterday. We have an additional three District Court nominees who could be considered as soon as they finish their paperwork and answer questions about their criminal histories.

Thus, having confirmed 13 District Court judges in record time, we could confirm an additional eight with cooperation from the White House, nominees and our Republican colleagues.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Terry L. Wooten, of South Carolina, to be U.S. District Judge for the District of South Carolina.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Terry L. Wooten, of South Carolina, to be United States District Judge for the District of South Carolina? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. CLELAND) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

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

[Rollcall Vote No. 333 Ex.]
YEAS—98

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

NOT VOTING—2

| | |
|---------|--------|
| Cleland | Miller |
|---------|--------|

The nomination was confirmed.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

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

APPOINTMENT OF CONFEREES—

H.R. 2833

The PRESIDING OFFICER. With regard to H.R. 2833, under the previous order the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair appoints Mr. GRAHAM of Florida, Mr. LEVIN, Mr. ROCKEFELLER, Mrs. FEINSTEIN, Mr. WYDEN, Mr. DURBIN, Mr. BAYH, Mr. EDWARDS, Ms. MIKULSKI, Mr. SHELBY, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. DEWINE, Mr. THOMPSON, Mr. LUGAR; from the Committee on Armed Services, Mr. REED and Mr. WARNER, conferees on the part of the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Ms. COLLINS. Mr. President, I ask unanimous consent I be permitted to proceed as in morning business for up to 15 minutes.

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

FOOD SAFETY

Ms. COLLINS. Mr. President, earlier this week I introduced the Imported Food Safety Act of 2001. Food safety has long been a serious public health concern in America, but awareness of the vulnerability of our food supply has heightened since September 11.

I have long been concerned about the adequacy of our system for screening and ensuring the safety of imported food. In 1998, in my capacity of chairing the Permanent Subcommittee on Investigations, I began a 16-month investigation of the safety of imported foods. This investigation revealed much about the Government's flawed food safety net. Regrettably, in the intervening years little has changed, and now we must acknowledge that the systemic shortcomings can also be exploited by bioterrorists.

As part of the investigation, I asked the General Accounting Office to evaluate the Federal Government's efforts to ensure the safety of imported food. In its April 1998 report, the General Accounting Office concluded that "Federal efforts to ensure the safety of imported foods are inconsistent and unreliable." Just last month, the GAO reiterated that conclusion in testimony before the Subcommittee on Oversight of Government Management.

During the 5 days of subcommittee hearings that I chaired, we heard testimony from 29 witnesses, including scientists, industry and consumer groups, government officials, the General Accounting Office, and two individuals with firsthand knowledge of the seamier side of the imported food industry—a convicted customs broker and a convicted former FDA inspector.

Let me briefly recount some of the subcommittee's findings which make clear why the legislation I have introduced is so urgently needed.

First, weaknesses in the FDA's import controls—specifically, the ability of importers to control food shipments from the port to the point of distribution—make the system very vulnerable to fraud and deception, and clearly vulnerable to a concerted bioterrorist attack.

Second, the bonds required to be posted by importers who violate food safety laws are so low that they are simply considered by some unscrupulous importers to be a cost of doing business.

Third, maintaining the food safety net for imported food is an increasingly complicated and complex task, made more complicated by previously unknown food pathogens, such as Cyclospora, that are difficult to detect. Our recent experience with anthrax has taught us there is much that public health officials still need to know when dealing with such pathogens and bacteria.

Fourth, because some imported food can be contaminated by substances that cannot be detected by visual inspections, grant programs are needed to encourage the development of food safety monitoring devices and sensors that are capable of detecting chemical and biological contaminants.

Fifth, since contamination of imported food can occur at many different places from the farm to the table, the ability to trace outbreaks of foodborne illnesses back to the source of contamination requires more coordinated effort among Federal, State, and local agencies responsible for ensuring food safety, as well as improved education for health care providers so that they can better recognize and treat foodborne illnesses. Again, our recent experience with anthrax underscores the need for better coordination and education.

Since the terrorist attacks that occurred just weeks ago, we have been living in a changed world. We are battling enemies who show no regard for the value of human life, and whose twisted minds seek to destroy those who embody democracy and freedom. It has never been as important as it is now to ensure that our food supplies are adequately protected against contamination, both inadvertent and intentional.