

be fully informed of the laws supporting the measure.

All we are asking for is an up-or-down vote on this measure. We just want an opportunity to debate this measure.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee has 2 minutes remaining.

Mr. ALEXANDER. Mr. President, there is a fundamental shortcoming to this bill that can't be corrected by small amendments. There is no question that this legislation would—and I believe for the first time in our history—create a new, separate, independent race-based government within the borders of the United States of America. The only argument that could possibly justify such an offense to our constitutional tradition and our original motto, which says that when we became Americans we are proud of where we came from but we are prouder of being Americans, is that Native Hawaiians are just another Indian tribe. But the government of Hawaii itself, in a brief in the Supreme Court in 1998, said: "The tribal concept simply has no place in the context of Hawaiian history."

The Department of Justice, in a letter yesterday to the majority leader, with a copy to the minority leader, said: "Tribal recognition is inappropriate for native Hawaiians and would still raise difficult constitutional issues."

I have outlined in my remarks how Native Hawaiians do not constitute just another tribe. There may be wrongs to address, but this is the wrong way to right a wrong.

I urge my colleagues to vote no.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired.

Under the previous order, the clerk will report the motion to invoke cloture on the motion to proceed to Calendar No. 101, S. 147, Native Hawaiians Governing Entity.

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 the motion to proceed to Calendar No. 101, S. 147, native Hawaiians Governing entity.

Daniel K. Akaka, Daniel K. Inouye, Charles Schumer, Jack Reed, Patrick Leahy, Joe Biden, Barbara Mikulski, Evan Bayh, Barbara Boxer, Frank Lautenberg, Harry Reid, Jay Rockefeller, Richard Durbin, Jeff Bingaman, Edward Kennedy, Herb Kohl, James M. Jeffords, Mark Dayton, Jon Kyl, Norm Coleman.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to Calendar No. 101, S. 147, Native Hawaiians Governing Entity bill, be brought to a close? The yeas and nays are mandatory under rule XXII. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from South Carolina (Mr. GRAHAM).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

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

The yeas and nays resulted—56 yeas, 41 nays, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—56

Akaka	Feingold	Menendez
Baucus	Feinstein	Mikulski
Bayh	Grassley	Murkowski
Biden	Hagel	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Inouye	Nelson (NE)
Byrd	Jeffords	Obama
Cantwell	Johnson	Pryor
Carper	Kennedy	Reed
Clinton	Kerry	Reid
Cochran	Kohl	Salazar
Coleman	Kyl	Sarbanes
Collins	Landrieu	Smith
Conrad	Lautenberg	Snowe
Dayton	Leahy	Specter
Dayton	Levin	Stabenow
Dodd	Lieberman	Stevens
Domenici	Lincoln	Wyden
Dorgan	McCain	
Durbin		

NAYS—41

Alexander	Crapo	Martinez
Allard	DeMint	McConnell
Allen	DeWine	Roberts
Bennett	Dole	Santorum
Bond	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Frist	Sununu
Burns	Gregg	Talent
Burr	Hatch	Thomas
Chafee	Hutchison	Thune
Chambliss	Inhofe	Vitter
Coburn	Isakson	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	

NOT VOTING—3

Graham	Rockefeller	Schumer
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Mr. PRESIDING OFFICER (Mr. VITTER). On this vote the yeas are 56, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. McCONNELL. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

NOMINATION OF NOEL LAWRENCE HILLMAN TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

NOMINATION OF PETER G. SHERIDAN TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

NOMINATION OF THOMAS L. LUDINGTON TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

NOMINATION OF SEAN F. COX TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider en bloc the following nominations, which the clerk will report.

The legislative clerk read the nominations of Noel Lawrence Hillman, of New Jersey, to be United States District Judge for the District of New Jersey; Peter G. Sheridan, of New Jersey, to be United States District Judge for the District of New Jersey; Thomas L. Ludington, of Michigan, to be United States District Judge for the Eastern District of Michigan; Sean F. Cox, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The PRESIDING OFFICER. Debate on these nominations shall be allocated as follows: Mr. LAUTENBERG, 10 minutes; Mr. MENENDEZ, 10 minutes; Ms. STABENOW, 10 minutes; Mr. SPECTER, 10 minutes; and Mr. LEAHY, 10 minutes.

Who yields time?

The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I ask unanimous consent to use 1 minute of the time allocated to Senator LEAHY.

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

Mr. LEVIN. Mr. President, I am very pleased that the Senate will be voting today on two Michigan jurists, Tom Ludington and Sean Cox, whom the President has nominated to the Federal bench for the Eastern District of Michigan. Both of these jurists received unanimously "well qualified" ratings from the American Bar Association to serve as Federal district judges. We are fortunate that we have jurists such as Judge Ludington and Judge Cox devoted to public service. I believe both will bring character and judicial temperament and integrity to the Eastern District of Michigan. I congratulate these jurists and their families on their nominations. I urge the Senate to confirm them.

Thomas Ludington is currently chief judge on the Circuit Court for Midland

County in Midland, MI. He received his J.D. from the University of San Diego School of Law in 1979 and his B.A. from Albion College in 1976, where he graduated cum laude.

After graduating from law school, Judge Ludington worked as an associate and then as a shareholder-partner at a private law firm. At that firm, Judge Ludington's practice covered a range of commercial issues, including banking, securities, bankruptcy, the uniform commercial code, and employment law. He served as president of the firm for 6 years.

In 1995, Judge Ludington was elected to a 6-year term on the 42nd Circuit Court of Michigan. In 1999, he was appointed to the position of chief judge, in which he as served with distinction.

Judge Ludington is a member of several State and local bar associations and belongs to numerous professional and community organizations. For example, since assuming the bench, he has helped organize the Midland Alliance for Justice, a foundation for the local bar association that provides legal representation to indigent parties.

The American Bar Association rated Judge Ludington unanimously "well qualified" to serve as a Federal judge.

Sean Cox earned his B.A. from the University of Michigan and his J.D. from the Detroit College of Law in May 1983. In his 20-year legal career, Judge Cox has had experience in both private practice and on the bench. Judge Cox began practicing law in April 1984 as an associate attorney with a private law firm and worked for 12 years in the areas of medical malpractice, products liability, and complex litigation.

Cox left private practice in March 1996 to serve as judge of the Circuit Court for the Third Judicial Circuit in Wayne County, MI. Judge Cox has also served in various professional organizations and has frequently provided free legal services through a legal aid clinic his law firm established at St. Anne's Catholic Church in Detroit.

The American Bar Association has also rated Judge Cox Unanimously "well qualified" to serve as a Federal judge.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I endorse the nominations of the people under consideration, Noel Hillman and Peter Sheridan, to be Federal judges on the U.S. District Court of New Jersey. Both of these candidates are outstanding attorneys and are well qualified to assume the position on the bench.

The Senate has recently confirmed two nominees for this court—Judge Susan Wigenton and Renee Bumb. Today I hope this body will resoundingly approve these two additional nominees for the District of New Jersey.

Noel Hillman recently served as the Chief of the Public Integrity Section at the Department of Justice, leading a team of 30 attorneys who investigate and prosecute public corruption cases nationwide.

Mr. Hillman has a reputation for taking on crimes that undermine public confidence in our political system—no matter how political or controversial. He steps up to the task and does it well.

Before he went to the Justice Department, Mr. Hillman served as Deputy Chief of the Criminal Division of the U.S. Attorney's Office in New Jersey and as Assistant U.S. Attorney for the Fraud and Public Protection Division.

His work has not escaped recognition. He received the Attorney General's Award for Fraud Prevention in 2004, the Executive Office of U.S. Attorneys Director's Award in 1996 and 1999, and the Department of Justice Superior Performance Award in 1997.

I am also proud to note that Mr. Hillman was educated in New Jersey, graduating from Monmouth College and Seton Hall Law School.

Mr. President, Peter Sheridan has also been nominated for the District Court of New Jersey, and his resume shows his vast legal experience and knowledge.

Like Mr. Hillman, Peter Sheridan is the product of a New Jersey education. Mr. Sheridan also graduated from Seton Hall Law School, as well as receiving his undergraduate degree from St. Peter's College.

Both of these people know New Jersey well and are part of the culture and character of New Jersey. We are delighted that they are going to accede to the bench if approved here, as we expect.

Mr. Sheridan has spent the last decade as a named partner at Graham, Curtin & Sheridan in Trenton, NJ. Prior to that he worked in private practice at other law firms, and has a strong record of public service.

He served as director of the Authorities Unit for the State of New Jersey, vice president and general counsel of the Atlantic City Casino Association, and an attorney with the Port Authority of New York and New Jersey.

Mr. President, I note that if the Senate approves these two nominees, then this year alone we will have confirmed New Jersey nominees for the Supreme Court, the Third Circuit Court of Appeals, and the District Court of New Jersey.

I hope the good working relationship that allowed this accomplishment will continue for the remaining vacancy on the Third Circuit Court of Appeals and for future nominations.

I had the honor of introducing Mr. Hillman and Mr. Sheridan to the Judiciary Committee, and today I am proud to endorse their confirmation. I urge my colleagues to support them as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey, Mr. MENENDEZ, is recognized.

Mr. MENENDEZ. Mr. President, I rise today in support of the nominations of Peter G. Sheridan and Noel Lawrence Hillman to serve as United States District Judges for the District of New Jersey.

The confirmation of a judge to a lifetime appointment is a vital responsibility given to this body by the Constitution, and one that I take very seriously.

That is why I am pleased that our final two nominees from the package of four from New Jersey have come before the Senate today. Each of the four was favorably reported by the Judiciary Committee back in April. Their confirmation would be a testament to the cooperation and collaborative effort between the Senators from New Jersey, the Senate Judiciary Committee, and the White House.

When we work together to select qualified, independent, and diverse judges, we can fill these positions expeditiously and work in a bipartisan manner that benefits not only the State of New Jersey, but also our Nation.

Both nominees before us today are graduates of Seton Hall School of Law in Newark, NJ, and both possess undergraduate degrees from our shared State.

Mr. Sheridan attended my own alma mater, St. Peter's College, and was honored as Alumnus of the Year in 2003, an honor that I'm still hoping to receive one day. He has been in private practice with Graham, Curtin, and Sheridan for the past 11 years and is currently a shareholder and director of the firm. Mr. Sheridan is an experienced trial lawyer, appearing on numerous occasions before the very court to which he is now nominated. I am confident that his years of experience before State and Federal courts will serve him well on the Federal bench.

The final nominee in our package is Noel Lawrence Hillman. Mr. Hillman is a graduate, cum laude, from Monmouth University in Long Branch, NJ. In addition to his law degree, he also has a masters in law from New York University. Mr. Hillman served as an Assistant U. S. Attorney for nearly a decade before becoming Deputy Chief of the Criminal Division.

Most recently, he worked as the Chief of the Public Integrity Section at the U.S. Department of Justice, where he spearheaded the Government's case against Jack Abramoff. Mr. Hillman has twice received the Director's Award, the highest award given to an assistant U.S. attorney, and in 2004 received the Attorney General's Award for Fraud Prevention. The American Bar Association has rated Mr. Hillman as "well qualified" for this position and I must concur with that assessment.

There truly is no higher calling than the calling of public service. That is why I am so pleased to see people of this quality who are willing to serve our Nation in the administration of justice.

I must thank the chairman and ranking member of the Judiciary Committee for moving these nominees through the process so fairly and quickly. I hope the U.S. District Court for the District of New Jersey can serve as an example of bipartisanship and cooperation in getting mutually agreed upon judges confirmed without dispute. I look forward to each of our four nominees serving on the Federal bench and know that they will make our State proud.

Mr. President, I urge my colleagues to support the nominations of Peter Sheridan and Noel Lawrence Hillman to serve on the U.S. District Court for the District of New Jersey.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business and have this time counted toward the requirements for the executive session.

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

THE INTERNET

Mr. WYDEN. Mr. President, tomorrow in the other body, the House of Representatives, they will begin debating one of the most important communications issues facing our country—the future of the Internet.

Since the other body will begin that discussion shortly and we have had debate beginning in the Senate Commerce Committee, chaired by Senator STEVENS who worked so cooperatively with Senator INOUE, I wish to take a few minutes and talk about why I think this issue is so important and what the stakes are for our country.

We all understand what has been so exciting about the Internet. The Internet has been a tremendously democratizing force, ensuring that in every nook and cranny of America, opportunities are there for Americans to learn, to tap the free enterprise system and to secure health care to name a few. This is an extraordinary array of opportunities.

Today on the Internet, after you have paid your access charge to use the Net, you go where you want, when you want, how you want, free of discrimination because you have paid that one original access charge.

Unfortunately, there are huge communications lobbies, consisting particularly of some of the major phone companies and some of the major cable companies, that want to change the way the Internet works. They would like to make consumers and businesses in our country pay tomorrow for what is free today.

Today, when small businesses or consumers pay their Internet access

charge, they can go wherever they want, whenever they want, however they want, without racking up extra charges and without facing discrimination. Unfortunately, these big communications lobbies would like to change that. For example, we see reports in distinguished business publications, such as the Wall Street Journal. They talk there about communications plans that are “pay to play.” If you were going to go to a variety of Web sites, under the approach they are proposing in the Wall Street Journal, the Web sites or the consumer would have to pay every time they went to one of these Web sites, in order to get good quality service.

I don't think that is right. I think that is discrimination. I think it is discriminating against consumers, I think it is discriminating against small businesses. I think it will do extraordinary damage to the inherent beauty of the Internet, which has been all about a fair shake for every American, for every consumer.

In an effort to spin this discrimination by the big cable companies and big phone companies against the consumers, the big lobbies are engaged in a huge advertising blitz. By my back-of-the-envelope calculations, these big lobbies are spending hundreds of millions of dollars on advertisements to convince the American people that discrimination and these extra charges they would face on the Internet are actually good for consumers and businesses.

If it is so good for the consumer, why are these lobbies spending millions of dollars on these advertisements to tell the American people about it? If discrimination was so good, wouldn't consumers have been interested in paying higher prices a long time ago?

It is hard to open the pages of a newspaper or turn on the television without seeing an advertisement urging people to stop Congress from “regulating the Internet.” One trade association has even placed ads in the airports around Washington, DC, hoping Senators and Representatives traveling back to their States will see them. I can't imagine the executives of these large corporations would commit such large sums to advertising if they didn't think these kinds of advertisements would pay off handsomely in profits.

Groups, such as Hands Off the Internet, a front group for some of the big communications lobbies, have offered some eye-popping ads. Look at this recent ad, for example, in which they display a copy of my legislation, the Internet Nondiscrimination Act. The only thing accurate about this ad is the top page of my bill. It has my name on it. It clearly says the “Internet Nondiscrimination Act,” but just about everything else is dead wrong. What they have done is falsely add what looks like hundreds, if not thousands, of pages to my bill. This is how they demonstrate what my legislation is all about. Here is the reality, Mr.

President. Here is what they say I propose. However, this is just not accurate. Here is what my legislation looks like, what the big communications lobbies ought to describe as the real world; a piece of legislation that is 15 pages long.

The bill I have introduced, this 15-page bill, doesn't look like anything along the lines of what the big communications lobbies are spending such vast sums on saying it looks like.

There is an even more disturbing misrepresentation in this ad. It says, stamped up at the top, “regulation.” My legislation isn't about regulation. All I want is to leave the Internet alone. I don't want it to be subject to discriminatory changes, changes that would hit the American consumer in the pocket.

I think any fairminded American who looks at my record will see that I have never sought to regulate the Internet. On the contrary, when I came to the Senate, I was a leader in the effort to keep the Internet free of discriminatory taxes. I fought to keep the Internet free of regulation. Now I am trying to keep control of the Internet in the hands of the American people and not force Americans in this country to pay tomorrow for what is free today.

If you looked at these advertisements, Mr. President, you would think that neutrality is some newfangled idea that threatens the Internet. Net neutrality is what we have today, and the Internet has thrived precisely because it is neutral. It has thrived because consumers, and not some huge phone company or some huge cable company, get to choose what they want to see and how quickly they get to see it.

I want to make it clear that those of us who are fighting to keep the Net neutral, which means that when you go to your browser, you go where you want, when you want, how you want, after you pay that initial access charge, are not interested in regulating anything. The people who want to make the changes, the big telecom and cable lobbies, are the ones who want to meddle with the Internet. They want to put their hands on the Internet so they can heap all these extra charges on the American people.

Right now there is a small business, a craft maker, in Tigard, OR, who has a Web site where she sells her products all over the world. If these big lobbies have their way, she will have to pay a new hefty fee so customers can continue to have the same access to her Web site. That is not right. The consumer, after they pay that initial access charge, ought to be able to go where they want, when they want, how they want to get there. To make them pay tomorrow for what they get for free today is wrong.

Colleagues are waiting to speak. I had anticipated spending a bit more time on this, but I think this ad says it all. We ought to keep the Internet free

of discrimination. We ought to protect consumers against multiple and discriminatory access charges. The next time somebody sees one of these ads, ads that seem to have millions of dollars of lobby money backing them up, they ought to know that this which purports to represent my legislation is false. What is in this ad suggests scores and scores of pages. The reality is my bill to keep the Internet free of discrimination and protect the consumer is 15 pages long.

This argument at the top of the ad that there will be a host of Net-neutrality regulations is similarly false. It is not about regulating anything on the Internet. I want to keep the Internet the way it is—an open, vibrant system, accessible to all.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). Who yields time?

The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise today to speak to the nominations before us. I appreciate my distinguished colleague and friend from Oregon relinquishing the floor. He is very passionate and such a wonderful leader on so many topics. I appreciate his good work.

I rise today to support the nominations of Judge Sean Cox and Judge Thomas Ludington to the U.S. District Court for the Eastern District of Michigan. Both nominees will bring distinguished legal careers and judicial experience to the Federal bench.

Judge Sean Cox has served as a Circuit Court Judge for the Third Circuit of Michigan since 1996. He is a graduate of the Detroit College of Law at the University of Michigan and has over 12 years of private practice experience.

Judge Thomas Ludington has served on the 42nd Circuit Court for Midland County since 1995. He has served as chief judge of this court for the past 6 years.

Judge Ludington is a graduate of the University of San Diego School of Law and Albion College. After graduating from law school, Judge Ludington worked at Currie and Kendall law firm for 14 years. He also served as president of the firm before he left to join the Michigan circuit bench.

I thank Senator SPECTER and Senator LEAHY for working with me and Senator LEVIN to bring these two truly qualified nominees to the floor of the Senate. I look forward to continuing to work with them on issues related to the Michigan District Court and the Sixth Circuit Court of Appeals. I urge my colleagues to join with us in strongly supporting the nominations and confirming Judge Cox and Judge Ludington.

Mr. President, I ask unanimous consent that the votes on the confirmation of judges begin at 2 p.m. today; provided further, that all the votes in the sequence after the first be limited to 10 minutes each.

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

The PRESIDING OFFICER. The hour of 2 p.m. having arrived, the question is, Will the Senate advise and consent to the nomination of Noel Lawrence Hillman, of New Jersey, to be United States District Judge for the District of New Jersey?

Ms. STABENOW. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on all four of the nominees.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, I wish to speak briefly—for less than 2 minutes—on the four nominees. They have been cleared by the Judiciary Committee, and I ask unanimous consent that their résumés be printed in the RECORD. They are all well qualified, and I urge my colleagues to confirm them.

NOEL L. HILLMAN

NOMINEE, U.S. DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Birth: 1956; Red Bank, New Jersey.

Legal Residence: Virginia.

Education: 1978–1981; Monmouth College, B.A. degree. 1981–1985; Seton Hall University School of Law, J.D. degree. 1985–1998; New York University School of Law, L.L.M. degree.

Bar Admittance: 1986; New Jersey. 1990; New York.

Experience: 1992–present; U.S. Department of Justice. 2003–2006; Public Integrity Section, Senior Counsel to the Assistant Attorney General; Chief. 2002–2003; Acting Chief. 2001–2002; Principal Deputy Chief. 2000–2001; Criminal Division, United States Attorney's Office, District of New Jersey Deputy Chief. 1999–2000; Campaign Finance Task Force Trial Attorney. 1992–2001; United States Attorney's Office, District of New Jersey, Assistant U.S. Attorney. 1988–1992; Lord Day & Lord Associate. 1986–1988; U.S. District Judge Maryanne Trump Barry, Law Clerk. 1986; Hillman & Sullivan, Associate.

PETER G. SHERIDAN

Birth: April 21, 1950; Cambridge, Massachusetts.

Legal Residence: New Jersey.

Education: 1968–1972; St. Peter's College B.S. degree. 1974–1977; Seton Hall University School of Law, J.D. degree.

Bar Admittance: 1977; New Jersey. 1980; New York.

Experience: 1977–1978; Law Clerk to the Honorable James J. Petrella, Superior Court of New Jersey, County of Bergen. 1978–1981; Port Authority of New York/New Jersey, Office of New Jersey, Solicitor Attorney. 1981–1984; McCarthy and Schatzman, Associate. 1984–1987; Atlantic City Casino Association, Vice President and General Counsel. 1987–1990; Office of Governor Thomas Kean, Director of Authorities Unit. 1990–1992; Cohen, Shapiro, Polisher, Shiekman, & Cohen, Of Counsel. 1992–1993; Cullen and Dykman. 1994–1995; Partner. 1993–1994; N.J. Republican State Committee, Executive Director. 1995–present; Graham, Curtin & Sheridan, Shareholder/Director.

THOMAS L. LUDINGTON

Birth: December 28, 1953; Midland, Michigan.

Legal Residence: Michigan.

Education: 1972–1976; Albion College, B.A. degree, cum laude. 1977–1979; University of San Diego School of Law, J.D. degree.

Bar Admittance: 1980; Michigan.

Experience: 1980–1994; Currie and Kendall, P.C., Associate/Partner. 1994–Present; 42nd Circuit Court, State of Michigan, Judge (Chief Judge since 1999).

SEAN F. COX

DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

Birth: September 24, 1957; Detroit, Michigan.

Legal Residence: Michigan.

Education: 1975–1979; University of Michigan, B.G.S. degree, 1980–1983; Detroit College of Law, J.D. degree.

Bar Admittance: 1983; Michigan.

Experience: 1983; James Flynn, P.C., Law clerk. 1983–1984; Self-employed. 1984–1989; Kitch, Saubier, Drutchas, Wagner & Kenney, Associate. 1989–1990; Bloom & Kavanaugh, Associate. 1990–1996; Cummings, McCloy, Davis & Acho, P.C., Partner. 1996–present; Third Judicial Circuit Court, State of Michigan, Circuit Judge.

Mr. SPECTER. We are operating under some time pressures because there are Senators who have other commitments. We wanted to call the vote at 2 o'clock. It is 2:01 now. I believe the unanimous consent request has been made that the votes start immediately and that the subsequent votes be 10 minutes each.

The PRESIDING OFFICER. That is correct.

Mr. SPECTER. Have the yeas and nays been ordered on all of the nominations?

The PRESIDING OFFICER. There is a pending unanimous consent request for the yeas and nays on all four nominees. Is there objection to that request? Without objection, it is so ordered.

Mr. SPECTER. 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, Will the Senate advise and consent to the nomination of Noel Lawrence Hillman, of New Jersey, to be United States District Judge for the District of New Jersey? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 166 Ex.]

YEAS—98

Akaka	Bunning	Collins
Alexander	Burns	Conrad
Allard	Burr	Cornyn
Allen	Byrd	Craig
Baucus	Cantwell	Crapo
Bayh	Carper	Dayton
Bennett	Chafee	DeMint
Biden	Chambless	DeWine
Bingaman	Clinton	Dodd
Bond	Coburn	Dole
Boxer	Cochran	Domenici
Brownback	Coleman	Dorgan

Durbin	Kyl	Reid
Ensign	Landrieu	Roberts
Enzi	Lautenberg	Salazar
Feingold	Leahy	Santorum
Feinstein	Levin	Sarbanes
Frist	Lieberman	Sessions
Graham	Lincoln	Shelby
Grassley	Lott	Smith
Gregg	Lugar	Snowe
Hagel	Martinez	Specter
Harkin	McCain	Stabenow
Hatch	McConnell	Stevens
Hutchison	Menendez	Sununu
Inhofe	Mikulski	Talent
Inouye	Murkowski	Talent
Isakson	Murray	Thomas
Jeffords	Nelson (FL)	Thune
Johnson	Nelson (NE)	Vitter
Kennedy	Obama	Voivovich
Kerry	Pryor	Warner
Kohl	Reed	Wyden

NOT VOTING—2

Rockefeller Schumer

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Peter G. Sheridan, of New Jersey, to be United States District Judge for the District of New Jersey? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 167 Ex.]

YEAS—98

Akaka	Dole	Martinez
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Durbin	Menendez
Baucus	Ensign	Mikulski
Bayh	Enzi	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Obama
Boxer	Grassley	Pryor
Brownback	Gregg	Reed
Bunning	Hagel	Reid
Burns	Harkin	Roberts
Burr	Hatch	Salazar
Byrd	Hutchison	Santorum
Cantwell	Inhofe	Sarbanes
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Chambliss	Jeffords	Smith
Clinton	Johnson	Snowe
Coburn	Kennedy	Specter
Cochran	Kerry	Stabenow
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Lautenberg	Thomas
Craig	Leahy	Thune
Crapo	Levin	Vitter
Dayton	Lieberman	Voivovich
DeMint	Lincoln	Warner
DeWine	Lott	Wyden
Dodd	Lugar	

NOT VOTING—2

Rockefeller Schumer

The nomination was confirmed.

Mr. LEAHY. Mr. President, I ask unanimous consent the previously ordered rollcalls on the next two nominees be vitiated, they be considered and passed en bloc.

The PRESIDING OFFICER (Mr. CHAFFEE). Without objection, it is so ordered.

The question is, Will the Senate advise and consent en bloc to the nominations of Thomas L. Ludington, of Michigan, to be United States District Judge for the Eastern District of Michigan and Sean F. Cox, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The nominations were confirmed en bloc.

Mr. LEAHY. Mr. President, today the Senate confirmed four lifetime appointments to U.S. district courts, Noel Hillman and Peter Sheridan, who have been nominated to seats on the U.S. District Court for the District of New Jersey, and Thomas Ludington and Sean Cox, who have been nominated to seats on the U.S. District Court for the Eastern District of Michigan. They are all nominees who have the support of Democratic home State Senators.

I am glad the Republican leadership has taken notice of the fact that, as I discussed earlier this week, these nominees have been ready for action for some time, since being reported unanimously last month. I also look forward to working with the Republican leadership to schedule debate and consideration of Sandra Segal Ikuta, who has been nominated to a seat on the U.S. Court of Appeals for the Ninth Circuit, and Andrew Guilford to be a district judge for the Central District of California who also have the support of Democratic home State Senators and could also be easily confirmed. When they are considered, and I hope the Republican leadership will agree to do that next week and not delay, we will have confirmed 250 of President Bush's nominees to lifetime appointments on the Federal courts.

As I noted earlier this week, the nominees we are considering today could have been confirmed earlier if the Republican leadership had chosen to proceed with them instead of pressing forward first with the controversial nomination of Brett Kavanaugh and the divisive debate over a constitutional amendment that had no chance of passing. I do commend the Republican Senate leadership for wisely passing over the controversial nominations of William Gerry Myers III, Terrence W. Boyle, and Norman Randy Smith to turn to these nominations today. In the course of an hour or two this week, the Senate will confirm five lifetime appointments to the Federal courts. Debate on those flawed nominations will take much longer. The Republican leadership is right to have avoided such controversial nominations that were only reported on a party-line vote.

During the 17 months I was chairman of the Judiciary Committee and the Senate was under Democratic control, we confirmed 100 of President Bush's nominees. After today, in the last 17 months under Republican control, the Senate will have confirmed 43.

Regrettably, rather than fill judicial vacancies with qualified nominees, the Republican leadership seems all too often more focused on picking fights. Last month, they forced debate on the controversial nomination of a White House insider selected for a lifetime position on the DC Circuit as a reward for his loyalty to President Bush. I did not support confirmation of Brett Kavanaugh. That was the fight the Republican leader had promised the narrow special interest groups of the rightwing of his party.

The President and Senate Republican leadership continue to pick fights over judicial nominations rather than focus on filing vacancies. This is part of their partisan effort to agitate conservative voters, no doubt. They are willing to play politics with the Constitution and with the courts. They treat the Constitution as a billboard for campaign posters and political ads.

Judicial vacancies have now grown to nearly 50 from the lowest vacancy rate in decades. More than half these vacancies are without a nominee. The Congressional Research Service has recently released a study showing that this President has been the slowest in decades to make circuit court nominations and the Republican Senate among the slowest to act. If they would concentrate on the needs of the courts, our Federal justice system, and the needs of the American people, we would be much further along.

This week we passed a milestone, confirming the 17th judicial nominee this session. That was the total number of judges confirmed in the 1996 congressional session, when Republicans controlled the Senate and stalled the nominations of President Clinton. In the 1996 session, however, Republicans would not confirm a single appellate court judge. All 17 confirmations were district court nominees. That is the only session I can remember in which the Senate has simply refused to consider a single appellate court nomination. That was part of their pocket-filibuster strategy to stall and maintain vacancies so that a Republican President could pack the courts and tilt them decidedly to the right. In the important DC Circuit, the confirmation of Brett Kavanaugh was the culmination of the Republicans' decade-long attempt to pack the DC Circuit that began with the stalling of Merrick Garland's nomination in 1996 and continued with the blocking of President Clinton's other well-qualified nominees, Elena Kagan and Allen Snyder.

If the Republican leadership will work with us to schedule Sandra Segal Ikuta's nomination for consideration and a vote, we are likely to add another circuit court confirmation to that total. I only wish President Clinton's nominees had received the same treatment.

The road ahead is likely to be rocky. In the runup to the Kavanaugh nomination debate, we saw that the Senate Republican leadership is apparently

heeding the advice of The Wall Street Journal editorial page, which wrote, “[a] filibuster fight would be exactly the sort of political battle Republicans need to energize conservative voters after their recent months of despond.” Rich Lowery, editor of the conservative *National Review*, listed a fight over judges as one of the ways President Bush could revive his political fortunes, writing that he should, “[p]ush for the confirmation of his circuit judges that are pending. Talk about them by name. The G.O.P. wins judiciary fights.”

Republican Senators are relishing picking fights over controversial judicial nominees. Senator THUNE has said, “A good fight on judges does nothing but energize our base Right now our folks are feeling a little flat.” Senator CORNYN has said, “I think this is excellent timing. From a political standpoint, when we talk about judges, we win.” On May 8, 2006, *The New York Times* reported: “Republicans are itching for a good election-year fight. Now they are about to get one: a reprise of last year’s Senate showdown over judges.” *The Washington Post* reported on May 10: “Republicans had revived debate on Kavanaugh and another Bush appellate nominee, Terrence Boyle, in hopes of changing the pre-election subject from Iraq, high gasoline prices and bribery scandals.”

We should not stand idly by as Republicans choose to use lifetime Federal judgeships for partisan political advantage. In a May 11, 2006, editorial *The Tennessean* wrote:

[T]he nation should look with complete dismay at the blatantly political angle on nominations being advocated by Senate Republicans now. . . . Republicans are girding for a fight on judicial nominees for no reason other than to be girding for a fight. They have admitted as much in public comments. . . . In other words, picking a public fight over judicial nominees is, in their minds, the right thing to do because it’s the politically right thing to do. . . . Now, Republicans are advocating a brawl for openly political purposes. The appointment of judges deserves far more respect than to be an admitted election-year ploy. . . . It should be beneath the Senate to have such a serious matter subjected to nothing but a tool for political gain.

On May 3, 2006, *The New York Times* wrote in an editorial: “The Republicans have long used judicial nominations as a way of placating the far right of their party, and it appears that with President Bush sinking in the polls, they now want to offer up some new appeals court judges to their conservative base.”

Consider the President’s nomination of Judge Terrence Boyle to the Fourth Circuit. We have learned from recent news reports that, as a sitting U.S. district judge and while a circuit court nominee, Judge Boyle ruled on multiple cases involving corporations in which he held investments. In at least one instance, he is alleged to have bought General Electric stock while presiding over a lawsuit in which General Electric was accused of illegally

denying disability benefits to a long-time employee. Two months later, he ruled in favor of GE and denied the employee’s claim for long-term and pension disability benefits. Whether or not it turns out that Judge Boyle broke Federal law or canons of judicial ethics, these types of conflicts of interest have no place on the Federal bench. Certainly, they should not be rewarded with a promotion to the Fourth Circuit. Certainly, they should be investigated.

The President should heed the call of North Carolina Police Benevolent Association, the North Carolina Troopers’ Association, the Police Benevolent Associations from South Carolina and Virginia, the National Association of Police Organizations, the Professional Fire Fighters and Paramedics of North Carolina, as well as the advice of Senator SALAZAR and former Senator John Edwards, and withdraw his ill-advised nomination of Judge Terrence Boyle. Law enforcement from North Carolina and law enforcement from across the country oppose the nomination. Civil rights groups oppose the nomination. Those knowledgeable and respectful of judicial ethics oppose this nomination. This nomination has been pending on the calendar in the Republican-controlled Senate since June of last year when it was forced out of the committee on a party-line vote. It should be withdrawn.

Also on the calendar is the nomination of William Myers to the Ninth Circuit. This is another administration insider and lobbyist whose record has made him extremely controversial. I opposed this nomination when it was considered by the Judiciary Committee in March 2005. He was a nominee who the so-called Gang of 14 expressly listed as someone for whom they made no commitment to vote for cloture, and with good reason. His anti-environmental record is reason enough to oppose his confirmation. His lack of independence is another. If anyone sought to proceed to this nomination, there would be a need to explore his connections with the lobbying scandals associated with the Interior Department and Jack Abramoff. This nomination should also be withdrawn.

A few months ago, the President withdrew the nomination of Judge James Payne to the Court of Appeals for the tenth Circuit after information became public about that nominee’s rulings in a number of cases in which he appears, like Judge Boyle, to have had conflicts of interest. Those conflicts were pointed out not by the administration’s screening process or by the ABA but by journalists.

Judge Payne joins a long list of nominations by this President that have been withdrawn. Among the more well known are Bernard Kerik to head the Department of Homeland Security and Harriet Miers to the Supreme Court. It was, as I recall, reporting in a national magazine that doomed the Kerik nomination. It was opposition

within the President’s own party that doomed the Miers nomination.

During the last few months, President Bush also withdrew the nominations of Judge Henry Saad to the Court of Appeals for the sixth Circuit and Judge Daniel P. Ryan to the Eastern District of Michigan after his ABA rating was downgraded.

It is not as if we have not been victimized before by the White House’s poor vetting of important nominations. If the White House had its way, we would already have confirmed Claude Allen to the Fourth Circuit. He is the Bush administration insider who recently resigned his position as a top domestic policy adviser to the President. Ultimately we learned why he resigned when he was arrested for fraudulent conduct over an extended period of time. Had we Democrats not objected to the White House attempt to shift a circuit judgeship from Maryland to Virginia, someone now the subject of a criminal prosecution for the equivalent of stealing from retail stores would be a sitting judge on the Fourth Circuit confirmed with a Republican rubberstamp.

Yet another controversial pending nomination is that of Norman Randy Smith to the Ninth Circuit. This nomination is another occasion on which this President is seeking to steal a circuit court seat from one State and reassign it to another one, one with Republican Senators. That is wrong. I support Senators FEINSTEIN and BOXER in their opposition to this tactic. I have suggested a way to resolve two difficult situations if the President were to renominate Mr. Smith to fill the Idaho vacancy on the Ninth Circuit instead of a vacancy for a California seat. Regrettably, the White House has not followed up on my suggestion.

A complicit Republican-controlled Senate remains all too eager to act as a rubberstamp for the Bush-Cheney administration. The nomination of Mr. Kavanaugh was one of the few to be downgraded by the ABA upon further review. Until the Republican-controlled Senate proceeded to confirm this White House insider, I cannot recall anyone being confirmed after such a development—another first, and another problematic confirmation that ill serves the American people.

Another troubling nomination is that of William James Haynes to the Fourth Circuit, which has been pending in the Republican-controlled Senate without action for 3 years. Mr. Haynes is the general counsel at the Defense Department and was deeply involved developing the torture policies, detention and interrogation policies, military tribunals, and other controversial aspects of the manner in which this administration has proceeded unilaterally to make mistakes and exceed its legal authority. Concerns about the Haynes nomination may not be confined to Democratic Senators, according to recent press reports.

I trust that the Senate will not repeat the mistake it made before. It was

only after Jay Bybee was confirmed to a lifetime appointment to the Ninth Circuit that we learned of his involvement with the infamous Bybee memo seeking to justify torture and degrading treatment. I had asked him what he had worked on while head of the Department of Justice's Office of Legal Counsel, but he had refused to respond. This former Defense Department and Justice Department insider now sits on the Ninth Circuit for life.

Finally, there is the more recent nomination of Michael Wallace to a vacancy on the Fifth Circuit. Mr. Wallace received the first ABA rating of unanimously "not qualified" that I have seen for a circuit court nominee since President Reagan. Yet that is one of the controversial nominations we can expect the Republican Senate to target for action given their track record.

One of the most important checks and balances to unprecedented overreaching by the Bush-Cheney executive branch is an independent judiciary. I have sought to expedite consideration of qualified, consensus nominees and urged the President to work with us to make selections that unite all Americans. When the White House fails to make those kinds of selections, I hope that the Republican-controlled Senate will stop rubberstamping them and stop using controversial judicial nominations to score partisan political points. Our courts are too important. The rights and liberties of the American people are too important. The courts are the only check and balance left to protect the American people and provide some oversight of the actions of this President.

SUSAN C. SCHWAB TO BE UNITED STATES TRADE REPRESENTATIVE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Susan C. Schwab, of Maryland, to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary.

The PRESIDING OFFICER. Debate on this nomination shall be as follows: Senator DORGAN for 30 minutes, Senator CONRAD 15 minutes, Senator BAUCUS, 10 minutes, Senator GRASSLEY, 30 minutes.

The Senator from North Dakota is recognized.

Mr. DORGAN. I ask unanimous consent the Senator from Iowa be recognized. I believe the Senator from Alabama wishes to be recognized. I am happy to proceed following those two.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I strongly support the nomination of Susan Schwab to serve as U.S. Trade Representative.

It is almost 7 months to the day since the Senate unanimously con-

firmed Ambassador Schwab to be Deputy U.S. Trade Representative.

During her service in that position, Ambassador Schwab has amply demonstrated her qualifications to take over as our next trade representative.

She successfully concluded negotiations of trade agreements with Peru and Columbia and has been actively engaged in the ongoing negotiations of the Doha Development Round of the World Trade Organization.

Given her strong background in trade policy, it is not surprising, then, that Ambassador Schwab has served so well in her current position.

Ambassador Schwab formally served as Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service. That is an agency within the Department of Commerce with people on the ground in foreign countries pushing for the interest of U.S. businesses.

She, herself, worked abroad to advance U.S. trade objectives while serving as a trade policy officer in the U.S. embassy in Tokyo.

Her first job in Washington was as an agricultural trade negotiator for the Office of U.S. Trade Representative. Ambassador Schwab thus knows full well the importance and the challenge of advancing the trade interests of U.S. family farmers.

Ambassador Schwab also has extensive experience working for the Congress of the United States, the very committee that I chair. She spent 8 years during the 1980s as a trade policy specialist and then as legislative director for then-Senator Danforth at a time when he chaired the trade subcommittee of this Committee on Finance.

Ambassador Schwab is well aware of the important role Congress plays in U.S. trade policy. I look forward to working closely with her in advancing U.S. trade objectives.

In addition, Ambassador Schwab has experience working on trade issues also in the private sector. At one point, she was director of corporate business development for Motorola. In that position, she engaged in strategic planning on behalf of Motorola in the continent of Asia.

More recently, she served as dean of the University of Maryland School of Public Policy. That was from 1995 through the year 2003, and then as president and CEO of the University System of the Maryland Foundation, as well as serving as vice chancellor for advancement.

Her academic and private-sector experiences complement her strong background in Government service. She is well rounded, in other words. Given the major challenges we face in advancing a robust trade agenda, it is especially important we have someone of Ambassador Schwab's caliber serving as U.S. Trade Representative dealing with 149 countries that are members of the World Trade Organization.

We need to achieve substantial progress in Doha Round negotiations,

and soon, if we are going to succeed in getting an agreement before trade promotion authority for the President of the United States expires next year. We still have a long way to go on those negotiations to reach an ambitious outcome that would be acceptable to me as chairman of the committee, but I think I can speak for the entire Congress on that point.

We are also in the process of negotiating free trade agreements with a number of important trading partners, including South Korea and Malaysia. These are going to represent terrific challenges. These are going to represent yet new challenges for her, particularly in addressing regulatory and other nontariff barriers to trade.

It is essential our bilateral negotiations with South Korea, Malaysia, and other nations conclude in time to be considered under trade promotion authority which expires July next year.

In addition, it is important our next trade representative continue to encourage meaningful regulatory reform in other major trading partners, especially Japan and China.

I expect Ambassador Schwab to continue to push our trading partners to come into compliance with their existing trade obligations such as and not limited to these: Mexico's obligation under NAFTA and the World Trade Organization regarding the importation of U.S. agricultural products and China's obligations to protect intellectual property rights.

Separately, I expect any bilateral agreement on Russia's access to the World Trade Organization will be concluded on strong, commercially meaningful terms and will not be rushed to meet some artificial deadline. Russia must demonstrate its willingness, its ability, and its commitment to abide by World Trade Organization rules.

It is important we remind ourselves of the tremendous benefits we derive from open international trade because too often we hear criticism of our trading regimes. As an example, on average, over the past decade, our economy has created a net of 2 million jobs each year. In 2005, our unemployment rate dropped to 4.7 percent, which is well below the averages of the 1970s, 1980s and 1990s.

An important part of our economic success is due to our trade. During the last decades, our exports have accounted for about one-quarter of U.S. economic growth. Jobs created by exports are estimated to pay 13 to 18 percent more on average compared to jobs unrelated to exports.

With respect to agriculture, approximately one-third of the acres planted in the United States are exported. Our service sector, which accounts for almost 70 percent of the U.S. economy, is anxious to break down barriers to our exports of services around the world.

Today our services exports account for a little more than a quarter of the total U.S. exports of goods and services, so breaking down barriers to our