

EXECUTIVE SESSION

NOMINATION OF SAMUEL DER-YEGHIAYAN, OF ILLINOIS, TO BE A U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session.

The clerk will report the nomination.

The legislative clerk read the nomination of Samuel Der-Yeghiayan, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

Mr. FITZGERALD. Mr. President, at 5:30 we are going to be voting on a nomination to the Federal bench for the northern district of Illinois. The nominee is Samuel Der-Yeghiayan from Vernon Hills, IL. Senator DURBIN and I have recommended Samuel Der-Yeghiayan to President Bush, who has appointed Sam, and he has been confirmed out of the Senate Judiciary Committee. I will say a couple of words in support of his nomination.

Since 1978, Mr. Der-Yeghiayan has worked in the United States Department of Justice Immigration and Naturalization Service first as a trial attorney in Chicago, later as acting district director, acting trial appellate attorney, and for about 18 years the chief district counsel for the INS in Chicago. He has a very good reputation.

Everyone, whether Republican or Democrat, from the many different communities in Chicago speaks very highly of Samuel Der-Yeghiayan. He has a very good reputation in legal circles in Illinois.

Since the year 2000 he has been acting as an immigration review judge in the United States Department of Justice Executive Office for Immigration Review. Sam Der-Yeghiayan has his JD degree from Franklin Pierce Law Center in New Hampshire. He was on the Law Review at Franklin Pierce.

There is an interesting aspect to Mr. Der-Yeghiayan's background that I think makes him somewhat unique. I am advised that he would be the first immigrant of Armenian descent ever to be named to the Federal bench. Mr. Der-Yeghiayan is himself an immigrant, having come to this country at an early age, and has done very well.

I am very proud of his nomination. I believe he is a very fine man, has a wonderful family, and he will be a great asset to our Federal judiciary.

I thank my colleagues and I thank Senator DURBIN for his support for the nominee.

Mr. HATCH. Mr. President, I rise today in support of the nomination of Samuel Der-Yeghiayan to be United States District Judge for the Northern District of Illinois.

Judge Der-Yeghiayan has contributed much to the legal community over his 25 year career, particularly in the area of immigration law. Upon graduation from Franklin Pierce Law Center, Judge Der-Yeghiayan joined

the U.S. Department of Justice as a trial attorney with the Immigration and Naturalization Service. After spending several years as a trial attorney, he was appointed District Counsel for the INS in Chicago, IL. In 2000, he became an immigration judge with the Department of Justice's Executive Office for Immigration Review, the position in which he currently serves.

Over the course of his career, Judge Der-Yeghiayan has represented the Government in deportation, exclusion, and other immigration-related hearings. He has handled issues relating to constitutional, labor, criminal, and administrative law arising from the enforcement of immigration laws. As a judge, he has presided over court proceedings and trials related to removal, deportation, exclusion, and asylum cases. He has also done a substantial amount of pro bono work educating congressional staff, State attorneys, bar associations, and law enforcement agents on immigration issues. In addition, as a judge, he provides training to pro bono immigration attorneys.

I have every confidence that he will make an excellent Federal judge. I commend President Bush for nominating him, and I urge my colleagues to join me in supporting his nomination.

Mr. FITZGERALD. 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 Samuel Der-Yeghiayan, of Illinois, to be United States District Judge for the Northern District of Illinois? The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announced that the Senator from Utah (Mr. BENNETT), the Senator from Alabama (Mr. SESSIONS), the Senator from Oregon (Mr. SMITH), and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) and the Senator from Massachusetts (Mr. KERRY) would each vote "yea".

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 275 Ex.]

YEAS—89

Akaka	Allard	Baucus
Alexander	Allen	Bayh

Biden	Domenici	Lott
Bingaman	Dorgan	Lugar
Bond	Durbin	McCain
Boxer	Ensign	McConnell
Breaux	Enzi	Murkowski
Brownback	Feingold	Murray
Bunning	Feinstein	Nelson (FL)
Burns	Fitzgerald	Nelson (NE)
Byrd	Frist	Nickles
Campbell	Graham (SC)	Pryor
Cantwell	Grassley	Reed
Carper	Gregg	Reid
Chafee	Hagel	Roberts
Chambliss	Hatch	Rockefeller
Clinton	Hollings	Santorum
Cochran	Hutchison	Sarbanes
Coleman	Inhofe	Schumer
Collins	Inouye	Shelby
Conrad	Jeffords	Snowe
Cornyn	Johnson	Specter
Corzine	Kennedy	Stabenow
Craig	Kohl	Stevens
Crapo	Kyl	Talent
Daschle	Landrieu	Thomas
Dayton	Lautenberg	Voinovich
DeWine	Leahy	Warner
Dodd	Levin	Wyden
Dole	Lincoln	

NOT VOTING—11

Bennett	Kerry	Sessions
Edwards	Lieberman	Smith
Graham (FL)	Mikulski	Sununu
Harkin	Miller	

The nomination was confirmed.

NOMINATION OF ROBERT C. BRACK TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that it be in order that I speak for 1 minute with reference to the nomination of Robert C. Brack, which is currently going to be accepted by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and I shall not, as the manager of the legislation on the floor, I wonder if the Senator would mind, then, even though the normal order would be for the managers to go first—I have no objection to my more senior colleague going first—that I be recognized immediately after the Senator from New Mexico.

Mr. DOMENICI. I didn't know you wanted to speak. I saw the calendar said that he was going to be accepted.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, in a couple moments the Senate will approve Robert C. Brack for district court judge of New Mexico. It is not always easy to find somebody, when you recommend them and they have finished this process and received, as in this case, full approval of the Democratic Senator—the committee approved them rather quickly—it is not always easy to find that kind of person. And then secondly, it is not always easy to know that you have really got the right individual, that they are going to do justice to that terrific responsibility which is theirs for such a long period of time under our Constitution. But in this man's case, I am certain of both. I am certain he is as good as there is. Far be it for me to say he

is the very best in New Mexico. Who knows that? But he is very good at the law.

Secondly, after being good at law, he had a shot at being a judge, and he was a very good judge at the district court level where you have general jurisdiction. When you add all that together, you just feel good about it. And you can end up telling the Senate, thank you this evening in advance and the President, thank you for sending this man to New Mexico to become a district judge in our State.

I yield the floor. If I offended or sought precedence over the distinguished Senator, I did not intend to. I apologize.

Mr. LEAHY. Mr. President, there is no offense. I know no offense was meant and none was taken.

As the distinguished senior Senator from New Mexico knows, he and I consulted at some length on this nomination, and I was happy to move forward. In fact, while the Senator is still on the floor, why don't we go ahead and pass the nomination. Then I will address the Senate.

The PRESIDING OFFICER. Without objection, Executive Calendar No. 292 is approved.

The nomination was confirmed.

Mr. LEAHY. Mr. President, with that confirmation of the New Mexican judge, the Senate will now have confirmed 135 judicial nominees of President Bush. These include 35 confirmed so far this year. I mention that number of 35 because I looked back to the third year of the last Presidential term—President Clinton's—when the Republicans controlled the Senate. They only allowed 34 judges to be confirmed in all of 1999. In fact, we have now confirmed more than twice the total number of judges confirmed in the 1996 session, when a Republican Senate majority refused to consider any circuit court nominees and confirmed only 17 district court judges in that entire session.

I mention that, Mr. President, because some believe this has become politicized. Well, maybe it was for 6 years, but it is not politicized now. We have actually reduced judicial vacancies to the lowest number in 13 years. Currently, there are more Federal judges on the bench than at any time in our history. We have confirmed 35 this year, and in the 1996 session with President Clinton, the Republican Senate majority refused to consider any circuit court nominees and only confirmed 17 district court judges during the whole session—half of what we have confirmed already.

At a similar time in President Clinton's term—the third year of the term—they allowed 34 judges to be confirmed the whole year. We have done 35 so far. By every single standard, during the time when the Democrats were in the majority and now, we have confirmed far more judges at a far faster rate for President Bush than the Republican majority allowed during the time of President Clinton.

I note that in the cases of both of today's nominees, the home State Senators include both a Republican and a Democrat Senator who supported the

nomination; both worked for the nomination. Working with these home State Senators makes it far easier and makes the confirmation process proceed more smoothly.

I congratulate the nominees confirmed today and the four Senators who came together in a bipartisan effort to get them through.

I yield the floor.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table and the President will be notified of the Senate's action.

LEGISLATIVE SESSION

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

The Senator from Delaware is recognized.

THE CLEAN AIR PLANNING ACT

Mr. CARPER. Mr. President, earlier today, Senator LAMAR ALEXANDER announced his decision on this Senate floor to join Senators GREGG, CHAFEE, and me in cosponsoring the Clean Air Planning Act.

I ask unanimous consent that Senator ALEXANDER be added as a cosponsor of S. 843.

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

Mr. CARPER. Mr. President, we are delighted at this decision. We welcome him as a cosponsor. The Clean Air Planning Act is a sensible solution to a vexing and challenging problem. We welcome the support of Senator ALEXANDER on this bill and the opportunity to work with him and other colleagues in this body to pass a strong bipartisan piece of clean air legislation later this year. Together, we can pass legislation that will control harmful emissions, provide cleaner air, and let more people live longer and healthier lives. We can do so in a way that does not impose hardship on those who produce electricity or on the consumers or an industry that relies on affordable electricity.

There are several advantages for the Nation that the Clean Air Planning Act will provide, and I want to mention several of those at this time.

First of all, let me begin with public health and environmental benefits. The Clean Air Planning Act will achieve substantially greater emissions reductions than the administration's Clear Skies Act. The Clean Air Planning Act will generate an additional 23 million tons of SO₂ reductions, 3 million tons of nitrogen oxide reductions, 240,000 pounds of mercury reductions, and 764 million tons of carbon dioxide reductions relative to the Clear Skies Act in the first 20 years of the program.

As a result, the human health benefits are likely to be substantially greater under the Clean Air Planning Act than the Clear Skies legislation. An EPA analysis has concluded that in 2020, the Clean Air Planning Act would avoid almost 6,000 premature deaths from fine particulate matter when compared with Clear Skies on an annual basis—not a cumulative basis.

Let me return to CO₂ and business certainty. From the perspective of the

electric generating sector, business certainty is a major driver for the enactment of multipollutant legislation. Without CO₂ included, electric-generating companies will continue to make their investment decisions in the face of major business uncertainty. This raises the specter of stranded investments.

By lifting the uncertainty surrounding future action on CO₂, the Clean Air Planning Act creates a more favorable climate for the expansion of U.S. coal markets and stimulates the development of clean coal technologies.

Let me talk for a moment about diverse generation mix. The Clean Air Planning Act and Clear Skies will both preserve a diverse fuel mix. Both bills are projected to have minimal impact on coal use. In 2010, coal use is expected to be about 2 percent lower under the Clean Air Planning Act than under Clear Skies—50 percent versus 48 percent. Coal is projected to constitute 45 percent of the electric generating mix in 2020 under either bill, Clear Skies or the Clean Air Planning Act.

An important question is, What will it cost to buy the relative advantages of the Clean Air Planning Act?

In both 2010 and 2020, total annual electric system costs under the Clean Air Planning Act are projected to be only 2.5 percent higher than under Clear Skies. This includes the cost of regulating CO₂ under the Clean Air Planning Act. On a net present value basis, the total cost differences between Clear Skies and the Clean Air Planning Act over a 20-year period, from 2005 to 2025, is in the range of 2 to 3 percent.

The EPA itself has conceded that retail electricity prices would increase by only two-tenths of a cent per kilowatt hour more under the Clean Air Planning Act than under Clear Skies, which amounts to about \$1.20 per month for the average residence.

According to the EPA, the CO₂ reduction plan could be carried out at "negligible" cost—that is their word—to the industry. Specifically, we can achieve the CO₂ goal in our bill—returning electricity industry emissions to 2001 levels by 2013—for approximately \$300 million in additional costs on top of the \$103 billion the industry will already be spending to produce electricity. That is just 0.3 percent—not 3 percent, not 30 percent, but 0.3 percent.

Let me conclude. Once again, I thank Senator ALEXANDER for having the courage to join us in this effort. I know it is not a decision that he made lightly. As a former Governor, he shares my commitment to getting things done in the Senate and in our Nation's Capital, with a commitment to focusing on policies that are the right thing for this Nation to do. Speaking for Senators GREGG, CHAFEE, and myself, we welcome the support of the junior Senator from Tennessee.

Mr. President, I yield the floor and 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.