

are Judge Barbara Keenan of Virginia, who was confirmed unanimously to the Fourth Circuit, and Judge Denny Chin of New York, who was confirmed unanimously to the Second Circuit. Both required cloture petitions to end the filibusters against their confirmations and then they were each confirmed unanimously.

Others confirmed unanimously after months of delay are Judge James A. Wynn, Jr. of North Carolina, who was finally confirmed to the Fourth Circuit after almost 6 months of delay; Judge Albert Diaz of North Carolina, who was finally confirmed to the Fourth Circuit after almost 11 month's delay; Judge Ray Lohier of New York, who was finally confirmed to the Second Circuit after almost 8 months of delay; Judge Beverly Martin of Tennessee, who was finally confirmed to the Eleventh Circuit after more than 4 months of delay; and James Greenaway of New Jersey, who was finally confirmed to the Third Circuit after almost 4 months of delay. I expect Scott Matheson of Utah to be confirmed unanimously to the Tenth Circuit, but not until there have been 6 months of unnecessary delay. I will not be surprised if Judge Murguia is confirmed unanimously, or nearly unanimously, after 4 unnecessary months of delay.

Examples of district court nominees who have been delayed for between 3 and 7 months before being confirmed unanimously are: Judge Kimberly J. Mueller of the Eastern District of California, Judge Catherine Eagles of the Middle District of North Carolina, Judge John A. Gibney, Jr. of the Eastern District of Virginia, Judge Ellen Hollander of the District of Maryland, Judge Susan R. Nelson of the District of Minnesota, Judge James Bredar of the District of Maryland, Judge Carlton Reeves of the Southern District of Mississippi, Judge Edmond Chang of the Northern District of Illinois, Judge Leslie E. Kobayashi of the District of Hawaii, and Judge Denise Casper of the District of Massachusetts.

Ten years ago, Mary Murguia became the first Latina to serve as a Federal Judge in Arizona when she was nominated by President Clinton to serve on the U.S. District Court for the District of Arizona. She will now become the first Hispanic—and only the second woman—from Arizona to serve on the Ninth Circuit. I congratulate Judge Murguia and her family on her confirmation by the Senate today.

The VICE PRESIDENT. The yeas and nays have been ordered.

The question is, shall the Senate advise and consent to the nomination of Mary Helen Murguia, of Arizona, to be a U.S. Circuit Judge for the 9th Circuit.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Iowa (Mr. HARKIN), the Senator from Missouri

(Mrs. MCCASKILL), the Senator from Michigan (Ms. STABENOW), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from Kansas (Mr. BROWNBACK), the Senator from Missouri (Mr. BOND), the Senator from Tennessee (Mr. Alexander), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea" and the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

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

The result was announced—yeas 89, nays 0, as follows:

(Rollcall Vote No. 299 Ex.)

YEAS—89

Akaka	Enzi	McConnell
Barrasso	Feinstein	Menendez
Baucus	Franken	Merkley
Bayh	Gillibrand	Mikulski
Begich	Graham	Murkowski
Bennet	Grassley	Murray
Bennett	Gregg	Nelson (NE)
Bingaman	Hagan	Nelson (FL)
Boxer	Hatch	Pryor
Brown (MA)	Hutchison	Reed
Brown (OH)	Inhofe	Reid
Burr	Inouye	Risch
Cantwell	Isakson	Rockefeller
Cardin	Johanns	Sanders
Carper	Johnson	Schumer
Casey	Kerry	Sessions
Chambliss	Kirk	Shaheen
Coburn	Klobuchar	Shelby
Cochran	Kohl	Snowe
Collins	Kyl	Specter
Conrad	Landrieu	Tester
Coons	Lautenberg	Thune
Corker	Leahy	Udall (CO)
Cornyn	LeMieux	Udall (NM)
Crapo	Levin	Voinovich
DeMint	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	Manchin	Wicker
Ensign	McCain	

NOT VOTING—11

Alexander	Feingold	Stabenow
Bond	Harkin	Vitter
Browback	McCaskill	Wyden
Bunning	Roberts	

The nomination was confirmed.

NOMINATION OF SCOTT M. MATHE- SON, JR., TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the question occurs on the following nomination, which the clerk will report.

The legislative clerk read the nomination of Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit.

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to re-

consider is considered made and laid upon the table, and the President shall be immediately notified of the Senate's action.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the following nominations are considered and confirmed en bloc: Calendar No. 1119, No. 1120, and No. 1139. The motions to reconsider are considered made and laid upon the table en bloc, and the President shall be immediately notified of the Senate's action.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Kathleen M. O'Malley, of Ohio, to be United States Circuit Judge for the Federal Circuit.

Beryl Elaine Howell, of the District of Columbia, to be United States District Judge for the District of Columbia.

Robert Leon Wilkins, of the District of Columbia, to be United States District Judge for the District of Columbia.

Mr. BROWN of Ohio. Mr. President, I am very pleased that the Senate has voted to confirm Judge Kathleen McDonald O'Malley to the U.S. court of appeals for the Federal circuit.

The Nation's gain is Ohio's loss. But it is also a proud day for us.

As a child Kate was blessed with wisdom beyond her years. At the age of 12 she was asked what she wanted to be when she grew up. She replied that she wanted to become a Federal judge.

And she excelled in school—high school, college, and law school. She graduated Phi Beta Kappa from Kenyon College in 1979 and first in her class at Case Western Reserve Law School in 1982.

After law school she clerked for the Sixth Circuit Court of Appeals for the distinguished Judge Nathaniel R. Jones, who is one of her major influences and who considers Kate to be like family.

After her clerkship with Judge Jones, Judge O'Malley spent several years in private practice, where she gained invaluable experience representing numerous large corporations in addition to medium-sized and small businesses.

She became an expert in complex corporate litigation, patent and intellectual property cases—experience that will serve her well as a Circuit Judge in the Federal circuit.

She translated her private sector experience into a distinguished career in public service as chief counsel and chief of staff for then-Ohio attorney general Lee Fisher.

Recognizing her talents, Ohio Senators Howard Metzenbaum and John Glenn recommended her to President Clinton for a place on the Federal bench.

On September 20, 1994, President Clinton nominated her to serve on the Federal bench as a U.S. district judge for the Northern District of Ohio.

When she began her service in the Northern District of Ohio, Judge

O'Malley was among the youngest judges serving on the Federal bench.

Since then, she has served the Northern District of Ohio with distinction.

In addition to having a great legal mind, she is an innovator. She has spearheaded national efforts to integrate cutting edge technologies into courtrooms—ensuring that the administration of justice is equal, fair, and open for all who seek it.

Judge O'Malley will make an outstanding judge on the U.S. court of appeals for the Federal circuit, and I congratulate her on her confirmation.

JUDICIAL CONFIRMATIONS

Mr. LEAHY. Mr. President, at long last, the Senate is being allowed to consider long-pending, consensus judicial nominations. This action has been long overdue. President Obama has reached out and worked with Senators from both sides of the aisle in selecting well-qualified judicial nominees. As chairman of the Judiciary Committee, I have bent over backwards to be fair to all sides. There has been consultation and a thorough and fair process for evaluating nominations.

Scott M. Matheson is finally being confirmed to become a Federal circuit judge for the U.S. Court of Appeals for the Tenth Circuit. In his 30-year legal career, he has been both a State and a Federal prosecutor, worked in private practice, and served on the faculty of the S.J. Quinney College of Law at the University of Utah, including 8 years as the school's dean. The Judiciary Committee unanimously reported his nomination on June 10, more than 6 months ago. We did so unanimously. The Republican Senators from Utah supported this nomination. It has still taken more than 6 months to get a Senate vote.

Ten years ago, Mary Murguia became the first Latina to serve as a Federal judge in Arizona when she was nominated by President Clinton to serve on the U.S. District Court for the District of Arizona. She will now become the first Hispanic—and only the second woman—from Arizona to serve on the Ninth Circuit. The Judiciary Committee unanimously voted to report her nomination favorably more than 4 months ago. Judge Murguia's nomination was supported by her home State Senators, both Republicans. It has still taken more than 4 months to get a Senate vote.

Kathleen M. O'Malley has for the last 16 years served as a Federal judge in the Northern District of Ohio. When Judge O'Malley, a breast cancer survivor, was appointed to that court in 1994, she was one of the two youngest women on the Federal bench. She has been nominated to serve on the U.S. Court of Appeals for the Federal Circuit. The Judiciary Committee unanimously reported her nomination to the Federal Circuit in September, 3 months ago. The Committee received a letter of support from Senator VOINOVICH,

who urged an expeditious confirmation process. It has still taken 3 months to get a Senate vote.

The Senate is finally being allowed to fill some of the vacancies on the hard-pressed U.S. District Court for the District of Columbia. The Judiciary Committee unanimously reported the nominations of Beryl Howell and Robert Wilkins back in September. It has taken 3 months to get Senate votes. The chief judge of the District Court for the District of Columbia wrote the Senate some time ago urging prompt action to fill the four vacancies that exist on that Court.

There was a time when having served for 10 years as a respected member of the Judiciary Committee staff would lead to expeditious consideration of a nomination. For example, when Kristi Lee Dubose of Alabama, who had served on Senator Sessions' Judiciary Committee staff, was nominated, her hearing was expedited despite the lack of an ABA peer review, her nomination was reported by the committee within 2 days of her hearing and that nomination was then confirmed promptly. Indeed, the time Judge Dubose's questionnaire was received by the committee to the date of her confirmation was 61 days, which includes a 3-week recess period.

By contrast, Ms. Howell's nomination was delayed after her hearing for 57 days before the committee was allowed to vote and has been stalled for 89 days on the Senate Executive Calendar. Since her questionnaire was received by the committee, it has been 160 days. This is no reflection on Ms. Howell, whose credentials, work experience, temperament, and qualifications are beyond reproach.

There are more than a dozen additional consensus judicial nominations that have been through the entire process but are being denied a final vote. I know of no precedent for this. Indeed, in the lameduck session at the end of President Bush's second year in office, we proceeded to report and confirm controversial circuit court nominees. That the Senate is not being allowed to consider these consensus nominees is a shame and an unnecessary burden on them and their families and for the courts and people they would serve. It is a travesty that all of the well-qualified nominees favorably reported by the Judiciary Committee could not be confirmed before this Congress adjourns. That is what we did when we confirmed 100 judicial nominees of President Bush in 2001 and 2002. All 100 of the nominees reported favorably by the Judiciary Committee received Senate votes and were confirmed—all 100. They include 20 during the lameduck session that year and circuit court nominees reported after the election.

This year, consensus nominees are not being allowed to be considered. These nominees include one unanimously reported circuit court nominee and another circuit court nominee supported by 17 of the 19 Senators on the Judiciary Committee.

President Obama has nominated James E. Graves to fill one of two emergency vacancies on the Fifth Circuit. Currently, Justice Graves is the only African American on the Mississippi Supreme Court. If confirmed, he would be the second African American to sit on the Fifth Circuit, the first from Mississippi. His nomination has the strong support of both of his Republican home State Senators. The ABA Standing Committee on the Federal Judiciary unanimously rated him "well qualified", its highest possible rating. The Judiciary Committee reported him unanimously. Yet he is not being allowed a vote.

Susan Carney is nominated to fill one of 3 emergency vacancies on the Second Circuit. After working for 17 years in private practice, she served as associate general counsel of the Peace Corps, and she is currently the deputy general counsel of Yale University. Ms. Carney's nomination has the strong support of both of her home State Senators. Her nomination was reported with the support of five of the seven Republicans serving on the Judiciary Committee and by a vote of 17 to 2. She is not being allowed a vote.

There are 13 more district court nominees who were reported unanimously by the Judiciary Committee that the Senate is not being allowed to consider.

President Obama nominated Amy Totenberg to fill an emergency vacancy on the U.S. District Court for the Northern District of Georgia in March. Ms. Totenberg's nomination has the support of her two Republican home state Senators. Currently a lawyer in private practice in Atlanta, she also serves as a special master for the U.S. District Court for the District of Maryland and as a court-appointed mediator for the U.S. District Court for the District of Columbia. Previously, she was general counsel to the Atlanta Board of Education and a part-time municipal court judge. She earned the highest possible rating, unanimously "well qualified," from the ABA Standing Committee on the Federal Judiciary. Her nomination was reported unanimously by the Judiciary Committee.

James E. Boasberg was nominated to fill another of the vacancies on the U.S. District Court for the District of Columbia. Since 2002, Judge Boasberg has served as a judge on the Superior Court of the District of Columbia, a position to which he was appointed by President George W. Bush. Previously, Judge Boasberg was a Federal prosecutor and an attorney in private practice. The ABA Standing Committee on the Federal Judiciary rated him unanimously "well qualified," its highest possible rating, to become a Federal judge. His nomination was reported unanimously by the Judiciary Committee.

Amy Berman Jackson was nominated to fill the other current vacancy on the U.S. District Court for the District of