

The PRESIDING OFFICER. The right of the Vice President is in the Constitution. The question is on confirmation of the nominations.

Mr. SESSIONS. Mr. President, may the Vice President exercise his discretion and recuse himself?

Mr. LEAHY. Mr. President, regular order.

The PRESIDING OFFICER. Debate is not in order. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

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

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 38 Ex.]

YEAS—64

Akaka	Fitzgerald	Mikulski
Baucus	Frist	Moynihan
Bayh	Graham	Murray
Bennett	Harkin	Reed
Biden	Hatch	Reid
Bingaman	Hollings	Robb
Boxer	Inouye	Rockefeller
Breaux	Jeffords	Roth
Bryan	Johnson	Santorum
Burns	Kennedy	Sarbanes
Byrd	Kerrey	Schumer
Chafee, L.	Kerry	Smith (OR)
Cleland	Kohl	Snowe
Collins	Kyl	Specter
Conrad	Landrieu	Stevens
Daschle	Lautenberg	Thompson
Dodd	Leahy	Torricelli
Dorgan	Levin	Warner
Durbin	Lieberman	Wellstone
Edwards	Lincoln	Wyden
Feingold	Lugar	
Feinstein	Mack	

NAYS—34

Abraham	Enzi	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Cochran	Hagel	Smith (NH)
Coverdell	Helms	Thomas
Craig	Hutchinson	Thurmond
Crapo	Hutchison	Voinovich
DeWine	Inhofe	
Domenici	Lott	

NOT VOTING—2

Campbell McCain

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. FITZGERALD). The question is on agreeing to the motion to indefinitely postpone. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

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

The result was announced—yeas 31, nays 67, as follows:

[Rollcall Vote No. 39 Ex.]

YEAS—31

Allard	Frist	Murkowski
Ashcroft	Gramm	Nickles
Bond	Grams	Santorum
Brownback	Grassley	Sessions
Burns	Gregg	Shelby
Cochran	Helms	Smith (NH)
Coverdell	Hutchinson	Thomas
Craig	Inhofe	Thurmond
Crapo	Kyl	Warner
DeWine	Lott	
Fitzgerald	McConnell	

NAYS—67

Abraham	Feingold	Mack
Akaka	Feinstein	Mikulski
Baucus	Gorton	Moynihan
Bayh	Graham	Murray
Bennett	Hagel	Reed
Biden	Harkin	Reid
Bingaman	Hatch	Robb
Boxer	Hollings	Roberts
Breaux	Hutchison	Rockefeller
Bryan	Inouye	Roth
Bunning	Jeffords	Sarbanes
Byrd	Johnson	Schumer
Chafee, L.	Kennedy	Smith (OR)
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stevens
Daschle	Landrieu	Thompson
Dodd	Lautenberg	Thompson
Domenici	Leahy	Torricelli
Dorgan	Levin	Voinovich
Durbin	Lieberman	Wellstone
Edwards	Lincoln	Wyden
Feingold	Lugar	

NOT VOTING—2

Campbell McCain

The motion was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SESSIONS. Mr. President, I ask for the yeas and nays on the Paez nomination.

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 A. Paez, of California, to be United States Circuit Judge for the Ninth Circuit? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

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

The result was announced, yeas 59, nays 39, as follows:

[Rollcall Vote No. 40 Ex.]

YEAS—59

Akaka	Dodd	Kennedy
Baucus	Domenici	Kerrey
Bayh	Dorgan	Kerry
Bennett	Durbin	Kohl
Biden	Edwards	Landrieu
Bingaman	Feingold	Lautenberg
Boxer	Feinstein	Leahy
Breaux	Gorton	Levin
Bryan	Graham	Lieberman
Byrd	Harkin	Lincoln
Chafee, L.	Hatch	Lugar
Cleland	Hollings	Mack
Collins	Inouye	Mikulski
Conrad	Jeffords	Moynihan
Daschle	Johnson	Murray

Reid	Sarbanes	Stevens
Reid	Schumer	Torricelli
Robb	Smith (OR)	Wellstone
Rockefeller	Snowe	Wyden
Roth	Specter	

NAYS—39

Abraham	Fitzgerald	McConnell
Allard	Frist	Murkowski
Ashcroft	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Cochran	Helms	Smith (NH)
Coverdell	Hutchinson	Thomas
Craig	Hutchison	Thompson
Crapo	Inhofe	Thurmond
DeWine	Kyl	Voinovich
Enzi	Lott	Warner

NOT VOTING—2

Campbell McCain

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am glad the Senate has done the right thing. Maybe we should say in this Lenten season that Judge Paez has now moved out of purgatory into the reward he justly deserves. The Senate has done the right thing today but did the wrong thing for 4 years in holding this good jurist hostage. Marsha Berzon, another nominee who I predict will be a stellar judge, was held far too long.

I thank my colleagues who voted to right this injustice and voted for both of them. I thank those who worked hard to bring this on to the floor for a vote.

Also, just a footnote, the Senate did the right thing in its second vote in rejecting the cockamamy idea of having a motion to suspend indefinitely a judicial nominee following a cloture vote. That may sound like inside baseball, but that would have been a terrible precedent. I applaud the distinguished Democratic leader for speaking out so strongly against that motion, and I compliment the chairman of our Senate Judiciary Committee, Senator HATCH, for sticking with these nominees, both of whom passed our committee.

We have done the right thing. We have righted a wrong of 4 years. I think now the Senate should go on, set aside partisanship, and let us look at those nominees who are still pending.

I yield the floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session. The Senator from West Virginia.

ENDING THE DELAY ON JUVENILE JUSTICE LEGISLATION

Mr. BYRD. Mr. President, is it any wonder why the approval ratings of the Congress go up every time we go into