

in Chief, the President has almost unlimited powers in the conduct of day-to-day defense matters. It is clear that the Constitution provided the Congress the power of the purse. In drafting this measure the Committee has safeguarded its responsibilities and expects that the Defense Department will recognize the constitutional authority of the Congress to determine how funding will be utilized in executing this budget. We fully expect that the Defense Department will only fund activities that have been approved by the Congress, and in no case will funding be used to support programs which have been rejected by the legislative branch.

I am pleased to have worked with my good friend, our Chairman, Senator STEVENS on crafting this legislation. It is a very good bill and I would encourage all my colleagues to support it.

Mr. STEVENS. Mr. President, does the Senator wish the floor?

Mr. LEAHY. Mr. President, I will not take the floor if the Senator from Alaska has more to say. I was going to speak about one of the nominations which is coming up this afternoon.

Mr. STEVENS. Mr. President, it is my understanding there will be other matters considered.

I ask unanimous consent that our bill be set aside until the hour of 2 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Alaska and the distinguished Senator from Hawaii.

I am going to shortly speak for about 20 minutes on one of these nominees. First, if I might, I am going to ask that we go into a quorum call. It will be a matter of a minute or two. When we come out of the quorum call, I ask unanimous consent that I be recognized to speak regarding the nomination of Peter Hall.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

#### NOMINATION OF PETER HALL

Mr. LEAHY. Mr. President, we have heated debates, and we have times when we are happy and times when we are not here in the Senate. Today is a happy day. I am pleased that later I will be able to cast my vote in favor of Peter Hall for confirmation to the U.S. Court of Appeals for the Second Circuit. I know this will be a nomination that will be strongly supported on both sides of the aisle.

Mr. Hall is going to fill the Green Mountain State's seat on the U.S. Court of Appeals for the Second Circuit. He currently serves as the U.S. Attorney. He was nominated by President Bush. He has strong support not only of Governor Douglas but the entire Vermont delegation. I commend both the Republican and Democratic leadership for working out an accommodation that makes it possible to vote on his nomination.

By tradition, there is a Vermont seat on the Second Circuit. It is currently vacant. The reason it is vacant is because of the sudden and tragic death of the last judge to hold the seat, the late Fred Parker. Judge Parker was appointed to the U.S. District Court for Vermont in 1990 by the first President Bush. That was done on the strong recommendation of Senator JEFFORDS and with my support. He was a well-known Republican in Vermont, and he served as the deputy attorney general for the State of Vermont.

After distinguished service on the District Court bench, he was appointed by President Clinton to the Second Circuit with the strong support of Senator JEFFORDS. President Clinton knew that Fred Parker was a well-known Republican, but he also knew of his qualifications and of the high esteem in which he was held in Vermont, and so he nominated Judge Parker to the Second Circuit, and he was confirmed by the Senate.

I mention that because over the years Senator JEFFORDS and I—and before that Senator Stafford of Vermont and I—have tried to keep partisan politics out of the Judiciary. If you look at the quality of the people we recommended, you will see we have actually been quite successful in doing that. Fred Parker was such an example. He was a good man, a good lawyer, and a good judge. We were in Georgetown Law School together. I knew him from that time. He was in the Marine Corps. I knew him from then until his untimely death last year. I knew him to be a man of integrity and intelligence. He served the courts and the people of Vermont with dedication and fairness, and we miss him.

Peter Hall has big shoes to fill, but both from what everyone knows about him and from what I know personally in having worked with him, he is completely up to the job. He did have a couple strikes against him. He had the nerve to be born in one of those Southern States, Connecticut. He went all the way even further south to North Carolina for college, and then he attended law school in New York. But we decided to forgive him for those missteps in his career because he came to his senses as soon as he graduated from law school, and then he moved to Vermont. He has been there long enough to be considered a Vermonter.

He clerked for the well-respected Judge Albert Coffrin of the U.S. District Court for the District of Vermont.

We are a small State. When I first started practicing law, it was in Judge

Coffrin's law firm, before he became a member of the bench. He was a good friend. His widow still lives in Vermont. He was without a doubt one of the most respected and one of the best trial judges we have had.

Peter Hall, showing the wisdom he has demonstrated, stayed in Vermont from that day forth. His career and the exemplary way he served the U.S. Government in the law are admirable.

After he completed his clerkship with Judge Coffrin, he joined the U.S. attorney's office in Vermont. He was a Federal prosecutor the next 18 years. He rose to the position of first assistant, later being named U.S. Attorney. During those years, he has gained invaluable trial experience so beneficial for any judge. He learned about Federal criminal law.

I was a prosecutor, so of course I always have a soft spot for someone who served as a prosecutor.

His resume is not limited to Government service. In 1986, he began a 15-year career in the private practice of law, focusing on civil practice, with a particular emphasis on mediation, showing a talent for that. He also used his time during that period to serve the bar. He provided ethics training to Vermont State prosecutors. He held the office of president of the Vermont Bar Association, and in that office as former prosecutor, advocated for funding for public defenders for equal access to justice.

In the best sense of those who make the best judges, he found time for pro bono work, getting involved in the Vermont family court system. He served as guardian ad litem for children caught up in disputes between their parents.

In 2001, President Bush nominated Peter Hall to be the U.S. Attorney for Vermont. His record in that office is one all prosecutors should hope to have, a tough but a fair prosecutor. I supported Peter's nomination to the U.S. Attorney's office. I support him now.

Lest there be any question, let us have no misunderstanding about Peter's party affiliation: He is a Republican through and through. From 1986 to 1993 he was variously a member of the town of Chittenden, Rutland County, and State of Vermont Republican committees and a member of the National Republican Party. He has helped run statewide Republican campaigns, and was an elected Republican official for 5 years, holding one of the most important offices a citizen in Vermont can hold, a member of the Select Board of the Town of Chittenden. Incidentally, Chittenden is named after the first Governor of Vermont, Thomas Chittenden. He was recommended to the President by Vermont's Republican Governor. Governor Douglas noted in his letter of support to this nomination, that Peter is "a dedicated public servant, a strong leader and will be an asset to the Second Circuit."

I ask consent the Governor's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATE OF VERMONT,  
OFFICE OF THE GOVERNOR,  
March 10, 2004.

Hon. ORRIN G. HATCH,  
Chairman,  
Hon. PATRICK J. LEAHY,  
Ranking Democratic Member, U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATORS: I am writing to express my strongest support for U.S. Attorney Peter Hall for appointment to the U.S. Court of Appeals, 2nd Circuit.

Peter's record of service of the people of Vermont is exemplary. As U.S. Attorney, he has been a strong and effective leader in Vermont's anti-terrorism effort. Peter has been a principal organizer in promoting "Operation Safe Commerce," an international initiative aimed to track and monitor cargo shipments that could be susceptible to terrorist attacks.

In addition, Peter has been an active leader in promoting the President's "Project Safe Neighborhoods" initiative designed to make our streets safer by taking guns out of the hands of convicted felons.

I unequivocally support Peter for the judgeship. He is a dedicated public servant, a strong leader, and will be an asset to the 2nd Circuit.

Sincerely,

JAMES H. DOUGLAS,  
Governor.

Mr. LEAHY. Equally clear, however, is Peter's commitment to the law, to fair judging, to leaving any partisan label or interest at the courthouse door. Unless somebody knew his background, they would have no idea whether he is Republican or Democrat. He is a committed officer of the court, totally fair to both sides. In fact, he is the type of nominee every President should send up. I wish we would see more like him. He is universally respected. He has proven himself over long years of Federal service and private practice to be a straight-shooting, fairminded person. Any litigant in a Federal courtroom can be confident they will get a fair hearing and a fair shake from him, no matter what their political affiliation is or whether they have any. I am pleased—I am more than pleased, I am proud—to support his confirmation.

One example of the fairness and lack of bias litigants in the Second Circuit can expect is seen in his answers to one of the questions I asked him at his nomination hearing before the Judiciary Committee. I asked him what his practice would be if a case came to the Second Circuit, a case that had been in the U.S. Attorney's office when he was there, even if he had not been the attorney handling the case. His answer, which I commend to all nominees, is a model of fairness, and was also a model of simplicity. He told me he would recuse himself from any case that had been before his office while he was there. No ifs, ands, or buts. That is one of the reasons why the Senate Judiciary Committee, which sometimes can be divided on issues, voted unanimously to support his nomination.

His qualifications, experience, and support across the political spectrum make him the kind of consensus nomi-

nee that proves when there is thoughtful consideration and collaboration, this process works as it should. That is why I will be pleased to vote to confirm him today.

Actually, an interesting sidebar on this, when he is confirmed to the Second Circuit, President George W. Bush will call his father, former President George Herbert Walker Bush, and say, I beat your record for judicial confirmations. During the 4 full years of the 41st President's administration, former President Bush managed to have 192 judicial nominees confirmed by the Senate. With today's vote, the Senate will have confirmed, even before the year is over, 193 of President George W. Bush's judicial nominations. That allows him to say he has had more judges confirmed with bipartisan cooperation by the Senate than President Reagan did in his first term of office, or his father did, or President Clinton in his last term of office.

I mention these statistics being of interest.

I am one lifelong Vermonter who is very proud of another Vermonter, Peter Hall. This is one of those things in our very special little State that will bring everybody together across the political spectrum. We have tried not to tell Peter he does have to spend some time in New York City each month because the Second Circuit sits there, but I think he will be able to work a great deal of his time in Vermont. Like me, that is one of the best of all possible worlds. You can be home on weekends.

I understand from the leadership we will vote on this and another judicial nomination later this afternoon.

Although I know the Presiding Officer is hanging on every word I might be saying, 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. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### NOMINATION OF DIANE S. SYKES TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

Mr. HATCH. Mr. President, I ask that the Senate now proceed in executive session to consider Executive Calendar Nos. 591 and 604 as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the nomination.

The legislative clerk read the nomination of Diane S. Sykes, of Wisconsin, to be United States Circuit Judge for the Seventh Circuit.

The PRESIDING OFFICER. There are 60 minutes evenly divided for debate on this nomination.

Mr. HATCH. I do not intend to take all of our time, and I hope the other side will not take all of its time.

I rise to support the nomination of Justice Diane S. Sykes to the Seventh Circuit Court of Appeals, and to urge my colleagues to support her. There is no doubt that she is well prepared to join the Federal bench. A graduate of Marquette University School of Law, Justice Sykes served as a law clerk to the Honorable Terrence T. Evans in the Eastern District of Wisconsin. As a litigator in private practice, she specialized in civil litigation in State and Federal court.

Justice Sykes will bring almost 12 years of judicial experience to the Seventh Circuit. Since 1999, when she was appointed by Governor Tommy Thompson to fill a mid-term vacancy, she has served on the Wisconsin Supreme Court. She won election for a ten-year term on the court in 2000 with 65 percent of the vote. Judge Sykes appealed to so many of her State's voters because she is a careful, qualified jurist and not an activist.

Before coming to the Wisconsin Supreme Court, Justice Sykes served as a trial judge on the Milwaukee County Circuit Court, winning election to a 6-year term in 1992. Prior to her service as a State judge, Justice Sykes practiced commercial litigation for 7 years at one of Wisconsin's most prestigious law firms. She also clerked for Judge Evans, district judge for the Eastern District of Wisconsin after her graduation from Marquette University Law School.

Not surprisingly, the ABA rated her well-qualified for appointment to the Seventh Circuit. She has also received broad support, including that of both Wisconsin Senators.

Despite her strong credentials and the level of support she enjoys, there continues to be some misinformation and distortions regarding her record. First, of course, is the suspicion by some that she might be pro-life and thus presumptively unqualified for service on the Federal bench. Opponents cite one 1993 case on which she ruled while she served as a county judge in Milwaukee. She was then accused of declaring admiration for pro-life protestors and issuing jury instructions favorable to those protestors.

The Milwaukee newspaper that printed these accusations issued a formal retraction and apology less than a month later. The apology noted, among other things, that the language of Justice Sykes' jury instruction was specifically recommended for use by the Wisconsin Criminal Jury Instructions Committee, and was used by judges throughout the State. The apology further noted that Justice Sykes sentenced the protestors to 2/3 of the maximum sentence permitted by law. The record is clear that Justice Sykes, during sentencing, stated "whether you