

the Judiciary Committee on June 4 by a vote of 16 to 3, but has yet to be considered by the Senate. The nomination of Judge Beverly Baldwin Martin to the Eleventh Circuit has the support of both of Georgia's Senators, both Republicans, and was reported unanimously from the Committee by voice vote on September 10 but has yet to be considered or scheduled for consideration by the Senate. The nomination of Judge Joseph Greenaway to the Third Circuit has the support of both New Jersey Senators and was reported unanimously from the Committee by voice vote on October 1 but has yet to be considered or scheduled for consideration by the Senate. All of these nominees are well-respected judges. All will be confirmed, I believe, if only Republicans would consent to their consideration by the Senate. Instead, the President's good efforts are being snubbed and these nominees stalled for no good purpose.

The Senate's failure to adhere to its tradition of regularly considering qualified, noncontroversial nominees has not been limited to filling vacancies on the Federal bench. The Republican minority has irresponsibly stalled nominations to critical posts in the Department of Justice, depriving the President, the Attorney General, and the country of the leaders needed to head important divisions at the Justice Department. These are important leaders of our Federal law enforcement efforts. Presidents of both parties, especially newly elected ones, are normally accorded greater deference to put in place appointees for their administrations.

Yet, 10 months in to President Obama's first term, five nominations to be Assistant Attorneys General remain stalled on the Senate's Executive Calendar due to Republican opposition and obstruction. These are the President's nominees to run 5 of the 11 divisions at the Justice Department—nearly half. By comparison, at this point in the Bush administration the Senate had confirmed nine Assistant Attorneys General and only one nomination was pending on the Senate Executive Calendar. The difference is that the Republican minority is refusing to consider these nominations.

The President nominated Dawn Johnsen to be the Assistant Attorney General in charge of the Office of Legal Counsel at the Justice Department on February 11. Her nomination has been pending on the Senate Executive Calendar since March 19. That is the longest pending nomination on the calendar by over 2 months. We did not treat President Bush's first nominee to head the Office of Legal Counsel the same way. We confirmed Jay Bybee to that post only 49 days after he was nominated by President Bush and only 5 days after his nomination was reported by the committee.

Mary Smith's nomination to be the Assistant Attorney General in charge of the Tax Division has been pending

on the Senate's Executive Calendar since June 11—more than 4 months. We confirmed President Bush's first nomination to that position, Eileen O'Connor, only 57 days after her nomination was made and 1 day after her nomination was reported by the committee. Her replacement, Nathan Hochman, was confirmed without delay, just 34 days after his nomination.

President Obama's nomination of Ignacia Moreno to be the Assistant Attorney General in charge of the Energy and Natural Resources Division has been on the Senate Executive Calendar for over a month, even though it was reported by the Judiciary Committee by unanimous consent. By comparison, a Democratic majority in the Senate confirmed President Bush's controversial nomination of Thomas Sansonetti to the position only 1 day after it was reported by the Judiciary Committee.

Chris Schroeder's nomination to be the Assistant Attorney General in charge of the Office of Legal Policy has been pending on the Senate Executive Calendar since July 28. It was reported by voice vote without a single dissenting voice. President Bush's first nominee to head that division, Viet Dinh, was confirmed 96 to 1 only 1 month after he was nominated and only a week after he his nomination was reported by the committee. The three nominees to that office that succeeded Mr. Dinh—Daniel Bryant, Rachel Brand, and Elisabeth Cook—were each confirmed by voice vote in a shorter time than Professor Schroeder's nomination has been pending. Ms. Cook was confirmed 13 days after her nomination was reported by the committee even though it was the final year of the Bush Presidency. By contrast, the majority leader may have to file another cloture position in order to overcome Republican obstruction and obtain Senate consideration of Professor Schroeder's nomination.

Instead of withholding consents and filibustering President Obama's nominees, the other side of the aisle should join us in treating them fairly. We should not have to fight for months to schedule consideration of the President's judicial nominations and nomination for critical posts in the executive branch.

I look forward to congratulating Judge Berger and her family on her historic confirmation, and I thank the West Virginia Senators for their strong support of the nominee through another extended and unnecessary delay.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Irene Cornelia Berger, of West Virginia, to be United States District Judge for the Southern District of West Virginia?

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from South Carolina (Mr. DEMINT).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Vermont (Mr. LEAHY) and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 328 Ex.]

YEAS—97

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| Akaka | Enzi | Merkley |
| Alexander | Feingold | Mikulski |
| Barrasso | Feinstein | Murkowski |
| Baucus | Franken | Murray |
| Bayh | Gillibrand | Nelson (NE) |
| Begich | Graham | Nelson (FL) |
| Bennet | Grassley | Pryor |
| Bennett | Gregg | Reed |
| Bingaman | Hagan | Reid |
| Bond | Harkin | Risch |
| Boxer | Hatch | Roberts |
| Brown | Hutchison | Rockefeller |
| Brownback | Inhofe | Sanders |
| Bunning | Inouye | Schumer |
| Burr | Isakson | Sessions |
| Burriss | Johanns | Shaheen |
| Byrd | Johnson | Shelby |
| Cantwell | Kaufman | Snowe |
| Cardin | Kerry | Specter |
| Carper | Kirk | Stabenow |
| Casey | Klobuchar | Tester |
| Chambliss | Kohl | Thune |
| Coburn | Kyl | Udall (CO) |
| Cochran | Landrieu | Udall (NM) |
| Collins | Lautenberg | Vitter |
| Conrad | LeMieux | Voivovich |
| Corker | Levin | Warner |
| Cornyn | Lieberman | Webb |
| Crapo | Lincoln | Whitehouse |
| Dodd | Lugar | Wicker |
| Dorgan | McCain | Wyden |
| Durbin | McCaskill | |
| Ensign | McConnell | |

NOT VOTING—3

DeMint Leahy Menendez

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period of morning business until 5:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the leaders or their designees.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

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