

I am pleased to note that the majority leader is going to go right down the list on nominees and has stated earlier today that we would consider the nomination of Judge Brooks Smith, who is the chief judge of the Western District of Pennsylvania. The Third Circuit being in dire need of additional judicial manpower.

Chief Judge Edward R. Becker, one of the most distinguished judges in the United States, has commented about the serious state of affairs there, and I am anxious to see District Court Judge Brooks Smith receive his vote tomorrow. I am confident that he will be confirmed.

Judge Smith was reported out of the Judiciary Committee on a vote of 12 to 7, with three Democrats—Senator BIDEN, Senator KOHL, and Senator EDWARDS—voting for Judge Smith.

It is my hope that we will soon establish a protocol to eliminate the partisan differences which have plagued the Federal judicial nominating process for many years.

Now, with a Republican President, President Bush, and a Senate controlled by the Democrats, there have been delays which I believe are excessive. But I have to say at the same time that when President Clinton, a Democrat, was in the White House, and the Senate was controlled by Republicans, similarly the delays were excessive.

It is my view that the Federal judgeships are too important to be embroiled in partisan politics or payback or delay. I have proposed a protocol which would establish a timetable: So many days after a nominee is submitted by the President there ought to be a Judiciary Committee hearing. So many days later there ought to be action by the Judiciary Committee, voted up or down; and, if voted up, so many days later there ought to be floor consideration for confirmation by the entire Senate—with that not being an ironclad schedule. If cause is shown, at the discretion of the chairman of the committee on notification to the ranking member there could be a reasonable delay. Similarly, with the majority leader upon notice to the minority leader, there could be a reasonable delay on the vote before the Senate.

But I believe the American people generally are sick and tired of partisan politics. They want to see the Senate work together and nowhere is that more important than in the selection of Federal judges.

So I am pleased to speak about these three distinguished lawyers who have been confirmed by the Senate and will be sworn in soon. I am also looking forward to the addition of Judge Brooks Smith to the Court of Appeals of the Third Circuit, which is very much in need of his services.

I thank the Chair. In the absence of any other Senator seeking recognition, 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

Mr. REID. Mr. President, it is my understanding that we are on the generic drug bill. Is that right?

The PRESIDING OFFICER. The Senator is correct.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Senator Dorgan's amendment No. 4299.

Byron L. Dorgan, Kent Conrad, Tim Johnson, James M. Jeffords, Ron Wyden, Paul Wellstone, Max Baucus, Ernest F. Hollings, Hillary Rodham Clinton, Zell Miller, Maria Cantwell, Jack Reed, Max Cleland, Patrick J. Leahy, Richard J. Durbin, Christopher J. Dodd, Harry Reid.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send another cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 491, S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2001.

Harry Reid, Jon S. Corzine, Byron L. Dorgan, Ron Wyden, Maria Cantwell, Paul S. Sarbanes, Debbie Stabenow, Richard J. Durbin, Tom Daschle, Daniel K. Akaka, Jack Reed, Kent Conrad, Zell Miller, Charles E. Schumer, Ernest F. Hollings, Hillary Rodham Clinton.

#### VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I support the nomination of Julia Smith Gibbons and would have voted aye to confirm her nomination to the 6th Circuit Court of Appeals.

Mr. THOMPSON. Mr. President, I am very pleased to be here today as the Senate takes up for consideration the nomination of Judge Julia Smith Gibbons to be a U.S. Circuit Judge for the Sixth Circuit. I am grateful to my colleagues for their unanimous vote on Friday in support of cloture on this nomination to allow it to come to a vote today.

I support this nomination, and I am confident my colleagues will do so as well when they learn of Judge Gibbons's background and qualifications. Judge Gibbons will be a welcome addition to the Sixth Circuit. Before I address Judge Gibbons's qualifications, I want to let my colleagues know of the problems confronting the Sixth Circuit.

Today, 29 of the 179 U.S. Circuit Court judgeships remain unfilled. Eight of those 29 vacancies are in the Sixth Circuit. Let me put that into perspective: 28 percent of all of the vacant circuit judgeships in the country occur in just one of the 13 Circuits.

These 8 vacancies constitute one-half of the 16 judgeships allocated to the Sixth Circuit, which is twice the number of vacancies in any other circuit. Meanwhile, the court's caseload continues to rise.

Not surprisingly, the Sixth Circuit is also the slowest appellate court in the Federal system. According to the Chief Judge of the Sixth Circuit, the average time from filing to decision is 2 years, some 6 months slower than the next slowest circuit.

We must also recognize that the vacancy rate does not only affect the Sixth Circuit and litigants before that court. In order to fill its annual need for over 160 three-judge panels to hear cases, the Sixth Circuit must bring in visiting judges from other circuits or from district courts. Last fiscal year, visiting judge handled almost 20 percent of the Sixth Circuit's workload, and the Court relied on visiting judges twice as often as any other circuit.

While some of these visiting judges are senior judges, many are active circuit and district judges. These judges maintain a full docket themselves, in addition to pitching in to assist the Sixth Circuit. As district judges spend more time handling appellate cases, they must put off acting on their own dockets. The ripple effect caused by the vacancy rate on the Sixth Circuit is therefore much broader than we might suppose. According to a recent witness before the Judiciary Committee, the demands being made on district judges within the Sixth Circuit to fill seats on three-judge panels are so burdensome, that many district judges are now refusing what had been considered a prestigious assignment.

The vacancy rate on the Sixth Circuit is placing a significant burden on the entire Federal judiciary, which would be overburdened even if every vacancy were filled.

Some of the adverse impacts of the vacancy rate on the Sixth Circuit are not so readily discernible or can be quantified. For instance, visiting judges from outside the circuit or from the district courts may not be as familiar with Sixth Circuit law as the judges of the Sixth Circuit themselves. The court's reliance on such a large contingent of visiting judges increases the risk of intra-circuit conflict among different panels of the court, making en

banc review by the full Sixth Circuit more frequent. And en banc review places greater burdens on the court by requiring that all active judges, rather than just a portion of them, give the case their attention.

I am not seeking to lay blame. I am just pointing out that we must overcome the differences that have led us to the quagmire in which we find ourselves. And I believe it is fair for me to do so. During President Clinton's administration, I did all I could to get the President's nominees to the district courts in Tennessee confirmed quickly. I also shepherded through the Senate the nomination of the last judge confirmed to the Sixth Circuit, Ronald Gilman.

I hope that the fact that the Senate is moving to take up the nomination of Judge Gibbons bodes well for our willingness to take up other nominations to the Sixth Circuit.

Let me turn now to the specific nomination before us. Despite her relative youth for such a position, Judge Julia Smith Gibbons been a judge for over 20 years. I am confident that the Senate will not consider any more highly qualified nominee this year.

Judge Gibbons was born and raised in Pulaski, TN, which is a small town in south-central Tennessee less than 20 miles from Lawrenceburg, where I grew up. She attended Vanderbilt University in Nashville, from which she received her B.A. magna cum laude in 1972 and where she was elected to membership in Phi Beta Kappa, the national honor society.

Judge Gibbons then left Tennessee to attend law school in our neighbor to the east at the University of Virginia Law School, where she was a member of the editorial board of the law review and was elected to the Order of the Coif, the national legal honor society.

Upon graduating from law school, she returned to Tennessee to clerk for Judge William Miller of the Sixth Circuit, the court to which Judge Gibbons has been nominated. In 1976, Judge Gibbons became an associate with a Memphis law firm.

After 3 years practicing law, Judge Gibbons joined the administration of Governor Lamar Alexander as the Governor's legal advisor in 1979. In 1981, Governor Alexander appointed Judge Gibbons to the Tennessee Circuit Court for the Fifteenth Judicial Circuit, which covers Memphis and Shelby County, and she was elected to a full term in 1982.

In 1983, Judge Gibbons was appointed United States District Judge for the Western District of Tennessee by President Reagan, the first woman to hold such a position in Tennessee. At the time, she was the youngest Federal judge in the Nation. From 1994 to 2000, she served as Chief Judge of the court.

She is very highly regarded by the bar as an exceptional trial judge. While she was being considered for this appointment and since her nomination, I have heard from many lawyers who

have practiced before her extolling her virtues as a trial judge.

Her reputation is national and has been recognized by the Chief Justice, who has appointed her to the Judicial Panel on Multidistrict Litigation, the Judicial Resources Committee of the Judicial Conference, and the Judicial Officer Resources Working Group.

Despite her heavy judicial workload, Judge Gibbons has remained active in her church and community, serving as an elder of the Idlewild Presbyterian Church and as a former president of the Memphis Rotary Club.

In sum, I am confident that Judge Gibbons will be an outstanding member of the Sixth Circuit, as she has been an outstanding trial judge.

Before I yield, let me thank Chairman LEAHY and his staff, and Senator HATCH and his staff for their cooperation and assistance in moving this nomination forward. I hope our action today on Judge Gibbons bodes well for getting the remaining Sixth Circuit vacancies filled expeditiously.

I urge my colleagues to join me in voting to support the nomination of Judge Julia Smith Gibbons.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

#### TRIBUTE TO ROY ESTESS

Mr. LOTT. Mr. President, I rise today to congratulate my dear friend Roy Estess on his well deserved retirement, to thank him for his many years of dedicated service to our nation, and to wish him the very best as he pursues other interests and enjoys what I hope will be many fine years of health and happiness with his family.

Roy S. Estess, a native of Tylertown, MS, is retiring as director of NASA's John C. Stennis Space Center in south Mississippi. As director of Stennis Space Center for more than 13 years, Roy has been responsible for accomplishing the center's current NASA missions, rocket propulsion testing and remote sensing applications. Other responsibilities have included managing the Space Shuttle Main Engine test program; planning and accomplishing advanced propulsion test activities for NASA, some Department of Defense projects, and certain industry propulsion development and launch vehicle development programs; conducting research and technology development in earth and environmental sciences; commercializing remote sensing technology in cooperation with industry and government; developing technology for use in propulsion test and launch operations; and managing the overall center. Roy's vision and leader-

ship have directly lead to Stennis Space Center becoming a unique Federal city that is home to more than 30 Federal, State, academic and private organizations.

Roy Estess graduated from Mississippi State University with a degree in aerospace engineering. He also has accomplished various graduate level studies, including completion of the advanced management program at the Harvard Graduate Business School. He is a registered professional engineer in the State of Mississippi and is a member and past chairman of the advisory committee to the College of Engineering at Mississippi State University. Roy is also a member of several professional societies, some of which include Tau Beta Pi; the American Institute of Aeronautics and Astronautics; the Mississippi Academy of Sciences; and the National Space Club.

Roy has held various engineering and management positions during his 42 years of service in the United States government. He began his career as a civilian employee in the United States Air Force at Brookley Field in Alabama, and later at Robbins Air Force Base in Georgia. Roy came to the NASA Stennis Space Center in 1966 as a propulsion test engineer, working on perhaps the greatest technological achievement of all time, the Apollo missions to the moon. Roy worked on testing the second stage of the Saturn V moon vehicle during those exciting times. Working his way up through the ranks, he later served as head of the Applications Engineering Office, deputy of the Earth Resources Laboratory and director of the Regional Applications Program. From 1980 through 1988, Roy served as deputy director of Stennis Space Center and was named director in January, 1989. From 1992 to 1993, he was temporarily assigned to NASA Headquarters in Washington, D.C. as a special assistant to two consecutive NASA Administrators. From February, 2001 to April, 2002, Roy was temporarily assigned as acting director of the Johnson Space Center in Houston, TX.

Roy Estess has been named the recipient of numerous awards and honors, some of which include: the Presidential Distinguished Service, twice, and Meritorious Senior Executive Awards; NASA's Distinguished Exceptional Service, Equal Opportunity and Outstanding Leadership Medals; the National Distinguished Executive Service Award for Public Service; and the Alumni Fellow of Mississippi State University; as well as Citizen of the Year in his home town.

Roy has served Mississippi and the nation in numerous ways outside of his professional career. In 1969, when south Mississippi was hit by the devastating hurricane Camille, Roy served on the Gulf coast disaster recovery team, making extraordinary efforts to help save lives and property in our state. An Eagle Scout himself, Roy has long been an active supporter of the Boy Scouts of America, including serving as Scout