

Rockefeller Specter Wellstone  
Roth Stevens Wyden

The nomination was confirmed. The PRESIDING OFFICER. Under the previous order, the motion to reconsider will be laid upon the table. The President will be immediately notified of the Senate's action.

Mr. LOTT addressed the chair. The PRESIDING OFFICER. The majority leader.

SCHEDULE

Mr. LOTT. Mr. President I would like to take leader time just to go over the schedule briefly because I know Senators are interested in the balance of the day and when we return.

This second vote will be the last vote of the week. We did get a good deal accomplished yesterday and I thank Senators for their cooperation on the Department of Defense authorization bill, the military construction appropriations bill and nominations.

The Senate will recess this afternoon until 12 noon on Monday, July 6, for the Independence Day recess. When we reconvene on Monday, it will be my intention to turn to the Department of Defense appropriations bill. Any votes to occur with respect to that appropriations bill will be stacked to occur on Tuesday, July 7. It is my understanding the managers may have as many as 20 amendments to consider on Monday, and expect to debate those amendments and have votes, then, on Tuesday.

Before the Senate adjourns, I will ask consent that we turn to the product liability bill. If that request is objected to, then I will move to proceed to that matter and file cloture. That cloture vote will occur, then, on Tuesday, July 7, at 9:30, if it is necessary to file cloture. We will then be asked to consider the IRS reform conference report Tuesday evening, and I do mean Tuesday night, so that we can get work done on appropriations bills, product liability, and the IRS reform.

There will be no vote occurring, then, on Monday, July 6. There are a lot of conflicts, Senators trying to get back and I am trying to be cooperative on that. But I do want to announce again, as I did earlier today: Expect votes on Mondays and Fridays and expect 12-hour days Tuesdays, Wednesdays and Thursdays throughout July. We have to do at least 8 appropriations bills during July.

If we get our work done, we won't have to have votes at 9 or 10 o'clock. But it would be my intention, if we don't get cooperation, that I would schedule votes at 9 or 10 o'clock every Tuesday, Wednesday and Thursday, because we have to get it done. I hope Senators will stop introducing 100 amendments to every bill. It is ridiculous. If you have three or four important amendments on each side, and I am talking to both sides, fine. But if we call up DOD and there are 150 amendments offered, it just tells you

something about the Senate. So we are going to get our work done in July if we have to go way into the night every night.

Members should be prepared, then, to work on the appropriations bills and the conference reports. We have a time agreement on higher education. We will work to take up bankruptcy, drug czar reauthorization, Internet gambling, pornography and filtering. I thank all Senators for their cooperation.

I thank Senator GORDON SMITH for what he has done to the dress code in the Senate. I think the Senate is looking brighter, lighter, and it is good for our image and, I think, for the country.

I yield the floor.

NOMINATION OF VICTORIA A. ROBERTS, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

The PRESIDING OFFICER. Under the previous order, the Senate will now consider the nomination of Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The legislative clerk read the nomination of Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Mr. ABRAHAM. Mr. President, it is my pleasure to offer a few brief remarks on behalf of Ms. Victoria Ann Roberts, who has just been confirmed by this body to be a United States District Judge for the Eastern District of Michigan.

Ms. Roberts has built an impressive professional resume, as managing partner for a Detroit's Goodman, Eden, Millender and Bedrosian, as an Assistant United States Attorney, and as the president of the State Bar of Michigan.

Ms. Roberts has also taken a long and active interest in several community organizations that have greatly benefitted Metropolitan Detroit. She served on the board of directors of the Fair Housing Association of Detroit from 1985-91 and was its chair from 1986 to 1989. In addition, she has worked with Big Brothers, Big Sisters of Michigan since 1987, serving as Secretary, Vice President, and member of the Board of Directors and Advisory Board.

I think all of this points to an individual who brings a well-rounded and very successful set of legal credentials to the Federal Bench, and to a person who has consistently given to her community and her state as a volunteer in a variety of very important ways.

Mr. President, I am pleased to congratulate Ms. Victoria Roberts on this confirmation, and I look forward to following her career as a judge on the federal bench.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Victoria

A. Roberts of Michigan, to be United States District Judge for the Eastern District of Michigan.

On this question, 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 Utah (Mr. BENNETT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), the Senator from Iowa (Mr. HARKIN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

I also announce that the Senator from Oregon (Mr. WYDEN) is absent due to family illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. WYDEN) and the Senator from Minnesota (Mr. WELLSTONE) would each vote 'aye.'

The result was announced, yeas 85, nays 0, as follows:

[Rollcall Vote No. 183 Ex.]

YEAS—85

|           |            |               |
|-----------|------------|---------------|
| Abraham   | Enzi       | Lieberman     |
| Allard    | Faircloth  | Lott          |
| Ashcroft  | Feingold   | Lugar         |
| Biden     | Feinstein  | Mack          |
| Bingaman  | Ford       | McConnell     |
| Bond      | Frist      | Mikulski      |
| Boxer     | Gorton     | Moseley-Braun |
| Breaux    | Graham     | Moynihan      |
| Brownback | Gramm      | Murkowski     |
| Bryan     | Grams      | Murray        |
| Bumpers   | Grassley   | Nickles       |
| Burns     | Gregg      | Reed          |
| Byrd      | Hagel      | Reid          |
| Campbell  | Hatch      | Robb          |
| Chafee    | Helms      | Roberts       |
| Cleland   | Hollings   | Santorum      |
| Coats     | Hutchinson | Sarbanes      |
| Cochran   | Inouye     | Sessions      |
| Collins   | Jeffords   | Shelby        |
| Conrad    | Johnson    | Smith (NH)    |
| Coverdell | Kempthorne | Smith (OR)    |
| Craig     | Kennedy    | Snowe         |
| D'Amato   | Kerrey     | Thomas        |
| Daschle   | Kerry      | Thompson      |
| DeWine    | Kohl       | Thurmond      |
| Dodd      | Landrieu   | Torricelli    |
| Domenici  | Lautenberg | Warner        |
| Dorgan    | Leahy      |               |
| Durbin    | Levin      |               |

NOT VOTING—15

|         |             |           |
|---------|-------------|-----------|
| Akaka   | Hutchinson  | Roth      |
| Baucus  | Inhofe      | Specter   |
| Bennett | Kyl         | Stevens   |
| Glenn   | McCain      | Wellstone |
| Harkin  | Rockefeller | Wyden     |

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## JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I began this year challenging the Senate to maintain the pace it set in the last weeks of the last session in which it confirmed 27 judicial nominees in 9 weeks. Instead, the Senate has confirmed only 31 nominees so far this year—instead of the 54 it should have if it had maintained last year's pace.

I reissue my challenge for the remaining 10 weeks of this session: The Republican Senate can confirm another 30 nominees by the end of the session if it will just work at the pace it achieved in connection with the President's radio address last year.

I thank the Majority Leader for calling up the nominations of Howard Matz and Victoria Roberts. With their confirmations, and I do believe that they should and will be confirmed, the Senate will have acted on only 33 federal judges at a time in which the federal judiciary has experienced 103 vacancies, many of longstanding duration. Indeed, Ms. Roberts would fill a judiciary emergency vacancy. We will have 45 judicial nominations still pending before the Senate or the Judiciary Committee, some which were first received over three years ago.

There are currently nine other qualified nominees on the Senate calendar having been reported favorably by the Judiciary Committee. I deeply regret that the entire Senate Executive Calendar is not being cleared and the Senate is not being given the opportunity to vote on all 11 nominees awaiting Senate action.

The nomination held up the longest is that of Judge Sonia Sotomayor to fill a critical vacancy on the Second Circuit, a Circuit whose Chief Judge has declared an emergency situation, canceled hearings and taken the extraordinary step of proceeding with 3-judge panels including only one Second Circuit judge. Chief Judge Winter recently issued his annual report in which he notes that the Circuit now has the greatest backlog it has ever had, due to the multiple vacancies that have plagued that court.

In addition, there are 36 nominees pending before the Committee and more nominees being received from the President every week. I hope that the Committee will schedule prompt hearings for each of the judicial nominees currently pending in Committee and the nominees we expect to be receiving over the next several weeks so that they may have an opportunity to be considered by the Committee and confirmed by the Senate. At the rate of six nominees a hearing, the Committee needs to schedule at least six more hearings this summer for currently pending nominees.

The Senate continues to tolerate more than 70 vacancies in the federal courts with another 11 on the horizon—almost one in 10 judgeships remains unfilled, and, from the looks of things, will remain unfilled into the future unless the Judiciary Committee does a

better job and the Senate proceeds promptly to consider nominees reported to it.

We have held only seven judicial nominations confirmation hearing all year. I recall in 1994—the most recent year in which the Democrats constituted the majority—when the Judiciary Committee held 25 judicial confirmation hearings, including hearings to confirm a Supreme Court Justice.

Nine currently pending nominees for the Courts of Appeals need their hearings and need them promptly if they are to be considered and confirmed this year, only three of those were received in the last 60 days. We have 25 currently pending nominees to the District Courts and only four of those were received in the last 30 days.

Unlike earlier days in the Senate when nominees were not made to wait for weeks and months on the Senate calendar before they could be considered, that is now becoming the rule. Margaret Morrow spent 244 days on the calendar. Patrick McCuskey and Michael McCuskey each spent 144 days on the calendar. The average time on the calendar has gone from a day or two to over 44 days.

I calculate that the average number of days for those few lucky nominees who are finally confirmed is continuing to escalate. In 1994 and 1995 judicial nominees took on average 86 or 87 days from nomination to confirmation. In 1996, that number rose to a record 183 days on average. Some would discount that number because it was a presidential election year, but even they cannot ignore that it shattered the previous record. Last year, the average number of days from nomination to confirmation rose dramatically yet again, and this is the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200 day barrier for the first time in our history. It was 212 days. Unfortunately, that time is still growing and the average is still rising to the detriment of the administration of justice. As we begin the day the average time from nomination to confirmation is over 250 days. That is three times the time it took before this slowdown began in earnest.

During the entire four years of the Bush Administration there were only three judicial nominations that were pending before the Senate for as long as 9 months before being confirmed and none took as long as a year. In 1997 alone there were 10 judicial nominations that took more than 9 months before a final favorable vote and 9 of those 10 extended over a year to a year and one-half. Of the judges confirmed so far this year, Hilda Tagle's confirmation took 32 months, Susan Oki Mollway's confirmation took 30 months, Ann Aiken's confirmation took 26 months, Margaret McKeown's confirmation took 24 months, Margaret Morrow's confirmation took 21 months,

and Victoria Roberts will have taken 11 months. An additional nine confirmation this year took more than 200 days.

Last year the President sent us 79 judicial nominations but the Senate completed action on fewer than half of them. The percentage of judicial nominees confirmed over the course of last year was lower than for any Congress over the last three decades and, possibly, at any time in our history.

Left pending were 42 judicial nominees, including 11 who were first nominated in 1995 and 1996, and 21 to fill judicial emergencies. Still pending before the Senate are four nominees first nominated in 1995 and two more first nominated in 1996. There are still eight nominations pending from 1997.

Unfortunately, over the last three years, the Senate has barely matched the one-year total of judges confirmed in 1994 when we were on course to end the vacancy gap. We have not yet made up for attrition over the last two years. I observed at our last nominations hearing that we are not even keeping up with Mark McGwire, the St. Louis Cardinal slugger. In the three months of the baseball season leading up to the All Star game, he has hit 35 home runs. The Senate has had two additional months and confirmed only 33 judges.

I recall in 1992, the last year of President Bush's Administration, the Senate, with a Democratic majority in a presidential election year confirmed 63 judicial nominations. Since obtaining their majority in the 1994 election, the current Republican majority has not achieved that number of confirmation in any year. Indeed in the presidential election year of 1996, the Senate confirmed only 17 judges and none for the courts of appeals.

The Chief Justice of the United States Supreme Court has called the number of judicial vacancies "the most immediate problem we face in the federal judiciary." I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and to work with us to have the Judiciary Committee and the Senate fulfill this constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges.

The numerous, longstanding vacancies in some courts are harming the federal administration of justice. The people in these districts and circuits need additional federal judges. Indeed the Judicial Conference of the United States recommends that in addition to filling the current vacancies, the Congress should authorize 53 additional judgeships throughout the country, as set forth in S. 678, the Federal Judgeship Act that I introduced in May 1997. That indicates that the work demands of the federal judiciary justify 133 additional judges. There is a clamor for us to fill these vacancies and there is