

Act, Pub. L. 76-783, ch. 720, §3(e); see Tiefer, *supra* at 303.

Vietnam. In 1964, with the Tonkin Gulf Resolution, Congress authorized the President "to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." Pub. L. 88-408, §2, 78 Stat. 384, 384. However, in 1971, Congress repealed the Tonkin Gulf Resolution. Pub. L. 91-672, §12, 84 Stat. 2055 (Jan. 12, 1971). Later that year Congress called for a "prompt and orderly withdrawal" from Indochina at the "earliest practicable date." Pub. L. 92-129, §401 (Sept. 28, 1971).

War Powers Resolution. In 1973, in response to the Vietnam War and over President Nixon's veto, Congress passed the War Powers Resolution (WPR), Pub. L. 93-148, 87 Stat. 555 (1973), 50 U.S.C. §1541, et seq. The WPR requires the President to consult with Congress before sending troops into hostilities (and within 48 hours after commencing hostilities, entering another nation equipped for combat, or increasing substantially the number of troops in a foreign nation). Also the WPR requires the President to pull out after 60 days—absent a congressional authorization of hostilities, congressional extension, or inability of Congress to meet due to attack. Further, the WPR "permits Congress to terminate an unauthorized presidential use of military force at any time by concurrent resolution." John C. Yoo, *The Continuation of Politics By Other Means: The Original Understanding of War Powers*, 84 Cal. L. Rev. 167, 181 (1996).

First Iraq War. In 1991, Congress gave the President authority to "use United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve implementation of Security Council Resolutions [regarding the Iraqi occupation of Kuwait]," but must first attempt diplomatic measures. Authorization for Use of Military Force Against Iraq Resolution, Pub. L. 102-1, §2(a), (b) (1991).

Afghanistan. In 2001, Congress provided by joint resolution that "the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons." Authorization for Use of Military Force, Pub. L. 107-40, §2(a), 115 Stat. 224 (Sept. 18, 2001). Although this example is far more open-ended than the others, there are still restrictions imposed on the use of force.

Second Iraq War. In 2002, Congress authorized the President to "use the Armed Forces of the United States as he determines to be necessary and appropriate in order to . . . (1) defend the national security of the United States against the continuing threat posed by Iraq; and (2) enforce all relevant United Nations Security Council resolutions regarding Iraq." Authorization for Use of Military Force Against Iraq, Pub. L. 107-243, §3(a), 116 Stat. 1498 (Oct. 16, 2002). The President was, however, required to certify that diplomatic means are insufficient and that the use of force will not impede the war on terrorism. *Id.* §3(b).

Mr. SPECTER. Mr. President, I yield the floor.

#### NOMINATION OF GREGORY KENT FRIZZELL

Mr. INHOFE. Mr. President, first of all, I appreciate very much the senior

Senator from Pennsylvania yielding to me. I know he is interested in getting these quality judges confirmed, and votes are taking place.

We have one coming up in a few minutes that happens to be for a close personal friend of mine, a judge in Oklahoma, Greg Frizzell. I would like to make a couple of comments.

First of all, we thought he would be confirmed before the end of last year, and it didn't work out. There was bickering going on that had nothing to do with him but with other judges. Fortunately, over the last few weeks, I have had a chance to talk to colleagues on both sides of the aisle.

I want to single out Senator PAT LEAHY for being so generous with me and giving me time to talk about Judge Frizzell and why he should be confirmed. He told me, after listening to this, he would be willing to put him on his top priority list. He didn't have to do it. He is a Democrat and I am a Republican. So, again, I compliment Senator PAT LEAHY for doing that for us and for justice in America.

This young man, Greg Frizzell, has a great family background. I remember when his daddy, Kent Frizzell, was in Kansas and served as attorney general for that State. Then he had better judgment and decided to move from Kansas to Oklahoma. We became good friends many years ago. Greg was very young at that time. He was raised in this family of public servants, people who served as his father had for such a long period of time. I think his father is still at the University of Tulsa Law School and has been for about 20 years and is doing great work. That is the environment in which Greg Frizzell was raised. He has been a judge for a long time, and you would think you would hear some negative things about him. But you don't hear negative things about this guy. Even his political adversaries all agree that he is the quality and type of man who should be on the Federal bench.

Robert Sartin, a member of the Board of Governors, said:

Judge Frizzell is a man of extremely good character and high integrity, with a deep sense of personal responsibility toward his fellow man.

A fellow judge, Claire Egan, praised him. She talked about the urgency of this confirmation and that they actually only have three judges now on that bench doing the work of six judges.

One of the most highly respected senior Federal judges, Ralph Thompson, who is in senior status in Oklahoma right now, praised Greg, saying there is nobody out there who could be more qualified than Greg Frizzell for this particular appointment.

So it is neat that we are finally getting around to this. I apologize to Greg and his family for the uncertainty that is always there, even though I never had any uncertainty. I knew he was going to be there.

Getting back again to all these different people, Joe Wolgemuth, a promi-

nent attorney in Tulsa, recalls an incident where Judge Frizzell—he has six kids, by the way—had work to do one night, and he went down and took his six kids with him and did his judicial work. Anybody who can juggle six kids and do his job at the same time I know is qualified for this job. I am thrilled that just in a matter of minutes we will be able to vote to confirm Judge Frizzell to the Northern District of Oklahoma. He will be a great judge.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

JUDGE GREGORY KENT FRIZZELL

Mr. SPECTER. Mr. President, I thank the Senator from Oklahoma for those comments. He may be interested to know that I have been advised that the nominee is the son of Kent Frizzell, who was a high school debater in Kansas in my era. I debated against Kent Frizzell. I also noted that the nominee was born in Wichita, KS, which is a good place to be born, because I was born there, too. It is sometimes the source of some levity.

When I was one of the assistant counsels to the Warren Commission, a man named Frances W. Adams, a prominent Wall Street lawyer, noted on my resume that I was born in Wichita. He said: Where was your mother on her way to at the time? When I say the birth place of Greg Frizzell, the nominee, is Wichita, KS, I recollect my own birth place and recollect the connection I had with his father being my high school debating opponent many years ago.

While I have the floor, I know the time has been reserved to talk about judges in just a few minutes. Having started on Gregory Kent Frizzell, I would like to make a few additional comments. Senator LEAHY is due to be here in a few minutes to speak—about three nominees. Votes are scheduled to take place at 11:55.

I would like to supplement what has been said about Gregory Kent Frizzell. He has an outstanding academic record. He graduated from Tulsa University in 1981 and the University of Michigan Law School in 1984. He was an Oklahoma Rhodes Scholar finalist in 1980. He has been rated unanimously "well qualified" by the American Bar Association. I believe there is no opposition to his nomination for U.S. District Judge for the Northern District of Oklahoma. I urge my colleagues to support him.

I ask unanimous consent that his résumé be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GREGORY KENT FRIZZELL

UNITED STATES DISTRICT JUDGE FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

Birth: December 13, 1956, Wichita, Kansas.  
Legal Residence: Oklahoma.  
Education: B.A., University of Tulsa, 1981,  
Phi Alpha Theta (History Honor Society),  
Omicron Delta Kappa (National Leadership  
Honor Society), Oklahoma Rhodes Scholar

Finalist, 1980. J.D., University of Michigan Law School, 1984. AmJur Award in Legal Research and Writing.

Employment: Law Clerk, the Honorable Thomas R. Brett, U.S. District Judge for the Northern District of Oklahoma, 1984-1986. Associate, Jones, Givens, Gotcher & Bogan, P.C., 1986-1994. Solo Practitioner, Gregory K. Frizzell, 1994-1995. General Counsel, Oklahoma Tax Commission, 1995-1997. District Judge, 14th Judicial District of the State of Oklahoma, 1997-Present.

Selected Activities: Board of Directors, Tulsa Speech & Hearing Association, 1986-1995 (President, 1994-1995). Director-at-Large, Rotary Club of Tulsa, 2006-2007, Master of the Bench, American Inns of Court, Hudson-Hall-Wheaton Chapter, 1997-2002 (President, 2000-2001), Member, Oklahoma Bar Association, (Vice Chairman, Professionalism Committee, 2006) (House of Delegates, 2001-2002), Member, Tulsa County Bar Association (Board of Directors, 2006) (Chairman, Law School/Mentoring Committee, 2001-2002), Oklahoma Task Force on Judicial Selection, 1999-2000.

Judge Frizzell was nominated during the last Congress and his nomination reported out of the Judiciary Committee with a favorable recommendation on September 29, 2006. The Senate, however, did not act on his nomination prior to adjournment of the 109th Congress.

President Bush re-nominated Judge Frizzell in the 110th Congress and the nomination reported out of Committee on January 25, 2007.

Judge Frizzell has had a distinguished career both in private practice and in public service.

In 1981, he earned his B.A. degree from the University of Tulsa. While at Tulsa, Judge Frizzell was inducted into the Phi Alpha Theta and Omicron Delta Kappa Honor Societies. He was also an Oklahoma Rhodes Scholar Finalist in 1980.

Judge Frizzell went on to earn his J.D. from the University of Michigan Law School in 1984, where he was awarded the AmJur Award in Legal Research and Writing.

After law school, he served as a law clerk to the Honorable Thomas R. Brett, United States District Court Judge for the Northern District of Oklahoma.

In 1986, Judge Frizzell joined the Oklahoma law firm of Jones, Givens, Gotchers & Bogan, P.C. as an associate and focused on commercial litigation.

In 1994, Judge Frizzell left Jones, Givens and practiced as a solo practitioner. In this capacity he represented individuals and small business entities in civil controversies.

In 1995, Judge Frizzell was appointed General Counsel of the Oklahoma Tax Commission by Governor Frank Keating.

In 1997, Judge Frizzell was appointed district judge for the 14 Judicial District in the State of Oklahoma. He was elected without opposition in 1998 and again in 2002. His term is set to expire in January 2007.

The American Bar Association unanimously rated Judge Frizzell "Well Qualified" to serve as a federal district court judge.

JUDGE LAWRENCE JOSEPH O'NEILL

Mr. SPECTER. Mr. President, further, I support the confirmation of Judge Lawrence Joseph O'Neill to be U.S. District Judge for the Eastern District of California. He, too, has an excellent academic record, with a bachelor's degree from the University of California, Berkeley, in 1973, an MBA from Golden Gate University in 1976, and a law degree from the University of California, Hastings College of Law. He has a distinguished professional record. The American Bar Association rated him unanimously "well qualified."

I ask unanimous consent that his résumé be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAWRENCE JOSEPH O'NEILL

UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA

Birth: September 5, 1952, Oakland, California.

Legal Residence: California. Education: B.A., University of California at Berkeley, 1973; M.P.A., Golden Gate University, 1976; J.D., University of California, Hastings College of Law, 1979.

Employment: Associate, McCormick, Barstow, Sheppard, Wayte, & Carruth, 1979-1983, Partner, 1984-1990; Adjunct Professor, San Joaquin College of Law, 1986-1992, Professor of the Year Award, Civil Trial Advocacy; California Superior Court Judge, Fresno County Superior Court, 1990-1999; Magistrate Judge, U.S. District Court for the Eastern District of California, 1999-Present.

Selected Activities: Judicial Member, Federal Bar Association, 1999-Present, Executive Board; Member, Fresno County Bar Association, 1979-1990, Judicial Member, 1990-Present, Recipient, "20 Years of Service" Award for service to the Fresno County Mock Trial Program; Member, Federal Magistrate Judges Association, 1999-Present; Board Member, Ninth Circuit Magistrate Judge Executive Committee, 2003-2006; Board Member, Association of Business Trial Lawyers, 1996-2006; Member, California State Bar, 1979-1990, Inactive Judicial Member, 1990-Present.

Magistrate Judge Lawrence Joseph O'Neill was nominated during the last Congress and his nomination reported out of the Judiciary Committee with a favorable recommendation on August 2, 2006. The Senate, however, did not act on his nomination prior to adjournment of the 109th Congress.

President Bush re-nominated Judge O'Neill in the 110th Congress and the nomination reported out of Committee on January 25, 2006.

He received his B.A. from the University of California at Berkeley in 1973, his M.P.A. from Golden Gate University in 1976, and his J.D. from the University of California, Hastings College of Law in 1979.

During law school, Judge O'Neill served as a legal clerk to the Honorable Roberts F. Kane of the First Appellate District of the California Court of Appeals.

Following law school, Judge O'Neill joined the law firm of McCormick, Barstow, Sheppard, Wayte & Carruth as an associate. He became a partner with that firm in 1984. His practice focused almost exclusively on civil tort litigation.

While working for McCormick, Barstow, Judge O'Neill also taught classes for six years as an adjunct professor at San Joaquin College of Law. San Joaquin honored Judge O'Neill for his teaching skills by presenting him with the Professor of the Year Award.

In 1990, Judge O'Neill was appointed to the Fresno County Superior Court. He served on that court until 1999 when he was appointed as a United States Magistrate Judge in the U.S. District Court for the Eastern District of California.

Judge O'Neill has received numerous awards for his community service including the annual Judicial Award presented by the Rape Counseling Service of Fresno County and the "20 Years of Service" Award presented by the Fresno County Mock Trial Competition Program.

While serving as the presiding judge of the juvenile courts of Fresno County, Judge O'Neill was recognized for his outstanding efforts to prevent child abuse with the Judy Andreen-Nilson Award. The Fresno County Juvenile Justice Commission also presented him with the Award for Achievement in Juvenile Justice.

The American Bar Association unanimously rated Judge O'Neill "Well Qualified."

The vacancy to which Judge O'Neill is nominated has been designated a "Judicial Emergency" by the nonpartisan Administrative Office of the Courts.

JUDGE VALERIE L. BAKER

Mr. SPECTER. Mr. President, the third nominee up for a vote at 11:55 is Judge Valerie L. Baker. She is nominated for U.S. District Court for the Central District of California. Her academic record, as well, is outstanding: summa cum laude from the University of California, Santa Barbara in 1971, with a cum laude master's degree from the University of California, Santa Barbara in 1972, and with a law degree in 1975 from the UCLA School of Law. The American Bar Association unanimously rates Judge Baker "well qualified."

I ask unanimous consent that her résumé be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VALERIE L. BAKER

UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

Birth: June 25, 1949, Minneapolis, MN. Legal Residence: California. Education: B.A., 1971, University of California, Santa Barbara, summa cum laude; M.A., 1972, University of California, Santa Barbara, cum laude; J.D., 1975, UCLA School of Law.

Employment: Associate, Overton, Lyman & Prince, 1975-1977; Assistant U.S. Attorney, U.S. Attorney's Office, 1977-1980; Associate, Lillick, McHose & Charles (now Pillsbury, Winthrop, Shaw & Pittman) 1980-1982, Partner, 1982-1986; Judge, Los Angeles Municipal Court, 1986-1987; Judge, Los Angeles Superior Court, 1987-Present.

Selected Activities: Board Member, The Braille Institute, 2001-2003; Member, Los Angeles County Bar Association, 1975-Present; Member, California Judges Association, 1986-present; Board Member, Association of Business Trial Lawyers, 1987-1990, 2001-2004; Board Member, My Friend's Place (homeless shelter for teens), 1993-1995; 1994 Alfred J. McCourtney Trial Judge of the Year Award Recipient, Consumer Lawyers of Los Angeles.

Judge Baker was nominated during the last Congress and her nomination reported out of the Judiciary Committee with a favorable recommendation on September 21, 2006. The Senate, however, did not act on her nomination prior to adjournment of the 109th Congress. President Bush re-nominated Judge Baker in the 110th Congress and her nomination reported out of the Judiciary Committee on January 25, 2006.

Judge Baker received her B.A., summa cum laude, from the University of California, Santa Barbara in 1971 and Masters Degree, cum laude, from the same institution a year later. In 1975, she received her J.D. from the UCLA School of Law.

Upon graduating from law school, she began working as an associate with the firm Overton, Lyman & Prince in Los Angeles. During her two years at Overton, Judge Baker focused on business litigation. In 1977, Judge Baker became a prosecutor with the United States Attorney's Office in Los Angeles.

In 1980, Judge Baker joined the law firm of Lillick, McHose, & Charles (now Pillsbury, Winthrop, Shaw & Pittman) as an associate. Just two years later, the firm granted her partnership. In 1986, Judge Baker was appointed to serve on the Los Angeles Municipal Court, where she presided over civil

matters and criminal misdemeanors. In 1987, she was elevated to the Los Angeles County Superior Court, where she currently serves.

Judge Baker has handled thousands of cases from filing to disposition, and is widely recognized as one of California's finest jurists. In 1994, she received the Alfred J. McCartney Trial Judge of the Year Award from the Consumer Lawyers of Los Angeles. The American Bar Association has rated Judge Baker unanimously "Well Qualified."

Mr. SPECTER. Mr. President, I urge my colleagues to vote for these three distinguished nominees. I thank Senator LEAHY, the Chairman of the Judiciary Committee, for moving these nominations. It is very important. We have numerous judicial emergencies. We have other nominees awaiting action by the committee and by the full Senate.

Senator LEAHY is moving with dispatch, which is appreciated, and it is also appreciated that the majority leader has listed these three nominees for action this morning.

In the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JUDGE GREGORY KENT FRIZZELL

Mr. COBURN. Mr. President, I come to the floor to follow up on the comments made by my senior Senator, Mr. INHOFE, from Oklahoma, on the qualifications of Judge Gregory Frizzell. He has enumerated many of those. This is a fine young man with impeccable character and integrity. He is a living example of a life of service, not just in what he does as a judge in Oklahoma, but what he does in his community in Oklahoma. It has been a real pleasure to get to know him, to also watch him as he went through the process of getting a unanimous vote out of the Judiciary Committee and having no significant questions raised about his judicial philosophy, integrity, character, background, or his qualifications. So it is with a great deal of pleasure that I look forward to his vote today.

I might comment for a moment that he was capable of being confirmed in the last Congress, and there was no reason, no good reason why he wasn't, other than the answer: We are not going to approve any more judges in this Congress. That is the reason I was told by the now majority leader that he would not be approved. There is no question as to his qualifications, but it should remind us again of the dangers of partisanship for party instead of partisanship for our country and for future generations.

I am very thankful to the Judiciary Committee chairman, PATRICK LEAHY from Vermont, for the speed and quickness with which he has brought this to the floor. I thank him for that, and I

look forward to working with him with the same speed on any other judges the President might bring up and that the committee would put out.

It is my hope we can get beyond partisanship on judiciary nominees and get to the business of filling the significant number of voids or vacancies that are out there today and that are limiting justice for people in this country. Justice delayed is justice denied. And a lack of available judges is denying justice to hundreds and thousands of Americans every day. So the chairman of the Judiciary Committee has my commitment as a member of the Judiciary Committee to help him in any way I can to move those.

It is a great honor that Greg Frizzell will sit as a Federal judge in the northern district of Oklahoma, and it is my hope we will see many like him fill the spots across this country.

With that, I yield the floor, Mr. President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. COBURN. I will withhold.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### EXECUTIVE SESSION

NOMINATION OF LAWRENCE JOSEPH O'NEILL TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA

NOMINATION OF VALERIE L. BAKER TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

NOMINATION OF GREGORY KENT FRIZZELL TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA

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

The legislative clerk read the nomination of Lawrence Joseph O'Neill, of California, to be a United States District Judge for the Eastern District of California;

Valerie L. Baker, of California, to be a United States District Judge for the Central District of California; and

Gregory Kent Frizzell, of Oklahoma, to be a United States District Judge for the Northern District of Oklahoma.

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes for debate on the nominations, equally divided between the Senator

from Vermont, Mr. LEAHY, and the Senator from Pennsylvania, Mr. SPECTER, or their designees.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Chair. I spoke briefly a few moments ago about these nominees. They all have excellent academic records and professional records, and they have been examined by the investigative authorities and have been reviewed by the Judiciary Committee. They have been passed out unanimously by the Judiciary Committee for confirmation. All have been evaluated "well qualified" by the American Bar Association, and I urge my colleagues to support all of these nominees.

That pretty well summarizes, Mr. President. So in the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The 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.

NOMINATION OF LAWRENCE JOSEPH O'NEILL

Mrs. FEINSTEIN. Mr. President, it is my pleasure to support Judge Lawrence O'Neill's nomination to the Eastern District of California.

His confirmation would help to alleviate a judicial emergency in the Eastern District of California.

The Fresno Division, to which Judge O'Neill is nominated, is suffering from a particularly acute overload of cases.

Judge Anthony Ishii and Senior Judge Oliver Wanger are currently the only judges on the Fresno Division of the Eastern District. Their average caseload is the highest in the Nation.

The people of Fresno and the Eastern District truly need the help that Judge O'Neill will provide.

Fortunately, Judge O'Neill is uniquely qualified to step in and offer immediate relief to the Eastern District because he has been a magistrate judge in the District since 1999.

In addition, for the last 17 years, Judge O'Neill has been a judge in California, spending 10 years as a superior court judge in Fresno before becoming a magistrate.

He is a homegrown Californian. He was born in Oakland, CA, and attended school in California. He received a bachelor's degree in criminology from the University of California, Berkeley, a master's degree in public education from Golden Gate University, and a law degree from Hastings College of Law.

Before attending law school, he was a police officer for the city of San Leandro. I believe this additional perspective will prove an asset on the bench.

I was pleased to learn that the American Bar Association unanimously declared Judge O'Neill to be "well qualified," the ABA's highest rating.