

GREGG and I returned our blue ships—that means approval slips—on September 20, 2001. There is no reason this nomination cannot have a hearing. There is no controversy here. He should have a hearing.

Jeff Howard has an impressive array of legal experience that well qualifies him to be a Federal appellate judge. He served as U.S. attorney for New Hampshire from 1989 to 1993. In that post, he litigated numerous cases at both the trial and appellate levels and was a member of the Attorney General's Advisory Committee of U.S. Attorneys. For his efforts, he received the Attorney General's Edmund Randolph Award as well as the U.S. Attorneys' Award.

He has Federal experience that includes a stint as principal associate deputy attorney general at the U.S. Department of Justice from 1991 to 1992. He performed this job at the request of former Attorney General Bill Barr. In addition to his work as U.S. attorney, he served as attorney general of New Hampshire from 1993 to 1997 and deputy attorney general in 1988 and 1989. In these State and Federal capabilities, Jeff Howard has been involved in thousands of litigated matters covering the full range of issues that are going to come before him as a Federal judge.

In particular, he has been either on the brief or lead counsel in more than 100 cases in the First Circuit, the court to which the President has nominated him. Over the last 10 years, he has performed approximately 2,500 hours of pro bono work for victims of domestic violence.

He grew up on his grandfather's dairy farm in Cornish, NH, and later graduated from Plymouth State College with a B.A. and later Georgetown Law School, and he was editor of the *American Criminal Law Review*.

This is a well qualified judge. He should be on the court. He does not deserve this kind of treatment. How are we going to get good people to come forth and take these jobs when their lives are put on hold for years, sometimes, let alone months and days?

The circuit court nomination pace is incredible. During the first year of the Clinton administration, only five court of appeals nominees were nominated. Of those five, three were reported out that same year. That is 60 percent of President Clinton's court of appeals nominees. In contrast, President Bush has nominated 29, and the committee has only reported 6. That is 21 percent. There were only two circuit court nominees left pending in committee at the end of President Clinton's first year in office. In contrast, there were 23 of President Bush's circuit court nominees pending in committee at the end of last year.

It is unfair to compare the first years of the second Bush administration and the Clinton administration by looking only at the mere number of nominees confirmed. This approach fails to take into account the fact that President

Bush chose to nominate 24 more circuit court nominees than President Clinton did. We can get lost in the numbers, and I don't want to go through it.

I just repeat that Jeff Howard is as highly qualified a judge for the First Circuit as any judge I have seen. Yet we still have the nomination pending without even a hearing. His life is on hold. His family's life is on hold. I appeal to the chairman of the Judiciary Committee to give this good, decent, honorable judge a hearing so we have the opportunity to bring his nomination forth and put him on the bench where he belongs and where I was proud to support him.

NOMINATION OF CHARLES PICKERING

Mr. SMITH of New Hampshire. Madam President, I rise to discuss the nomination of Charles Pickering. Senator SPECTER just spoke on it.

This is a tragedy, when we have to drag people through the mud when they get finally to the hearing process, as Charles Pickering has. He is a man whose name is being dragged through the mud, even though people in his hometown of all races and creeds are praising him and saying: Whatever mistakes he made in the past, we understand. He has moved beyond that. He is a good man. He ought to be on the bench. Yet here we are, stuck with probably seeing a situation where Charles Pickering will be defeated by one vote on a party-line vote and not be allowed to come to the floor.

Why not give the Senate a chance? It is done. Maybe it has not been done that often on circuit court matters, but it has certainly been done many times with Supreme Court Judges. I hate to say it because I will not get into the partisan rhetoric here, but this is a classic case of getting "Borked" again. We all know what Judge Bork went through, and Clarence Thomas. We know what John Ashcroft went through.

Is this the way to treat people? Just be fair about it. If we are going to hold people accountable for every single mistake they make in life, then we will have to have perfect people. I don't know too many perfect people walking around this Chamber. If there is anybody in this Chamber who has not made any mistakes, they probably should vote against Pickering.

This is ridiculous. He is a good man, a good judge. To have his name dragged through the mud is disgusting. I hate to see it. It reminds me of the Ashcroft hearing, of the terrible things said about Clarence Thomas and, of course, Robert Bork. Bork was probably one of the most qualified people ever to even be nominated for the Supreme Court. Whether you liked him or disliked him on his views, he was still qualified. The last time I looked, a President had the right to pick somebody of his choosing, of his philosophy.

I voted for I don't know how many Clinton nominations to the Supreme

Court, to the Federal court system. I didn't expect to get Reagan-type judges out of Bill Clinton, but he was the President. I supported most of them unless there was some particular thing that, in my view, made them not qualified.

To echo what Senator SPECTER said, it is my hope we will move this nomination to the Senate floor and let the Senate make the decision. That is not unreasonable. The committee is deadlocked on a partisan vote. Bring Judge Pickering out. If he loses, fine; if he wins, fine. But let him have a vote. He deserves that. At worst, we can say maybe some of the things are true. How do you know whether what he said and did 30 or 40 years ago is over now? Can you be the judge of that? Let all 100 Senators make that judgment. I would like to have a chance to have a vote on that.

THE NOMINATION OF JOE SCHMITZ

Mr. SMITH of New Hampshire. Madam President, the final item I rise to discuss involves another nomination, but not for the judiciary. It is the nomination of Joe Schmitz. I have already submitted a statement for the RECORD, but I want to say this in the Chamber because I believe strongly in it.

Joe Schmitz was nominated for the inspector general at the DOD. This is a position among the most important in the Department because the inspector general's office is responsible for ensuring accountability and efficiency, and therefore it is the heart of the integrity of the Pentagon.

There have been numerous scandals in the IG's office in the recent past. Essentially, the inspector general's office has been rudderless without a confirmed nominee now for 3 years. With the IG's office in disarray, there is the impression left that the Department is without proper and necessary oversight. It is more than impression; it is fact.

I am also told that the IG's office has been leaderless, headless, for some 10 years—over the past couple decades, which is a disgrace when you stop to think about it. Without strong leadership, direction, and motivation, no office can function efficiently and effectively.

Secretary Rumsfeld needs an inspector general. If you stop to think about the job Donald Rumsfeld has done as the Defense Secretary in this country, the way they have responded, the way they have conducted themselves in countless briefings, and the way they have administered the war and come back after the terrible events of 9/11, he deserves an inspector general. He deserves Joe Schmitz because that is his choice. We are, after all, at war. Remember that.

It doesn't seem to bother those who are deliberately holding up the nomination of this good man. He was the Secretary of Defense's choice, the

choice of President Bush in this important post.

This is not a lifetime appointment. This is not a judge. This is an appointment of who President Bush and Secretary Rumsfeld want to be inspector general for the Defense Department at a great critical time. He is an individual with a strong background for the job, with impeccable personal and professional credentials. I hope we move forward expeditiously with this nomination. It has been cleared by the Armed Services Committee by voice vote and the Governmental Affairs Committee, yet it is on the calendar with no action.

Individuals who undergo the nomination process put their names and reputations on the line. They open themselves up for intense scrutiny of their past employment, finances, conduct, associations, somebody's opening every door—everybody who wants to say something negative about you, they find. They interview you.

He has been held up long enough. There are no ethical issues impacting this nomination. He has received strong recommendation from those who know him and have worked with him, regardless of party affiliation. You will find it on both sides. Joe Schmitz was a superlative choice by Secretary Rumsfeld and President Bush, and he will make an outstanding attorney general, and that is a fact.

The Senate needs to act. Again, I put this nomination in the same box with Charles Pickering and Clarence Thomas and Robert Bork and John Ashcroft and others. Why do we have to put people through this? Why do we have to attack them publicly in nomination hearings? If you have a problem, be man enough to sit down and talk with them. If I have a problem, I bring them into my office and talk to them privately. If there is still a problem, I might have to say something publicly; but for the most part, if I know something and I need an answer, I am man enough to bring the person in, sit him or her down and say: Here is what I want to know.

It is not real bravery and courage to sit up on the dais in Senate hearings, with the nominee sitting down at the table, and you are pounding away on him, criticizing him in front of everybody. You have the gavel, you are the Senator, what is he going to say? He has to sit there and take it in order to get this job. We do it and we characterize assassinate people day in and day out. It is not right. We wonder why we can't get good people to serve and why there is so much exasperation and condemnation about the people who serve in government. That is why. It is not right.

Schmitz is a good man. I say to my colleagues who have the power to make it happen: Get him on the floor of the Senate and let's vote and give Don Rumsfeld his inspector general.

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. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ECONOMIC RECOVERY BILL

Mr. DASCHLE. Mr. President, earlier this morning, we had the opportunity to vote on the economic package that we have been working on now for some period of time. Our deliberations on this subject began almost 6 months ago.

In fact, I do not think that the timing of this action is a coincidence. Monday will mark the 6-month anniversary of September 11. It will also be the days that workers who lost their livelihoods on September 11 will exhaust their unemployment benefits.

Those who have until now opposed a bipartisan economic recovery bill, and the unemployment insurance extension it includes, have wisely decided to relent in their opposition before the anniversary of that awful day arrives.

Two months ago, I proposed a common-ground economic recovery bill that contained only provisions supported by both parties. It included a 13-week unemployment extension, tax rebates for persons left out of last year's tax cut, business tax cuts to spur investment and create jobs, and fiscal relief for the states.

In an attempt to break the logjam and bridge disagreements between the parties, Democrats agreed to give up the economic priorities we had pressed last year, but which were opposed by Republicans. In exchange, we proposed that Republicans give up their priorities which were opposed by Democrats—namely, repealing the alternative minimum tax for corporations, including Enron, and accelerating the rate cuts enacted last year.

Regrettably, Senate Republicans blocked that measure, despite the fact that when votes were taken our consensus package received 56 votes, while the Republican bill had just 48 votes.

The bill we have just approved is similar in its approach. Like the common-ground bill Democrats proposed in January, it leaves out the highly controversial proposals Republicans insisted on previously. And it includes a top priority for Democrats—an extension of unemployment insurance. For these reasons, I support this legislation—although I would point out one serious omission.

As I said, our bill included one year of fiscal relief for the states through an increase in the match rate for Medicaid. Sixty-two Senators voted for an amendment to provide this relief for 2 years. Unfortunately, the bill passed by the House does not include this important measure.

This fiscal relief provision is the top priority of the bipartisan National Governors Association. It would assist

States with the serious revenue shortfalls they are experiencing as a result of the recession. Given the adamant opposition of some Republicans and the difficult time constraints under which the Senate is operating, it is not possible to address this issue in the time available to us this morning.

I say to the opponents of State fiscal relief: Dropping this provision is a serious mistake, and one I believe they will regret. In the long run, I do not believe we can avoid dealing with this problem.

There are other measures in this bill some of us might have written differently. Many of us would prefer a shorter time period for the bonus depreciation provision, for example, but on balance, the bill is a vast improvement over what Republicans and the administration advocated originally, and I believe it deserves the support it received this morning. I am grateful for its passage.

Mr. BYRD. Mr. President, today the Senate at long last passed a thirteen-week extension of unemployment benefits.

This is a relief to over 3,000 workers in my State of West Virginia who have exhausted their regular unemployment benefits since September 11, 2001, and, it is help that could have—and should have—been provided sooner, if it had not been delayed unnecessarily by those who have sought to provide tens of billions of dollars in tax cuts for a so-called “economic stimulus.”

Much has changed since an economic stimulus was first proposed in response to the September 11 attacks. The economy is growing again, business investment is on the rise, and workers are returning to their jobs. Both the stock markets and the economy have proved to be more resilient than economists had expected.

And so I find it difficult to accept the argument that \$43 billion in tax cuts is necessary to ignite an economic expansion that appears to be already underway.

What is more, I find it difficult to support legislation that would result in a further erosion in the budgets of state governments. I served in the West Virginia Legislature, and I understand and sympathize with their budgetary constraints. The depreciation provision that was included in the bill that was passed today is projected to cost my state \$86 million in revenue. My State cannot afford to lose that revenue.

The Federal budget position is not much better, Mr. President. This year's budget and appropriations process promises to be very difficult, and tough choices will have to be made. With projected deficits for the current and upcoming fiscal years, the mounting costs of our military efforts abroad, the need to improve our homeland defenses, and the long-term financing problems facing Social Security and Medicare, I could not in good conscience vote to spend \$51 billion to spur an economic expansion that, as Federal