

be around men younger than I. One in particular I have traveled with considerably and for whom I have great fondness—he must have just walked off the Senate floor; I hope someone brings him back. I wish to call the attention of the Senate to the fact that my brother from Hawaii is 80 years old today.

(Applause.)

The PRESIDING OFFICER. The Senator from Utah.

NOMINATION OF MICHAEL H. SCHNEIDER, SR.

Mr. HATCH. Mr. President, I yield our minute to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I commend Michael Schneider to my colleagues. He has had 25 years on the bench, starting as a municipal judge and working his way to the Supreme Court of Texas. He is one of the most respected judges in Texas, and I hope all my colleagues will vote for him.

I ask my colleague, Senator CORNYN, if he wishes to finish this minute.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I had a chance to speak earlier in support of this wonderful nomination, Judge Mike Schneider. I join my colleague in encouraging each of our colleagues to vote for him.

I also want to say how much I appreciate the ranking member of the Judiciary Committee and Chairman HATCH for making this vote possible tonight. I urge my colleagues to vote for the nomination.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have already spoken in favor of Justice Schneider. Mike and I first met when we were both much younger prosecutors. I urge my colleagues on this side of the aisle to support his nomination.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Michael H. Schneider, Sr., of Texas, to be United States District Judge for the Eastern District of Texas? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Pennsylvania (Mr. SANTORUM) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New York (Mrs. CLINTON), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 92, nays 1, as follows:

[Rollcall Vote No. 165 Ex.]

YEAS—92

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

NAYS—1

Harkin

NOT VOTING—7

Akaka	Graham (FL)	Santorum
Clinton	Kerry	
Edwards	Murkowski	

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of these actions.

NOMINATION OF MICHAEL H. WATSON TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO

The PRESIDING OFFICER. The clerk will report the next nomination.

The assistant legislative clerk read the nomination of Michael H. Watson, of Ohio, to be United States District Judge for the Southern District of Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I take a few minutes to speak about Judge Michael H. Watson, who is from my home State of Ohio. He is from Columbus. As my colleagues are aware, President Bush nominated Judge Watson to serve as a Federal judge in the Southern District of Ohio.

I would like to take a moment to tell my Senate colleagues why I believe so strongly in his nomination. Judge Watson is exactly the sort of person we ought to have serving on the Federal bench. He has had a long and distinguished career as a public servant. He has been a judge on the 10th District Court of Appeals in Franklin County since Governor Bob Taft appointed him in May 2003.

From 1996 to 2003, Judge Watson served on the Franklin County Common Pleas Court, a position he was appointed to by then-Governor George

Voinovich and to which he was re-elected twice.

In Ohio, the Common Pleas Court is the highest trial bench. It is the court that tries all the major civil and criminal cases. During his last 3 years on the trial court, Judge Watson served as administrative judge with responsibility of the administrative management of the 16-member court and its staff. He dealt with, literally, thousands of cases during his time as a State trial court judge.

Before serving on the bench, Judge Watson worked for the office of then-Governor George Voinovich—first as Deputy Chief Legal Counsel and then, from 1994 to 1995, as Chief Legal Counsel. Prior to that, he was Chief Legal Counsel to the Director of the Ohio Department of Commerce. Judge Watson also spent several years in private practice, focusing primarily on personal injury litigation, employment disputes, workers' compensation, and criminal defense.

Without question, Judge Watson has had an impressive legal career. But what really impresses me about him is how hard he has worked throughout his life. Judge Watson has genuinely lived the American dream by working hard and overcoming the odds.

Not long after high school, the Judge enlisted in the Air Force and served for over 3 years. When he was discharged, he enrolled at the Ohio State University and continued his service in the military in the Air National Guard. While in college, he married his high school sweetheart, Lori, and they had their first son when Judge Watson was a junior in college. During all this time, Judge Watson was working full-time in the Franklin County prosecuting attorney's office. That's right, Mr. President; Judge Watson was enrolled at OSU full-time, raising a family, serving in the Air National Guard, and working full-time.

When Judge Watson finished college, he enrolled in a law school night program at Capital University Law School. During the day, Judge Watson worked full-time as a court bailiff for a well-known Franklin County judge. That job evolved into a law clerk position, in which Judge Watson remained for his entire 4 years of law school.

If someone in my family or I ended up in a Federal court, I would want a judge who could relate to me. I would want a judge who knows what the real world is like for most Americans. I would want a judge who knows what it is like to struggle and what it is like to be faced with the real world. Judge Watson is that kind of judge.

Of course, I would also want a judge who knows what he is doing and who will enforce the law—and Judge Watson has clearly proven he is qualified for the job in that respect. But what Judge Watson has that makes him really outstanding, in my view, is his ability to make decisions with compassion and with a true understanding of what it is like in the real world.

Judge Watson will be a fine addition to the District Court. In his time on the Ohio Court of Common Pleas and on the Ohio Court of Appeals, Judge Watson has distinguished himself through his thoughtful legal reasoning and his great integrity. This experience and his temperament make Judge Watson highly qualified for the Federal District Court.

Senator VOINOVICH and I have known Michael Watson for a number of years. As I said, this is a man who is eminently qualified to serve on the Federal bench. Mike Watson currently serves on the court of appeals in Ohio. For 7 years prior to that he served on our common pleas court bench, which in Ohio is our highest trial bench. Prior to that, among other jobs, he was the chief legal counsel for then-Governor George Voinovich.

Mike Watson is an Air Force veteran. He worked his way through night law school while serving at the same time as the court bailiff in Franklin County.

This is a man who is respected by his peers and respected by the men and women who practice law in front of him. If you talk to people who practiced law in front of Judge Watson during the 7 years he served on the common pleas court bench, they will tell you this is a man of great integrity. They will tell you this is a man of great common sense, a man who works very hard, and a man of great courtesy. This is a man who has the right judicial temperament to serve on our Federal bench.

I am proud to be here this evening to recommend to my colleagues that we confirm this nomination. I am very proud to be in the Senate to speak in favor of the nomination of Michael Watson.

Mr. LEAHY. Mr. President, today, the Senate is considering the nomination of Judge Michael Watson for a lifetime seat on the United States District Court for the Southern District of Ohio. Judge Watson enjoys the strong support of Senator DEWINE and Senator VOINOVICH, for whom he worked in the Ohio Governor's office.

I noted when this matter was considered by the Judiciary Committee that proceedings on it had been rushed and highly irregular. Corners had been cut at every stage, from the noticing of his hearing late on Friday of a holiday recess for a day when the majority was told no Democratic Senators could attend, to the promise that the hearing would be postponed if his rating was negative—it was and the hearing was not. Then, of course, there was the premature listing of his nomination on the agenda before Members had a fair opportunity to review his answers to written questions.

A few minutes before a committee meeting a lengthy letter arrived from a Republican former colleague of Judge Watson attempting to address some of the ethics concerns that had been raised, and then during the meeting another letter was mentioned from the

nominee promising not to use his judicial campaign donations to buy tickets to partisan political events, which he had previously said he might do.

It also seems clear from the incompleteness of the Senate questionnaire submitted by this nominee in the late spring that his answers to some of our standard questions were not vetted to determine if they were fully responsive. They were not and, in essence, we have been told that we have received all the information this nominee is going to give. At the same time we have heard that this nominee has been telling people in Ohio that he has been promised that his confirmation is a done deal, and if that were true then what incentive would he have to provide us with more complete information.

Surely, for example, the lack of information about some of the cases handled by this nominee or the names of opposing counsels familiar with his work made it difficult for the American Bar Association to speak with anyone but loyal friends and colleagues. Nevertheless, the ABA—which has been exceedingly generous to President Bush's judicial nominees—gave Judge Watson a partial 'not qualified' rating. This is cause for concern, because the ABA usually gives sitting judges nominated by George Bush a minimum rating of unanimously "qualified," and often a rating of "well qualified."

When such a red flag is raised, it is our practice to seek input from the legal community in the nominee's home State about whether there is any cause for concern, since the ABA does not tell us the basis of its votes. Indeed, the credibility of the ABA's ratings has been called into question regarding some of the inflated ratings given to some nominees, despite serious issues such as inexperience or lack of compliance with attorney or judicial codes of conduct.

It does appear that Judge Watson has many fans but it is also true that some, from both parties, have expressed serious concerns that he is simply too political to be rewarded with a lifetime seat on the Federal bench.

I have been concerned that he is not the type of consensus nominee who should be moving so quickly or at all at this stage in a presidential election year. I would note that in 2000, 13 of President Clinton's district court nominees nominated as late as Judge Watson or later never got a hearing or a vote in committee, and the only district court nominees who received committee votes in July of that election year were those who moved by consent. I can recall no nominee with a partial "not qualified" rating getting through in July 2000. In fact, I know that anyone President Clinton nominated after the first quarter of 2000 for which there was a single objection by any Senator never got a vote.

Similarly, in 1996, the last time a President was running for reelection,

more than half of the district court nominees sent to the Senate as late or later in the year as Judge Watson never got a vote in committee. When a Democrat was in the White House, only consensus nominees moved this late in the year as part of a package or agreement, and Judge Watson was nominated too late to be part of the package agreed to earlier this year for confirmation votes.

The Senate has already confirmed three district court nominees and two circuit court nominees of President Bush from Ohio, some of whom have been extremely controversial and divisive. We moved forward with those nominations even though two of President Clinton's nominees to Ohio were blocked by Republican Senators, Steve Bell and Professor Kent Markus.

Steve Bell, an expert in environmental law, waited more than 16 months and never was allowed a hearing or a vote on his nomination. No one questioned Bell's legal qualifications, and unlike Judge Watson, he did not receive a partial rating of not qualified, yet he never got a hearing or a vote. Mr. Bell is the son of U.S. District Court Judge Sam Bell of Silver Lake, a Republican appointee to the Federal courts. Mr. Bell was formerly the assistant law director in the City of Akron under Republican Mayor Roy L. Ray from 1981 to 1984 and an assistant U.S. attorney, appointed by President Ronald Reagan, from 1984 to 1988. Because he moved to northern Ohio to prevent any appearance of impropriety from practicing before his father's colleagues, this was used as the basis for blocking him from getting a hearing on his nomination to a seat in southern Ohio, where he was born and raised and where he practiced law for much of his career. He never got a hearing or a vote by Republicans.

Similarly, Professor Kent Markus, who leads the Dave Thomas Adoption Law Center at Capital University and previously served as an assistant to Lee Fisher and Janet Reno, never got a hearing or a vote. According to Professor Markus' testimony at a hearing about Democratic nominees who never got a hearing, Senator DEWINE told him in 2000 that there were no objections to the merits of his nomination but that no Clinton nominees would be confirmed to the sixth circuit for "political reasons." Yet here we are with a Bush judicial nominee in Ohio in September of this election year, who some consider to be too political, being pushed forward to confirmation. This is such a double standard.

As I noted in committee, I have found some of Judge Watson's answers to questions unsettling. Why was information about Judge Watson currently running for office in a partisan race not made available from the outset? While being up for election is not disqualifying, we are justifiably wary after another nominee of President Bush, Ron Clark of Texas, continued to run for election in a partisan race after

he was confirmed by the Senate. According to press accounts, even though his seat was a so-called "judicial emergency," Mr. Clark asked the President not to sign his commission for office until he finished his race and sat for another session in the Texas legislature so that he could help elect a Republican speaker of the house and vote on things like redistricting, and President Bush delayed signing Clark's appointment papers. After information surfaced about the White House's willingness to delay the appointment of Mr. Clark, he stepped out of the race but told voters that they could still vote for him, and he won. This was shocking and inappropriate behavior by a man confirmed to sit as a Federal judge.

In Judge Watson's situation we have heard that he is actively seeking donations for his State race while also telling donors that he expects to be confirmed shortly. In his written answers, he states that he has "informed [his] contributors that [he is] in the confirmation process." I was troubled by his initial response to my question about what he will do with the funds he has amassed if he is confirmed. He stated that he has not determined whether, if he is confirmed, he will return the money to donors, contribute it to charity or use the money to "purchase individual tickets to other political events." This option is clearly prohibited by Canon 7 of the Code of Conduct for United States judges, which applies to nominees, and bans such partisan activities as buying tickets to partisan events.

Judge Watson's friend subsequently wrote a letter to the Senate claiming that the Code of Conduct for United States judges does not apply to nominees, but anyone who reads Canon 1 of the Code would see that it says, "the Code is designed to provide guidance to judges and nominees for judicial office." That letter also asserts that nominees have one year "to come into full compliance with its terms," which is simply incorrect. There is a narrow exemption related to divesting from profit-sharing or deferred compensation arrangements that is wholly inapplicable to the mandate of Canon 7 prohibiting political activity. The letter is similarly misguided when it asserts a wholly new interpretation on the restriction against soliciting campaign funds, by claiming that Federal judges or nominees could solicit such funds as long as they did not do so "personally" and instead used agents to do so. This novel interpretation would create a gaping hole in the Federal prohibition against such partisan activity. Fortunately, the approach advocated by the letter has not been embraced or adopted by the Federal courts.

Admittedly, the ethical rules are rules of reason. In rare instances, like Judge Watson's, an individual is not required to choose between the possibility of a Federal judgeship and the possibility of a State judgeship. At the

same time, given the vital importance of the ethical constraints to the public confidence in the fairness of our courts, such a person must exercise extra caution to steer clear of conduct that could call into question his or her impartiality under the Federal rules. If Judge Watson were following the advice and interpretations offered in the letter of his friend, he would be unlikely to comport his conduct with the Code of Conduct for United States judges which expressly applies to nominees such as him.

I do appreciate that, despite the justifications offered by his friend, Judge Watson has informed Senator DEWINE that if he is confirmed he has decided to donate his campaign funds "to a charity dedicated to the protection of the health and welfare of children," in compliance with "State election laws." I am happy that Senator DEWINE has been able to get the nominee to make these assurances and promise that he and his campaign committee will disclose the names and amounts of his donors.

In addition to the assurances of Senator DEWINE, who I hold in high esteem, we have also heard positive things about the nominee from prominent members of the legal community in Ohio since a vote on his nomination in committee was postponed. Some came from unexpected sources. I remain troubled but given the support of the Senators from Ohio and lawyers from Ohio, I will not oppose this nomination.

I congratulate Judge Watson and his family on his confirmation. He is being given a position of great public trust, and I hope that he will live up to the assurances he has given to the Senate and be fair and non-partisan as a Federal judge.

The PRESIDING OFFICER. If there is no further debate, the question is, Will the Senate advise and consent to the nomination of Michael H. Watson, of Ohio, to be United States District Judge for the Southern District of Ohio?

The nomination was confirmed.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I ask unanimous consent the President be immediately notified of the Senate's action.

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

#### LEGISLATIVE SESSION

Mr. FRIST. I also ask unanimous consent that the Senate resume legislative session.

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

#### MORNING BUSINESS

Mr. FRIST. I ask unanimous consent there be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER RELIEF ACT, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate, that the Senate may receive from the House the supplemental appropriations bill, the text of which is at the desk; that the Senate then proceed to its immediate consideration; the bill be read the third time, and passed, and the motion to reconsider be laid upon the table.

Mr. DASCHLE. Reserving the right to object, Mr. President, I applaud the effort made by the majority leader and all Members of Congress to respond as quickly and as comprehensively as we can to the extraordinary disaster we have now witnessed in Florida. Our hearts and prayers go to all of those people who have experienced this remarkable set of circumstances.

There are other areas of the country which have not had the same degree of direct adverse weather but have suffered adversely the effects in many parts of the country with regard to drought, in particular, in certain areas. The two Senators from North Dakota, Senators DORGAN and CONRAD, in particular, have been very vocal about the extraordinary impact it has had. South Dakota has also been very adversely affected. We have had terrible drought. We have not been able to address it satisfactorily. There are some people now who are actually having to sell their farms and ranches because they are unable to cope any longer with the drought circumstances.

I ask that we might modify the consent to provide for a single amendment which would provide disaster assistance primarily to agricultural producers in Florida and throughout the country in an effort to address those needs, as well.

The PRESIDING OFFICER. Does the majority leader so modify?

Mr. FRIST. Mr. President, reserving the right to object, and then I think the Senator from Mississippi may want to comment, as we discussed earlier today, the \$2 billion supplemental is coming from the House later tonight, almost certainly later tonight or in the morning. The purpose of passing the bill as it comes from the House, which this will in effect do, will allow the President to sign it very quickly because, as we know, tomorrow FEMA is actually in deficiency and does not have the money. The purpose is for us to get this bill passed through the House, the Senate, and signed by the President tomorrow. Such modification would mean we would not be able to do that.

As we discussed earlier, there are going to be other opportunities. As I mentioned directly to the Senator from Florida, we do not know what the total cost will be, even for Florida; and there very likely will be another supplemental, at which time consideration of other Senators' interests could be expressed.