

The Hatch-Waxman Act is an important consumer bill that has helped save about \$8 billion to \$10 billion each year since 1984. So we should not be playing around with this bill, especially without the benefit of carefully studying this soon-to-be-released FTC report.

Once again, I urge my colleagues to do the right thing and give us an adequate opportunity to factor in this FTC study.

It would be advisable to spend the time before the recess to adopt trade promotion authority rather than to continue to struggle with the hastily crafted and not fully vetted Edward-Collins substitute.

In that regard, I pay specific tribute to our colleague, Senator BAUCUS, who represented the Senate so well in the trade conference that occurred Thursday evening and early Friday morning. I was a member of the conference committee. Senator BAUCUS did himself proud, did our body proud, did a very good job, as did Chairman THOMAS. Those two worked very well together to come up with what is landmark legislation to help our economy move forward. It is one of the reasons I think the stock market turned around today. It is not the only reason. I think we would have another reason if we would treat the Hatch-Waxman language with the care and treatment it deserves before we go off half cocked to enact a bill before we examine the FTC study and its recommendations.

I am grateful I serve on the Finance Committee with Senator BAUCUS and Senator GRASSLEY, both of whom did a good job in this last conference on trade promotion authority. I also am very pleased one of my long-term friends in the Congress has been Chairman BILL THOMAS in the House. It is a tough job being chairman of the Ways and Means Committee. It is a very divided committee in many respects; yet it works very well. There is no one in this Congress who does a better job on health care issues than Chairman THOMAS.

All of them deserve credit, as do the ranking members, CHARLIE RANGEL, without whom this agreement probably could not have come to pass, a man for whom I have tremendous respect; and, of course, Senator GRASSLEY in our body who has worked so well with Senator BAUCUS on so many pieces of legislation that mean so much to our economy and our country.

These are important issues. I have given some rather lengthy speeches on the Hatch-Waxman issue and even some lengthy speeches on the trade promotion authority. I was one of those in the Finance Committee who pushed very hard to get the trade promotion bill on the floor and get us to conference. I express my regard for all concerned. I hope we can resolve this matter on the floor this week, but I believe trade promotion authority deserves even greater precedence than what we are trying to do in the under-

lying bill S. 812. If we act on the underlying bill, it ought to be done in a thoughtful fashion. It should not be done just politically. We ought to pay attention to the experts at FTC and elsewhere who have spent so much time on the issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

#### JUDICIAL NOMINATIONS

Mr. SPECTER. Mr. President, I have sought recognition to speak about three nominees from Pennsylvania who have been confirmed by the Senate. It is a very happy day, indeed. We will have a judge to the western district of Pennsylvania and two judges to the middle district of Pennsylvania, both districts being in dire need of assistance. These three individuals were recommended by a bipartisan nominating commission which Senator SANTORUM and I have established, where there is independent review in each of the districts. These individuals were recommended to Senator SANTORUM and myself and then, in turn, we recommended them to the President. They have passed the examinations of the American Bar Association with flying colors, the FBI check, the Judiciary Committee hearing, and finally have been voted upon by the Senate.

Earlier today, the Senate confirmed Ms. Joy Flowers Conti for the United States District Court for the Western District of Pennsylvania. Ms. Conti brings an outstanding academic record to the bench: Her bachelor of arts degree from Duquesne University in 1970; her law degree also from Duquesne in 1973; summa cum laude, the highest honors; and she was the first woman to serve as editor in chief of the Duquesne Law Journal. She has had an outstanding career in private practice. She has been associated with the distinguished Pittsburgh law firm, Buchanan, Ingersoll, from 1974 until the present time; served as a professor of law at Duquesne from 1976 to 1982; has worked as a judicial officer, hearing examiner for the Commonwealth of Pennsylvania in the Department of State Bureau of Occupational and Professional Affairs.

She received a "well qualified" rating by the American Bar Association's Standing Committee on the Federal Judiciary, has served in the House of Delegates of the American Bar Association, and is currently serving in the Pennsylvania Bar Association's House of Delegates.

She received the Pennsylvania Bar Association's Anne X. Alpern Award, a very distinguished award named for the first woman supreme court justice in the Commonwealth of Pennsylvania—Justice Alpern, whom I knew and practiced before many years ago when I was chief of the appeals division in Philadelphia's Attorney General's office. Mrs. Conti brings the highest credentials to the western district, a court

very much in need of additional judicial manpower, or in this case woman power.

Also confirmed earlier today was a distinguished lawyer from Pottsville, PA, John E. Jones. Mr. Jones has an outstanding academic record from Dickinson College, 1977, and the Dickinson School of Law in 1980. He has been engaged in the active practice of law in Pottsville for the past 21 years.

I have personally known Mr. Jones for 15 years. Just earlier today I was talking to the former Governor of Pennsylvania, Tom Ridge, now serving as President Bush's homeland security adviser, and we compared notes on Mr. Jones and agree that he has outstanding credentials.

His background includes being the assistant public defender in Schuylkill County from 1985 until 1985. That is a part-time job. But the defender's office will give him a good background and balance, looking at the defense side of the bar. He served as Pennsylvania's State attorney general for the Drug Abuse Resistance Education Program, and more recently has been chairman of the Pennsylvania Liquor Control Board, having been appointed there in May of 1995.

In Pennsylvania, that is a major board, quasi-judicial, and serving as chairman gives one very extensive administrative responsibilities. In that capacity, he has simplified the procedures there in a context of some 20,000 licensees, so that he has a very extensive background to give diversity to the middle district.

On Friday, the Senate confirmed another distinguished lawyer, Christopher C. Conner, from Harrisburg, PA. Mr. Connor is chair of the litigation department of Mette, Evans and Woodside, one of the largest law firms in Pennsylvania.

He, too, brings excellent academic credentials, being a graduate of Cornell University in 1979 and the Dickinson Law School in 1982, where he was editor of the National Appellate Moot Court Team.

He has been active in bar association affairs, taking on the vice presidency of the Pennsylvania bar, coauthoring a Law Review article on "Partisan Elections, the Albatross of the Pennsylvania Appellate Judiciary."

Interestingly, with the Supreme Court of the United States recently declaring that candidates for judicial office are now free to campaign, that may be a great impetus to take judges out of elective office; something which I believe should have been done years ago in Pennsylvania and something I urged as long ago as 1968 when we were preparing Pennsylvania's constitution, which was adopted in 1969.

Mr. Connor has also served as adjunct professor at the Widner University School of Law on the Harrisburg campus where he taught pretrial procedure. So he brings a very diversified background and an excellent background to the middle district.

I am pleased to note that the majority leader is going to go right down the list on nominees and has stated earlier today that we would consider the nomination of Judge Brooks Smith, who is the chief judge of the Western District of Pennsylvania. The Third Circuit being in dire need of additional judicial manpower.

Chief Judge Edward R. Becker, one of the most distinguished judges in the United States, has commented about the serious state of affairs there, and I am anxious to see District Court Judge Brooks Smith receive his vote tomorrow. I am confident that he will be confirmed.

Judge Smith was reported out of the Judiciary Committee on a vote of 12 to 7, with three Democrats—Senator BIDEN, Senator KOHL, and Senator EDWARDS—voting for Judge Smith.

It is my hope that we will soon establish a protocol to eliminate the partisan differences which have plagued the Federal judicial nominating process for many years.

Now, with a Republican President, President Bush, and a Senate controlled by the Democrats, there have been delays which I believe are excessive. But I have to say at the same time that when President Clinton, a Democrat, was in the White House, and the Senate was controlled by Republicans, similarly the delays were excessive.

It is my view that the Federal judgeships are too important to be embroiled in partisan politics or payback or delay. I have proposed a protocol which would establish a timetable: So many days after a nominee is submitted by the President there ought to be a Judiciary Committee hearing. So many days later there ought to be action by the Judiciary Committee, voted up or down; and, if voted up, so many days later there ought to be floor consideration for confirmation by the entire Senate—with that not being an ironclad schedule. If cause is shown, at the discretion of the chairman of the committee on notification to the ranking member there could be a reasonable delay. Similarly, with the majority leader upon notice to the minority leader, there could be a reasonable delay on the vote before the Senate.

But I believe the American people generally are sick and tired of partisan politics. They want to see the Senate work together and nowhere is that more important than in the selection of Federal judges.

So I am pleased to speak about these three distinguished lawyers who have been confirmed by the Senate and will be sworn in soon. I am also looking forward to the addition of Judge Brooks Smith to the Court of Appeals of the Third Circuit, which is very much in need of his services.

I thank the Chair. In the absence of any other Senator seeking recognition, 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

Mr. REID. Mr. President, it is my understanding that we are on the generic drug bill. Is that right?

The PRESIDING OFFICER. The Senator is correct.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Senator Dorgan's amendment No. 4299.

Byron L. Dorgan, Kent Conrad, Tim Johnson, James M. Jeffords, Ron Wyden, Paul Wellstone, Max Baucus, Ernest F. Hollings, Hillary Rodham Clinton, Zell Miller, Maria Cantwell, Jack Reed, Max Cleland, Patrick J. Leahy, Richard J. Durbin, Christopher J. Dodd, Harry Reid.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send another cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 491, S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2001.

Harry Reid, Jon S. Corzine, Byron L. Dorgan, Ron Wyden, Maria Cantwell, Paul S. Sarbanes, Debbie Stabenow, Richard J. Durbin, Tom Daschle, Daniel K. Akaka, Jack Reed, Kent Conrad, Zell Miller, Charles E. Schumer, Ernest F. Hollings, Hillary Rodham Clinton.

#### VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I support the nomination of Julia Smith Gibbons and would have voted aye to confirm her nomination to the 6th Circuit Court of Appeals.

Mr. THOMPSON. Mr. President, I am very pleased to be here today as the Senate takes up for consideration the nomination of Judge Julia Smith Gibbons to be a U.S. Circuit Judge for the Sixth Circuit. I am grateful to my colleagues for their unanimous vote on Friday in support of cloture on this nomination to allow it to come to a vote today.

I support this nomination, and I am confident my colleagues will do so as well when they learn of Judge Gibbons's background and qualifications. Judge Gibbons will be a welcome addition to the Sixth Circuit. Before I address Judge Gibbons's qualifications, I want to let my colleagues know of the problems confronting the Sixth Circuit.

Today, 29 of the 179 U.S. Circuit Court judgeships remain unfilled. Eight of those 29 vacancies are in the Sixth Circuit. Let me put that into perspective: 28 percent of all of the vacant circuit judgeships in the country occur in just one of the 13 Circuits.

These 8 vacancies constitute one-half of the 16 judgeships allocated to the Sixth Circuit, which is twice the number of vacancies in any other circuit. Meanwhile, the court's caseload continues to rise.

Not surprisingly, the Sixth Circuit is also the slowest appellate court in the Federal system. According to the Chief Judge of the Sixth Circuit, the average time from filing to decision is 2 years, some 6 months slower than the next slowest circuit.

We must also recognize that the vacancy rate does not only affect the Sixth Circuit and litigants before that court. In order to fill its annual need for over 160 three-judge panels to hear cases, the Sixth Circuit must bring in visiting judges from other circuits or from district courts. Last fiscal year, visiting judge handled almost 20 percent of the Sixth Circuit's workload, and the Court relied on visiting judges twice as often as any other circuit.

While some of these visiting judges are senior judges, many are active circuit and district judges. These judges maintain a full docket themselves, in addition to pitching in to assist the Sixth Circuit. As district judges spend more time handling appellate cases, they must put off acting on their own dockets. The ripple effect caused by the vacancy rate on the Sixth Circuit is therefore much broader than we might suppose. According to a recent witness before the Judiciary Committee, the demands being made on district judges within the Sixth Circuit to fill seats on three-judge panels are so burdensome, that many district judges are now refusing what had been considered a prestigious assignment.

The vacancy rate on the Sixth Circuit is placing a significant burden on the entire Federal judiciary, which would be overburdened even if every vacancy were filled.

Some of the adverse impacts of the vacancy rate on the Sixth Circuit are not so readily discernible or can be quantified. For instance, visiting judges from outside the circuit or from the district courts may not be as familiar with Sixth Circuit law as the judges of the Sixth Circuit themselves. The court's reliance on such a large contingent of visiting judges increases the risk of intra-circuit conflict among different panels of the court, making en