

Senator from that state. Again, it is a situation where there is a Democratic Senator and a Republican Senator. They have worked very closely together to try to bring the best.

I have no problem with different parties in an, obviously, political position choosing partisan positions. In the Federal judiciary, which is supposed to be outside of partisan politics, I wish more Senators and Presidents—the next President, whoever it is—would look at the model of the Senators now on the floor. I include the distinguished Senator from Virginia, the Presiding Officer, in this. Seek the best possible man or woman for these judgeships. Let those of us in legislative office take care of the partisan politics. We can do that. But let the American people, when they walk into a courtroom, say: Whether I am plaintiff or defendant or whether I am rich or poor, no matter who I am, this judge will give me a fair trial. Win or lose, I will walk out knowing I had a fair trial and it was based on the facts, not on politics.

I thank my two friends from Florida.

Mr. NELSON of Florida. Mr. President, I echo how much Senator MARTINEZ and I appreciate the exceptional cooperation the chairman extends to us. We have one more vacancy. I am not talking about the U.S. attorney, I am talking about one more judicial vacancy that, in the new Congress, we want to address immediately and see whether we can fill.

NOMINATION OF ERIC F. MELGREN

Mr. ROBERTS. Mr. President, I rise today to express my gratitude for the Senate's confirmation of Eric F. Melgren as Federal District Judge for the District of Kansas.

It is important that we deliver solid judges to our court system. With that said, I believe Eric Melgren is qualified for this important responsibility. Since 2002, he has been serving as U.S. attorney for the District of Kansas. Between 2002 and 2003, the District of Kansas had a fourteen percent increase in the number of criminal cases filed in U.S. District and State courts.

Eric's nomination will be of great benefit to the District of Kansas. Due to an increase in caseload, a temporary judgeship was created in the District of Kansas in 1990. Since the temporary judgeship was created, we have seen an increase in the caseload for the District of Kansas.

Currently, Kansas has five active Federal district judges. With Eric's confirmation, we will now have six active judges. However, one of these judgeships is temporary and set to expire on November 21 of this year. If the temporary judgeship would have expired before the Senate confirmed Eric and another judge took senior status this year, the District of Kansas would only have four active judges. Therefore, with the increase in caseload, it was vital that we confirmed Eric before the expiration of this temporary judgeship.

Again, thank you for confirming the nomination of Eric Melgren. He is a

man of integrity and sound judgement. Eric's passion for the law will be of great benefit to the State of Kansas and the rest of the Nation.

Mr. HATCH. Mr. President, I rise to express my pleasure at the confirmation today of Clark Waddoups to the U.S. district court in Utah and my thanks to all those, in particular the chairman of the Judiciary Committee, Senator LEAHY, who facilitated this result.

Clark Waddoups will be a truly outstanding judge.

He graduated from the University of Utah law school where he was president of the Utah Law Review and has been practicing law in Utah for nearly 35 years, a majority of it in Federal court.

More than that, he has participated in the life of the law in our State, serving on the board of visitors of the law school at Brigham Young University and for 17 years on the Advisory Committee to the Utah Supreme Court on the Rules of Evidence.

Not surprisingly, the Utah chapter of the Federal Bar Association has recognized Clark as Utah's outstanding lawyer and the American Bar Association unanimously gave him its highest well qualified rating to serve as a Federal judge.

Not only is Clark Waddoups an outstanding lawyer, but he is a good man.

He is active in his church and for many years served on and led the board of the Family Support Center of Utah.

Federal courts across America are very busy today, and no more so than in Utah.

Utah has just five U.S. district court seats and our population has increased by more than 50 percent since the last one was created in 1990.

Because this vacancy occurred when Judge Paul Cassell resigned to go back to teaching, there was no senior judge available to help out.

So the service of such an outstanding judge will be welcome indeed.

My colleague and friend from Utah, Senator BENNETT, and I worked together to recommend the very best candidate to replace Judge Cassell.

Clark Waddoups stood out from the many qualified and experienced lawyers we considered.

He is known and respected through the legal community and will be a fair and wise jurist who will live up to the highest standards of the American legal system.

As everyone knows, the confirmation process, especially for judicial nominees, has its share, perhaps more than its share, of tension and controversy.

As a former chairman of the Judiciary Committee, I know there are many competing demands and expectations.

But Chairman LEAHY nonetheless scheduled not one but two hearings this month to consider a total of 10 additional nominees to the U.S. district court.

And he made sure that they got on the Judiciary Committee agenda, re-

ported to the floor yesterday, and confirmed today.

So I am deeply grateful to President Bush for nominating Clark Waddoups and to Chairman LEAHY for facilitating his progress through the confirmation process.

Utah and America will be better off with Judge Clark Waddoups on the bench.

Mr. LEAHY. Mr. President, as this Congress winds down, we need to focus on confronting the worst financial crisis we have experienced since the Great Depression, one that has exposed the American taxpayers to trillions in losses. But just as I continued to hold hearings on nominations on September 13, 2001, in the wake of the attacks of 9/11, I have continued deep into this Presidential election year to hold hearings and take action on both executive and judicial nominees. Indeed, yesterday the Judiciary Committee reported out 13 nominations, including 10 nominations for lifetime appointments to the Federal bench, and the nomination of Greg Garre to be Solicitor General of the United States, one of the highest and most prestigious positions at the Department of Justice.

I went the extra mile to hold two expedited hearings this month on judicial nominations—despite the Thurmond Rule that Republicans created and followed with Democratic Presidents, despite the practices they followed in 1996 and 2000, and despite the record of Republicans in filibustering and raising objections to important bills with broad bipartisan support.

I held a hearing just 3 days ago as an accommodation to Senator SPECTER, the ranking republican member of our committee and a former chairman. I have accommodated Senator HATCH, another former chairman. I also accommodated the Senator from Kansas and included the nominee from Kansas at a hearing Tuesday afternoon, even though his nomination has raised concerns. We also have proceeded with hearings on another nominee from Virginia, a nominee from California, and the two nominees from Colorado. I continue my practice of working with Senators on both sides of the aisle.

Today I have continued to do so, and the Senate has confirmed all 10 of these Bush judicial nominations: Clark Waddoups of Utah, Michael Anello of California, Mary Stenson Scriven of Florida, Christine Arguello and Phillip A. Brimmer of Colorado, C. Darnell Jones II, Mitchell S. Goldberg, and Joel H. Slomsky of Pennsylvania, Anthony J. Trenga of Virginia, and Eric Melgren of Kansas.

I have said throughout my chairmanship that I would treat President Bush's nominees better than Republicans treated President Clinton's, and I have done so. In the 17 months I served as chairman of this committee during President Bush's first term with a Democratic majority, the Senate confirmed 100 of the President's judicial nominations. In the 38 months I

have served as Judiciary Committee chairman, the Senate has now confirmed 10 more nominees than it did during the more than 4 years Republicans led the committee, 168 nominees compared to 158.

Even before the August recess, we had confirmed more judicial nominations in this Congress than were confirmed during the previous 2 years when a Republican Senate majority and Republican chairman of this committee did not have to worry about the Thurmond Rule and an abbreviated session due to a Presidential election. With the confirmations today we have confirmed 68 this Congress, 14 more than in the last Congress with a Republican majority.

My approach has been consistent throughout my chairmanships during the Bush presidency. I submit that the results have been positive. Last year, the Judiciary Committee favorably reported 40 judicial nominations to the Senate, and all 40 were confirmed. That was more than had been confirmed in any of the 3 preceding years when a Republican chairman and Republican Senate majority managed the process. Even though this is a Presidential election year, we confirmed more of President Bush's nominees this year—28—than the Republican-led Senate confirmed in 2005 and virtually the same number as in 2006, both non-Presidential election years.

Indeed, the contrast between our productivity on judicial nominations by confirming 10 judicial nominees late in this Congress and the flurry of activity undone by Republican obstructionism at the end of the last Congress is significant. Although we wasted many months during the 109th Congress debating a handful of President Bush's most extreme failed nominees, the Democratic Senators on the Judiciary Committee worked especially hard as time ran down in that Congress to be accommodating on judicial nominations. We agreed to the request of Senator SPECTER, then the committee chairman, to hold four hearings in September 2006 on nominations and numerous extra business meetings. But our work to be accommodating and move nominations forward was to no avail when holds by Senator BROWNBACK and other Republicans stopped the Senate from confirming 14 judicial nominees. Included in these were three nominees to fill judicial emergency vacancies in the Western District of Michigan, a situation not resolved until this Congress, when the Michigan Senators and the White House worked together with us to fill those vacancies.

Despite our efforts to step away from the tit for tat of the nomination battles of the past and the work we have done to dramatically lower judicial vacancies by approving the nominees of a President from the other party, our efforts have yet to be acknowledged. After today, we will have cut the judicial vacancies from I encountered in

the summer of 2001 after years of pocket filibusters of moderate and qualified nominees of President Clinton by Republican Senate leadership, to about a third, from 110 to as low as 34 today. In the 6 years of Senate Republican majority control during the Clinton administration, the pocket filibusters and obstruction of moderate, qualified nominees more than doubled circuit court vacancies. By contrast, we have cut circuit court vacancies by two-thirds, from 32 to a low of 9 this summer.

We have broken through long-standing logjams in the Fourth, Fifth, and Sixth Circuits and lowered vacancies in virtually every circuit from when President Bush took office. With the recent confirmations of Helene White and Ray Kethledge to seats on the Sixth Circuit, that circuit, which had four vacancies after the Republican pocket filibusters, now has none. The Fifth Circuits had a circuit-wide emergency due to the multiple simultaneous vacancies during the Clinton years, when Republicans controlled the Senate. The Fifth Circuit now has no vacancies. We have succeeded in lowering vacancies in the Fourth Circuit, the Fifth Circuit, the Sixth Circuit, the Eighth Circuit, the Ninth Circuit, the Tenth Circuit, the Eleventh Circuit, the DC Circuit, and the Federal Circuit.

Judicial vacancies that rose steadily and dramatically under Republican Senate control with a Democratic President have fallen dramatically with a Republican President when a Democratic Senate majority was in charge. I recall that as the Presidential elections in 2000 drew closer, Republican pocket filibusters resulted in the judicial vacancy rate rising to 10 percent. Democrats have reversed that course. We have now lowered that number to 34, less than a third of where they stood after Republican pocket filibusters and obstruction. The vacancy rate is below 4 percent vacancy now. As unemployment for ordinary Americans has now risen about 6 percent nationwide and much higher in some States and communities, we have cut the judicial vacancy rate dramatically.

I suspect many of these facts have been lost among the Republican election-year gambits and grumblings about judicial nominations that always seem loudest when we are moving forward on nominations. Partisan Republican critics ignore the progress we have made on judicial vacancies. They also ignore the crisis that they had created by not considering circuit nominees in 1996, 1997, and 1998. They ignore the fact that they refused to confirm a single circuit nominee during the entire 1996 session. They ignore the fact that they returned 17 circuit court nominees without action to the White House in 2000. They ignore the public criticism of their actions by Chief Justice Rehnquist during those years. They ignore the fact that they were responsible for more than doubling cir-

cuit court vacancies through pocket filibusters of moderate and qualified Clinton nominees or that we have reduced those circuit court vacancies by more than two thirds.

In the 1996 session, the Republican majority confirmed only 17 of President Clinton's judicial nominees, and none were circuit court nominations. In stark contrast, under Democratic leader in this election year, the Senate has confirmed 28 judicial nominees, 4 of them to prestigious circuit courts.

I have yet to hear explanations for why they did not proceed with the nominations of Barry Goode, Helene White, Alston Johnson, James Duffy, Elena Kagan, James Wynn, Kathleen McCree Lewis, Enrique Moreno, Allen Snyder, Kent Markus, Robert Cindrich, Bonnie Campbell, Stephen Orlofsky, Roger Gregory, Christine Arguello, Andre Davis, Elizabeth Gibson, and so many others.

One of those many nominees blocked by the Republican abuses of those years was finally confirmed today. I was happy to accommodate Senator SALAZAR's request that we add two Colorado nominees to the first of our September hearings, after he and Senator ALLARD reached an agreement. That agreement led Senator ALLARD finally to return the blue slip for Ms. Arguello. Of course, Ms. Arguello was nominated by President Clinton to the Tenth Circuit, but a Republican pocket filibuster in 2000 stalled her nomination. Ms. Arguello, like Judge Helene White, who was confirmed to the Sixth Circuit earlier this year, has now been nominated by Presidents of both parties. I thank the committee for completing the work on her nomination we should have completed a decade ago, and I am pleased that she was confirmed today.

I am also pleased that today we confirmed the nomination of Darnell Jones, who has been a highly regarded judge on the Philadelphia Court of Common Pleas for more than 20 years, serving as the President Judge of that court for the last two. Judge Jones will now become just the 88th African-American Federal judge or justice, out of 875 seats, and the 72nd African-American district court judge.

There is still much work to be done. In his two terms, President Bush has nominated only 25 African-American judges to the Federal bench, compared to 77 African-American judges nominated by President Clinton in his two terms, more than three times as many. President Bush's failure to nominate an African-American judge from Mississippi even though that State has the highest percentage of African-American residents of any State is disappointing and inexplicable. I have urged, and will continue to urge, this President and the next one to nominate men and women to the Federal bench who reflect the diversity of America. Racial diversity remains a pillar of strength for our country and one of our greatest natural resources. Diversity on the bench helps ensure

that the words “equal justice under law,” inscribed in Vermont marble over the entrance to the Supreme Court, is a reality and that justice is rendered fairly and impartially.

Another aspect of the problem created by Republicans that we have worked hard to improve is a dramatic reduction in the number of judicial emergency vacancies. Nearly half of the judicial nominees the Senate has confirmed while I have chaired the Judiciary Committee have filled vacancies classified by the Administrative Office of the Courts as judicial emergency vacancies. Eighteen of the 27 circuit court nominees confirmed while I have chaired the committee filled judicial emergency vacancies, including 9 of the 10 circuit court nominees confirmed this Congress. When President Bush took office, there were 28 judicial emergency vacancies. Now that number is 13, fewer than half.

Of course, we have made this progress even while devoting extensive time and attention to rebuilding the Justice Department in the wake of the scandals of the Gonzales era and the Bush-Cheney administration.

At the beginning of this Congress, the Judiciary Committee began its oversight efforts. Over the next 9 months, our efforts revealed a Department of Justice gone awry. The leadership crisis came more and more into view as I led a bipartisan group of concerned Senators to consider the U.S. attorney firing scandal, a confrontation over the legality of the administration’s warrantless wiretapping program, the untoward political influence of the White House at the Department of Justice, and the secret legal memos excusing all manner of excess and subverting the rule of law.

What our efforts exposed was a crisis of leadership that took a heavy toll on the tradition of independence that has long guided the Justice Department and provided it with safe harbor from political interference. It shook the confidence of the American people. Through bipartisan efforts among those from both sides of the aisle who care about Federal law enforcement and the Department of Justice, we joined together to press for accountability. That resulted in a change in leadership at the Department, with the resignations of the Attorney General and virtually all of its highest ranking officials, along with several high ranking White House officials.

Earlier this month the Judiciary Committee held its ninth hearing to re-stock and restore the leadership of the Department of Justice in the last year alone, including confirmation hearings for the new Attorney General, the new Deputy Attorney General, the new Associate Attorney General, and so many others. We have already confirmed 35 executive nominations so far this Congress and are poised to add to this total, having reported out of committee this month another six high-level executive nominations, including

the nomination of Greg Garre to be Solicitor General of the United States, one of the highest and most prestigious positions at the Department of Justice, and of J. Patrick Rowan to be the Assistant Attorney General in charge of the National Security Division.

The reduction in judicial vacancies is one of the few areas in which conditions have actually improved over the last couple of years. I wish we could say the same about unemployment or the price of gas or food, or the condition of our financial markets and housing markets. The economy has experienced job losses every month this year, and they now total more than 650,000. Compare the progress we have made on filling judicial vacancies with what has happened to cost of gasoline, food prices, health care costs, inflation, the credit crisis, home mortgages, and the national debt. All those indicators have been moving in the wrong direction, as is consumer confidence and the percentage of Americans who see the country as on the wrong track.

The American people are also best served by a Federal judiciary they can trust to apply the law fairly regardless of who walks into the courtroom. The judiciary is the one arm of our Government that should never be political or politicized, regardless of who sits in the White House. I have continued to work in the waning days of this Congress with Senators from both sides of the aisle to confirm an extraordinary number of nominees late in the election year. I will continue to work with the next President to ensure that the Federal judiciary remains independent and able to provide justice to all Americans, without fear or favor.

LEGISLATIVE SESSION

MENTALLY ILL OFFENDER TREATMENT AND CRIME REDUCTION REAUTHORIZATION AND IMPROVEMENT ACT OF 2008

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 622, S. 2304.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 2304) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants for the improved mental health treatment and services provided to offenders with mental illness, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Reauthorization of the Adult and Juvenile Collaboration Program Grants.

Sec. 4. Law enforcement response to mentally ill offenders improvement grants.

Sec. 5. Improving the mental health courts grant program.

Sec. 6. Examination and report on prevalence of mentally ill offenders.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Communities nationwide are struggling to respond to the high numbers of people with mental illnesses involved at all points in the criminal justice system.

(2) A 1999 study by the Department of Justice estimated that 16 percent of people incarcerated in prisons and jails in the United States, which is more than 300,000 people, suffer from mental illnesses.

(3) Los Angeles County Jail and New York’s Rikers Island jail complex hold more people with mental illnesses than the largest psychiatric in-patient facilities in the United States.

(4) State prisoners with a mental health problem are twice as likely as those without a mental health problem to have been homeless in the year before their arrest.

SEC. 3. REAUTHORIZATION OF THE ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS.

(a) **AUTHORIZATION OF APPROPRIATIONS THROUGH 2014.**—Section 2991(h) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793aa(h)) is amended—

(1) in paragraph (1), by striking at the end “and”;

(2) in paragraph (2), by striking “for fiscal years 2006 through 2009.” and inserting “for each of the fiscal years 2006 and 2007; and”; and

(3) by adding at the end the following new paragraph:

“(3) \$75,000,000 for each of the fiscal years 2009 through 2014.”

(b) **ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.**—Section 2991(h) of such title is further amended—

(1) by redesignating paragraphs (1), (2), and (3) (as added by subsection (a)(3)) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins accordingly;

(2) by striking “There are authorized” and inserting “(I) IN GENERAL.—There are authorized”; and

(3) by adding at the end the following new paragraph:

“(2) **ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.**—For fiscal year 2009 and each subsequent fiscal year, of the amounts authorized under paragraph (1) for such fiscal year, the Attorney General may obligate not more than 3 percent for the administrative expenses of the Attorney General in carrying out this section for such fiscal year.”.

(c) **ADDITIONAL APPLICATIONS RECEIVING PRIORITY.**—Subsection (c) of such section is amended to read as follows:

“(c) **PRIORITY.**—The Attorney General, in awarding funds under this section, shall give priority to applications that—

“(1) promote effective strategies by law enforcement to identify and to reduce risk of harm to mentally ill offenders and public safety;

“(2) promote effective strategies for identification and treatment of female mentally ill offenders; or

“(3)(A) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

“(B) demonstrate the active participation of each co-applicant in the administration of the collaboration program;

“(C) document, in the case of an application for a grant to be used in whole or in part to