

Chernobyl involved 60 immediate deaths and radiation exposures that, according to the World Health Organization, may eventually result in 4,000 cancers. But Chernobyl was a completely different kind of accident and the result of different technology.

More than that, the Soviets had not built a containment structure at Chernobyl. The containment structures at these Japanese reactors—40 to 80 inches thick concrete and steel—appear, as we speak this afternoon, to have withstood an 8.9 magnitude earthquake, tsunami, power failure, and explosion.

There are gas and oil fires raging in Japan. Water and sewer systems are damaged. The possibility of disease and starvation is imminent. There are a great many things to worry about in addition to the problems with the Japanese reactors. There are tens of thousands of people still unaccounted for. Right now, the effort needs to be helping those who need help, containing further damage and risk, and getting Japan back up and running again. Then we can take the lessons learned from this earthquake and tsunami and apply them to make our nuclear plants as safe as possible and help the world do the same.

America's 104 nuclear reactors provide, as I mentioned earlier, 20 percent of our electricity, 70 percent of our clean electricity. Japan has 54 reactors and gets 30 percent of its electricity from nuclear. France gets 80 percent of its electricity from nuclear power. The United States invented nuclear power, but the Nuclear Regulatory Commission has not issued a construction license for a new reactor in more than 30 years. There are 65 reactors under construction around the world. However, only one of those 65 is in the United States, and that is the construction of a previously halted project by the Tennessee Valley Authority.

The Japanese and the French have surged into the lead in terms of nuclear power and are now being challenged by Korea and Russia on the international market. China, with 27 nuclear reactors currently under construction, will soon join them all.

Nuclear power today provides about 15 percent of the world's electricity. While there are always risks with every form of energy, it is important that we be clear about the risks each type of energy poses. But it is also important to remember that we do not abandon highway systems because bridges and overpasses collapse during earthquakes. The 1.6 million of us who fly daily would not stop flying after a tragic airplane crash. We cannot stop drilling after a tragic oilspill unless we want to rely more on foreign oil, run up our prices, turn our oil drilling over to a few big oil companies and all our oil hauling over to more leaky tankers. Mr. President, 34,000 people die in motor vehicle accidents every year, but we do not stop driving because we have to get our children to school and our-

selves to work. In all of these cases, when there are accidents, we do our best to examine the tragedies and make our continued operation and our lives as safe as possible. That is what we need to do here.

Our reactors in the United States are built to the highest standards in the world. The Chairman of the Nuclear Regulatory Commission said in a press briefing today:

Right now we believe that the nuclear powerplants in this country operate safely and securely.

The Chairman said:

Nuclear powerplants in the United States are designed to very high standards for earthquake effects. All our plants are designed to withstand significant natural phenomena, like earthquakes, tornadoes, tsunamis. We will take whatever steps are necessary to ensure the safety and security of nuclear powerplants in the country. But right now, we believe we have a very strong program in place.

"As we get more information from Japan," said the Chairman of the U.S. Nuclear Regulatory Commission, "as this immediate crisis ultimately comes to an end, we will look at whatever information we can gain from this event and see if there are any changes we need to make in our system."

The Deputy Secretary of Energy said:

Nuclear power has been a critical component of the United States energy portfolio.

The White House press secretary, on behalf of President Obama, said:

Nuclear power remains a part of the President's overall energy plan.

Despite the fact that there has never been a death as a result of the operation of a commercial American reactor or in our nuclear Navy, which has been using reactors in its ships and submarines since the 1950s, our goal should be to continue every effort to try to make certain the operation of our existing and new nuclear powerplants are as safe as possible.

For example, some have suggested that so-called passive cooling systems that operate on natural convection could prevent the problems that arose in Japan when the backup power to pump water was lost.

Nuclear power is a demanding but manageable technology. As we move forward, let us learn the proper lessons from this Japanese experience to make sure that in the United States and in the world, we are even better prepared for the unexpected events of the future.

I thank the Chair, I yield the floor, and 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. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JAMES EMANUEL BOASBERG TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of James Emanuel Boasberg, of the District of Columbia, to be United States District Judge.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate, equally divided and controlled between the two leaders and their designees.

The Senator from Vermont.

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

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

Mr. LEAHY. Mr. President, today the Senate will finally consider a judicial nomination I have been talking about since last year. Judge Boasberg is one of four nominees to the vacancies that have plagued the district court for the District of Columbia, this Nation's Capital for some time. This is another of the nominations that could—and in my view should—have been considered and confirmed last year. Instead, it was unnecessarily returned to the President without final Senate action despite the nominee's qualifications and the needs of the American people to have judges available to hear cases in the Federal courts. The President has had to renominate Judge Boasberg, the Senate Judiciary Committee has had to reconsider him and now, finally, the Senate is being allowed to consider him.

I suspect the Senate will now confirm him unanimously or nearly so. Judge Boasberg has outstanding credentials. He was appointed to be a judge in DC by President George W. Bush in 2002. He has a wealth of experience, having presided over approximately 500 cases. He is a former assistant U.S. attorney, and received the highest peer review rating of well qualified from the Standing Committee on the Federal Judiciary of the American Bar Association.

Yet as we proceed with this nomination, Senate Republicans have objected to proceeding to the nomination of Amy Jackson. Both Judge Boasberg and Ms. Jackson were reported without opposition by the Judiciary Committee last year and, again, earlier this year. I have spoken about the vacancies in the District of Columbia on numerous occasions, including as recently as last week. I noted the criticism from Chief

Judge Lamberth of the U.S. District Court for the District of Columbia. Chief Judge Lamberth wrote to Senate leaders last November urging action by the Senate to fill the vacancies that exist on the district court for the District of Columbia. We could and should have acted on both these nominations last year in response to that request. They were reported unanimously by the Judiciary Committee last year. These two judicial nominees to fill longstanding vacancies have been waiting too long for final consideration by the Senate.

While I am glad we are ending the wait for Judge Boasberg, the refusal to proceed on the Jackson nomination is just another example of the needless delays on considering outstanding nominees. Ms. Jackson is a former assistant U.S. attorney with outstanding credentials and experience. She, too, received the Standing Committee on the Federal Judiciary of the American Bar Association's highest peer review rating of well qualified. Representative NORTON has called her one of the top practitioners in one of the District's top law firms, and has strongly endorsed her nomination.

In addition to Judge Boasberg, there are still 10 judicial nominees left waiting for Senate consideration having been reviewed by the Judiciary Committee: nominees to fill two judicial emergency vacancies in New York, a judicial emergency vacancy on the Second Circuit, a judicial emergency vacancy in California and vacancies on the Federal and DC Circuit, a vacancy in Oregon, and two vacancies in Virginia. They should be debated and confirmed without delay as well. I urge the Senate leadership to proceed to debate and vote on them before the upcoming recess. We should be working to clear the calendar before the recess and not unnecessarily extend these vacancies. That is what a return to regular order entails.

The Judiciary Committee is holding hearings every 2 weeks and we hope finally to begin to bend the curve and start to lower judicial vacancies across the country. We can do that if the Senate continues to consider judicial nominations in regular order as they are reported by the Judiciary Committee.

Federal judicial vacancies around the country still number too many, and they have persisted for too long. That is why Chief Justice Roberts, Attorney General Holder, White House Counsel Bob Bauer and many others—including the President of the United States—have spoken out and urged the Senate to act.

Nearly one out of every nine Federal judgeships remains vacant. This puts at serious risk the ability of all Americans to have a fair hearing in court. The real price being paid for these unnecessary delays is that the judges that remain are overburdened and the American people who depend on them are being denied hearings and justice in

a timely fashion. When Chief Judge Lamberth wrote to Senator REID and Senator MCCONNELL last November, he noted that Senate action to fill the vacancies in DC was needed so that “the citizens of the District of Columbia and the Federal Government and other litigants” who rely on the Court could receive “the high quality of justice they deserve.” The Chief Judge wrote about the “severe impact” these judicial vacancies were having and observed that the “challenging caseload” of the court “includes many involving national security issues, as well as other issues of national significance.”

I ask unanimous consent that a copy of the Chief Judge's letter be printed in the record at the end of my statement.

I also ask unanimous consent to have printed in the RECORD at the end of my statement recent articles from the Palm Beach Post and the Associated Press about the delays in judicial confirmation and some additional examples of difficulties being caused. The Florida paper reports on the crisis in south Florida and the watch list for Federal courts with high caseloads and high vacancies. The Associated Press report is on the situation in Rhode Island where dozens of cases have had to be reassigned to judges in New Hampshire and Massachusetts because the Senate continues to delay consideration of the nomination of Jack McConnell.

The PRESIDING OFFICER. Without objection it is so ordered.

(see exhibits 1 and 2.)

Mr. LEAHY. Regrettably, the progress we made during the first 2 years of the Bush administration has not been duplicated, and the progress we made over the 8 years from 2001 to 2009 to reduce judicial vacancies from 110 to a low of 34 was reversed. The vacancy rate we reduced from 10 percent at the end of President Clinton's term to less than 4 percent in 2008 has now risen back to over 10 percent. In contrast to the sharp reduction in vacancies we made during President Bush's first 2 years when the Democratically controlled Senate confirmed 100 of his judicial nominations, only 60 of President Obama's judicial nominations were allowed to be considered and confirmed during his first 2 years. We have not kept up with the rate of attrition, let alone brought the vacancies down. By now they should have been cut in half. Instead, they continue to hover around 100. After tonight's confirmation, they will still number 96.

The Senate must do better. The Nation cannot afford further delays by the Senate in taking action on the nominations pending before it. Judicial vacancies on courts throughout the country hinder the Federal judiciary's ability to fulfill its constitutional role. They create a backlog of cases that prevents people from having their day in court. This is unacceptable.

We can consider and confirm this President's nominations to the Federal bench in a timely manner. President

Obama has worked with Democratic and Republican home State Senators to identify superbly qualified, consensus nominations. The nominations on the Executive Calendar should not be controversial. They all have the support of their home State Senators, Republicans and Democrats. All have a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution.

During President Bush's first term, his first 4 tumultuous years in office, we proceeded to confirm 205 of his judicial nominations. We confirmed 100 of those during the 17 months I was chairman during President Bush's first 2 years in office. So far in President Obama's third year in office, the Senate has only been allowed to consider 72 of his Federal circuit and district court nominees. We remain well short of the benchmark we set during the Bush administration. When we approach it we can reduce vacancies from the historically high levels at which they have remained throughout these first 3 years of the Obama administration to the historically low level we reached toward the end of the Bush administration.

I have thanked the ranking Republican on the Judiciary Committee, Senator GRASSLEY, for his cooperation this year. I was pleased to see him taking credit for what he called “our rapid pace.” I was encouraged by his commitment to “continue to move consensus nominees through the confirmation process.” That should be good news to Ms. Jackson and the other judicial nominees now available and ready to be confirmed without further delay.

My friend from Iowa is fond of pointing to the vacancies for which there are not nominees. Of course, some of that is attributable to a lack of cooperation by certain home State Senators with the White House. Nonetheless, I agree with the Senator from Iowa that we can do little about confirming nominations we do not have. What we can do is proceed expeditiously with the qualified nominations the President has sent to the Senate.

In that regard, I would temper my friend's extolling our achievements this year by observing that every judge confirmed so far this year could and should have been confirmed last year. Every one of them was unanimously reported last year and would have been confirmed had Republicans not objected and created a new rule of obstruction after midterm elections. We have long had the “Thurmond rule” to describe how Senator Thurmond shut down the confirmation process in advance of the 1980 Presidential election. Last year's shutdown was something new. I cannot remember a time when so many consensus nominees were left without Senate action at the midterm point of a Presidency. That new level of obstruction has contributed to our being so far behind and judicial vacancies having been perpetuated at so high a level for too long.

EXHIBIT 1

U.S. DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA,
Washington, DC, November 4, 2010.

Re Judicial Vacancies—United States District Court for the District of Columbia

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID AND SENATOR MCCONNELL: On behalf of the judges of the United States District Court for the District of Columbia, I request that the Senate act soon to fill the vacancies that exist at our Court.

Of our 15 authorized judgeships, we currently have four vacancies. One has been vacant since January 2007. With the additional vacancy that will result from Judge Ricardo M. Urbina's assumption of senior status, effective January 31, 2011, this Court faces the prospect of having only 10 of its 15 authorized judgeships filled. The severe impact of this situation already is being felt and will only increase over time. The challenging caseload that our Court regularly handles includes many involving national security issues, as well as other issues of national significance. A large number of these complex, high-profile cases demand significant time and attention from each of our judges.

Without a complement of new judges, it is difficult to foresee how our remaining active judges will be able to keep up with the heavy volume of cases that faces us. A 33 percent vacancy ratio is quite extraordinary.

Two nominees (Beryl Howell and Robert Wilkins) have been reported out of the Senate Judiciary Committee and await floor votes; two nominees (James Boasberg and Amy Jackson) have had their hearings and hopefully will soon be reported out of Committee.

We hope the Senate will act quickly to fill this Court's vacancies so the citizens of the District of Columbia and the Federal Government and other litigants who appear before us continue to enjoy the high quality of justice they deserve.

Sincerely,

ROYCE C. LAMBERTH,
Chief Judge.

EXHIBIT 2

[From the Palm Beach Post, Mar. 6, 2011]

FEDERAL JUDGE VACANCIES: CONFIRMATION
LAG KEEPING BENCHES COOL IN SOUTH
FLORIDA

(By Jane Musgrave)

U.S. District Judge Daniel T.K. Hurley has been waiting 741 days—about two years—for his replacement to be named.

Although the genial 67-year-old former Palm Beach County circuit judge planned to remain on the bench in a limited capacity, he said the delay is worrisome.

"One of the great concerns for the court as an institution is that over time we'll have other vacancies, and if the vacancies aren't filled in a timely manner," legal logjams eventually will prevent people from getting their day in court, he said.

With two of his colleagues—U.S. District Judges Alan Gold in January and Paul Huck in July—joining him on what is known as senior status, his concern is more than academic.

The glacial speed of the U.S. Senate's judicial confirmation process, blamed on partisan politics, has hobbled courts throughout the country.

In January, a judicial emergency was declared in Arizona. To help judges deal with burgeoning immigration and border security

cases, the declaration lets them waive 70-day speedy-trial requirements and not bring criminal defendants to trial for as long as six months.

Although spurred by the shooting rampage that left Chief Judge John Roll dead and U.S. Rep. Gabrielle Giffords wounded, the situation in Arizona was dire even before Roll's death.

South Florida is in danger of a similar crisis. Like 26 district and appellate courts throughout the country, it is on a federal watch list because of the high caseloads and disappearing judges.

Today, a person filing a civil lawsuit in federal court can expect to wait two years to get to trial, according to the Administrative Office of the U.S. Courts. Such delays have widespread and unintended ripple effects, said Ian Millhiser, a policy analyst for the left-leaning Center for American Progress.

"It has serious consequences for business," he said. "Imagine you're a corporation with a multimillion-dollar lawsuit hanging over your head. Even if you think you can win it, you're not going to be hiring until it is resolved, and it could take years."

The number of seats that have remained vacant since President Obama took office two years ago is unprecedented, he said. Obama's predecessors enjoyed confirmation rates as high as 93 percent, but less than 60 percent of his nominees have been confirmed. George W. Bush had a 76 percent confirmation rate during his first two years in office.

Though the Senate confirmed six federal judges last month, 98 seats are vacant, says the Office of U.S. Courts. More vacancies are expected.

"Federal judges are now retiring faster than they are being replaced," Millhiser said.

Further, he said, 81 of the vacancies are district judgeships, appointments that have historically never generated controversy. Unlike appellate judges, who often establish law, the work of the lower-court judges—drug and immigration violations, job discrimination and defective-product lawsuits—is generally routine.

"It's not ideological," he said. "There's no Democratic or Republican way to set a summary judgment hearing."

Rachel Brand, who oversaw judicial appointments as an associate counsel to Bush, pointed out that Bush made judicial appointments a priority. Although Obama initially made a flurry of nominations, it slowed, she said in a panel discussion in November sponsored by the American Constitution Society for Law and Policy. Of the 98 vacancies, only 46 nominations are pending.

Other priorities, such as getting two U.S. Supreme Court justices confirmed, seemed to distract Obama's administration, she said.

Further, she said the delays can't be blamed solely on Senate Republicans. "You'd think (59) senators could do something," she said of the Democratic majority that existed until the party lost six seats in the November elections.

The problem, Millhiser said, is that Senate rules empower "the extreme fringes." Though Senate Majority Leader Harry Reid, D-Nev., and Minority Leader Mitch McConnell, R-Ky., recently cut a deal to speed nominees through floor votes, that agreement means nothing if more ideological wills prevail.

"The Senate rules allow a single senator to allow 30 hours of debate," he said. "The extreme fringe can prevent a significant amount of progress. It creates a minority-rule situation."

Senate Judiciary Committee approval of Kathleen Williams, the lawyer tapped to replace Hurley, has been delayed despite the

bipartisan support she received from Florida Sens. Marco Rubio, a Republican, and Bill Nelson, a Democrat. Obama submitted her name to the committee in July.

Local attorneys said they are flummoxed by the delay in confirming Williams, the federal public defender for Florida's Southern District since 1995.

Other candidates have enjoyed bipartisan support. Of the 38 candidates who cleared the Judiciary Committee last year, 29 were endorsed unanimously but never presented for confirmation to the full Senate, Millhiser said.

Among local attorneys, the conclusion seems obvious: "it's just partisan politics," Val Rodriguez said.

Miami attorney Neal Sonnett, a former president of the American Judicature Society, which focuses on promoting an independent judiciary, agreed. Last year Republican senators blocked the confirmation process, hoping they would seize control of the Senate in the November elections, he said. Now it appears some are intent on stalling nominations until after the 2012 elections, when they hope to put one of their own back in the White House, he said.

So far, attorneys said they haven't seen lengthy delays in getting cases heard and resolved in South Florida. Chief U.S. District Judge Federico Moreno said the district is lucky because seven senior judges still handle some cases. Further, Hurley said, case filings have slowed, in part, because of the economy.

While he credits the 15 full-time judges with moving cases quickly, attorney Ted Babbitt says eventually something has to give.

"The average person is going to get hurt because they're going to have to wait to have their cases heard," he said.

[From the Associated Press, Mar. 7, 2011]

RI JUDGE HOLDUP SENDS 2 DOZEN CASES TO
NH, MA

(By Ian MacDougall)

PROVIDENCE, RI.—Rhode Island's top federal judge says a four-year judicial vacancy left open amid partisan bickering in the U.S. Senate has prompted her court to take the unusual step of reassigning more than two dozen civil cases to judges in New Hampshire and Massachusetts.

In an interview, Chief Judge Mary M. Lisi told The Associated Press the vacancy has left her and Rhode Island's other federal judge, William E. Smith, with a growing caseload that has begun to reach a critical mass.

The vacancy "has had a major impact on the business of the court," Lisi said. "We have an increasing caseload being handled by only two people where three judges are authorized."

Lisi said her primary reason for moving the cases was that she worried a lag in rendering decisions at key points in the litigation would leave plaintiffs and defendants in the lurch. She said she chose to reassign cases with important motions pending.

"Our job is to resolve cases and to do so in as timely and efficient a manner as we can. And when our ability to do so is hampered, I don't think that's good for any participants in the process," she said.

A third judge, Ronald R. Lagueux, who is a senior judge, has volunteered to help to ease the burden on Lisi and Smith.

The case reassignment is one example of a real effect and a real cost, to travelling litigants, lawyers and judges of the often-snarled judicial appointment process whose unknotted U.S. Supreme Court Chief Justice John Roberts called for in December.

"Each political party has found it easy to turn on a dime from decrying to defending

the blocking of judicial nominations, depending on their changing political fortunes.” Roberts wrote in his 2010 report on the federal judiciary. “There remains . . . an urgent need for the political branches to find a long-term solution to this recurring problem.”

Twenty-five of the Rhode Island civil lawsuits were reassigned to New Hampshire and two to Massachusetts in late January, about two weeks after President Barack Obama nominated Jack McConnell, a Rhode Island trial attorney, to the state’s vacant judgeship for the third time. The nomination has faced resistance from some Senate Republicans and staunch opposition from the U.S. Chamber of Commerce. The chamber claims McConnell’s track record, which includes suing former lead paint companies, evinces a bias against business defendants.

McConnell declined to comment on his nomination.

In November 2007 almost a year after the vacancy opened then-President George W. Bush nominated Lincoln Almond, a federal magistrate judge in Rhode Island. His candidacy fizzled after a lukewarm reception from U.S. Sens., Jack Reed and Sheldon Whitehouse.

Normally, cases are assigned to judges elsewhere, who follow the rules of the originating court, only when all judges in a given district recuse themselves. Lisi says the current situation is unique in recent state history.

Other districts facing stalled appointments have not yet taken similar steps.

However, Peter Oppeneer, court clerk for the Western District of Wisconsin, said that court might need to look to other districts for help if a vacancy there takes a long time to fill. Some Senate Republicans have opposed Obama’s nominee to that judgeship, Louis Butler.

The Rhode Island reassignment has generated some confusion and consternation among state lawyers.

George Babcock, who’s suing on behalf of more than a dozen clients in a foreclosures case transferred to New Hampshire, says the move is upsetting to some of his clients and potentially expensive. He says the court has told him the case, if it goes to trial, will be heard in Concord, N.H.

“I want to work on my cases in my office, not in a Motel 6,” Babcock said. “And with all these clients, I’m going to have to rent a whole wing at the Motel 6.”

Other lawyers with reassigned cases say New Hampshire judges have offered to travel to Providence. It is ultimately up to each individual judge to decide where the case should be heard, according to David DiMarzio, clerk for federal court in Rhode Island.

There are just over 2,500 civil cases and 205 criminal cases pending in Rhode Island, according to court figures. Of the civil cases, over 1,600 are part of multi-district litigation that Lisi says the court accepted before realizing it would be faced with an extended vacancy.

For now, Lisi says, she does not plan to transfer more cases to other districts.

Mr. LEAHY. Mr. President, I am about to suggest the absence of a quorum, but I ask unanimous consent that when I suggest the absence of a quorum, the time be equally divided between both sides.

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

Mr. LEAHY. 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. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NELSON of Florida. Mr. President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. NELSON of Florida are printed in today’s RECORD under “Morning Business.”)

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, today, we will confirm yet another of President Obama’s judicial nominees. After today’s vote, we will have confirmed five judicial nominees in the last 5 legislative days. We are moving swiftly in committee and on the Senate floor. Notwithstanding our quick pace, we hear from some that we are not moving fast enough. As I have said before, our side will continue to work in good faith to process consensus nominees. But we will not place quantity confirmed over quality confirmed. These lifetime appointments are too important to the Federal judiciary and the American people to simply rubberstamp them.

Today we will vote on Judge James Boasberg to sit on the U.S. District Court for the District of Columbia. Judge Boasberg is not the first individual nominated to fill this vacancy. This seat became vacant in May 2008, when Judge Thomas F. Hogan took senior status. President Bush nominated Jeffrey Adam Rosen in June 2008. He was unanimously rated well qualified by the ABA Standing Committee on the Federal Judiciary. He had over 20 years of experience in private practice, principally involved in complex business litigation matters. He had more than 5 years of public service, having served as general counsel at the Office of Management and Budget and at the U.S. Department of Transportation. Despite his qualifications, Mr. Rosen’s nomination languished in committee for over 6 months.

While I am disappointed Mr. Rosen was not given any consideration, I am pleased to be able to support Judge Boasberg. He was nominated last June and had his hearing in September. He was reported out of committee last December, during the lameduck session, and the Senate was unable to complete action on the nomination. The committee moved quickly on his renomination this year, reporting him out of committee last month.

Judge Boasberg presently serves as an associate judge of the Superior Court of the District of Columbia. Following the Senate’s unanimous confirmation, President George W. Bush appointed him to this position in August, 2002.

Judge Boasberg earned his B.A., magna cum laude, from Yale College,

his master of studies from Oxford University, and his juris doctor from Yale Law School. After completing law school, he clerked for the Honorable Dorothy W. Nelson of the U.S. Court of Appeals for the Ninth Circuit. He then went into private practice, working as a litigator on complex business and white-collar defense matters.

Judge Boasberg also served as an assistant U.S. attorney for the District of Columbia. There he prosecuted criminal matters and specialized in homicide cases. He has received a unanimous well qualified rating from the ABA Standing Committee on the Federal Judiciary.

I am pleased this seat is being filled with someone who has concrete knowledge of what it takes to be a judge, and I hope Judge Boasberg continues to work hard to serve the American people.

I congratulate the nominee and his family on this important lifetime appointment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I yield back the remainder of the time on our side.

The PRESIDING OFFICER. The time is yielded back.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of James Emanuel Boasberg, of the District of Columbia, to be United States District Judge for the District of Columbia?

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Idaho (Mr. CRAPO), and the Senator from Idaho (Mr. RISCH).

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 39 Ex.]

YEAS—96

| | | |
|-----------|------------|------------|
| Akaka | Bennet | Brown (MA) |
| Alexander | Bingaman | Brown (OH) |
| Ayotte | Blumenthal | Burr |
| Barrasso | Blunt | Cantwell |
| Baucus | Boozman | Cardin |
| Beigich | Boxer | Carper |

| | | |
|------------|--------------|-------------|
| Casey | Johnson (SD) | Paul |
| Coats | Johnson (WI) | Portman |
| Coburn | Kerry | Pryor |
| Cochran | Kirk | Reed |
| Collins | Klobuchar | Reid |
| Conrad | Kohl | Roberts |
| Coons | Kyl | Rockefeller |
| Corker | Landrieu | Rubio |
| Cornyn | Lautenberg | Sanders |
| DeMint | Leahy | Schumer |
| Durbin | Lee | Sessions |
| Ensign | Levin | Shaheen |
| Enzi | Lieberman | Shelby |
| Feinstein | Lugar | Snowe |
| Franken | Manchin | Stabenow |
| Gillibrand | McCain | Tester |
| Graham | McCaskill | Thune |
| Grassley | McConnell | Toomey |
| Hagan | Menendez | Udall (CO) |
| Hatch | Merkley | Udall (NM) |
| Hoeven | Mikulski | Vitter |
| Hutchison | Moran | Warner |
| Inhofe | Murkowski | Webb |
| Inouye | Murray | Whitehouse |
| Isakson | Nelson (NE) | Wicker |
| Johanns | Nelson (FL) | Wyden |

NOT VOTING—4

| | |
|-----------|--------|
| Chambliss | Harkin |
| Crapo | Risch |

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid on the table.

Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative action.

SBIR/STTR REAUTHORIZATION ACT OF 2011—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 17, S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

Harry Reid, Mary L. Landrieu, Benjamin L. Cardin, Charles E. Schumer, Daniel K. Inouye, Joseph I. Lieberman, Bernard Sanders, Debbie Stabenow, Patrick J. Leahy, Tom Harkin, Kay R. Hagan, Michael F. Bennet, Al Franken, Herb Kohl, Sheldon Whitehouse, Thomas R. Carper, Richard J. Durbin.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes, shall be brought to a close?

The yeas and nays are ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from

Georgia (Mr. CHAMBLISS), the Senator from Idaho (Mr. CRAPO), and the Senator from Idaho (Mr. RISCH).

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

The yeas and nays resulted—yeas 84, nays 12, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—84

| | | |
|------------|--------------|-------------|
| Akaka | Franken | Menendez |
| Alexander | Gillibrand | Merkley |
| Barrasso | Graham | Mikulski |
| Baucus | Grassley | Moran |
| Begich | Hagan | Murkowski |
| Bennet | Hatch | Murray |
| Bingaman | Hoeven | Nelson (NE) |
| Blumenthal | Hutchison | Nelson (FL) |
| Blunt | Inhofe | Portman |
| Boozman | Inouye | Pryor |
| Boxer | Isakson | Reed |
| Brown (MA) | Johanns | Reid |
| Brown (OH) | Johnson (SD) | Roberts |
| Burr | Kerry | Rockefeller |
| Cantwell | Kirk | Sanders |
| Cardin | Klobuchar | Schumer |
| Carper | Kohl | Shaheen |
| Casey | Kyl | Shelby |
| Coats | Landrieu | Snowe |
| Coburn | Lautenberg | Stabenow |
| Cochran | Leahy | Tester |
| Collins | Levin | Thune |
| Conrad | Lieberman | Udall (CO) |
| Coons | Lugar | Udall (NM) |
| Corker | Manchin | Warner |
| Durbin | McCain | Webb |
| Enzi | McCaskill | Whitehouse |
| Feinstein | McConnell | Wyden |

NAYS—12

| | | |
|--------|--------------|----------|
| Ayotte | Johnson (WI) | Sessions |
| Cornyn | Lee | Toomey |
| DeMint | Paul | Vitter |
| Ensign | Rubio | Wicker |

NOT VOTING—4

| | |
|-----------|--------|
| Chambliss | Harkin |
| Crapo | Risch |

The PRESIDING OFFICER. On this vote, the yeas are 84, the nays are 12.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

The Senator from Missouri is recognized.

TRIBUTE TO MIKE MURPHY

Mrs. MCCASKILL. Mr. President, last week Kansas City lost a treasure. A very special person to the Kansas City community passed away last week. This is a man, Mike Murphy, who was loved by just about everybody in the area. While his family and friends are gathered now in Kansas City for his memorial service—I am sure there are hundreds who are there—I would like to place these words in the CONGRESSIONAL RECORD in his memory. Obviously, my prayers go out to his family.

Mike Murphy has been part of the fabric of Kansas City for almost 50 years. For over 40 years, he was the

most dominant local radio personality in all of the Midwest. He was popular. In fact, he became radio lore. At times over his career, over 50 percent of people listening to the radio in Kansas City were listening to his program.

He began his career in radio in 1968. He went on to rise to a class by himself in local and regional radio and, in fact, was the winner of the prestigious Marconi award in 1998.

Thousands of truckers and salesmen throughout the Midwest heard him on the mighty KCMO and became his fans and his friends. His program was an essential part of their day. Why? What was there about this guy? He really did not have a political agenda. Unlike today, he was not busy trying to get people all upset about the issues of the day. He did not take sides on political issues. He rarely had big stars as guests, but from time to time they came through wanting to promote something. Because his show was such a dominant show in the area, they wanted to get on it. He was just a funny, irreverent guy who always made you feel as if you knew him when you listened to his program. He talked like a real person. He did not try to show off his intellect. He was smart as a whip, but he never felt the need to impress anybody—I mean anybody. He just wanted to be your pal. He was fun and funny.

He is most famous in Kansas City for starting the second largest St. Patrick's Day parade in the country. How did he start it? In 1973, he was having a drink at a bar that a buddy of his owned. He and a very prominent PR guy who worked in campaigns around Kansas City, Pat O'Neill, Sr., and maybe one or two of their other friends, called Larry Moore, a local news reporter, and said: We are going to start a parade. They went out of Hogarty's bar, marched a few blocks, and they got a little film on TV that night, and the Kansas City St. Patrick's Day parade was born.

Years later, and thousands of floats and hundreds of thousands of spectators, every year in the St. Patrick's Day parade, where was Mike Murphy? On a garbage truck. He always rode on a garbage truck. It was his way of signaling to the people of Kansas City: I am no big deal. I don't need a fancy car. I am happy up here on the garbage truck.

He was getting upset about Kansas City's heritage at one point, so in 1996 he decided: We need to have a cattle drive again through Kansas City—harkening back to the days of a frontier town, and the stockyards were an important part of Kansas City's legacy. What did he do? He started a cattle drive through downtown Kansas City. He would get some amateur cowboys and then invite a lot of his pals to get on horses and take these cattle down the main street of Kansas City.

He loved characters. He thought being called "a little goofy" was the highest compliment you could pay him.