

EXECUTIVE SESSION

NOMINATION OF AUDREY GOLDSTEIN FLEISSIG, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI

NOMINATION OF LUCY HAERAN KOH, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

NOMINATION OF JANE E. MAGNUS-STINSON, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA

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

The legislative clerk read the nominations of Audrey Goldstein Fleissig, of Missouri, to be United States District Judge for the Eastern District of Missouri; Lucy Haeran Koh, of California, to be United States District Judge for the Northern District of California; and Jane E. Magnus-Stinson, of Indiana, to be United States District Judge for the Southern District of Indiana.

The PRESIDING OFFICER. Under the previous order, the nominations will be debated concurrently until 5:30 p.m. with the time equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS, or their designees.

The Senator from Vermont.

Mr. LEAHY. Mr. President, it is interesting, as the distinguished Presiding Officer reported, that we are going to have these nominees. I say it is interesting because the Senate is being allowed to confirm only 3 of 19 judicial nominations that have been reported unanimously by the Senate Judiciary Committee over the past several months, but they have been stalled by the Republican leadership.

The distinguished Presiding Officer is one of the most valued members of the Senate Judiciary Committee. He has seen time and time again, we vote a nominee out, with every single Republican voting for the person and every single Democrat voting for the person. Then the nominee spends months waiting because they are being stalled by the Republican side of the aisle.

Of course, it is far more than just an annoyance to the nominees who are being stalled. Say, for instance, that someone receives a nomination from the President of the United States to become a judge. Perhaps they are in a law firm. The partners all come in, congratulate the nominee, and say: This is absolutely wonderful. When are you leaving?

Now, as a practical matter this person cannot take on new cases, and the

law firm has to be hesitant about what they take on so they do not have a conflict of interest later on before the Court. One can see how almost childish it becomes now to hold up a nominee who, eventually, when they are finally allowed to have a vote, will be confirmed unanimously or close to unanimously.

In the meantime, their lives have been disrupted, the judiciary itself is put in disarray, people question our judiciary which is supposed to be non-political, nonpartisan, and all of a sudden, looks as though it is ping pong.

The nominees we have here, these three women, were confirmed in early March. The distinguished Presiding Officer and I were there. They all were reported out without a single objection from the Senate Judiciary Committee, in early March. Three exceptional women. And these three women have been delayed for this considerable period of time by the Republican objections. There is no explanation; no excuse; no reason for these months of delay of these women, especially when all members of the Senate Judiciary Committee, Democratic and Republican, voted for these three women.

But they are just 3 of the backlog of 26 judicial nominees awaiting final Senate action, and 19 of the 26 were reported by the Judiciary Committee without a single negative vote from any Republican or Democratic Senator on the committee. This is not fair to the nominees, certainly not fair to these three women. It is not fair to any of the other nominees. In addition, 6 of the 7 Republicans on the Committee voted in favor of nominee Judge Wynn to the Fourth Circuit, and nearly half of the Republicans on the Committee supported the nomination of Jane Stranch to the Sixth Circuit. It is not fair to these nominees and it is not fair to the Federal judiciary. Still Republicans refuse to enter into time agreements on these nominations. This stalling and obstruction is unprecedented.

The Senate is well behind the pace I set for President Bush's judicial nominees in 2001 and 2002. By this date in President Bush's presidency—and I was chairman at that time—the Senate had confirmed 57 of his judicial nominees, both district court judges and courts of appeal.

Even after the three today will all be confirmed unanimously, the comparison will stand at 28 to 57. That is still less than half of what we were able to achieve by this date in 2002. I mention that because we had a Democratic majority and a Republican President, and we were treating President Bush's nominees far more fairly than they are treating President Obama's nominees.

What makes it even worse than playing politics with the independent judiciary is that Federal judicial vacancies around the country hover around 100. It has been nearly a month since the Senate confirmed a judicial nominee. None of the more than two dozen available

for consideration before the Memorial Day recess were considered. This Republican obstruction is unprecedented. This is not how the Senate should act, nor how the Senate has conducted its business in the past. This is new and this is wrong.

In May, just before the last recess, the Republican leader implied in a statement before this body that the Republican obstruction is merely a "sequencing" of judicial nominations that "is acceptable to both sides". That is not true.

Over the recess, I sent a letter to Senator MCCONNELL and to the majority leader concerning these matters. In that letter, I urge as I have since last December, that the Senate schedule votes on judicial nominees without further obstruction and delays; vote them up or vote them down. I called on Republican leadership to work with the majority leader to schedule immediate votes on consensus nominations—many of which I expect will be confirmed unanimously—and consent to time agreements on those which debate is requested. As I said in the letter, if there are judicial nominations that Republicans truly wish to filibuster—after they argued during the Bush administration that such actions would be unconstitutional and wrong—then they should so indicate to allow the majority leader to seek cloture to end the filibuster. Otherwise it is time to vote.

I would think that there should also be some respect for the committee where every single Republican and every single Democrat voted for them. Vote for them. Vote up or vote down. We are not elected to vote "maybe." There are only 100 of us for 300 million Americans, and the American people expect us to say "yes" or say "no," not "maybe." This delay is a big "maybe." It is wrong. It is unfair to these judicial nominees. It is unfair to the independence of the Federal judiciary. It is unfair to the people of America. It is certainly unprecedented in my 36 years here. I have never seen anything such as this.

I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1).

Mr. LEAHY. The Judiciary Committee unanimously reported the nomination of Judge Fleissig to the Eastern District of Missouri more than three months ago, on March 4. She is currently a Federal magistrate judge in that district, previously serving as that district's U.S. Attorney, as an Assistant U.S. Attorney, and a civil litigator. Judge Fleissig earned the highest possible rating—unanimously well qualified—from the ABA Standing Committee on the Federal Judiciary. She has the support of both of her home state Senators, Republican Senator KIT BOND and Democratic Senator CLAIRE MCCASKILL.

Judge Lucy Koh is nominated to fill a vacancy on the Northern District of California determined by the Administrative Office of the U.S. Courts to be a judicial emergency. Judge Koh's nomination was reported favorably by the Judiciary Committee by voice vote with no dissent on March 4, more than three months ago. If confirmed, she will be the first Korean American woman in the Nation to serve as a Federal judge. In addition, she would become the first Asian American to serve on the district court bench in the 150-year history of the Northern District of California. Currently a judge on the Santa Clara County Superior Court, Judge Koh previously practiced law at two Northern California firms and worked as a Federal prosecutor in Los Angeles. She also served in the U.S. Department of Justice and she worked for one year as a fellow on the U.S. Senate Judiciary Committee. Judge Koh has the strong support of both her home state Senators, Senator FEINSTEIN and Senator BOXER.

Judge Jane E. Magnus-Stinson has been nominated to the Southern District of Indiana. If confirmed, Judge Magnus-Stinson will be the third female district court judge in Indiana history. The Judiciary Committee favorably reported her nomination, by unanimous consent, on March 11, nearly three months ago. Judge Magnus-Stinson is currently a Federal magistrate judge on the court to which she is now nominated. She has 15 years of judicial experience, including 12 years as a judge in the major felony division of the Marion Superior Court in Indianapolis. The American Bar Association's Standing Committee on the Federal Judiciary unanimously rated Judge Magnus-Stinson well qualified to serve on the U.S. District Court for the Southern District of Indiana. Judge Magnus-Stinson has the support of both home state Senators, Republican Senator LUGAR and Democratic Senator BAYH.

I congratulate the three nominees who will finally be considered and confirmed today.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 2, 2010.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATE LEADERS: I was very disappointed that in his statement last Thursday evening about the lack of progress on filling judicial vacancies Senator McConnell left the impression that the halting pace of Senate consideration of President's Obama's judicial nominations is merely a "sequencing" of judicial nominations that "is acceptable to both sides." I do not think that is an accurate description of what has led to only 12 Federal circuit and district court nominees being considered all last year and only 13 so far this year.

As you know, I have spoken to these matters a number of times over the last several

months and have since last December been urging the Republican leadership to agree to consider and approve the noncontroversial nominees and enter into time agreements to debate those they believe require Senate discussion, but to end the obstruction and unnecessary delays.

As the Senate recessed for Memorial Day, there remained a backlog of 26 judicial nominees awaiting final Senate action. Nineteen of the 26 were reported by the Judiciary Committee without a single negative vote from any Republican or any Democratic Senator on the Committee. In my view the cause of that backlog is Republican refusal to agree to consider these nominations in a timely fashion. In addition, six of the seven Republicans on the Committee voted in favor of Judge Wynn to the Fourth Circuit, and nearly half the Republicans on the Committee supported Jane Stranch's nomination to the Fourth Circuit. I have been supporting Senator Alexander's efforts to get Senate consideration of the Stranch nomination for months.

The same is true of the two North Carolina nominees to the Fourth Circuit supported by Senators Hagan and Burr. It is Republican refusal to enter into time agreements on these nominations that has prevented their consideration and confirmation by the Senate. In all, 26 judicial nominations are currently being stalled from consideration and confirmation of which only three have been scheduled for consideration next week.

Senate Republicans have only allowed the Senate to consider 25 Federal circuit and district court nominations during the entire Obama presidency. The dozen considered in 2009 was the lowest confirmation total in more than 50 years. The stalling and obstruction is unprecedented.

The Senate is well behind the pace I set for President Bush's judicial nominees in the second half of 2001 and through 2002. By this date in President Bush's presidency, the Senate had confirmed 57 of his judicial nominees. Despite the fact that President Obama began sending us judicial nominations two months earlier than President Bush had, the Senate has only confirmed 25 of his Federal circuit and district court nominees to date. The comparison is 25 to 57—and this is while Federal judicial vacancies around the country remain over 100 with 40 of those vacancies categorized as "judicial emergency vacancies" by the Administrative Office of the United States Courts.

During the 17 months that I chaired the Judiciary Committee during President Bush's first two years in office, the Senate confirmed 100 of his judicial nominees. Rather than continue that kind of cooperation, Senate Republicans have chosen to delay consideration of virtually every judicial nominee of President Obama's. Judge David Hamilton was unsuccessfully filibustered. The Majority Leader was forced to file cloture to get votes on the nominations of Judge Barbara Keenan and Judge Denny Chin. Both were then confirmed unanimously by the Senate. These are a few of the more than 20 nominations on which the Majority Leader has had to file cloture in order to secure a vote.

Before the Memorial Day recess in 2002, there were only six judicial nominations reported by the Senate Judiciary Committee left awaiting final consideration by the Senate and they had all been reported within the last week before the recess began. They were each confirmed promptly in the June 2002 work period. This year, by contrast, Senate Republicans have stalled nominations reported as long ago as last November and only one of the 26 was reported close to this recess. More than two dozen judicial nominees have been languishing without final Senate

action because of Republican obstruction. This is not how the Senate should act, nor how the Senate has conducted its business in the past. This is new and it is wrong.

The judicial nominations on the Senate Executive Calendar number 26. They were each considered and favorably reported by the Senate Judiciary Committee after a hearing. They are each still awaiting final Senate action because the Republican leadership has refused for some time to agree to their consideration. As I have consistently urged since last December, the Senate should vote on all of them without further obstruction or delay.

The way to do that is for the Republican leadership to work with the Majority Leader and agree to time agreements on those on which debate is requested. If there are judicial nominations that Republicans truly wish to filibuster—after arguing during the Bush administration that such action would be unconstitutional and wrong—then they should so indicate and the Majority Leader can proceed to that matter and seek cloture to end the filibuster.

I again urge the Republican leadership, as I have consistently since last December, to work with the Majority Leader to take up and confirm the judicial nominees that are not controversial and can be confirmed without further delay by voice vote or a roll call and to enter into time agreements on the others so that the Majority Leader can schedule their consideration by the Senate.

Sincerely,

PATRICK LEAHY,
Chairman.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I ask unanimous consent that I be yielded 5 minutes from Senator SESSIONS' time.

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

GULF OILSPILL

Mr. LEMIEUX. Mr. President, I come today to the floor of the Senate to discuss the environmental and economic disaster that is happening right now with the oilspill from the British Petroleum and Transocean rig in the Gulf of Mexico.

This past weekend I had the opportunity to be in Pensacola, FL, and to walk on the beautiful beaches. The good news is, and the news that is not being reported as much as it should be by the press, our beaches are open, they are beautiful, people are out there enjoying the Sun and the surf, and it is still safe to go to the beach. It is still safe to go fishing in the Gulf of Mexico off the shores of Florida and do all of the other things people enjoy doing in our beautiful State.

Unfortunately, we are starting to see oil wash up onshore. It is washing up not in the form so much as a tar ball but sort of a goopy substance. We are spotting that on the beach. I have walked on the beaches, and it is distressing to see that. When you pick it up and touch it, it has sort of a pudding-like consistency. It obviously has the touch and feel of oil.

The concern we have, as this disaster approaches day 50, is, how much can this ecosystem bear? How much oil can be spewed into the water before it has a tremendously damaging impact upon the beaches in Florida? We have already seen what it has done to the

marshland of Louisiana. Florida has more than 1,200 miles of coastline around the State. Potentially, this oil could impact up to 1,000 miles if the oil gets itself into the Loop Current and makes its way around the southern tip of Florida up the east coast. That is everyone's worst nightmare.

The good news is the people of Florida who are working in city government, local government, and State government are doing an excellent job to prepare. I had the opportunity to meet with Mayor Mike Wiggins of Pensacola, with commission chairman Grover Robinson of the Escambia County Commission, as well as Larry Newsome, county administrator, who are doing a great job of preparing. There are teams of people on the beaches picking up the oil and debris where needed. They have folks on standby, ready to go to work if needed in western Florida.

We need to do more. There needs to be a coherent plan on how we are going to prevent the oil from coming ashore and to mitigate its impact if and when it does. Tourism is tremendously important to Florida. In Florida, our environment and economy are inextricably linked. We cannot have any more damage than the State can sustain in the marsh or beach areas. We do not want oil washing up on the shore all along the coast of Florida.

I have called upon this administration to be more aggressive. I want to see the President in Florida. I want to see him more than just a couple hours there. I want to see him working through the solutions like Governor Jindal is doing in Louisiana, like Governor Crist is doing in Florida, like former Governor Jeb Bush did when we had 9 or 10 hurricanes in 2004 and 2005—on the ground, managing through the crisis, pushing people for solutions. It is not enough to have the good work of the Coast Guard. And they are doing good work. It is not enough to call on the Department of Interior or the Department of Homeland Security. We need the President on the ground pushing for those solutions. He is a very bright man. He is the President of the United States. If he is there, working through these problems the way the Governors do, we will get better solutions.

We need more skimmers off the coast of Florida. I am sure my other Gulf State friends would like to see skimmers as well. They prevent the oil from coming ashore.

Are we thinking outside the box? Are we looking for every other possible alternative? Are there skimmers that can be brought in, large supertanker skimmers such as were used in the Persian Gulf when they had oilspills?

Who is leading the effort to push for new solutions and new ideas? Who is vetting all of the possible opportunities presented to clean up the oil? We want to see this leadership from the top, from the Commander in Chief. The worst-case scenario is that none of the

efforts going on right now are going to stop the oil from spilling. We have this cap collector BP has put on. It is having some success. That is good news. Let's hope it has all the success in the world. But if we have to wait until the end of the summer for the relief wells to go into effect—and what if they don't work as well as intended, what if there are setbacks along the way, what if it is the fall—how many tens of thousands of barrels of oil are going to spill into the Gulf of Mexico? What is the plan? What is being prepared?

We need to see the President show more leadership. The people of Louisiana, Texas, Mississippi, Alabama, and Florida need that. While BP is at fault, this is not a BP problem; this is an American problem. We need to see the President more thoroughly involved. The claims process has already started. British Petroleum has paid out about \$48 million. There is now a claims process center in Pensacola. Senator VITTER and I have put together a piece of legislation to expedite claims. That should get passed by this body. There is a lot we can do here in Washington to help relieve the pain of our fellow Floridians and others in the gulf. Ultimately, job 1 is to stop the oil from spilling. Job 2 is to mitigate and prevent the oil from coming ashore. We want to see the President of the United States leading the effort.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. McCASKILL. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. McCASKILL. Mr. President, I rise to spend a couple minutes talking about Judge Audrey G. Fleissig, one of the nominees we will hopefully be voting on within the hour. This is a woman I have known for many years who has an outstanding career in the legal community in Missouri. She was an assistant U.S. attorney in the Eastern District of Missouri and went on to be the first woman to hold the position of U.S. attorney in the Eastern District of Missouri. Currently, she serves as U.S. magistrate judge in the Eastern District.

I could go on about her background as a litigation attorney for 11 years in one of the most respected law firms in Kansas City. I could spend some time talking about how much she loves to teach and how she has been a trial advocacy teacher for a good deal of the last 20 years. She has taught pretrial practice, trial advocacy, and now evidence at the Washington University School of Law, one of the finest universities in the country. She was also a student intern to the Honorable Edward Philippine, who was a U.S. district judge in the Eastern District of Missouri 30 years ago. She has a J.D. de-

gree, a Dean's Honor Scholar and an Order of the Coif from Washington University Law School and was magna cum laude from Carleton College for her undergrad years.

She has been one of the stars of the legal community in Missouri, but she has also been a mom. She has managed her career while she raised children, and her children are now in their twenties. I have such deep respect for someone who has done well with the demands of a legal career and a judicial career and also done very well on the family front.

She is somebody who believes very much that putting on a robe does not mean one exits the community. We have a lot of judges who take that particular attitude, especially on the Federal bench, that once they become a Federal judge, then they no longer participate in community activities that are so important to the health and vibrancy of our country, our States, and certainly of our metropolitan areas.

When she worked with her children as they were growing up, she was very active in their schools and tried to instill in them a love of reading. Now that her children are grown, she has for the last 10 years worked with Ready Readers, a charitable organization that works with low-income preschool children, ages 3 to 5, to inspire them to want to read. Think about that. She is a U.S. magistrate with a full-time job, with a prestigious black robe. With that kind of career, anyone could, frankly, take a deep breath and say: I am here. Instead, she has spent the last 10 years continuing to volunteer with a charitable organization that tries to inspire young children to love to read.

I have to tell the truth—this is the kind of person we need on the Federal bench. Will she be respectful to litigants? Of course. Will she understand the rules of evidence? She teaches them at one of the best law schools in the country. Does she understand the pressures of litigation? Yes. She has been one. But most importantly, does she understand there are other needs in the community outside of what goes on in the courtroom, and does that inform her as a judge? She will be fair. She will work extremely hard. She is known as one of the hardest workers in the Federal courthouse in St. Louis.

It was an honor to recommend her to the President. I am so pleased that she reaches this moment in her career where she can become a U.S. Federal district judge and provide the kind of atmosphere for justice that we hold so dear in this Nation. I know she will be impartial. I know she will never let politics dictate a decision. I know the law will be her master and that she will listen carefully to the evidence and never think she knows best—let the litigants try their cases and let the law reign supreme.

I am proud of her accomplishments. I am proud to support her. I have a feeling she will be confirmed by a very wide margin. Don't ask me why she

had to sit around on the calendar for 60 days. I won't go into one of my rants about secret holds. I will save that for another day. Today, I will say it is time that we take this vote, and I make a prediction it won't even be close because there is absolutely no reason this woman should not have been on the bench months ago. I look forward to her confirmation today.

I yield the floor, suggest the absence of a quorum, and ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I ask unanimous consent that I may speak for 5 minutes at this time.

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

Mrs. BOXER. Mr. President, thank you very much.

Mr. President, there are so many issues on our plate this week: do everything in our power to work with our President to stop the oilspill in Louisiana, to rescue the fish and wildlife, to try to help the fishermen and the people who are so economically hurt by this, in my view, unnecessary tragedy. We are also working on jobs and the tax extenders bill which is so important so businesses can create jobs. So we know we have a lot on our plate.

I take a couple of minutes to rise in support of a wonderful judicial nominee we will be voting on, Judge Lucy Koh. She has been nominated by the President to the Northern District Court of California.

I thank Chairman LEAHY and his committee for their work in approving this highly qualified nominee, who will be an outstanding addition to the Federal bench. I also thank my dear friend, Senator FEINSTEIN, for her support of Judge Koh.

I was so proud to have recommended this nominee to President Obama. This nominee was interviewed by my Northern District Judicial Advisory Committee, and you can see, after you hear about her, why they were so clear she would make a great Federal judge.

Judge Koh is the daughter of two proud parents who risked much to come to this country and provide for their children. Her mother escaped from North Korea at the age of 10 by walking for 2 weeks into South Korea—a dangerous trek that required her to hide from North Korean soldiers along the way. Her father fought against the Communists in the Korean war and later immigrated to the U.S. of A. Her dad worked as a busboy and a waiter in Maryland while attending Johns Hopkins University, later bringing the rest of the family here.

Judge Koh is the first member of her family to be born in the United States of America. It is a fantastic example of the great American dream that we try to protect here, hopefully, every day. Her family moved to Mississippi, where her mother taught at Alcorn State University—the Nation's first historically African-American land-grant college. During this time, Judge Koh was bused to a predominantly African-American public school, where many of her classmates lived in poverty. Her childhood experiences provided inspiration for her to pursue a career in the law and work for the NAACP Legal Defense Fund during law school.

She attended Harvard-Radcliffe Colleges as a Harry S. Truman Scholar, graduating magna cum laude. After college, she attended Harvard Law School, where she was awarded Best Brief in the school's moot court competition.

Judge Koh has had a diverse career in the practice of law that makes her uniquely qualified to serve as a Federal judge. She has worked in policy, serving as a fellow for a subcommittee of the Senate Judiciary Committee, and in policy positions at the Justice Department. She served as a Federal prosecutor in Los Angeles, where she handled financial fraud, narcotics, public corruption, and violent crime cases. She received awards for her work as a prosecutor, including a Sustained Superior Performance Award and an award from then-FBI Director Louis Freeh for her prosecution of a \$54 million securities fraud case.

She was a litigator in private practice prior to becoming a State court judge. During her time in private practice, Judge Koh worked on complex litigation matters involving securities and intellectual property, primarily appearing in Federal court. She led the trial and appellate team in the landmark intellectual property case *In re Seagate*, where a new legal standard was established.

With these credentials, it is easy to see why Governor Schwarzenegger appointed her to the California Superior Court in 2008, where she once again excelled as a judge, handling a docket of both criminal and civil cases.

Today, she is poised to become the first Asian-American judge in the history of the Northern District of California. She will also become the first Korean-American woman in U.S. history to serve as a Federal judge. A family's dream is poised to become a part of American history this very day.

To Judge Koh and to her family, I extend my most heartfelt congratulations on this important and historic day. I know I speak for many Californians, especially those in the Korean and Asian-American communities, in expressing our great pride in her.

Support for Judge Koh is diverse. She has been endorsed by a wide group of supporters, such as our Governor and former Massachusetts Republican Governor William Weld; former Presiding

Judge Priscilla Gallagher of the Santa Clara County Court; Santa Clara County District Attorney Delores Carr; Santa Clara County Sheriff Laurie Smith; former Bush Office of Legal Policy Director Viet Dinh; the National Asian Pacific American Bar Association; and the Asian American Justice Center.

I close by congratulating Judge Koh and the other nominees and their families, and I urge my colleagues in the Senate to vote to confirm these nominees to the Federal bench.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

● Mr. BAYH. Mr. President, I wish to speak in favor of the nomination of Magistrate Judge Jane Magnus-Stinson. I joined together with Senator LUGAR to recommend Judge Magnus-Stinson because I know firsthand that she is a highly capable lawyer who understands the limited role of the Federal judiciary.

Before I speak to Judge Magnus-Stinson's qualifications, I would like to comment briefly on the state of the judicial confirmation process generally. In my view, this process has too often been consumed by ideological conflict and partisan acrimony. This is not, I believe, how the framers intended us to exercise our responsibility to advise and consent.

During the last Congress, I was proud to work with Senator LUGAR to recommend Judge John Tinder as a bipartisan, consensus nominee for the Seventh Circuit Court of Appeals. Judge Tinder was nominated by President Bush and unanimously confirmed by the Senate by a vote of 93 to 0. It was my hope that Judge Tinder's confirmation would serve as an example of the benefits of nominating qualified, non-ideological jurists to the Federal bench.

In selecting Jane Magnus-Stinson, President Obama has demonstrated that he also appreciates the benefits of this approach. I was proud to once again join with Senator LUGAR to recommend her to the President, and I hope that going forward other Senators will adopt what I call the "Hoosier approach" of working across party lines to select consensus nominees.

I would also like to personally thank Senator LUGAR for his extraordinary leadership and for the consultative and cooperative approach he has taken to judicial nominations. During my time in Congress, it has been my great privilege to forge a close working relationship with Senator LUGAR across many issues. This has been especially true on the issue of nominations—when a judicial nominee from Indiana comes before the Senate, our colleagues can be confident that the name is being put forward with bipartisan support, regardless of which political party is in the White House or controls a majority in the United States Senate.

On the merits, Jane Magnus-Stinson is an accomplished jurist who is well-

qualified for a lifetime appointment to the federal judiciary. She has extensive trial experience, having served as a Judge on the Marion Superior Court from 1995 to 2007. Judge Magnus-Stinson also has valuable experience presiding in federal court, having served as a federal Magistrate Judge in the Southern District of Indiana since 2007.

During this time, she has been recognized as a leader among Indiana jurists, serving on the Board of Directors of the Indiana Judicial Conference and the Board of Managers of the Indiana Judges Association.

Judge Magnus-Stinson's devotion to the fair and efficient administration of justice has been recognized by her fellow Hoosiers. She has been honored as "Judge of the Year" by the Indiana Coalition Against Sexual Assault and as an "Outstanding Judge" by the Indiana Coalition Against Domestic Violence. Judge Magnus-Stinson has also shown that she is deserving of the public trust. She has demonstrated the highest ethical standards and a firm commitment to applying our country's laws fairly and faithfully.

In recommending Judge Magnus-Stinson, I have the benefit of being able to speak from personal experience, as she served as my Counsel while I was Governor of Indiana.

If you ask Hoosiers about my eight years as Governor, you will find widespread agreement that we charted a moderate, practical, bipartisan course. As my counsel, Jane Magnus-Stinson helped me craft bipartisan solutions to some of the most pressing problems facing our state.

In addition to her insightful legal analysis, I could always count on Jane for her sound judgment and her common-sense Hoosier values. Like most Hoosiers, she is not an ideologue.

During her service in state government, Judge Magnus-Stinson also developed a deep appreciation for the separation of powers and the appropriate role of the different branches of government. If confirmed, she will also bring to the federal bench a special understanding of the important role of the States in our federal system and will be ever mindful of the proper role of the federal judiciary. She understands that the appropriate role for a judge is to interpret our laws, not to write them.

As someone who personally knows and trusts Judge Magnus-Stinson, I say to my colleagues that she is the embodiment of good judicial temperament, intellect, and even-handedness. If confirmed, she will be a superb addition to the federal bench. I am pleased to give her my highest recommendation.

I urge my colleagues to join me—and Senator LUGAR—in supporting this extremely well-qualified and deserving nominee.●

Mrs. FEINSTEIN. Mr. President, I rise to express my strong support for the nomination of California Superior Court Judge Lucy Koh to be a U.S. district judge for the Northern District of California.

Judge Koh is a well-respected lawyer and judge in California. Over the course of her career, she has been a State trial judge, an intellectual property lawyer, a Federal prosecutor, and a counsel in Congress and the Justice Department.

For the last 2 years, she has been a superior court judge for Santa Clara County and has adjudicated cases ranging from criminal prosecutions to commercial litigation matters to family law disputes.

She spent 8 years representing business clients as an intellectual property litigator at private law firms in Silicon Valley.

She spent 3 years prosecuting bank robberies, securities fraud, and other Federal crimes as an assistant U.S. attorney in southern California.

And she spent 4 years working in Washington as a special assistant to the Deputy Attorney General and a counsel to the Senate Judiciary Committee.

She has received the FBI Director's Award for demonstrated excellence in prosecuting a major criminal case and has been named one of the "Top 40 lawyers under 40" by the Silicon Valley/San Jose Business Journal.

As a Judge, the reviews have been equally positive. California Governor Arnold Schwarzenegger, for example, has called her "an exemplary jurist with an unparalleled track record," and described her approach as "careful and balanced."

She is a talented woman with a solid background in the law. I commend Senator BOXER for recommending her for the district court and the President for nominating her. I have the utmost confidence that she will serve the Northern District of California with distinction as a U.S. district judge.

Judge Koh's confirmation will also be a historic one for our Federal courts.

If confirmed, Judge Koh will be the first Korean American woman ever to serve the United States as a Federal district judge, and she will be the first Asian-American district judge appointed to the U.S. District Court for the Northern District of California. This is a district that serves one of the Nation's largest populations of Asian Pacific Americans, but for over 150 years there has not been a district judge of Asian Pacific descent on the court. Judge Koh will be the first, and her appointment is one for us all to celebrate. I urge my colleagues to support her.

Before I conclude my remarks, I want to call attention to another nominee for this district court whom we unfortunately are not voting on today.

Magistrate Judge Edward Chen has also been nominated to be district judge for the Northern District of California. Here is the timeline:

The President first nominated Magistrate Judge Chen on August 6, 2009. That was over 300 days ago.

The Judiciary Committee reported his nomination to the floor on October 15, 2009.

Although the nomination was pending for 70 days, it was never acted on

and there was not consent to allow the nomination to be carried over into 2010.

On January 20, 2010, the President re-nominated Chen, and on February 4, his nomination was reported out of the Judiciary Committee once again. That was over 120 days ago. Still, he has not received a vote.

I find this extremely disappointing. In my 17 years on the Senate Judiciary Committee, I have voted against only one district court nominee. That was Leon Holmes. I had serious concerns about his views on the role of women in society, and I explained my concerns in detail in a statement on the floor. I have not voted against any other district court nominee.

Yet in just 17 months of the Obama administration, not one, not two, not three, but four district court nominees have come out of committee on straight party-line votes. And they are all still pending on the floor. I think that is a very unfortunate direction for us to go in.

Look at the merits of the Chen nomination. I understand that some have concerns because he spent time working for the American Civil Liberties Union before he became a magistrate judge. But this is a nominee with a proven track record. There is no need to ask how he will be as a judge—the evidence is in.

Chen has spent 9 years as a magistrate judge and written over 200 published opinions. There has not been a single objection in committee or on the floor to even one of his decisions.

In 2008, an impartial Federal Magistrate Judge Merit Selection Review Panel reviewed his full record. The Panel unanimously recommended him for reappointment.

Federal prosecutors were "uniformly positive" about Chen and called his rulings "balanced" and "well reasoned." The local civil bar called him "well prepared," "very intelligent," and "decisive." The judgment was made—he is a very good judge.

I asked Republican-appointed U.S. district judges who work with Judge Chen for their opinions. Again the comments were uniformly positive.

District Judge Lowell Jensen served as the No. 2 official in the Reagan Justice Department. He called Chen "an excellent jurist and a person of high character" and said Chen's decisions "reflect not only good judgment, but a complete commitment to the principles of fair trial and the application of the rule of law."

My own bipartisan selection committee in the Northern District reviewed Chen at length. He was their consensus choice for the district court. A bipartisan selection committee under the Bush administration also recommended him. And the American Bar Association has unanimously rated him "well qualified."

So this is a nominee with a solid and publicly available track record. He has

strong bipartisan support in the community he has been nominated to serve. And he has the support of his two home State Senators.

It is long past time for an up-or-down vote on his nomination.

I urge my colleagues to vote yes on the nomination of Judge Lucy Koh, and I also urge consent on a time agreement to let us move forward on the nomination of Magistrate Judge Edward Chen.

Thank you so very much. I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Nebraska. 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. NELSON of Nebraska. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Audrey Goldstein Fleissig, of Missouri, to be United States District Judge for the Eastern District of Missouri?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii (Mr. INOUE), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from South Carolina (Mr. DEMINT), the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 177 Ex.]

YEAS—90

Akaka	Coburn	Johanns
Alexander	Cochran	Johnson
Barrasso	Collins	Kaufman
Baucus	Conrad	Kerry
Begich	Corker	Klobuchar
Bennet	Cornyn	Kohl
Bennett	Dodd	Kyl
Bingaman	Dorgan	Landrieu
Bond	Durbin	Lautenberg
Boxer	Enzi	Leahy
Brown (MA)	Feingold	LeMieux
Brown (OH)	Feinstein	Levin
Brownback	Franken	Lieberman
Bunning	Gillibrand	Lugar
Burr	Graham	McCain
Burriss	Grassley	McCaskill
Cantwell	Hagan	McConnell
Cardin	Harkin	Menendez
Carper	Hatch	Merkley
Casey	Inhofe	Mikulski
Chambliss	Isakson	Murkowski

Murray	Sanders	Thune
Nelson (NE)	Schumer	Udall (CO)
Nelson (FL)	Sessions	Udall (NM)
Pryor	Shaheen	Voinovich
Reed	Shelby	Warner
Reid	Snowe	Webb
Risch	Specter	Whitehouse
Roberts	Stabenow	Wicker
Rockefeller	Tester	Wyden

NOT VOTING—10

Bayh	Ensign	Lincoln
Byrd	Gregg	Vitter
Crapo	Hutchison	
DeMint	Inouye	

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, if I can get the attention of the Republican leader, I understand on the Republican side there is a wish for a rollcall vote on this nomination but not on the next; is that correct?

Mr. MCCONNELL. I say to the chairman of the Judiciary Committee, yes. The thought was that we would have another rollcall on the second nominee and a voice vote on the third.

Mr. LEAHY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, if nobody else seeks recognition, I yield back my time.

The PRESIDING OFFICER. If all time is yielded back, the question is, Will the Senate advise and consent to the nomination of Lucy Haeran Koh, of California, to be United States District Judge for the Northern District of California.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii (Mr. INOUE), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from S. Carolina (Mr. DEMINT), the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 178 Ex.]

YEAS—90

Akaka	Bennett	Brownback
Alexander	Bingaman	Bunning
Barrasso	Bond	Burr
Baucus	Boxer	Burriss
Begich	Brown (MA)	Cantwell
Bennet	Brown (OH)	Cardin

Carper	Johanns	Pryor
Casey	Johnson	Reed
Chambliss	Kaufman	Reid
Coburn	Kerry	Risch
Cochran	Klobuchar	Roberts
Collins	Kohl	Rockefeller
Conrad	Kyl	Sanders
Corker	Landrieu	Schumer
Cornyn	Lautenberg	Sessions
Dodd	Leahy	Shaheen
Dorgan	LeMieux	Shelby
Durbin	Levin	Snowe
Enzi	Lieberman	Specter
Feingold	Lugar	Stabenow
Feinstein	McCain	Tester
Franken	McCaskill	Thune
Gillibrand	McConnell	Udall (CO)
Graham	Menendez	Udall (NM)
Grassley	Merkley	Voinovich
Hagan	Mikulski	Warner
Harkin	Murkowski	Webb
Hatch	Murray	Whitehouse
Inhofe	Nelson (NE)	Wicker
Isakson	Nelson (FL)	Wyden

NOT VOTING—10

Bayh	Ensign	Lincoln
Byrd	Gregg	Vitter
Crapo	Hutchison	
DeMint	Inouye	

The nomination was confirmed.

The PRESIDING OFFICER. There is now 2 minutes of debate prior to a vote on the nomination of Jane E. Magnus-Stinson, of Indiana.

Who yields time?

Mr. REID. I yield back the remaining time.

The PRESIDING OFFICER. All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Jane E. Magnus-Stinson to be United States District Judge for the Southern District of Indiana?

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

Mr. REID. Madam President, 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. BROWN of Ohio. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BROWN of Ohio. Madam President, I ask unanimous consent to speak as in morning business.

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

UNEMPLOYMENT INSURANCE

Mr. BROWN of Ohio. All of us have just come back to the Senate after a Memorial Day work period, where most of us were traveling our States, meeting with people. I was in Toledo, Youngstown, Cleveland, and around much of my State.

While we have seen signs of recovery in Youngstown, in part because of the Recovery Act, in part because of where those dollars were absolutely well spent on infrastructure, making this expansion possible, in part because of a