

the emergency that plagues the Second Circuit.

We have seen the strong support for this nominee from the Congressional Hispanic Caucus and from the Puerto Rican Bar Association, the Hispanic National Bar Association, and many other bar associations around the country. We have received literally thousands of letters of support for this nominee.

Late this summer, a column in the Wall Street Journal noted that Judge Sotomayor was being held up on the Republican side of the aisle because of speculation that she might one day be considered by President Clinton for nomination to the United States Supreme Court. This was confirmed by a report in the New York Times on June 14.

As I said earlier, this has not been the Senate's finest hour.

How disturbing and how shameful: trying to disqualify an outstanding Hispanic woman judge by an anonymous hold. Here is a highly-qualified Hispanic woman judge who should have been confirmed to help end the crisis in the Second Circuit more than seven months ago.

How petty, how mean, how wrong to cost this judge the seniority she should have had on the Second Circuit by someone anonymously holding her up on the other side of the aisle.

I note very clearly for the RECORD that every time the question of her nomination came forth, it has been made clear that every single Democrat said they were prepared to go forward with her nomination. Every single Democrat said they would vote for her.

When she is confirmed as I fully expect she will be, she will be only the second woman and second judge of Puerto Rican descent to serve on the Second Circuit. Judge Sotomayor is a source of pride to Puerto Rican and other Hispanic supporters and to women everywhere.

Judge Sotomayor is a highly qualified nominee who was confirmed to the United States District Court for the Southern District of New York in 1992 after being nominated by President Bush. She rose from a housing project in the Bronx to attend Princeton University and Yale Law School. She worked for over four years in the New York District Attorney's Office as an Assistant District Attorney and was in private practice with Pavia & Harcourt in New York.

She has been a fine District Court Judge. It was Judge Sotomayor who issued a key decision in 1995 that brought an end to the work stoppage in major league baseball. She applies the law. In this, as in her other decisions, Judge Sotomayor followed the law. That is what judges are supposed to do. There is no basis for a charge that she is or will be a judicial activist.

In his annual report on the judiciary this year on new Year's Day, the Chief Justice of the United States Supreme Court observed: "Some current nomi-

nees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. * * * "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down."

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its members—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees in the 104th and 105th Congresses, the Senate is shirking its duty. When those nominees are women or members of racial or ethnic minorities, this is especially disturbing.

Today, after holding this nomination for seven months on the Senate calendar, the Senate will finally get a chance to vote on the nomination of Judge Sonia Sotomayor to the Second Circuit. I look forward to our taking action to confirm this outstanding nominee.

Mr. President, obviously I am not going to put this in the RECORD. But I would just note that this two-foot stack of papers contains some of the letters from distinguished lawyers and distinguished bar associations from all over this country—from prosecutors and defense attorneys alike; from people who do appellate work and those who do not; from every spectrum of the bar. These are all letters from people who support the nomination of Judge Sotomayor. These are people who can now finally get a response, a response indicating that this superb candidate is finally being considered by the Senate, that the anonymous holds are no longer being allowed to restrain her nomination, and that the Senate finally walked out into the daylight to vote. I have every confidence that vote will be a favorable one and that she will finally be confirmed—even though she was unjustly denied the seniority she would have gotten had the confirmation gone forward on schedule.

Mr. President, I understand there is no one else seeking to speak on either side. And I have been told by the Republican side that I have permission to yield back their time. I yield their time. I yield our time. We are prepared to vote.

The PRESIDING OFFICER. All time having been yielded, the question is, Will the Senate advise and consent to the nomination of Sonia Sotomayor of New York to be the United State 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. NICKLES. I announce that the Senator from Missouri (Mr. BOND) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Illinois (Ms. MOSELEY-BRAUN) are necessarily absent.

The PRESIDING OFFICER (Mr. FRIST). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 28, as follows:

[Rollcall Vote No. 295 Ex.]

YEAS—68

Akaka	Durbin	Lugar
Baucus	Feingold	Mack
Bennett	Feinstein	Mikulski
Biden	Ford	Moynihan
Bingaman	Frist	Murkowski
Boxer	Graham	Murray
Breaux	Grams	Nickles
Bryan	Gregg	Reed
Bumpers	Harkin	Reid
Byrd	Hatch	Robb
Campbell	Helms	Rockefeller
Chafee	Inouye	Roth
Cleland	Jeffords	Santorum
Coats	Johnson	Sarbanes
Cochran	Kennedy	Smith (OR)
Collins	Kerrey	Snowe
Conrad	Kerry	Specter
D'Amato	Kohl	Stevens
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Warner
Dodd	Leahy	Wellstone
Domenici	Levin	Wyden
Dorgan	Lieberman	

NAYS—28

Abraham	Gramm	McConnell
Allard	Grassley	Roberts
Ashcroft	Hagel	Sessions
Brownback	Hutchinson	Shelby
Burns	Hutchison	Smith (NH)
Coverdell	Inhofe	Thomas
Craig	Kempthorne	Thompson
Enzi	Kyl	Thurmond
Faircloth	Lott	
Gorton	McCain	

NOT VOTING—4

Bond	Hollings
Glenn	Moseley-Braun

The nomination was confirmed.

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

Mr. BURNS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

INTERNET TAX FREEDOM ACT

The Senate continued with the consideration of the bill.

Mr. MCCAIN. Mr. President, what is the parliamentary situation?

AMENDMENT NO. 3677

The PRESIDING OFFICER. The Senate is considering the bill, S. 442, and the amendment offered by the Senator from Arkansas is the pending question.

Mr. MCCAIN. Mr. President, I am going to propound a unanimous consent request for a time agreement so that Members can know when the next vote will take place. I thank my colleagues for their cooperation. Perhaps not all time will be used.

I ask unanimous consent that prior to the vote on the Bumpers amendment, the following time be allocated: