

four years. He is currently involved in a Republican political action committee and serves as Director of the DOWNTOWN REPUBLICAN CLUB. A few years ago, upon being elected Rector of the Old Dominion University Board of Visitors, Mr. Kelley was asked about the political nature of the position and politics in general, when he answered, “[i]f you really believe strongly in how it is you think Government should act with the citizenry . . . you can’t sit on the sidelines and not be in the game. You’re either in there trying to make happen that which you believe in, or you’re ceding the whole debate to the other side.”

I trust that Mr. Kelley will not believe that he can continue this advocacy as a judge. By taking his oath of office he will be expected to assume a position of impartiality and discard his previous partisan advocacy. Certainly, we can all agree that the Federal bench is not the place to advocate any agenda other than fairness.

I congratulate Mr. Kelley and his family on his confirmation today.

Mr. President, again, he had the highest ABA rating and is strongly supported by the two Senators from Virginia. I hope everybody on this side of the aisle will vote for him.

Mr. President, I ask for the yeas and nays.

**THE PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The question is, Shall the Senate advise and consent to the nomination of Walter D. Kelley, Jr., of Virginia, to be United States District Judge for the Eastern District of Virginia?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kansas (Mr. BROWNBACK), the Senator from Utah (Mr. BENNETT), the Senator from Idaho (Mr. CRAPO), the Senator from Utah (Mr. HATCH), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK) would vote “yea.”

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 142 Ex.]

YEAS—94

Akaka	Campbell	Dayton
Alexander	Cantwell	DeWine
Allard	Carper	Dodd
Allen	Chafee	Dole
Baucus	Chambliss	Domenici
Bayh	Clinton	Dorgan
Biden	Cochran	Durbin
Bingaman	Coleman	Edwards
Bond	Collins	Ensign
Boxer	Conrad	Enzi
Breaux	Cornyn	Feingold
Bunning	Corzine	Feinstein
Burns	Craig	Fitzgerald
Byrd	Daschle	Frist

Graham (FL)	Levin	Rockefeller
Graham (SC)	Lieberman	Santorum
Grassley	Lincoln	Sarbanes
Gregg	Lott	Schumer
Hagel	Lugar	Sessions
Harkin	McCain	Shelby
Hollings	McConnell	Snowe
Hutchison	Mikulski	Specter
Inhofe	Miller	Stabenow
Inouye	Murkowski	Stevens
Jeffords	Murray	Sununu
Johnson	Nelson (FL)	Talent
Kennedy	Nelson (NE)	Thomas
Kohl	Nickles	Voinovich
Kyl	Pryor	Warner
Landrieu	Reed	Wyden
Lautenberg	Reid	
Leahy	Roberts	

NOT VOTING—6

Bennett	Crapo	Kerry
Brownback	Hatch	Smith

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.

COSPONSORSHIP—S. 1246

Mr. ROBERTS. I ask unanimous consent that Senator JOHN BREAUX be added as a cosponsor to a bill I introduced on June 12, 2003, S. 1246, to permit charitable and educational organizations to make collegiate housing and infrastructure grants and continue to be treated as tax-exempt organizations.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 2062

Mr. FRIST. Mr. President, briefly I have a consent regarding the class action legislation which has been cleared on both sides. Before proceeding, I remind everyone that an earlier order provided we would proceed to the class action legislation following completion of Defense authorization, which I expect we will be able to complete today. However, we now have a Defense appropriations bill available and it is vitally important for us to proceed with that bill to ensure no disruption in funds to our troops. Having said that, this agreement will allow us to proceed to the class action legislation without any procedural hurdles following the Defense appropriations bill.

Therefore, I now ask unanimous consent that the previous order with respect to Calendar No. 430, S. 2062, the class action bill, be vitiated and further that the Senate proceed to its consideration following the disposition of the Defense appropriations bill.

**THE PRESIDING OFFICER.** The minority leader.

Mr. DASCHLE. Reserving the right to object, I want to make sure I understand. The majority leader is proposing that we go to class action immediately following the completion of our work on the Defense appropriations bill; is that correct?

Mr. FRIST. Mr. President, that is correct. The clarification I made was that initially we would follow the Defense authorization with class action. Now in effect what we are doing is we are going to finish the Defense authorization today, go to Defense appropriations, to be followed by class action.

Mr. DASCHLE. Mr. President, I appreciate that. I have made it clear I am not a supporter of the class action bill, but I have made a commitment to many of the colleagues in my caucus with regard to the assurances we have provided to them in the past that they would have a chance to have this legislation brought before the Senate and offer the appropriate amendments. They have been very patient. We have asked them to delay consideration of this bill now on several occasions, but with the assurances given by the majority leader, I have no objection.

**THE PRESIDING OFFICER.** The Senator from Delaware.

Mr. CARPER. Reserving the right to object, I will not object, I express my thanks to both leaders for that colloquy and this brief discussion we have had. As both leaders know, the movement of this legislation is a priority for a number of us, certainly for me, and I am gratified that once we have disposed of the Defense appropriations bill, the next bill we will turn to is class action. I express my thanks to the majority leader for making that clear, and to the Democratic leader, Senator DASCHLE, for his steadfast position, realizing this is not legislation that is at the top of his list of priorities.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

TRIBUTE TO MATTHEW “MATTIE” JOSEPH THADEUS STEPANEK

Ms. MIKULSKI. Mr. President, I rise to inform my colleagues and all who are watching that a wonderful American passed away yesterday. He was a 13-year-old boy who lost his life to muscular dystrophy. He was known to the world because of his many appearances on radio and TV reading his poetry. His name was Matthew Joseph Thadeus Stepanek. The world knew him as “Mattie.”

Though this young man’s death is a great tragedy, his life was a triumph. At age 13, he was a gifted author. He was even a noted peacemaker. He took a personal challenge and turned it into a life of inspiration for all of us.

Mattie Stepanek once said, “I want my message to live beyond me,” and it certainly will. His message of peace and hope has reached millions.

He was born in 1990 in Upper Marlboro, MD, and doctors did not expect him to live more than 24 hours. He suffered from a rare form of muscular dystrophy. He had two brothers and a sister, all who died before the age of 4. His own mom also has muscular dystrophy.

Though the disease would eventually render him unable to walk or breathe