

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	Voivovich
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

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.

I commended my good friend, the senior Senator from Virginia, Senator WARNER, as well as Senator ALLEN and Representative BOBBY SCOTT when they appeared before the Committee earlier this month to urge Judge Gregory's confirmation. I do so, again, here on the floor of the Senate. The broad, bipartisan support for this nomination has been extremely helpful.

At our hearing Senator WARNER was characteristically generous in praising Senator Robb and Governor Wilder for their efforts on behalf of Roger Gregory, as well. I would also add my praise of two Presidents, one a Democrat and one a Republican. President Clinton first nominated Judge Gregory and when he appointed him to the bench broke a barrier that had extended too long at the Fourth Circuit.

President Bush deserves credit for re-nominating Judge Gregory and allowing the Senate a third chance to consider and confirm this outstanding nominee.

Mr. HATCH. Mr. President, just prior to the vote on the nomination of Roger Gregory, Chairman LEAHY made a couple of comments that require a response.

Let me make it clear that I agree with President Bush's judgment that Judge Gregory is well qualified to serve as a judge on the Fourth Circuit Court of Appeals. I commend Senators WARNER and ALLEN for their recommendation of Judge Gregory to President Bush. The controversy over his nomination by President Clinton, and his recess appointment in December 2000, had nothing to do with his qualifications. Rather, the controversy was over President Clinton's decision in late June of 2000—in the last 6 months of his Presidency—to nominate a Virginia resident for a Fourth Circuit seat that has been regarded as belonging to North Carolina. In doing so, the President could not have doubted that his action would cause a great deal of discord in the Senate—especially because it was done without consultation with both home-state senators. I worked very hard to resolve the conflicts created by that nomination among the various interested parties. Unfortunately, the discord was only amplified by President Clinton's recess appointment that occurred after George Bush's election as President.

In my view, all these facts are now in the past. President Bush, in a very significant gesture aimed at changing the tone in Washington, focused on Judge Gregory's qualifications and, with the support of Senators WARNER and ALLEN, nominated Judge Gregory to a lifetime appointment. This was a clear gesture of bipartisanship by President Bush which is unprecedented in modern

times. In the past 50 years, there has never been a case of which I am aware where a new President of one party has re-nominated a circuit judge originally nominated by the previous President of the other party.

Chairman LEAHY also made some remarks about how quickly he scheduled Judge Gregory's confirmation hearing. Indeed, he did so very soon after the Senate's organizational resolution was passed on June 29. However, this fact does not accurately describe the entirety of the Judiciary Committee's record on judicial nominees. Prior to the organizational resolution, Chairman LEAHY did not hold a single hearing on any of President Bush's executive or judicial nominees. He implies that he could not have held such hearings without the organizational resolution. But that is not true. Between June 5 and June 29, at least seven other Senate committees under Democratic chairmen held a total of 16 confirmation hearings on 44 nominees. One committee—Veterans' Affairs—even held a markup on a nomination. Further, the lack of an organizational resolution did not stop Chairman LEAHY from holding hearings on such topics as the Federal Bureau of Investigation, racial disparities of capital punishment, and counsel competency requirements for death penalty cases. We also had a subcommittee hearing on injecting political ideology into the committee's process of reviewing judicial nominations. From this record, it appears that the decision not to hold hearings on nominees was simply a calculated tactic to delay President Bush's nominees.

The Judiciary Committee's comparative lack of progress continues to this day. Since the reorganization was completed, other committees have considered nominees at a much faster pace. For example, the Foreign Relations Committee on July 10 held a markup on 16 nominees. In contrast, the Judiciary Committee has considered only three of the pending Bush judicial nominees and only three Department of Justice nominees.

As of this morning, we have 111 vacancies in the Federal district and circuit courts, including a number on the Fourth Circuit. I encourage Chairman LEAHY to start scheduling frequent hearings and markups for these nominees. I look forward to working closely with him to review and confirm President Bush's nominees in a timely fashion.

If Chairman LEAHY believes that I, as Chairman, did not move Clinton nominees and was unfair—which the facts and the record clearly show otherwise—then I would hope he would do the right thing and move nominees at a faster pace than I did.

NOMINATION OF RALPH F. BOYD, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL

NOMINATION OF EILEEN J. O'CONNOR, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed en bloc to consider and confirm Executive Calendar No. 247 and No. 249, which the clerk will report.

The legislative clerk read the nominations of Ralph F. Boyd, Jr., of Massachusetts, to be an Assistant Attorney General, and Eileen J. O'Connor, of Maryland, to be an Assistant Attorney General.

The PRESIDING OFFICER. The question is, shall the Senate advise and consent to the nominations?

The nominations are confirmed.

Mr. LEAHY. Madam President, 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.

Mr. LEAHY. Madam President, we have moved very rapidly to consider matters before the Judiciary Committee having noticed these hearings within minutes of the time the Senate reorganized, meeting within days. We have five nominations through this morning.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I rise to congratulate Sam Haddon and United States Magistrate Judge Richard Cebull, whom the Senate today confirmed to serve as Montana's U.S. District Court judges. These confirmations are of great importance to my State of Montana. Currently only one of our three judgeships is filled, which has placed a large burden on the shoulders of our remaining judge, Don Malloy.

I thank the Judiciary Committee for taking up these nominations in such a timely manner, especially Senator LEAHY who has been very helpful, and Senator HATCH as well. I also thank them for putting up with the enthusiasm of Senator BURNS and myself as we, in some sense, pestered or hectorated the two Senators for getting up these nominations so quickly.

In addition, I thank the leader for scheduling these nominations to be confirmed this morning, at this time.

I could not think of two men who are more qualified to serve as Montana's Federal judges than Sam Haddon and Magistrate Judge Cebull. We in Montana tend to know each other, or if we do not know each other personally, we tend to know each other by reputation. I know Sam Haddon. I know Richard Cebull. I also know their reputations. They are sterling men and will serve as first-rate, highly distinguished U.S. Federal judges.

Sam Haddon is a graduate of the University of Montana Law School. After