

that we derail economic recovery. We can do this.

The attack by the other side on the Environmental Protection Agency is unbelievable. I saw a cartoon in the Gannett papers in my hometown. It had a drawing of an elephant, representing the Republican Party. In the elephant's trunk was a can that was obviously poison. It had skull and bones on it, spraying the flowers, the trees, and the air. Under the Republican logo it said: Environmental Destruction Agency. The Republican Party calls it the Environmental Destruction Agency, and they have cut one-third—that is their proposal—of the EPA's budget.

Now when I go out to talk to people, not one of them ever says to me: The air is too clean, Senator. Make it dirtier. My kid only missed 2 days from this school year, and I want dirty air. Nobody has ever said to me: I want unhealthful water. Nobody has ever told me they want to live close to a Superfund site. So I say to my friends: Watch what you are doing. You are taking a meat ax to the Environmental Protection Agency that protects the health and the safety and the well-being of our children and our families. If you can't breathe, you can't work. You know that? You lose time from work. So let's be careful. Let's not be radical. Let's not be extreme. That is not what the people send us here to do.

They certainly didn't send us here to take away a woman's right to choose. They sent us here to work on this economic recovery. Yet we have proposals over there on the other side that are unbelievable and that would raise taxes on people who have health care policies that include reproductive health care for women. Can you imagine? They want to raise taxes on small businesses that have health policies that cover reproductive health care for women. I don't think that is what this election was about. I thought it was about getting jobs in this economy.

So between that and the overreaching on the budget, we have a lot of work to do. I say it with due respect, I really do. But the American people need to weigh in. They are going to need to say how much is too much and what their values are.

Richard Nixon signed the Clean Air Act and the Clean Water Act. A Republican President signed these acts. Yet now the Republicans are trying to destroy these important bipartisan accomplishments. You know why? They say it kills jobs. Guess what. We heard the same thing from the people who tried to stop the Clean Air Act—the polluters. They said, it is going to cost jobs. But we had the greatest economic growth after that period. And guess what. Jobs are created when we clean up the air. Jobs are created when we have technologies we can export and when we find ways to make drinking water safe.

Frankly, I am energized by this debate because I believe there are dif-

ferences in the parties. I think that is OK, it is fine. I will be involved in the debate. I am sure colleagues on the other side who disagree will put forward their views. They are trying to take away the power of the Environmental Protection Agency to enforce standards on carbon pollution—dangerous carbon pollution—that the Bush administration told us through their work puts our people in danger, puts our families in danger, puts our country in danger, puts our economy in danger. They are actually trying to stop the EPA from enforcing the Clean Air Act. I do not know one constituent who ever told me they thought the air was too clean or the water was too safe to drink.

NOMINATION OF EDWARD DAVILA

Mr. President, today it is my honor to support the nomination of Judge Edward Davila as the Senate prepares to vote on his confirmation to become a district court judge. I congratulate him and his family on this important day. I have had the privilege of recommending Judge Davila to President Obama to serve on the Northern District Court of California. He is respected by his colleagues and those who appear before him, and he will make an excellent addition to the bench.

This is a critical vacancy to fill. The Northern District has been designated a judicial emergency by the Administrative Office of the U.S. Courts. We do not have enough judges. This is another area in which we must work better together. I am hopeful on this one that we can.

I am pleased that we are voting on Judge Davila today. When he is confirmed, Judge Davila will be the only Latino serving on the Northern District Court. That is important. Our State is so diverse, it is extraordinary, and we need everybody believing they are represented.

The judge is outstanding. He brings an impressive background of service in both public service and private practice.

Judge Davila was born in Palo Alto, one of three children raised by a single mother. It is from his mother Dora that he learned the important qualities that have served him well. He defines those as hard work and determination. I extend my personal congratulations to Dora. As a mother, I know the immense pride she must feel for her son at his extraordinary accomplishments.

Judge Davila is a graduate of the California State University at San Diego and the University of California's Hastings College of Law in San Francisco. He practiced law for nearly three decades, spending his first 7 years as Santa Clara County public defender before moving into the private sector as the co-owner of a small firm specializing in criminal defense. During his time as defense counsel, Judge Davila earned the respect of prosecutors and law enforcement officials with whom he interacted, and he received awards

from the State Bar of California. He served as president of the Santa Clara Bar Association in 1998.

Since 2001, he has served on the Santa Clara County Superior Court, where he has drawn praise from fellow judges and lawyers for his hard work, his integrity, and his fairness. In a recent survey by the Santa Clara County Bar Association, his performance was rated "excellent" or "good" by a huge percentage of participants with respect to his work ethic, his knowledge of the law, his knowledge of procedure, integrity, dispute resolution, and his judicial temperament, which we know is so important. He has also received awards and recognition for his judicial performance from the Santa Clara Bar Association and the California State Assembly.

I close by congratulating Judge Davila and his entire family on this momentous day. Here is another example of the American dream. I urge my colleagues in the Senate to join me in voting to confirm this highly qualified nominee to the Federal bench.

Mrs. FEINSTEIN. Mr. President, I rise in support of the nomination of California Superior Court Judge Edward Davila to be a U.S. district judge in the Northern District of California.

If confirmed, Judge Davila would bring a wealth of relevant experience to the district court. Since 2001, he has served as a superior court judge in Santa Clara County. He has presided over more than 10,000 cases—both civil and criminal—and has seen more than 50 cases from trial to final judgment.

He is a seasoned lawyer who also has more than 20 years of litigation experience under his belt. For 13 years, Judge Davila tried criminal cases as a partner at his own law firm in San Jose. For 7 years before that, he worked as a deputy public defender for Santa Clara County. In total, during his two decades as a litigator, he tried more than 45 cases to verdict or judgment.

Beyond his professional experience, Judge Davila has also been a devoted member of the Santa Clara community. He is a former president of the Santa Clara County Bar Association as well as the Santa Clara County La Raza Lawyers Association. He has taught trial advocacy at Stanford Law School, the University of San Francisco School of Law, and the University of Santa Clara School of Law. And he has made it a longstanding practice to teach local high school students about the criminal justice system through mock trials in his courtroom.

Judge Davila's confirmation would also bring much needed diversity to a court with broad reach in California. There are currently 18 active and senior district judges in the Northern District of California, but not a single one is of Latino or Hispanic descent. Judge Davila's confirmation would correct this imbalance. I am pleased to support his nomination, and I strongly urge my colleagues to confirm him.

Finally, I want to say a word about the caseload in this district. Last

week, the Judicial Conference of the United States sent a letter to the President and the leadership of the Senate calling attention to a handful of courts with severe caseload problems.

The Northern District is one of these courts. Last year, the district's judges carried a caseload of nearly 600 weighted filings per judgeship—far above the recommended level. With two vacancies unfilled, that caseload rose to more than 700 weighted filings per active judge.

These vacancies did not exist for lack of a nominee. The President nominated Judge Davila in May of last year. He was reported out of the Judiciary Committee without objection, but he is only now receiving a vote. Another very qualified nominee for this court, Magistrate Judge Edward Chen, was nominated in August of 2009. He has been reported out of the Judiciary Committee twice but still has not received a vote on the floor.

Today's vote on Judge Davila's nomination is a step in the right direction. I urge my colleagues to support him, and I hope that we can continue to work together to ensure that our Federal courts have the judges they need to administer justice fairly and in a timely manner for the American people.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Mississippi.

Mr. WICKER. Mr. President, I rise in strong support of the nomination of Mississippi Supreme Court Justice James Graves to the U.S. Court of Appeals for the Fifth Circuit. I thank all of those on both sides of the aisle who have worked to get this vote scheduled and to bring us to this moment, where I am confident Justice Graves will be confirmed.

When that happens today and when he takes the oath, Justice Graves will bring a rich and distinguished background of public service to the Fifth Circuit. He is a Mississippi native. He graduated as valedictorian of Sumner High School in the small delta town of Sumner and went on to receive his bachelor's degree from Millsaps College before going to law school at Syracuse University.

Justice Graves currently presides as a justice on the Mississippi Supreme Court, where he has faithfully served since his appointment in 2001 and his subsequent election in 2004. Before being appointed to the Mississippi Supreme Court, Justice Graves served as a circuit court judge in Hinds County, MS, for 10 years.

Justice Graves is a dedicated family man and community volunteer. He has

been honored on numerous occasions with awards recognizing his public service. Those who know him know he is particularly committed to teaching and motivating young people, particularly the young people of my State of Mississippi. I am confident that even in this position of increased responsibility and visibility, he will continue taking time to work with our Nation's young people.

I am proud today to speak on behalf of Justice Graves. I urge my colleagues to vote in support of his nomination to the Fifth Circuit.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. 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. COCHRAN. Mr. President, I am pleased to support the nomination of Justice James E. Graves, Jr., to serve as a judge on the U.S. Court of Appeals for the Fifth Circuit. At this time, Justice Graves is serving as a presiding justice on the Mississippi Supreme Court. He was appointed to our State's highest court in 2001, and he was elected to the court in 2004. Prior to that, he served as a trial court judge for 10 years.

Justice Graves has earned impressive academic credentials, including an undergraduate degree from Millsaps College, a law degree from Syracuse University College of Law, and a master's degree in public administration from Syracuse University.

Justice Graves has served as a director of the Child Support Division of the Mississippi Department of Human Services. It is with pride and pleasure that I am able to recommend to the Senate the confirmation of Justice James E. Graves, Jr.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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, today the Senate will confirm two more of President Obama's judicial nominees. With this action, we are filling two seats which have been declared judicial emergencies. I am pleased we are moving forward with these important positions.

I agree with the chairman's recent editorial and remarks he has made that we have an opportunity to turn the page and work together in a spirit of bipartisanship and civility. I do not view it as a productive effort to continue with the finger pointing and the negative back and forth regarding the previous pace or outcome of judicial

nominations. Unfortunately, that rhetoric has frequently overshadowed the debate on the qualifications of particular nominees.

I and my Republican colleagues have been very cooperative in taking action on the President's nominees. During this Congress, the President has nominated 50 individuals to the Federal judiciary. This Congress has been in session for approximately 1 month. In this brief time, we have taken positive action, in one form or another, on nearly half of those nominees. With today's votes, we will have confirmed 5 nominees. If this is not cooperation, I do not know what is.

Furthermore, we have seen a high level of bipartisanship with regard to President Obama's confirmed nominees. For President Obama's confirmed district judge nominees, 94 percent of those confirmations were by unanimous votes. Only 59 percent of President Bush's confirmed district court nominees were afforded that same level of bipartisanship. So I think it is fair to say that we are cooperating in a bipartisan manner, and in a deliberate pace.

I am working with the chairman to ensure nominees are afforded a fair but thorough process, in a timely manner. I have appreciated the chairman's courtesy as we have worked together to set schedules and agendas. As we do so, I assure my colleagues that I will not falter on ensuring each nominee is properly and thoroughly evaluated.

We are acting to reduce the judiciary vacancy rate. There are currently 99 vacancies in the Federal courts. However, it is remarkable to me that more than half of those vacancies, 52 seats, have yet to receive a nomination. Furthermore, 25 of the 46 seats deemed to be judicial emergencies do not have nominees. It is unfair to blame Republicans for any delays with these vacancies. It is impossible to fill seats when a nominee has not been named. It is the responsibility of the President to send to the Senate consensus nominees for these positions.

Let me say a few words about the nominees who are scheduled to have votes today. I thank our leadership for the reasonable arrangement that was reached to consider these nominations.

First, Justice James E. Graves has been nominated to be a circuit judge for the Fifth Circuit. He received his B.A. from Millsaps College, his J.D. and an M.P.A. from Syracuse University.

Justice Graves comes to the Federal bench with extensive experience in the legal field. He was a staff attorney for the Central Mississippi Legal Services for 3 years before moving into private practice. Justice Graves also spent time, first as a counsel, then as a chief legal counsel, in the office of the Mississippi attorney general. Justice Graves left the Office of the Attorney General to become director of the Mississippi Department of Human Services' Child Support Enforcement Division.

Justice Graves also has considerable judicial experience. He was appointed to Mississippi Circuit Court judge in 1991 and was re-elected twice. Since 2001, Justice Graves has served on the Mississippi Supreme Court and has authored 151 majority opinions for the court and 92 concurring or dissenting opinions. The American Bar Association Standing Committee on the Federal Judiciary unanimously rated him "Qualified."

I also rise in support of Judge Edward Davila to be U.S. district judge for the Northern District of California. With today's vote, we will have confirmed 7 of President Obama's nominees to the district courts of California. Judge Davila received his B.A. from California State University, San Diego and his J.D. from University of California's Hastings College of the Law. A majority of the American Bar Association Standing Committee on the Federal Judiciary rated him "Qualified."

Judge Davila began his career at the Santa Clara County Public Defender before entering private practice. He represented criminal defendants in State and Federal courts. In August 2001, Governor Gray Davis appointed Judge Davila to the Superior Court of California, County of Santa Clara, a trial court of general jurisdiction. Judge Davila was re-elected without opposition twice.

We are making good progress in considering judicial nominations. I am pleased the chairman and I have been able to move forward. We are filling judicial vacancies, with a particular focus on judicial emergencies. We are working in a manner that treats each nominee in a fair manner and permits each Senator to thoroughly review the qualifications of each nominee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative 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, we are prepared to yield back any time on this side. I understand from my colleague that they will yield back on their time.

Parliamentary inquiry: Is the first nomination the Graves nomination?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. It is my understanding there is not a request for a rollcall vote on that one.

The PRESIDING OFFICER. If all time is yielded back, the question is, Will the Senate advise and consent to the nomination of James E. Graves, Jr., of Mississippi, to be a U.S. circuit judge for the Fifth Circuit?

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Edward J. Davila, of California, to be a U.S. district judge for the Northern District of California?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Arkansas (Mr. PRYOR), and the Senator from New Mexico (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT), the Senator from South Carolina (Mr. DEMINT), and the Senator from South Carolina (Mr. GRAHAM).

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 15 Ex.]

YEAS—93

Akaka	Feinstein	Merkley
Alexander	Franken	Moran
Ayotte	Gillibrand	Murkowski
Barrasso	Grassley	Murray
Baucus	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Hatch	Paul
Bingaman	Hoeven	Portman
Blumenthal	Hutchison	Reed
Boozman	Inhofe	Reid
Boxer	Inouye	Risch
Brown (MA)	Isakson	Roberts
Brown (OH)	Johanns	Rockefeller
Burr	Johnson (SD)	Rubio
Cantwell	Johnson (WI)	Sanders
Cardin	Kirk	Schumer
Carper	Klobuchar	Sessions
Casey	Kohl	Shaheen
Chambliss	Kyl	Shelby
Coats	Landrieu	Snowe
Coburn	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Lee	Thune
Conrad	Levin	Toomey
Coons	Lieberman	Udall (CO)
Corker	Lugar	Vitter
Cornyn	Manchin	Warner
Crapo	McCain	Webb
Durbin	McCaskill	Whitehouse
Ensign	McConnell	Wicker
Enzi	Menendez	Wyden

NOT VOTING—7

Blunt	Kerry	Udall (NM)
DeMint	Mikulski	
Graham	Pryor	

The nomination was confirmed.

The PRESIDING OFFICER (Mr. MANCHIN). Under the previous order, the motion to reconsider is considered made and laid upon the table.

VOTE EXPLANATION

Mr. KERRY. Mr. President, I was necessarily absent for the vote on the

nomination of Edward Davila to be U.S. district judge for the Northern District of California. If I were able to attend today's session, I would have supported the nominee.

The PRESIDING OFFICER. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The majority leader.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT—Continued

Mr. REID. For the information of all Senators, there will be no more votes tonight. I have had a number of conversations with the Republican leader today. We are going to have one or two votes before our caucus lunches tomorrow. We will have a number of votes set up after the caucus luncheons. We want to finish this bill as quickly as we can, which will be this week. I know a number of people are waiting around for votes. I know Senator PAUL is waiting around for a vote on his amendment tomorrow afternoon, and I know Senator NELSON of Nebraska and Senator WICKER have amendments we are trying to get a vote on. We are trying to move to those as soon as we can.

Anyway, we are going to have some votes tomorrow. No more votes tonight.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the distinguished senior Senator from Oklahoma and I be recognized for a total of 6 minutes evenly divided.

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

Mr. LEAHY. I yield to the Senator from Oklahoma.

AMENDMENT NO. 6 WITHDRAWN

Mr. INHOFE. Mr. President, Senator LEAHY and I have two amendments. He has Leahy amendment No. 50 and my amendment is No. 6. I say to my friend from Iowa, I will just be a few minutes, as he was kind enough to allow us to do this first.

This has to do with the liability of those individuals who are making their own sacrifice to help people in distress. It is something that those of us who are pilots have done—helping individuals in being relieved of some of the individual liability that might be incurred. The Leahy amendment goes a little further than mine, but I am satisfied with his. So what I wish to do is request unanimous consent to withdraw my amendment No. 6 that gives liability protection to volunteer pilots and organizations, as well as request to be added as a cosponsor to the Leahy amendment No. 50. We have been in negotiations for a number of weeks. In fact, we were even last year. I think we