

1996 when they confirmed zero circuit court judges. But we can compare these back and forth. What I am simply prepared to do today—as you have heard Senator LEAHY and members of our committee say on so many occasions—is to say, we are going to deal with these judges fairly and expeditiously. I think our record shows that.

I thank Senator LEAHY for his leadership, for the commitment he has made, and for the diligence he has shown in getting us to this point.

Forty-two judges have been confirmed; 7 circuit court judges have already been confirmed. What Senator LEAHY and the Judiciary Committee are now saying is, we will improve upon that in the coming weeks and months. When you look at what we will have been able to do by the end of this session, I think everyone will be able to say, without equivocation: You have done a good job.

That is what we are committing to do. That is what our resolution says. That is why I believe, very strongly, that supporting the Democratic resolution is, again, supporting the clear intent of our caucus and of this Senate that these nominees are going to get fair treatment. We are determined to do that. And we will demonstrate that with each passing week.

I yield the floor.

#### VOTE ON AMENDMENT NO. 3040

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3040. 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 Wyoming (Mr. ENZI) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

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

The result was announced—yeas 97, nays 1, as follows:

#### [Rollcall Vote No. 56 Leg.]

##### YEAS—97

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

Thurmond	Voinovich	Wellstone
Torricelli	Warner	Wyden

##### NAYS—1

Nelson (NE)

##### NOT VOTING—2

Enzi

Stevens

The amendment (No. 3040) was agreed to.

#### VOTE ON AMENDMENT NO. 3033

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3033 offered by the Republican leader.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. ENZI) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

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

The result was announced—yeas 47, nays 51, as follows:

#### [Rollcall Vote No. 57 Leg.]

##### YEAS—47

Allard	Fitzgerald	Murkowski
Allen	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	

##### NAYS—51

Akaka	Dodd	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Miller
Boxer	Feinstein	Murray
Breaux	Graham	Nelson (FL)
Byrd	Harkin	Nelson (NE)
Cantwell	Hollings	Reed
Carnahan	Inouye	Reid
Carper	Jeffords	Rockefeller
Cleland	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kerry	Stabenow
Corzine	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden

##### NOT VOTING—2

Enzi

Stevens

The amendment (No. 3033) was rejected.

Mr. DASCHLE. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, we are currently consulting about the remainder of the day. It is fair to say Senators should expect additional rollcall votes. We are hoping we might reach an agreement procedurally on how to make additional progress on the bill

during the remaining hours of today. At this point we cannot say with any confidence what tomorrow holds. It depends, in part, on what the schedule will be for the remainder of the day. We are working to arrange for additional votes and consideration of additional amendments. We will propound that request as soon as it becomes available.

#### PROVISION FOR CONDITIONAL RECESS OR ADJOURNMENT OF CONGRESS

Mr. DASCHLE. I have a request regarding the adjournment resolution. It has been approved by the Republican leader.

I ask unanimous consent the Senate now proceed to the adjournment resolution which is at the desk, H. Con. Res. 360.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

The House concurrent resolution (H. Con. Res. 360) providing for a conditional adjournment of the House of Representatives and conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DASCHLE. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table with no intervening action or debate.

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

The concurrent resolution (H. Con. Res. 360) was agreed to, as follows:

#### H. CON. RES. 360

*Resolved by the House of Representatives (the Senate concurring).* That when the House adjourns on the legislative day of Wednesday, March 20, 2002, or Thursday, March 21, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, April 9, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, March 21, 2002, Friday, March 22, 2002, or Saturday, March 23, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 8, 2002, or at such other time on that day as may be specified in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

Mr. REID. 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.

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

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

#### TIMING OF THE TRADE BILL

Mr. BAUCUS. Mr. President, at the end of the last session of Congress the Finance Committee reported three critical pieces of international trade legislation to the Senate calendar: An expansion of the Trade Adjustment Assistance Act, an extension of fast track trade negotiating authority, and an expansion of the Andean Trade Benefits program.

Each of these bills is time-sensitive and I believe that the Senate should take action on them as soon as possible. The Trade Adjustment Assistance Act, or TAA, first established in 1962, is the program that addresses the needs of workers and firms that are adversely impacted by trade.

The Senate Finance Committee bill expands TAA coverage to new groups of workers, including farmers and secondary workers; provides training and healthcare benefits to recipients; and experiments with a new concept of wage insurance, which aims to move the unemployed back into the labor force as quickly as possible.

Unfortunately, TAA was allowed to expire at the end of the last Congress. We need to not only extend TAA, but complete the expansion as soon as it is practical.

Although States have cooperated with the efforts of the Department of Labor to keep the program in operation, this stopgap cannot continue indefinitely. Congress must ensure that this critical safety net for working Americans is in place.

The extension of fast-track trade negotiating authority—sometimes called trade promotion authority—is also pending on the Senate calendar.

This measure is controversial, but Senator GRASSLEY and I were able to arrive at a bipartisan bill to extend fast track. And the bill passed the Finance Committee 18-3 with the support of both the majority leader and the minority leader.

This extension may not be as urgent as the extension of TAA, but many important international trade negotiations both bilaterally and multilaterally are pending or underway. This bill allows Congress to direct these negotiations and allows the President to credibly negotiate with our trading partners. It is time for Congress to extend fast track.

The Senate Finance Committee also reported an extension of the Andean Trade Promotion Act or ATPA. This measure has been actively supported by many Senators, including Senator BOB GRAHAM and the distinguished majority leader.

The legislation aims to shore up support among U.S. allies in the critical

Andean region and provide an alternative to the illegal drug trade to citizens in the region.

In addition, another critical international trade program, the Generalized System of Preferences, which provides important benefits to many developing countries, also expired at the end of the last Congress. This program should also be extended for some reasonable period of time, in my opinion, several years.

I have discussed with the majority leader and many of my colleagues combining all of these bills into a single vehicle, winning Senate passage for the legislation, and quickly moving to gain support for the legislation in the other body in the hopes that these measures might be signed into law as soon as possible.

The combined trade legislation has some detractors, but each component of the proposed trade legislation has bipartisan support. Each piece serves an important public policy purpose. And each piece is timely, if not overdue.

I know that the Senate calendar is crowded, but I would like to urge the majority leader and the minority leader to work with Senator GRASSLEY and myself to find time to take this legislation up shortly after the Senate returns from the coming recess.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I ask unanimous consent to address the Senate as in morning business.

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

#### THE ADMINISTRATION'S SPECTRUM PROPOSAL

Mr. MCCAIN. Mr. President, as ranking member of the Senate Committee on Commerce, Science and Transportation, I would like to discuss an issue I have discussed before, an issue that was addressed by the administration's proposal in the 2003 budget to delay the auction dates for spectrum being used by broadcasters.

In 1997, Congress ventured down a path that we hoped would lead to a revolution for the American consumer—digital television. Congress took action to support the transition to digital television, specifically high definition digital television, because of its potential to give Americans sharp movie-quality pictures and CD-quality sound, and took the extraordinary step of giving the broadcast industry a huge amount of spectrum for free—a \$70 billion gift.

During consideration of the Balanced Budget Act of 1997, broadcasters touted DTV technology as a competitive necessity that would preserve free over-the-air television in the new digital millennium. They sought legislation intended to speed and facilitate a transition from analog to digital television broadcasting. Their requests for special treatment were fulfilled.

At the time, the Wall Street Journal described Congress' action as a

“planned multibillion dollar handout for wealthy TV-station owners.” While other industries must purchase their spectrum in competitive auctions, in the case of digital TV, Congress decided to give away the spectrum. At the same time, Congress also decided that broadcasters could keep their old analog spectrum until 2006, or until 85 percent of TV homes in a market could receive digital signals.

During the debate on the Balanced Budget Act, I expressed my serious reservations with the spectrum provision. At the time I stated:

... when it comes to the bill's provisions on the analog turnback date, I fear that we have inadvertently undercut the value this spectrum might otherwise bring at auction by including a waiver standard in this bill that unnecessarily signals to bidders in 2002 that the spectrum they're bidding on may not become available on any definitive date.

I was not alone in my concern. In October 2000, the New York Times wrote: By giving the new spectrum away instead of auctioning it off to the highest bidders, Congress deprived the Treasury, and thus taxpayers, of tens of billions of dollars. The giveaway also kept the new spectrum out of the hands of bidders eager to sell digital services. The new spectrum went instead to incumbent broadcasters, who have dawdled.

Moreover, if the broadcasters begin to use their digital spectrum primarily to broadcast multiple channels of standard definition, perhaps on a subscription basis, I believe that they will never relinquish the spectrum. This scenario was never mentioned by the broadcasters while they were lobbying Congress for the free spectrum they eventually received.

In 1997, Congress mandated that future FCC spectrum licensing should be performed through auctions, ensuring that the spectrum is allocated to parties that value most highly the opportunity to provide wireless products and services, and that compensate the public for the use of its resources. Yet, at the same time, Congress gave away billions of dollars in public assets at the broadcasters' urging and on the promise that the public would get it back, and get superior, free over-the-air service in the bargain. As the President's budget acknowledges, however, this is not happening.

The administration is also proposing that beginning in 2007, the broadcasters would be assessed a \$500 million annual lease fee for their use of the analog spectrum. If they return their analog spectrum by the 2006 deadline, they will be exempt from the fee. While this proposal has merits and may be justified, I believe that in all likelihood, the broadcasters will never pay. Be assured that a few years from now, the NAB will be marching up to Capitol Hill asking Congress for more time to complete the DTV transition.

We should not let this happen. I believe that Congress must address this issue legislatively to protect the American taxpayer and ensure that the DTV transition will become a reality. Congress devoted valuable public assets to