RECESS UNTIL 4:30 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 4:30 p.m.

Thereupon, at 3:18 p.m., the Senate recessed until 4:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ALLARD).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Colorado, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONFIRMATION OF ALGENON L. MARBLEY FOR THE SOUTHERN DISTRICT OF OHIO

Mr. LEAHY. Mr. President, I am delighted that the majority leader has decided to take up this nomination. Mr. Marbley and his family deserve a great deal of praise for this accomplishment.

Algenon Marbley is currently a partner in the law firm of Vorys, Sater, Seymour & Pease in Columbus, OH. He has served as an instructor for the National Institute of Trial Advocacy and is the chairman of the Trial Advocacy Committee of the Columbus Bar Association. He is an active volunteer for several organizations, including the Big Brothers/Big Sisters Association of Columbus.

I sincerely congratulate Mr. Marbley and his family on this accomplishment and look forward to his service as a U.S. district judge for the Southern District of Ohio.

The U.S. Senate, however, does not deserve an enormous amount of credit in this area. This is only the 22d judicial confirmation in a year in which we have seen 115 judicial vacancies. Just think of that, Mr. President, 115 judicial vacancies and the Senate has only seen fit to confirm 22 judicial nominees sent by the President. More than 50 additional nominees remain somehow hidden before the Senate and before the Judiciary Committee with no action.

Six outstanding nominees remain pending on the Senate calendar, ready for Senate approval. Margaret Morrow has been awaiting Senate action since June 12. Christina Snyder has been ready for the Senate to exercise its advise and consent function since September. They are being passed over, again.

The Senate is not even keeping pace with attrition. Since the adjournment of Congress last October, judicial vacancies have actually increased by almost 50 percent and currently number more than 93.

Forty-six judicial nominees remain pending before the Judiciary Committee. Although the committee has yet to hold a judicial confirmation hearing this month, I am pleased to see that Senator HATCH has noticed a hearing for tomorrow and another for Wednesday afternoon to try to reduce the backlog of nominees awaiting action by the committee. I hope that the committee will move promptly after those hearings to report those nominees to the Senate and that the Senate will proceed to confirm them before adjournment this year.

From the first day of this session of Congress, the Judiciary Committee has never worked through its backlog of nominees and has never had fewer than 20 judicial nominees awaiting hearings. Two hearings in September combined with those planned for this week will not eliminate the backlog, but represent movement in the right direction.

Mr. President, I want Senators to know about another development that, unfortunately, is not intended to help end the partisan stall on judicial confirmations. I have just learned recently that a $1.4 million fundraising and lobbying effort is underway to try to perpetuate the judicial vacancy crisis and continue the partisan and ideological stall of Senate consideration of much-needed judges. I understand this solicitation for big bucks includes the solicitation of big donors with promises of ''intimate dinners'' with ''leading conservative elected and public figures closely involved with the judicial confirmation process'' and that Senators—incumbent Senators—appear on videotape being used as an integral part of this fundraising effort. This is apparently a solicitation for money to help block the Senate from doing its duty to vote on confirmations, in part by promising access for people who send in big money.

Those pressing this effort complain about what they see as ''the failure of the U.S. Senate to block'' the appointment of judges to the Federal bench. The American people, litigants, prosecutors, and judges, Republicans and Democrats alike, have just the opposite complaint—that the perpetuation of judicial vacancies is affecting the administration of justice and rendering our laws empty promises.

It is sad that this effort is premised on the slanted portrayal of decisions, many of which were decided by judges appointed by President Bush. I have spoken before about the dangers of characterizing isolated decisions to stir up anger against the judiciary just so that somebody can get short-term monetary and political gain. It is not worth the price to try to destroy one of our independent branches of Government and the most independent and effective judiciary in the world.

This fundraising campaign seems to extend back over the course of the year, but it has only become public with reports in the Los Angeles Times and New York Times over the weekend.

Those who delight in taking credit for having killed judicial nominees last year continue their misguided efforts to the detriment of effective law enforcement and civil justice.

Now, any Senator can vote against any judicial nominee. They have that right. But I urge them to stand up on the floor of the Senate, where the public knows who they are and where they are, and either vote for or against people. It is not only disingenuous, but I think it is detrimental to our system of justice, and it is a true distortion of what we pledge to do in upholding the Constitution when some block judges by anonymous holds. And then we find that the reason for doing that is in connection with a fundraising and lobbying campaign in which letters were sent out by some group saying, in effect, that if you send this money, we will block judges and we will arrange for you to meet privately with leading elected officials.

That is wrong. That is wrong, Mr. President. It is unprecedented in the 23 years that I have been in the Senate. Nothing like this has ever been allowed by any of the leaders of the Senate—not by Senator Mansfield, not by Senator BYRD, not by Senator Baker, not by Senator Dole, and not by Senator Mitchell. It should not be allowed now. It is wrong, and it undermines the very credibility of the U.S. Senate, and it demeans the U.S. Senate; but, even more importantly, it is destructive of the independence of the judiciary.

I yield the floor.

Mr. BREAUX addressed the Chair

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

UNITED STATES-JAPAN TRADE AGREEMENT

Mr. BREAUX. Mr. President, in light of the disturbing news in the stock market this afternoon, I thought it was appropriate to the bring to the attention of my colleagues that there is good news out there. The United States and Japan have concluded a trade agreement opening up the ports of Japan, ending a longstanding dispute between the United States and Japan. This agreement, when it is signed—and it is agreed to—will bring about changes that will benefit ocean-borne trade of both countries, the United States and Japan. The agreements will reform practices in the Japanese ports, to the benefit of importers, exporters, the ports, the workers, and the consumers both in the United States and Japan.

This is good for trade relations between our two countries. The Japanese had for a long period of time prevented our ships from having the same rights to their ports, in terms of bringing our goods to that country, as we have afforded them when they came calling on ports in the United States. Therefore, this is good news for people who are engaged in trade relations and exports and import trade relations with Japan and the United States.

I am very optimistic that this will bring about continued growth in those