

actually took place, basically, when it came to Judge Sotomayor, she completed her paperwork setting forth her key information, background, on June 4. The July 13 hearing will take place 39 days after that paperwork was submitted.

In the case of Justice Alito—who incidentally had participated in 4,000 cases, 1,000 more than Judge Sotomayor—in that case, in Justice Alito’s case, the hearing took place 40 days after we received his work; for Chief Justice John Roberts, 43 days. This is entirely consistent.

I might also add a point that was raised by Senator UDALL of New Mexico. Judge Sotomayor is no stranger to this Chamber. She was nominated first for the district court bench by President George Herbert Walker Bush and then nominated for the district court by President Clinton. That is an indication that we have seen her work before. We are aware of her background.

The last point I would make, consistent with the Senator from California, is that justice delayed could be justice denied. In this case, if we continue this hearing for a record-breaking period of time—which has been requested by the Republican side—it will mean we will have a vacancy on the Supreme Court when it begins its important work this fall.

What Chairman LEAHY has asked for is reasonable. It is consistent with the way Judges were treated under President Bush and at the time the Republicans had no objection or complaint about it. This is a reasonable timetable. I urge my colleagues to support Chairman LEAHY.

I yield the floor.

**CONCLUSION OF MORNING BUSINESS**

The PRESIDING OFFICER. Morning business is closed.

**FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT**

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1256, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1256), to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, and to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes.

Pending:

Dodd amendment No. 1247, in the nature of a substitute.

Burr/Hagan amendment No. 1246 (to amendment No. 1247), in the nature of a substitute.

Schumer (for Lieberman) amendment No. 1256 (to amendment No. 1247), to modify provisions relating to Federal employees retirement.

The PRESIDING OFFICER. The question occurs on amendment No. 1246

by the Senator from North Carolina, Mr. BURR.

Mr. BURR. 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. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Missouri (Mrs. McCASKILL) are necessarily absent.

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

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 205 Leg.]

**YEAS—36**

Alexander	DeMint	Martinez
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Murkowski
Brownback	Gregg	Risch
Bunning	Hagan	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Crapo	Kyl	Wicker

**NAYS—60**

Akaka	Feinstein	Murray
Baucus	Gillibrand	Nelson (NE)
Bayh	Grassley	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burr	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lieberman	Udall (CO)
Cornyn	Lincoln	Udall (NM)
Dodd	Lugar	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden

**NOT VOTING—3**

Byrd	Kennedy	McCaskill
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The amendment (No. 1246) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, if I may—I wish to ask unanimous consent to go into morning business at the conclusion of these brief remarks—there are several amendments that are germane amendments to this bill that we ought to consider, and my hope is that will happen. I will let the leadership determine what the rest of the day will be like, but my hope is we can complete these other germane amendments that are before us. I know there is a package of amendments on other things to be looked at, and I am certainly prepared to do that.

My good friend, the Senator from Wyoming, Senator ENZI, is not on the floor at this minute, but he and I have had a good relationship on this bill,

and we would like to complete it if we could. We have been now almost a week and a half on this legislation, so it shouldn’t take much more to get to final passage.

So I make that offer to my colleagues, that they can sit down and see if we can’t resolve some of those matters or at least allow for some time for debate on those outstanding germane amendments that are pending.

**MORNING BUSINESS**

Mr. DODD. Mr. President, I ask unanimous consent to proceed to morning business, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Utah is recognized.

**ORDER OF PROCEDURE**

Mr. HATCH. Mr. President, I ask unanimous consent that the distinguished Senator from Missouri be given a couple of minutes to make his speech for the record and that afterwards I immediately be given the floor.

Mr. WYDEN. Mr. President, reserving the right to object, and I do not intend to object, I would ask unanimous consent to be recognized following the remarks of the distinguished Senator from Missouri, and then following the remarks of the distinguished Senator from Utah, that I be allowed to follow him.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Mr. President, I wish my colleague to understand that I may take longer than 10 minutes, so I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Missouri is recognized.

**NOMINATION OF LIEUTENANT GENERAL STANLEY McCHRISTAL**

Mr. BOND. Mr. President, today in the Appropriations Defense Subcommittee we heard about some good things going on in South Asia and the new strategy for both Afghanistan and Pakistan to bring military and civilian efforts into that region.

I understand the Armed Services Committee has just approved the nomination of LTG Stanley McChrystal, an ex-commander of the international security forces, the final senior-level military position in the theater.

The dedicated members of the American military, our intelligence professionals and State Department officials continue to serve our country well, but it is essential that the efforts of each be woven together to form a comprehensive strategy that will not only win the battle but win the war. This will take senior leaders of great vision in all areas of our government.

Last November I reached out to many of these leaders when I sent then President-elect Obama and his national security team my report on the way forward in Afghanistan and Pakistan. President Obama has taken many of the steps I outlined, steps that are critical to our long-term success in the region.

Earlier this year the President appointed a special envoy for the region who will oversee the implementation of the new strategy and he appointed a new ambassador to Afghanistan, who will focus the efforts of U.S. Government agencies in country. With General Petraeus firmly in place as the CENTCOM commander and the recent nomination of LTG Stanley McChrystal as the next commander of International Security Forces, Afghanistan—COMISAF—the President will have filled the senior-most military and civilian positions in-theater.

I recently met personally with General McChrystal to talk about our way forward in the region and to listen to his ideas on Afghanistan and Pakistan. I must say I was impressed. He is not only a dedicated and accomplished soldier who has years of combat and counterterrorism experience, he is also an effective leader who understands the critical challenges we face in the region. More importantly, he understands that the war will not be won with military might alone—that to win this war we must combine the outstanding work of our military with effective diplomatic and economic efforts.

A true counterinsurgency—or COIN—strategy, one that wins the hearts and minds of the local population and gains grassroots support for development and governance efforts, includes an effective public diplomacy campaign. General McChrystal not only understands the importance of good public diplomacy, he is dedicated to ensuring that our actions on the ground speak as loudly for our intentions as do our information efforts. That is part of what I call “smart power”—combining diplomatic, economic, informational and military efforts.

I have seen first-hand the success of these smart power efforts. In Nangarhar Province, the Missouri National Guard Agriculture Development team gained the trust and cooperation of the local leaders. These Missourians have given Afghans in Nangarhar the skills they need to grow and harvest legitimate and sustainable crops. As a result, Afghan farmers are not only improving their own lives and land, but poppy production in the region has virtually been eliminated. I am confident that General McChrystal will support increased focus and investment in smart power efforts such as these.

General McChrystal understands how critical putting an “Afghan face” on our combat operations is to our ultimate success. I was pleased that when we talked about accomplishing this goal by improving our efforts to train

the Afghan National Army and Police, General McChrystal acknowledged the Afghan component is essential to any successful COIN strategy. Years of special operations experience has led him to know inherently how important it is to have the populace gain confidence in its own government institutions. Having met with the general in Iraq and seen the good work he did there, having watched his work on the Joint Staff, and having spoken with him at length over the past several weeks, I can unequivocally state that he is the kind of officer who intends to do just this—build public trust in Afghanistan.

Just look at his testimony. According to the general, more intelligence, surveillance and reconnaissance (ISR) is good not only because it gives you a better understanding of the battle space, but also because it increases precision which ultimately reduces civilian casualties. Reducing civilian casualties is a must and will gain trust in Afghanistan.

General McChrystal also believes that corruption is “one of the things that must be reduced for the government to be legitimate, and therefore for the people to trust it.” The general intends for us to partner with Afghans at every level to help them rid or reduce the widespread corruption because it has a corrosive effect on the legitimacy of the government and is perceived by the Afghan people to be a real problem. This will also gain trust in Afghanistan.

Finally, he believes it is important that we succeed in Afghanistan not only because it removes access to safe havens for al-Qaida and associated groups, but because it is the right thing to do. According to the general’s testimony, “we have the ability to—to support the people of Afghanistan and to move and to shape a better future that they want. And I think that that will make a difference in how we are viewed worldwide.” This gains trust in general.

Everything I have seen or heard about Lieutenant General McChrystal, from my conversations with him and from his testimony before the Senate Armed Services Committee, his impeccable record of military command and operations, to the comments of his fellow officers, tells me that Stan McChrystal will be a wise, measured, and excellent commander of our operations in Afghanistan. I strongly urge my colleagues to support this nomination without delay so General McChrystal can get on the ground.

I thank the Chair, and I particularly thank my distinguished colleague from Utah.

#### CONFIRMATION PROCESS

Mr. HATCH. Mr. President, I wish to associate myself with the remarks and concerns expressed earlier by both the Judiciary Committee’s ranking member, Senator SESSIONS, and the distinguished Republican leader and whip, Senators MCCONNELL and KYL.

The White House talking points tell us that the Supreme Court nomination, Judge Sonia Sotomayor, has more Federal judicial experience than any Supreme Court nominee in a century. My friends on the other side of the aisle have taken, used, and aggressively circulated these talking points. I assume by stressing judicial experience they are saying that this overwhelmingly deep, broad, and vast judicial record provides the basis on which to judge the nominee’s fitness for the Supreme Court. Well, that coin has two sides. The flip side is that a 17-year judicial career that has produced thousands of judicial decisions takes time to evaluate adequately and properly to consider. The question is whether the majority is at all interested in a genuine, serious, deliberative process by which the Senate can fulfill one of our most important constitutional responsibilities. This process should be fair and thorough. Instead, it is being rigged and rushed for no apparent reason other than that the majority can do so.

This process should be bipartisan, and instead it is becoming entirely partisan. The ranking member was not even given the very same courtesy that the chairman was given when he was in that position at the time of the previous Supreme Court nominations.

Let me focus on the process followed to consider the previous Supreme Court nominee, Justice Samuel Alito. He had served on the U.S. Court of Appeals for the Third Circuit for more than 15 years when he was nominated to the Supreme Court. This is 5 years longer than Judge Sotomayor has served on the Second Circuit and nearly the same as Judge Sotomayor’s combined judicial service on both the district and circuit courts.

The other party demanded and was granted 70 days from the announcement of the nomination to the hearing to study then-Judge Alito’s record. The Senator from Pennsylvania, Mr. SPECTER, was chairman at the time. He made no unilateral partisan announcements. He imposed no truncated, limited timeframe. No, he consulted the ranking member, and they agreed there would be 70 days to study that voluminous judicial record.

Oh, what a difference an election makes. With the unilateral partisan edict announced today by the chairman, we are being given only 48 days to study the same lengthy record. We are told we must consider the largest judicial record in a century in the shortest time in modern memory, and that is simply not enough. It is not enough to do the job right, and I would remind my friends on the other side that it was their leaders who once said that it is more important to do it right than to do it fast. That was when there was a Republican President and a Republican Senate. Are we to assume from the unilateral imposition of a stunted and inadequate process that the majority today no longer cares that the confirmation process be done right, only that it be done fast?