

The PRESIDING OFFICER. Two minutes.

Mr. LEAHY. I thank the Chair.

Today, we vote to confirm Richard Wesley to serve on the United States Court of Appeals for the Second Circuit, the Federal circuit covering Vermont, New York, and Connecticut. With this confirmation we will have filled the sole vacancy on this circuit court. I remember when President Clinton had multiple nominees pending before the Senate for the five simultaneous vacancies that then existed. The entire circuit was declared a judicial emergency by the chief judge, and he had to resort to three-judge panels with only one Second Circuit judge. Republicans were not moving those nominations at that time. All of the Senators from the Second Circuit joined together to work for their confirmation, and we were finally able to confirm them all, including Judge Sonia Sotomayor, after significant efforts. This nomination did not suffer those needless delays. With the support of Senator SCHUMER and Senator CLINTON, this nomination has been considered expeditiously.

The Senate has already confirmed 129 judges, including 26 circuit court judges, nominated by President Bush. One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 29 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 129 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996, and 1997—the first 3 full years of his last term. In those 3 years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already exceeded that total by 15 percent and the circuit court total by 40 percent with 6 months remaining to us this year.

Today's confirmation makes the ninth court of appeals nominee confirmed by the Senate just this year. That means that in the first half of this year, we have exceeded the average of seven per year achieved by Republican leadership from 1995 through the early part of 2001. The Senate has now achieved more in fewer than 6 full months for President Bush than Republicans used to allow the Senate to achieve in a full year with President Clinton. We are moving two to three times faster for this President's nominees, despite the fact that the current appellate court nominees are more controversial, divisive, and less widely supported than President Clinton's appellate court nominees were.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judi-

cial nominees than Republicans did for President Clinton in 1995–97. In addition, the vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997. We continue well below the 67 vacancy level that Senator HATCH used to call "full employment" for the Federal judiciary.

Indeed we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in federal courts to an historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as he did for President Clinton's.

For those who are claiming that Democrats are blockading this President's judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate's record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton's moderate judicial nominees by Republicans between 1996 and 2001.

I hope the White House would note the strong support for this conservative Republican nominee to the Second Circuit. I know my good friends from New York are aware this is a case where the White House actually worked with them and consulted with them on a nominee. That has not been the case of other parts of this country that has brought about divisiveness.

Again I urge, and I have been urging for a little over 2 years, the White House might start a new course, one of seeking to unite and not divide our judicial nominees, to have consultation, not arbitrariness, on judicial nominees.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Richard C. Wesley, of New York, to be United States Circuit Judge for the Second Circuit? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Illinois (Mr. FITZGERALD) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 215 Ex.]

YEAS—96

Akaka	DeWine	Lott
Alexander	Dodd	Lugar
Allard	Dole	McCain
Allen	Domenici	McConnell
Baucus	Dorgan	Mikulski
Bayh	Durbin	Miller
Bennett	Edwards	Murkowski
Biden	Ensign	Murray
Bingaman	Enzi	Nelson (FL)
Bond	Feingold	Nelson (NE)
Boxer	Feinstein	Nickles
Breaux	Frist	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hutchison	Schumer
Chafee	Inhofe	Sessions
Chambliss	Inouye	Shelby
Clinton	Jeffords	Smith
Cochran	Johnson	Snowe
Coleman	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lincoln	Wyden

NOT VOTING—4

Fitzgerald	Hollings
Graham (FL)	Lieberman

The nomination was confirmed.  
The PRESIDING OFFICER. The President will be notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

The Senator from Louisiana.

#### ORDER OF BUSINESS

Mr. BREAU. Mr. President, I say to the managers of the Energy bill, I would like to speak for a couple minutes on a subject that is going to be coming up in the Senate next week and in the Senate Finance Committee on tomorrow. The subject is Medicare. I do not want to interfere with anybody who has a pending amendment, but I think this would be an appropriate time to make a few comments on this subject.

The PRESIDING OFFICER. The Senator from Louisiana.

#### MEDICARE AND PRESCRIPTION DRUGS

Mr. BREAU. Mr. President, my colleagues, the Senate will begin, this week in the Finance Committee—on Thursday, tomorrow—marking up a historic reform piece of legislation dealing with the subject of Medicare and prescription drugs for our Nation's older Americans. I think it is a historic opportunity for the Senate, in a bipartisan fashion, to come together and produce a product that is something of which we can all be proud.

Many Members of the Senate, when you talk about Medicare, would like the Federal Government to do everything and the private sector to not be