

with Senator STEVENS and say enough is enough. It is time for us to get behind the President, get the business of the Senate moving forward in a bipartisan fashion again.

I might ask the Senator from Nevada, before I close and yield to others who might ask questions: A similar thing is happening with aviation security, is it not, in the House? This is a bill we passed 100-0. People have come up to me on the street in Chicago, at Marshall Fields department store on Sunday. I was spending a few minutes looking around. A couple fellows asked: Aren't you Senator DURBIN? We want to talk to you about aviation security, airport security. And we want to know whether it is safe to fly.

We passed a bill which has sky marshals, which has perimeter security around airports, which professionalizes the screening at airports so we can have confidence that we have the best people with background checks and training and supervision and national standards, just as we had with air traffic controllers, having them working security at airports. That bill has been stopped in the House of Representatives by the majority whip, TOM DELAY of Texas, who objects to the idea of Federal employees being involved. So here in the Senate we can't move the President's bill for foreign operations to deal with our war against terrorism, and over in the House of Representatives they can't move the bill for aviation security.

In both instances, is it not true it is the President's party that is stopping a bill the President is asking for?

Mr. REID. The Senator from Illinois is absolutely right.

The Senator asked the question about the negotiation part of it. Our leader is Senator TOM DASCHLE. He has 50 people who support him in our caucus on everything. He is our leader. We recognize that. He is a man of great patience. I have worked with him, served with him in the House. We were elected to the Senate at the same time. We work very closely together. I have never served politically with anyone with as much patience as he has.

Mr. DURBIN. I agree with the Senator.

Mr. REID. Even TOM DASCHLE's patience has run out on this roving filibuster on judges. The Senator asked me what has happened on the negotiations. This is foolishness. We have three office buildings closed. Senator LEAHY just came upon the floor. He can't go into his office. He can't go into his personal office. He can't go into the Judiciary Committee office.

What in the world is the man supposed to do? Can't we move forward on these appropriations bills? This is a travesty. It is a travesty of the American political system to hold these programs up because we are not approving enough judges because this man here is not leading the Judiciary Committee properly.

I was on the floor Thursday. This is one thing I said. The Senator was not

on the floor. I want to say it right here again, the last thing I said:

Why hold up these appropriations bills? It is not going to speed things up. Now we are going into the third week with a filibuster. It is wrong, and I am very sorry it is happening. But no one is going to denigrate PAT LEAHY while I have an ounce of breath left in my body.

That is how I feel about it. This man is being slandered. I think it is awful what is happening here, what is happening to this man and to this institution. I have lived on the Senate floor. I have worked day and night helping them move appropriations bills, helping them, going to you and to you and to you, saying, don't offer that amendment; we need to move this; it is for the country. And we came through every time.

Here we have this bill being held up because we are not moving enough judges. I think it is horrible. I think it is wrong.

I yield to the Senator from Vermont for a question.

Mr. LEAHY. I am sure the distinguished senior Senator from Nevada knows how much I appreciate his kind words of support. And of course our friendship, of nearly a generation now, I value as much as any friendship in this body. It is interesting, I wonder if the Senator from Nevada knows that last week when a number of buildings were being closed down and all, I had several members of the other party come to me and tell me privately: I assume, of course, you won't have an executive meeting and pass out judges; you certainly aren't going to be able to have any hearings on judges.

In fact, some of them were saying they not only assumed that, they hoped I wouldn't because they wanted to get out of town.

The Senator from Nevada told me one of President Bush's nominees had made a 3,000 mile trip here and is there some way we could hold the hearing for this Republican judge, having made the trip. Of course, I had the hearing. Of course, we met. In fact, we had a picture in one of the papers showing we had about 100-some-odd people crowded into the President's room and a couple other people crowded into Senator BYRD's Appropriations committee room to have both of the hearings. We voted out about 20 nominees between U.S. attorneys and judges. And then we had a hearing on four or five more judges that afternoon, even including one from a State where the Republican Senator didn't bother to show up.

Mr. REID. Before we go out, I want to respond to the Senator's question. First of all, I appreciate the friendship that we have. I say this for the institution, I say to my friend for the institution. I would have stood to defend this institution. You are part of this institution, and the institution we call the U.S. Senate is also being defamed. This is not the way to legislate.

Yes, Larry Hicks flew from Nevada to here, as did other people fly from

around the country. What a disappointment it would have been to Larry Hicks and to the other people if they had come back here to find out the meeting was canceled. No one could have criticized you for canceling that meeting.

Anthrax was present. People were being treated for anthrax poison. No one could have criticized you. But you not only held a markup back here; you went down on the first floor and held a hearing. I said earlier today, if we passed out medals in the Senate, you would deserve a medal for what you did last week. To have people criticizing you and your committee for not moving fast enough is disgraceful.

Mr. LEAHY. I thank my colleague.

Mr. DAYTON. Will the Senator yield?

Mr. REID. Our time is up. I think it is time to go out.

The PRESIDING OFFICER. Forty-five seconds remain.

Mr. DAYTON. I was going to ask how many of these instances have occurred. The U.S. attorney from Minnesota, a Republican friend of mine, high school classmate who was appointed, Senator LEAHY went to finish the paperwork himself to get him expedited through the process. I wonder how many of these have occurred.

Mr. REID. I think we are going to report out 13 of these today that he did not have to do but he did.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate stands in recess until the hour of 2:15 p.m.

There being no objection, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. In my capacity as a Senator from Georgia, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### EXECUTIVE SESSION

#### NOMINATION OF JAMES H. PAYNE TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN, EASTERN, AND WESTERN DISTRICTS OF OKLAHOMA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the nomination of James H. Payne, of Oklahoma, which the clerk will report.

The assistant legislative clerk read the nomination of James H. Payne, of Oklahoma, to be United States District Judge for the Northern, Eastern, and Western Districts of Oklahoma.

Mr. LEAHY. Mr. President, today the Senate will confirm four additional

Federal judges. These nominees all participated in hearings on October 4 and were reported unanimously by the Judiciary Committee last Thursday, when the committee persevered with our previously scheduled meeting in spite of the extraordinary circumstances that prevailed here on Capitol Hill.

In spite of the postponement of other matters by other committees, in spite of the closure of the Dirksen Senate Office Building and the unavailability of our hearing and meeting room and in spite of our continuing focus and efforts to finalize an antiterrorism bill, last Thursday the Senate Judiciary Committee proceeded to meet and report these 4 judicial nominees, 13 nominees to be U.S. attorneys for districts around the country and an Assistant Attorney General for the Department of Justice. Then, last Thursday afternoon we held a hearing for an additional five judicial nominees that was chaired by Senator SCHUMER, which I attended along with Senators KENNEDY, DURBIN, and DEWINE.

Thus, last week while Republicans were voting as a bloc to filibuster the foreign operations appropriations bill and stall initiatives vital to building an international anti-terrorism coalition, the Senate Judiciary Committee continued to do its work. Two weeks ago the Senate confirmed our fourth court of appeals judge for the year, topping the total confirmed in the first year of the Clinton administration and topping the zero from 1996 when a Republican majority in the Senate refused to confirm even a single nominee to the courts of appeals all year.

Two weeks ago the Senate also confirmed another district court nominee. That brought the total judges confirmed so far this year to eight, exactly twice the number that had been confirmed by the same time in the first year of the first Bush administration and by the same time in the first year of the Clinton administration. In spite of our record pace since July in confirming judicial nominees, every Republican Senator voted last week to stall Senate consideration of a vital appropriations bill ostensibly to “protest” what they contend is a supposed “slowdown” on the consideration of judicial nominees. The facts belie their unfounded contention.

The Senate’s continuing progress in spite of the numerous roadblocks and obstructions erected by Republicans throughout the year was evidenced again last Thursday and will be again today when the Senate votes to confirm another four judges.

At the end of this series of rollcall votes on these district court nominees to fill vacancies in Oklahoma, Kentucky, and Nebraska, the Senate will have confirmed 12 judges since July. Since I became chairman, Republicans finally allowed the Senate to reorganize at the end of June and Members were assigned to the Judiciary Committee on July 10, the committee has

held seven hearings involving judicial nominees.

We have already held as many hearings for judicial nominees as were held during the first year of the first Bush administration and more than were held during the first year of the Clinton administration. In addition, I have scheduled an eighth hearing involving judicial nominees for this week.

Our Republican critics have come up with a new statistic in an effort to diminish our accomplishments. Last week they took to talking in terms of average judges per hearing. Since it is their statistic, I guess they can figure it any way they want. I would observe that I can find no time this year when we had included only 1.4 judicial nominees per hearing. I should also observe that after the hearing on Thursday we will have included 23 judicial nominees at eight hearings. Even “fuzzy math” would have to concede that we are at more than double the “average” Republicans cite.

They do not explain that when President Bush unilaterally decided to change the more than 50-year-old practice of involving the American Bar Association in professional peer reviews while nominations were being considered, and that his decision has had consequences at other stages of the process. They do not acknowledge that only two of this President’s first 18 nominees were for district court vacancies. They are oblivious to the fact that when early hearings were noticed and held many of these nominees had not completed paperwork and complete files.

They ignore the structure and practice for judicial confirmation hearings that has been followed by Republican and Democratic chairmen of the committee for more than 25 years in including three to five district court nominees with a nominee to a court of appeals and to the extent district court nominees did not have completed files or were controversial and not rushed into a hearing there might be a good explanation for the lack of a full complement of nominees at a hearing. They refuse to acknowledge the extraordinary parallel effort we continue to make to hold hearings for the numerous executive branch nominees that are simultaneously pending.

They are apparently frustrated that we have already confirmed four nominees to the courts of appeals and will match and likely exceed the number of court of appeals nominees confirmed in either 1989 or 1993. They seek to discount the judges confirmed by referring to three of them as “Democrats.” These are nominees from President Bush that they have somehow determined are “Democrats” and whose confirmations should not be considered or counted in their partisan view, I guess.

The answer to their criticism is very simple: Since July 11 we have held 7 hearings and included 19 judicial nominees. That is more nominees than received hearings by October 18 in the

first year of the first Bush administration or by October 18 in the first year of the Clinton administration. Thus, whether measured by confirmations or by judicial nominees who have received hearings, in spite of the change in majority in the middle of this year and the delays that Republicans have caused in the process of reorganizing, we are ahead of the pace of the first year of the Clinton administration and the first year of the first Bush administration. The Republicans’ charges of a slowdown could not be farther from the truth.

The Senate Judiciary Committee and the Senate are on pace to match or exceed the confirmations of judges at the end of the first year of the Clinton administration and at the end of the first year of the first Bush administration.

In order to obscure this record pace, our Republican critics compare where we are now, on October 23, with where those Senate’s were after they adjourned in late November. The facts are that on October 23, 1989, the Senate had confirmed only seven of President George H.W. Bush’s judicial nominees. On October 23, 2001, this year we will have confirmed 12 of the judicial nominees of President George W. Bush.

Among the seven nominees confirmed by October 23, 1989 were three to the courts of appeals. This year we have already confirmed four judges for the courts of appeals.

By October 23, 1993, the Senate had confirmed eight judicial nominees for President Clinton. Today we confirm our 9th, 10th, 11th, and 12th judicial nominees since July this year. Among the nominees confirmed by this date in 1993 were two nominees to the courts of appeals. This year we have already confirmed four judges to the courts of appeals.

We are actually confirming more judges and confirming them faster than in either of the first years of either the Clinton or first Bush administration. In addition, I suspect that we are acting faster with respect to more judges, including more nominees to the courts of appeals, than at virtually any time during the last several years in which a Republican majority controlled the Senate and the Judiciary Committee and President Clinton was doing the nominating.

Further, in addition to the 12 judges the Senate has confirmed, the Senate Judiciary Committee has included seven additional nominees in confirmation hearings and I have scheduled another hearing later this week for another four judicial nominees, as well as another Department of Justice nominee. Thus, by the end of this week, in addition to the dozen judges confirmed, another 11 will have had hearings before the committee. If the Senate remains in session this year as late into November as it did in 1989 and 1993, we may have the opportunity for another hearing involving several more judicial nominees.

The record of the Senate since July is a good one. In spite of unfair criticism and the wrongheaded delays and obstruction of Republicans, the Senate remains on track to meet and exceed the judicial confirmation totals for the first year of the first Bush administration and the first year of the Clinton administration.

Mr. NICKLES. Mr. President I am pleased that the Senate today will confirm two outstanding jurists, Claire V. Eagan and James H. Payne, to be U.S. District Court judges in my State of Oklahoma.

President Bush could not have chosen two finer individuals to serve our country as district court judges.

These individuals are exceptionally well-qualified and will prove to be great assets to the judicial system in Oklahoma and our country.

Judge Eagan has been confirmed to serve as district judge for the Northern District of Oklahoma. She is currently a U.S. magistrate judge for the northern district where she has served for 3 years. Prior to that she served as a litigation attorney with the firm of Hall, Estill for 20 years. During that time, she handled a wide array of litigation as well as significant pro bono work and bar activities.

As a magistrate, she has gained judicial experience in criminal, civil, habeas, and bankruptcy matters. She also supervised the court's settlement program and devoted considerable time to early case resolution.

Judge Eagan is recognized as both a leader and instructor in the fields of trial and appellate practice and alternative dispute resolution. She has served on the faculty at the University of Tulsa College of Law and as an adjunct settlement judge for Tulsa County District Court.

Judge Payne has been confirmed to serve as district judge for the Eastern District of Oklahoma. He is currently a U.S. magistrate judge for the Eastern District of Oklahoma where he has served for 13 years. Prior to that he served as a private practice attorney with the firm of Sandlin and Payne for 15 years, handling civil matters. He also served 3 years as an assistant U.S. attorney for the eastern district. He has maintained an active role in the community by providing pro bono services to several local charitable organizations.

As a magistrate, he has gained experience in a broad range of criminal and civil issues. He has implemented an Alternative Dispute Resolution Program for the Eastern District of Oklahoma, which has allowed him to conduct an average of 100 settlement conferences per year.

Following graduation from the University of Oklahoma College of Law, Judge Payne's 30-year legal career has included military service as an Air Force Judge Advocate General officer.

I thank Chairman LEAHY, Ranking Member HATCH, and the Judiciary Committee for their work on these nominations.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of James H. Payne, of Oklahoma, to be United States District Judge for the Northern, Eastern, and Western Districts of Oklahoma? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 307 Ex.]

YEAS—100

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Helms	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent to make an announcement.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, there were a number of hearings scheduled for today and tomorrow in the Judiciary Committee, hearings to be chaired by Senators SCHUMER, BIDEN, and FEINSTEIN, which have been postponed. The reason we have done this is because of all the conditions of rooms and all, so we can save the time for the nominations hearing which has been scheduled for Thursday afternoon to be chaired by Senator EDWARDS, provided we can find the room for it. That will go on. The others are routine hearings which can be done at any time.

NOMINATION OF KAREN K. CALDWELL, OF KENTUCKY, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF KENTUCKY

The PRESIDING OFFICER. The Senator will now proceed to the consideration of the nomination of Karen K. Caldwell, of Kentucky, which the clerk will report.

The assistant legislative clerk read the nomination of Karen K. Caldwell of Kentucky, to be a United States District Judge for the Eastern District of Kentucky.

Mr. BUNNING. Mr. President, I rise in strong support of the nomination of Karen Caldwell to be a Federal District Court Judge for the Eastern District of Kentucky.

Karen has the qualities that will make her a fine judge—knowledge of the law, calm and respected demeanor, and obvious intelligence.

She has had an outstanding professional career that has prepared her well to sit on the bench. She is a former Assistant U.S. attorney for the district, rising to become Deputy Chief of the Civil Division. From 1991 to 1993, she served as the U.S. attorney for the eastern district. Among the notable prosecutions during her tenure was her office's prosecution as part of Operation Boprot, the Federal sting operation that led to the conviction of a number of public officials and lobbyists in Kentucky.

It was a difficult and complex case, both legally and politically, and she handled it with great skill. In short, Karen's work helped restore public confidence in elected officials in our Commonwealth.

Since leaving the U.S. attorney's post, Karen has specialized in complex civil and criminal litigation at one of Kentucky's leading firms. She has won numerous awards for the quality of her work, and has truly made a mark in Kentucky. It is only natural now that she rise to the bench.

I urge the Senate to support this nomination. The President made a great choice by selecting her for the bench, and she is going to be a fine judge, not just for the people of the eastern district, but for our entire Nation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Karen K. Caldwell, of Kentucky, to be a United States District Judge for the Eastern District of Kentucky?

On this question the yeas and nays have been ordered. Under the previous order this will be a 10-minute vote.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 308 Ex.]

YEAS—100

Akaka	Campbell	DeWine
Allard	Cantwell	Dodd
Allen	Carnahan	Domenici
Baucus	Carper	Dorgan
Bayh	Chafee	Durbin
Bennett	Cleland	Edwards
Biden	Clinton	Ensign
Bingaman	Cochran	Enzi
Bond	Collins	Feingold
Boxer	Conrad	Feinstein
Breaux	Corzine	Fitzgerald
Brownback	Craig	Frist
Bunning	Crapo	Graham
Burns	Daschle	Gramm
Byrd	Dayton	Grassley