The amendment (No. 4967) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (H.R. 4070), as amended, was read the third time and passed.

ORDERS FOR TUESDAY, NOVEMBER 19, 2002

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m., Tuesday, November 19; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate proceed under the previous order; further, that the Senate recess from 12:30 to 2:15 tomorrow for the weekly party conferences, and if the Senate is proceeding under cloture, this time be charged against the cloture 30 hours.

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

PROGRAM

Mr. REID. Under the previous order, there will be a series of rollcall votes in relation to homeland security beginning at approximately 10:30 tomorrow morning.

ORDER FOR ADJOURNMENT

Mr. REID. I ask unanimous consent that if there is no further business to come before the Senate, the Senate stand in adjournment following the statement of the Senator from Alabama.

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

The Senator from Alabama is recognized.

NOMINATION OF DENNIS SHEDD

Mr. SESSIONS. Mr. President, in his absence, I want to share some thoughts I have about Judge Dennis Shedd, who has been nominated for the Fourth Circuit Court of Appeals. Judge Shedd is a superb nominee. He served 12 years on the Federal bench as a Federal district trial judge, hearing some 5,000 cases. He was rated by the American Bar Association, which goes around and interviews fellow judges, State court judges, and lawyers on both sides of cases. They get their opinions about how the judge has performed and they issue an independent rating.

We conservatives have sometimes complained about their ratings, saying they tend to be more favorable to more liberal-type judges. But in this case, they rated Judge Shedd the highest possible rating, well-qualified. They have about a 15-member committee that actually votes on all the paperwork that has been put together, and the ABA investigation is quite a deal.

Frankly, I believe it is very valuable to this process. I always have. I was talking recently to Senator-elect Lindsey Graham from South Carolina, who will be replacing Senator THURMOND. We were talking about Dennis Shedd. Lindsey has been a practicing attorney for many years and had been in court a lot. What he said to me was exactly the way I feel about these things. He said: You know, when a person has been on the bench 12 years, everybody knows whether they are any good or not. In a State like South Carolina, there are not that many Federal judges. Lawyers go into their courts all the time. The fact is, after a few years, everybody knows whether they are any good or not. These lawyers support Judge Shedd. The American Bar Association has supported Judge Shedd.

I have looked at some of the complaints that have been made about his record. I find them not only wrong, but in fact he should have been commended for the rulings he has made. I would like to share a few thoughts on that.

One is that he has served the Judicial Conference of the United States during his tenure, 12 years as a Federal judge, serving on the Judicial Branch Committee and the Subcommittee on Judicial Independence. It is a mark of respect for a trial judge in the United States to be chosen to serve on key committees of the Judicial Conference. Most judges are not on these committees.

From 1978 through 1988, he served on the Senate Judiciary Committee staff in this body. He is known by many of the Senators. He served as chief counsel and staff director for the Senate Judiciary Committee for Senator STROM THURMOND. According to the Almanac of Federal Judiciary, the attorneys rate judges and make comments about judges. You go before a judge and want to know something about them. Lawyers have books on them. This is what they say about him. They say he has outstanding legal skills and excellent judicial temperament. A few comments from South Carolinians were included: ''You are not going to find a better judge on the bench or one who works harder.'' ''He is the best Federal judge we have,'' said one attorney. ''He gets an A all around,'' said another. ''It is a great experience trying cases before him,'' said an attorney.

I like that. I tried a lot of cases and some cases you go to trial before a judge and it is miserable. A good judge can make the practice of law a pleasure.

''He is bright in business,'' said another. Everyone knows that is true. Plaintiff lawyers who seem to be stirring this opposition up have commended him for being evenhanded. ''He has always been fair.'' Another plaintiffs lawyer says: ''I have no complaints about him. He is nothing if not fair.''

Judge Shedd will bring experience to the bench, having tried 4,000 to 5,000 cases as a district judge. That will be more trial experience than any of the other Federal judges on the Fourth Circuit Court of Appeals. Trial experience is the crucible for training an appellate judge. Some can do well without it.

As a practicing lawyer trying cases in Federal court full time as a U.S. attorney, and in private practice, as an assistant U.S. attorney, I understand Federal judges. I respect Federal judges. I know they learn from that trial bench. That will help them better when they read a written record to see if a judge made a mistake or not. Trial experience is helpful.

They say this is some sort of a circuit that is too conservative. I don't believe this circuit is at all that way. I note the last five judges appointed to the Fourth Circuit have been Democrats. Some people have forgotten what President Bush did. Judge Gregory, who had been nominated for the circuit and who was not confirmed by this Senate before President Clinton left office was renominated. President Bush, in extending his hand of bipartisanship, reached out and took this African-American jurist and renominated him to the court as an act of bipartisanship. Judge Gregory was a Democrat, a Clinton nominee, and had not been confirmed. President Bush, shortly after he took office, renominated him. Of course, he was confirmed just like that.

The other judges who were nominated at the same time have not moved so well.

But there are 11 cases that Judge Shedd has ruled on that have been reviewed by Judge Gregory. He has affirmed all 11 of them. It is unfair to suggest this is somehow a radical judge who is out of step. One case, Crosby v. South Carolina Department of Health, has been raised, that somehow he made a bad decision on that case. I don't think he did. But regardless of that, people could have a different opinion. That was one of the cases that went to Judge Gregory, President Clinton's nominee. Many members of the Democratic Party were most aggrieved he had not been confirmed by the time President Clinton left office. Judge Gregory agreed with Judge Shedd. He affirmed Judge Shedd's opinion.

That is just typical. Do 5,000 cases and somebody will find something with which to disagree. But, as Lindsey Graham said: Judges have reputations. And to me that means a lot. And this judge, through this career and background, has a good reputation of capability, experience, honesty, and a superb demeanor, making it a pleasure to practice before him.

I just want to say this. I attended the hearings in which Judge Shedd testified, and he was there as long as they wanted him to testify. They submitted all these questions to him, demanding that he explain everything he has ever done. And I heard the complaints, and I read the complaints. I am just going to tell you: They do not hold up.

He was criticized for doing the right thing. He didn't do wrong things. He

was written up in those reports put out by special interest advocacy groups, the ones Senator HATCH calls the usual suspects, and they have abused him and twisted his rulings. I am going to go through a few of them, and we are going to talk about them. It ought to be an embarrassment for any group to have submitted the smear sheets they submitted when allegation after allegation just gets knocked down.

But how does it work around here? Unfortunately these attack groups file these sheets, and they make these allegations, and the press picks them up. By the time somebody gets the case and reads it and shows it is not true, they don't get nearly as much attention. The allegations get the attention first. It is really sad. I have watched this for many years. This is an absolute pattern.

Judge Shedd has a very low reversal rate by the court of appeals for the thousands of cases he has handled. But I will tell you one thing: If these advocacy groups, these usual suspects, if their smear sheets were brought out in the light of day and they were graded on them, they would get a big fat F. It would come back off that court of appeals like a rubber ball off that wall.

I am amazed that someone we know, who has such a sound record, who has served as a staffer in this Senate, has been put in the kind of grinder he has. Not one of the allegations, once you look at them in the slightest way, would serve as the basis for rejecting this superior judge.

One of the things they said—and it was repeated earlier on the floor today—was that the judge acted sua sponte to throw out cases against plaintiffs. Oh, this is awful, they say. Sua sponte meaning he acts on his own motion, meaning without anybody having filed a motion. And this means he is anti-plaintiff.

Have these people never been to court? They don't know what happens? You can tell one thing, I submit. They scoured his record. If they are digging up this kind of stuff, they have looked at everything he has ever done. So if they found anything of real substance, we would have heard about it.

Let's look at these sua sponte rulings that are supposed to be so bad and represent a view that he is hostile to plaintiffs.

One of them is Coker v. Wal-Mart. In that case, the defendant removed the case—Wal-Mart has the right, within certain rules and procedures, to remove the case to Federal court from State court. Judge Shedd, sua sponte, questioned whether the removal was appropriate as it appeared the motion for removal had been filed outside the 30-day time limitation established by 28 U.S.C. 1446(b). There was a time limitation. If you are sued in State court and you want to remove it out of State court, you have a time limitation to do so. Doubting whether he had the authority to remand the case sua sponte, Judge Shedd stated he would permit the defendant to file a brief addressing whether removal was timely and whether the court had the authority to remain. He had a duty to raise the issue of removal because it was jurisdictional. Federal courts are courts of limited jurisdiction. The general courts of jurisdiction are our State courts. Federal courts have limited jurisdiction. So a good judge, the first thing he does is looks at a case that comes before him and he wants to know whether or not it even ought to be in Federal court, and that is all he was saying.

He is saying: I looked at the case here, counsel, and it looks like it is outside the 30 days. Send me a brief on why I ought not to remand it back to State court. You waited too long to bring it to Federal court. All he asked for was a brief on the law. So that is what Federal judges are supposed to do.

Here is another one. Gilmore v. Ford is a product liability case. Judge Shedd sanctioned the plaintiff for failure to prosecute the case by dismissing the case. He dismissed the case for failure to prosecute. He evaluated that decision and tested it by each of the factors established by the Fourth Circuit in Ballard v. Carson, a 1989 case. Indeed, the plaintiff failed to respond to this motion to dismiss and for failure to prosecute, after earlier failing to respond to the defendant's motion to compel discovery.

You are not entitled to go to court and file lawsuits and continue lawsuits if you don't abide by the rules of the court. If you don't answer discovery, and if the judge sends you a warning that, I am going to dismiss the case and we are going to have a hearing, and you fail to respond—and the plaintiff doesn't even respond to that motion—the judge did the right thing, which was, remove the case from the court. That is not something he did wrong, it is something he did right.

Here is another one: Lowery v. Seamless Sensations. The defendant raised the defense that the plaintiff failed to file a timely charge of discrimination with the EEOC—this is a defendant being sued over a discrimination charge—and he defended, saying the plaintiff did not file as required by law with the Equal Employment Opportunity Commission, the Federal agency that is supposed to deal with that; and he failed to file a timely lawsuit and the jurisdictional prerequisites to any Federal court action since that defense called into question the court's subject matter jurisdiction.

The court has no authority and jurisdiction over the case if the plaintiff hadn't filed his claim and had a hearing before the EEOC.

So the judge expedited consideration of those offenses as it would have served no purpose to proceed to the merits of a case in which there is no jurisdiction.

So you have to figure that out first. If the court does not have jurisdiction, it should not consider the case.

To expedite consideration of the issues, he ordered the defendant to file a motion to dismiss based on the defenses and that the motion be filed with the judge. Ultimately, the defendant was granted summary judgment on the grounds that the plaintiff could not establish a prima facie case. So it appears the motion to dismiss was not eventually granted. But the case failed on other motions.

Let me just say this. I am a lawyer. I love to practice law. I believe in the rule of law. I believe in the right of people to go to court and to litigate. But there is a growing concern in this country about the expense and delay and time extensions of litigation. It is costing large amounts of money. Lawyers—maybe a half dozen of them—are charging $200 an hour fiddling around with a case. One of the good government reforms that virtually every judge I know of who amounts to anything has bought into it. If the case fails on jurisdiction or has some other defect, it ought to be promptly ruled on and ended. We ought not to have six months of depositions and expenses when the case never had a basis to go to trial, anyway.

So that is what Judge Shedd was doing here. He was simply carrying out good government and a good legal basis. If you do not meet the standard for jurisdiction, you don't go to Federal court, and the clients don't expend thousands and thousands of dollars eaten up by lawyers and end up later with the case being thrown out when it should have been thrown out to begin with.

In McCarter v. RHNB, an age and sex discrimination case, Judge Shedd initially granted summary judgment—this has been complained of right here on the floor today—on the grounds that the plaintiff was unable to provide any evidence of age and sex discrimination.

Following the entry of that judgment, the plaintiff filed a motion to alter or amend that judgment since it was based on grounds not raised, it was asserted, in the defendant's motion. The judge reconsidered it.

Judge Shedd reconsidered his order, agreed with the plaintiff, and reinstated the motion. He wrote:

> Although the Court believes that the defendant's motion for summary judgment and supporting memorandum may be fairly read as raising the issue upon which the motion was granted, the Court will nevertheless give the plaintiff the benefit of the doubt and grant the motion to alter or to amend and deny defendant's motion for summary judgment.

So he says right there that he was going to give the plaintiff the benefit of the doubt and allow the case to continue.

That is what a good judge does. He rules. If somebody shows he has made a mistake, or it is doubtful, he may reconsider his ruling.

That, to me, shows again good behavior, that he is thoughtful; that if someone raises something he didn't fully understand, he will reconsider his decision and go forward.

In Shults v. Denny's Restaurant, a disabilities and slander case, Judge Shedd sua sponte considered summary judgment, and ordered the plaintiff to file a memorandum in opposition to the court's motion for summary judgment.

This action by Judge Shedd was again based on jurisdictional defenses raised in the defendant's answer. The allegation was that the plaintiff had failed to file within the 2-year statute of limitations, and he had failed to exhaust administrative equal opportunity commission review procedures.

In the order requesting the plaintiff to file a memorandum, Judge Shedd wrote that:

> . . . although the express language of Rule 56 provides only for the parties to move for summary judgment, Federal district judges possess the inherent power to raise sua sponte an issue for possible resolution by summary judgment.

He cited appropriate authority of the United States Supreme Court in Celotex Corporation v. Catrett.

That is absolutely the law of America. If a judge spots something that goes to the very nature of the jurisdiction, he can assert a summary judgment motion and ask the plaintiff to respond.

This is really not adversarial. Some people in this country think that judges decide cases on the length of their foot; that they decide cases on how they feel that day; or they look at the plaintiff and they look at the defendant, they don't like Celotex, but they like the plaintiff, and so they rule for them.

That is not what happens in America. We have rules, and judges follow the rules. They get the case to the jury, and the jury decides it, or the lawyers settle.

I would point out that he acted within the law, and he raised those two fundamental questions. They were simple but very important. Had the 2-year statute of limitations been violated? If it had, the case cannot be brought. Had they failed to seek the EEOC review required by the procedures? If so, the case could not be brought.

The sooner that is determined, the better off everybody is going to be.

Simmons v. Coastal Contractors was a discrimination and retaliation-in-employment case in which both parties were pro se.

Both parties, the plaintiff and defendant, were representing themselves; that is, both had fools for clients, as they say.

Judge Shedd sua sponte brought the parties before the court. Traditionally you would not do this, perhaps. But he knew he had two nonlawyers. He ordered the plaintiff to cure specific deficiencies in his complaint or face dismissal.

The decision really was an attempt to aid the plaintiff in properly drafting his complaint and should not be viewed as anti-plaintiff, given the pro se nature of both parties.

Basically he said, Plaintiff, you cannot recover. If you recover on this complaint, the court of appeals will throw it out. You have to amend your complaint and file it in the right fashion.

I think that is an advantage to the plaintiff. That was helping the plaintiff.

Yet, these groups—these attack organizations argue that Judge Shedd in his rulings show hostility to the plaintiffs before him.

That is one of the examples they cite.

Smith v. Beck was a section 1983 gender discrimination case in which several women alleged discrimination when they were not admitted without male escorts to a nightclub featuring nude female dancers.

Judge Shedd sua sponte questioned whether the plaintiffs' allegations sufficed to establish the defendant's private club's actions were under color of State law.

It is a complex legal question. He raised that on his own. He says if it is not under color of State law, this is a private club, and you can't recover.

So the question dealt with whether or not merely operating an establishment that has a liquor license does or does not transform the club into a State action. After consideration of the brief, he concluded that merely holding a liquor license does not make it a State action when they said you couldn't have in the strip club women coming in without male escorts.

We do have some interesting cases in Federal court, as you can well see.

I think that was a correct ruling, and apparently was not appealed and not reversed.

Should he have allowed that case to go on? Should he allow depositions to be taken for months? Should he allow expenses to be run up? Insurance companies pay, people say. Well, you know, there is nothing wrong with that. The insurance company is going to pay the lawyer. Who pays the insurance companies? We pay the insurance companies. It is a cost of doing business in America. There is no free lunch and there is no free legal work in America. Somebody pays.

In Tessman v. Island Ford-Lincoln-Mercury, Inc., this Title VII action, Judge Shedd sua sponte challenged the court's subject matter jurisdiction given the plaintiff's apparent failure to allege she had first presented her claim to the EEOC and received a right-to-sue letter.

The way this works, as I understand it, if you have a complaint about discrimination in the workforce, you have to go and file your complaint with the Equal Opportunity Employment Commission. When you do that, they evaluate it, and you can settle it at that stage. Businesses, recognizing they made a mistake or many times the complaint is shown to be worthless, and it is settled right there, and it ends right there.

But if the complaint is valid, and if the business or defendant does not respond to the satisfaction of the plaintiff, the plaintiff can ask the EEOC to give them a right-to-sue letter. That allows them to get their attorney to sue the defendant and take it to Federal court, to make a Federal case out of it.

So the judge ordered the case dismissed unless the plaintiff could show cause why that action should not be taken. I think that is what a judge should do. That is the way he ought to rule. When you have 5,000 cases, and you go through these, I am not aware that any of them have been reversed on appeal. And I think it is the right thing.

On the right of a judge to issue sua sponte actions, this is the law of the United States. This is a Supreme Court case, the authoritative decision on the matter issued in 1986. The Supreme Court said:

> [D]istrict courts are widely acknowledged to possess the power to enter summary judgment sua sponte, so long as the losing party was on notice that she had to come forward with all of her evidence.

In each of these cases, the judge told the other party that was in trouble their complaint was being questioned for jurisdiction matters, that they had an opportunity to file a brief, and any other evidence as to why the case ought not to be dismissed. And that is the right way to handle it.

The ninth circuit—this California circuit that strikes down the Pledge of Allegiance—has declared:

> District courts unquestionably have the power [to grant summary judgment sua sponte].

That was in 1995.

The fourth circuit, of which District Court Judge Shedd is a part, ruled:

> It is a fundamental precept that federal courts are courts of limited jurisdiction, constrained to exercise only the authority conferred by Article III of the Constitution and affirmatively granted by federal statute.

Many Federal judges forget that, but that is the law of this country. Federal courts have limited jurisdiction, and they are empowered by the Constitution and Federal statutes to do certain things, and only those things.

Continuing to quote the court:

> A primary incident of that precept is our duty to inquire, sue sponte, whether a valid basis for jurisdiction exists, and to dismiss the action if no such ground appears.

The fourth circuit further said:

> We have long held that receipt of, or at least entitlement to, a right-to-sue letter is a jurisdictional prerequisite that must be alleged in a plaintiff's complaint. Thus, where neither the complaint nor the amended complaint alleges that the plaintiff has complied with these prerequisites, the plaintiff has not properly invoked the court's jurisdiction under Title VII.

So in each of the cases I have cited, and those that have been complained of by these scurrilous attack groups, Judge Shedd acted sua sponte, but he provided proper notice and an opportunity to the plaintiff to respond, as the law requires.

None of these cases were reversed on appeal. Trust me, had they been in

error, it would have been taken up and been reversed. I think this court is a great circuit.

Several years ago, we had hearings to address the caseloads of the federal courts. Senator GRASSLEY as chairman of the Courts Subcommittee of the Senate Judiciary Committee, of which I am a member, called the hearings. He had the chief judge of the fourth circuit appear and talk about his caseload. They have one of the highest caseloads in America. Actually, not one of the highest, I think their caseload, per circuit, based on the cases per circuit for judges, was the highest in America. They had worked extremely hard, and they had a good procedure for managing their cases. It was really a good example for the rest of the courts around the country.

So I think this allegation—that this circuit is out of line—is something not healthy about the fourth circuit. It is just wrong. It is a great circuit, doing superb work, and the taxpayers are benefitting from it greatly.

There have been suggestions, although not anything of substance really, but allegations that somehow Judge Shedd is a white Southern male, and he is insensitive on the matters of race. Those are serious matters. I think if somebody had something to say about that, they would come forward, and we would see it, and we would know about it. But vague allegations of that kind are not good.

We ought to take very seriously any thought that someone would have acted without a commitment to equal justice. That would be wrong, and they ought not be on the Federal bench if they do not treat people equally.

I would like to say, his record shows just the opposite. One of the things that Judge Shedd did as a district judge—and district judges play a significant role in the hiring of United States magistrates, who make about $1,000 less than they do per year. They do not have quite the lifetime appointment, but it is a good appointment. And magistrate judge positions are becoming highly sought after. A lot of good applications are made. There are a lot of superb lawyers who are acting as United States magistrate judges in America.

He led the effort in his district to recruit an African American magistrate for that district, Margaret Seymour. She did a fine job as that magistrate. Later on, President Clinton, a Democratic President, appointed her to the Federal bench in that district. Margaret Seymour is now a sitting Federal district judge. One of the main reasons that occurred is because, years before, Judge Shedd had gone out and sought her, and worked to have her selected as that United States Federal magistrate.

He has worked actively to seek out minority and female candidates for other magistrate judge positions, and has directed the selection commission in South Carolina to consider diversity in selecting candidates for those positions.

In addition, he has recommended an African American female to serve as chief of the Pretrial Services Division in that district. Pretrial Services handles all the arrest matters involving defendants who are arrested: whether or not they should be allowed bail, whether they are on drugs, whether they ought to be locked up, how they ought to be treated, supervising them pretrial if they are released on bail. They do a lot of work. It is a pretty big deal. For the State of South Carolina, with one district, that is a big appointment. I just point those things out. His critics didn't raise those issues.

Judge Shedd has bipartisan support from both his home State Senators. Of course, Senator THURMOND admires Judge Shedd immensely. He has observed his career for many years. He has observed with great pleasure Judge Shedd's success on the bench. And he is extremely proud, as he nears 100 years of age, about to complete the longest term any Senator has ever served in this body, that his former chief counsel, when he was chairman of the Senate Judiciary Committee, is now in a position to be elevated to the Fourth Circuit Court of Appeals. That is not too much to ask, I submit. It is the kind of thing we ought not to deny unless there is a real basis to do so.

He has both the support of Senator THURMOND and Senator FRITZ HOLLINGS from South Carolina. Before coming to this body, Senator HOLLINGS was a real lawyer, a real litigator, a plaintiff's lawyer, a former national president of the American Trial Lawyers Association. He gives no quarter in protecting the rights of plaintiffs on this floor.

When somebody complained one time about the plaintiffs trial lawyers getting so much money in these tobacco cases, he said they did so much good, as far as he was concerned, they could have more. He supports Judge Shedd. He and his friends in the Trial Lawyers Association—and I am sure he shares confidences with them—have agreed that this is a good nomination.

I don't understand where we are with this problem. Judge Shedd has been completely forthcoming with the Senate Judiciary Committee's requests, many of them, for information.

Earlier this year Judge Shedd sent nearly 1,000 unpublished opinions for review immediately after Chairman LEAHY requested them. They wanted to plow through all his cases, the unpublished opinions, thinking they might find a nugget there. Apparently they haven't because they haven't raised any of them. We would be hearing about it. They would be blown up in charts.

He continued to provide additional unpublished opinions as well as other information the committee has requested regarding his rulings, opinions, and judicial record generally. He has been absolutely forthcoming.

Finally, I will just repeat, how do you know about all this? You hear these things and some person says this and some person says that, and what do you believe?

The Democrats have tenaciously adhered to the view that the ABA rating is the gold standard, Democrats on our committee. They really insisted on that and placed the ABA review at the center of our confirmation process. Of course, it is an unofficial thing. It is nothing in the official process, but they have asserted it as the gold standard for determining whether or not a judge should be confirmed. This gold standard review process has been conducted by the American Bar Association. Their team of lawyers and investigators have talked to all the people down there who have practiced before his court. They talked to civil rights groups. They talked to plaintiffs lawyers. They talked to defense lawyers. They talked to the community and fellow judges. They have come back with the highest possible rating they give—well qualified—for Judge Shedd.

He absolutely is well qualified for this office. He ought to be confirmed. It was a real disappointment to me to see a number of Senators in committee suggest that they might not be for him or were not for him, even though we never had an official roll call vote. I don't see where they are coming from.

This is a man we know. This is a man with a record of integrity, judgment, good demeanor, experienced now to a large degree, the kind of capabilities that make for a great judge.

He is going to be a great judge on the Fourth Circuit Court of Appeals. I am proud to support him. I believe the complaints against him are baseless and that he should be confirmed.

I yield the floor.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9 a.m., Tuesday, November 19, 2002.

Thereupon, the Senate, at 9 p.m., adjourned until Tuesday, November 19, 2002, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 18, 2002:

APPALACHIAN REGIONAL COMMISSION

Anne B. Pope, of Tennessee, to be Federal Cochairman of the Appalachian Regional Commission.

Richard J. Peltz, of Pennsylvania, to be Alternative Federal Cochairman of the Appalachian Regional Commission.

DEPARTMENT OF TRANSPORTATION

James M. Loy, of Virginia, to be Under Secretary of Transportation for Security for a term of five years.