

evolving conditions and make our coastal areas more resilient.

It is the Council's policy to accommodate a base rate of expected 3-5 foot rise in sea level by the year 2100 in the siting, design, and implementation of public and private coastal activities and to insure proactive stewardship of coastal ecosystems under these changing conditions. It should be noted that the 3-5 foot rate of sea-level rise assumption embedded in this policy is relatively narrow and low. The Council recognizes that the lower the sea level rise estimate used, the greater the risk that policies and efforts to adapt sea-level rise and climate change will prove to be inadequate.

This policy is already helping the State make smart decisions. For example, when a new pump station was needed at a sewage treatment plant, CRMC looked at sea-level rise models before determining where it should go, avoiding future relocation costs or malfunction in the face of flash flooding and sea level rise.

In 2010, our general assembly created the Rhode Island Climate Change Commission to study the projected impacts of climate change on the State, develop strategies to adapt to those impacts, and determine mechanisms to incorporate climate adaptation into existing state and municipal programs. A draft progress report from the Commission lists many ways the state is planning to adapt to climate change, including: Creating a "Structural Concept and Contingency Plan to Inundation of the Ferry Terminals and Island Roadway Systems"; creating the "Central Land-fill Disaster Preparedness Plan"; national grid, our electricity and natural gas utility, undertaking a "Statewide Substation Flooding Assessment"; the Army Corps of Engineers, FEMA, and the Rhode Island Emergency Management Agency conducting a "Hurricane and Flooding Evacuation Study"; and the list goes on and on.

In the town of North Kingston, RI, they have taken the best elevation data available, and modeled 1, 3, and 5 feet of sea-level rise, as well as 1 foot of sea-level rise plus 3 feet of storm surge. By overlaying these inundation models on top of maps identifying critical infrastructure such as roads, emergency routes, railroads, water treatment plans, and estuaries, the town will be able to prioritize transportation, conservation, and relocation projects. They are also able to quantify the costs of sea-level rise. In one small area of the town, 1 foot of sea-level rise would put two buildings, valued at \$1.3 million, underwater. Five feet of sea-level rise, however, jeopardizes 116 buildings valued at \$91 million.

Similarly, by modeling how sea-level rise will impact estuaries, towns can preserve areas that will stay wetlands or undeveloped areas that will become wetlands in the future, as opposed to areas that will be lost. Estuaries act as nurseries for our hugely valuable fisheries, and protect our homes, buildings and communities from storm surge. There is already limited funding to protect these important ecosystems and this kind of planning promotes efficiency in spending.

Let me close by saying that it is now well past time for us as a country to start making policy that helps us adapt to the emerging scientific reality that our actions indeed do affect our environment. For those of us who are ocean States, the state of our oceans and coastlines is particularly significant, and I urge my colleagues to support our National Endowment for the Oceans, which got all the way into the conference committee on the highway bill before it was taken out in an unfortunate, unwise, and, frankly, unfair maneuver.

We are at a place now where nature could not be giving us clearer warnings. Whatever higher power there is—and we each have our own beliefs on that—that higher power that gave us our advanced human capacity for perception, for calculation, for analysis, for deduction, and for foresight has laid out before us more than enough information for us to make the right decisions. Only a wild and reckless greed or a fatal hubris could blind us to the distress signals coming from our oceans, our atmosphere, and our world. Fortunately, these human capacities still provide us everything we need to act responsibly but only if we will.

I thank the Presiding Officer, and I yield the floor.

#### EXECUTIVE SESSION

##### NOMINATION OF GERSHWIN A. DRAIN TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

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

The assistant bill clerk read the nomination of Gershwin A. Drain, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The PRESIDING OFFICER. There will be 1 hour of debate equally divided.

Mr. LEAHY. Mr. President, earlier this week, Senate Republicans followed through on their partisan opposition to the President by slamming the door on a highly qualified, consensus circuit court nominee with bipartisan support. It was the first time in history that a circuit court nominee reported with bipartisan support from the Judiciary Committee was successfully filibustered. Judge Robert Bacharach, who was nominated to the Tenth Circuit Court of Appeals, had had the strong support of his Republican home State Senators, Senator COBURN and Senator INHOFE. Unfortunately, they chose not to vote to end the unprecedented filibuster of his nomination and cloture fell just short. This deprived the people of Oklahoma and the Tenth Circuit of an outstanding judge who could today be serving the American people as an appellate judge. The Bacharach nomi-

nation is one of the many judicial nominees ready for final action by the Senate but being delayed by Republican opposition.

There was an article in the Washington Post this morning entitled "A Bench with Plenty of Room" about the judicial vacancies being perpetuated by partisanship all to the detriment of those seeking justice in our Federal courts. It notes that a lower percentage of President Obama's nominees have been confirmed than had been during the Bush administration and that at this point during the Bush Presidency there were only 28 judicial vacancies. It observes that "Obama, with 78 vacancies, may be the first president in decades to end his first term with more judicial vacancies than when he began." We can change that if Senate Republicans will cooperate in the consideration of the 23 judicial nominees on the Senate Executive Calendar awaiting a final, up-or-down confirmation vote. I ask that a copy of that article be printed in the RECORD.

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

[From the Washington Post, Aug. 1, 2012]

##### A BENCH WITH PLENTY OF ROOM

The Senate's rejection Monday of Oklahoma Magistrate Judge Robert Bacharach for a U.S. Court of Appeals seat sent a clear message to the three other appellate nominees hoping for a vote on the Senate floor:

Fuhgeddaboutit.

Ditto for 16 U.S. District Court nominees also pending in committee. The odds of judicial confirmations after this August recess are exceptionally slim—at best. The Cubs will win the pennant before you'll be putting on the black robes.

No nominees were confirmed after the August recess when President Bill Clinton was running for reelection in 1996 and only three when President George W. Bush was running for a second term in 2004—although five got in during the lame-duck session.

Still, a whopping 13 George H.W. Bush nominees, including two for appellate seats, were confirmed after the August recess in 1992, according to Senate Judiciary Committee statistics.

Four Clinton judicial picks were confirmed after the recess in 2000, when Bush II and Al Gore were running, and 10 Bush judges were confirmed during the race between Barack Obama and John McCain, the committee reports.

So with the numbers pretty much set, let's recap.

President Barack Obama, who started off slowly in getting nominations up to the Senate, never fully caught up. He's nominated fewer judges (200) than either Bush (228) or Clinton (245) on Aug. 1 of their fourth year in office, according to committee statistics.

At the same time, the Senate has confirmed a smaller percentage of Obama nominees than Clinton nominees—78 percent, compared with 80.8 percent—and a much smaller percentage than in the Bush administration (86.4).

As a result, Obama, with 78 vacancies, may be the first president in decades to end his first term with more judicial vacancies than when he started.

At this point in their first terms, Clinton had 58 judicial vacancies and Bush had 28. (The latter figure is pretty much full employment.)

Liberals have criticized Obama for not having pushed harder for his nominees, noting that Bush issued a lengthy statement at a 2002 news conference blasting “a handful” of Senate Democrats for holding up his judicial nominees because they “fear the outcome of a fair vote in the full Senate.”

“The Senate has an obligation to provide fair hearings and prompt votes to all nominees,” Bush said, “no matter who controls the Senate or who controls the White House.” Obama did, however, mention Senate delays in a State of the Union address and in a Saturday radio address, we were told. And Senate Judiciary Chairman Patrick Leahy (D-Vt.) intends to keep moving nominees this fall. Well, who knows? Deals are always possible.

But, after those recess appointments of the consumer finance watchdog and some labor folks in January, furious Republicans are not feeling particularly cooperative on appointments.

Mr. LEAHY. The Senate Republicans who took the floor earlier this week relied on their distorted application of the Thurmond rule in seeking to justify their unprecedented filibuster of Judge Bacharach's nomination. The truth is that Senate Republicans are trying to find an excuse for their partisan inaction that is stalling almost two dozen judicial nominees.

We now have a President who has worked with home State Senators to select moderate, superbly qualified judicial nominees. Yet Republicans who support these nominees will not vote to end filibusters against them and will not stand up to the partisan obstruction. I am proud of my record of working to lower vacancies and to move nominations whether there is a Republican or Democratic President and of my role ensuring that nominees are treated fairly and that the rights of every Senator are protected in the Judiciary Committee. But this is not about me. This is about the American people. This is about ensuring that they have functioning courts so they have access to justice.

With our Federal courts still severely overburdened, I hope that Senate Republicans will consider the needs of the American people. We need to do better, filling vacancies to ensure a functioning democracy, functioning courts, and do our job for the American people.

There are currently 19 district court nominees who have been reported favorably by the Judiciary Committee who can be voted on right now, almost all of them completely noncontroversial with significant bipartisan support. Of the 19 district court nominees currently pending on the floor, 16 were supported by nearly all Republicans on the committee. All have the support of their home State Senators, including eight with Republican home State Senators.

The reason for this extensive backlog of nominees is that Senate Republicans have allowed for votes on just one district court nominee per week for the last 7 weeks. We cannot allow this slow pace of confirmations to continue with the judicial vacancy crisis that we face. There are currently 78 vacancies.

Judicial vacancies during the last few years have been at historically high levels and have remained near or above 80 for 3½ years. Nearly 1 out of every 11 Federal judgeships is currently vacant. Vacancies on the Federal courts are more than 2½ times as many as they were on this date during the first term of President Bush.

In contrast to the dramatic reduction in judicial vacancies during President Bush's first term, judicial vacancies are higher than they were when President Obama came into office—another sad first.

We have heard lots of excuses from Senate Republicans, who have tried to shift the blame for the judicial vacancy crisis to the President. They claim that the President has not made enough nominations. However, there are 19 outstanding district court nominees who can be confirmed right now who are being stalled. Let's act on them. Let's vote them up or down.

The Senate should proceed to confirm all 19 district court nominees who are ready for final confirmation votes. I know we can do this because we have done this before. On November 14, 2002, the Senate proceeded to confirm 18 judicial nominees on 1 day, and vacancies went down to 60 throughout the country. If we confirm the 19 district nominees ready for final Senate action today, we can reduce vacancies down to 60 as well. I hope that Senate Republicans will not extend their wrong-headed Thurmond rule shutdown to the confirmation of consensus, well-qualified district court nominees. Given our overburdened Federal courts and the need to provide all Americans with prompt justice, we should all be working in a bipartisan fashion to confirm these nominees.

Today, the Senate will vote on the nomination of Gershwin Drain to fill a judicial emergency vacancy in the U.S. District Court for the Eastern District of Michigan. Judge Drain has the strong support of his home State Senators, Senator LEVIN and Senator STABENOW. His nomination was reported favorably by the Judiciary Committee 4 months ago.

Judge Drain has been a State and local trial court judge in Michigan for over 25 years, with jurisdiction over both civil and criminal matters. In that time, he has presided over approximately 600 cases that have gone to verdict or judgment after trial. The ABA Standing Committee on the Federal Judiciary has unanimously rated Judge Drain as “qualified” to serve on the U.S. district court.

Currently a trial judge on the third Circuit Court of Michigan, where he has been presiding since 1997, Judge Drain has also served on the Recorder's Court for the City of Detroit for a decade. Prior to that, he served briefly as a judge for the 36th District Court of Michigan. Before becoming a judge, he was a trial attorney for the Federal Defenders Office for nearly a dozen years, where he tried over 140 cases to verdict

or judgment. Judge Drain's vast experience as both a judge and a litigator makes him well prepared to take the Federal bench.

There are some Senators who have expressed concerns about Judge Drain's views based on a few isolated public statements that Judge Drain made more than a decade ago. However, Judge Drain's 25 years on the bench demonstrate that he is more than capable of being a fair and neutral judge who faithfully applies the law. His experience presiding over 600 civil and criminal matters provides further assurance that he makes his decision based on the law and nothing more.

Mr. GRASSLEY. Mr. President, I rise in opposition to the nomination of Gershwin A. Drain, to be U.S. district judge for the Eastern District of Michigan. Judge Drain, currently serving as a Michigan State court judge, was reported out of committee on a 10 to 8 vote. He could hardly be described as a consensus nominee.

Even as we turn to the 155th nominee of this President to be confirmed to the district and circuit courts, we continue to hear unsubstantiated charges of obstructionism. The fact is, we have confirmed over 80 percent of President Obama's District nominees. That exceeds the percentage for President Bush at this stage in his Presidency.

During the last Presidential election year, 2008, the Senate confirmed a total of 28 judges—24 district and 4 circuit. This Presidential election year we have already exceeded those numbers. We have confirmed 5 circuit nominees, and Judge Drain would be the 28th district judge confirmed. That is a total of 33 judges this year versus 28 in the last Presidential election year. Again, there is no credible basis to argue that this President is being treated differently.

With regard to Judge Drain, I will not take the time to mention every aspect of his record that I find troubling, but I do want to highlight some of my concerns.

In 1994, Judge Drain wrote an article that was published in the Michigan Chronicle concerning the second amendment and the right of American citizens to own and possess firearms. Judge Drain wrote that he “envisions a day when the National Rifle Association with its lobby will not be feared, and that legislators and congressman will stand up strong against them instead of bowing down to them.” He also wrote that he “looks forward to the time when a person with a gun will be viewed as a coward or a chicken.”

I would note that it is not as if Judge Drain was a young and inexperienced lawyer when he took this view. On the contrary, he wrote this article after he had been serving as a judge for approximately 7 years. I recognize that Judge Drain told Senator LEE at his hearing that, if confirmed, he would follow the precedent in McDonald and Heller. But, I also know that when individual has such strong and well-established views on a particular subject, it can be very

difficult for them to set aside those strongly held views.

Judge Drain also has very strong views regarding his opposition to the death penalty. In an article he authored in the *Detroit News*, he referred to the death penalty as a “primitive punishment that is brutal and barbaric.” He also said that deterrence was “the only reasonably legitimate argument for killing the convicted,” but he said deterrence was actually a “myth.” Now, at his hearing, Judge Drain said that he wrote that article many years ago and he no longer holds to that position. But again, given how Judge Drain appears to have held very strong views on this issue, I am concerned that he would not be able to completely set those views aside.

His views on criminal sentencing concern me as well. Judge Drain has been strident in his opposition to mandatory sentences. He once wrote that, as a judge, “one of my unpleasant tasks on occasion is to impose mandatory sentences.” On another occasion, he expressed admiration for judges who refuse to hear drug cases where the law would require them to impose mandatory sentences. He called the judges who refuse such cases “courageous.” In my view, judges should accept the cases that are assigned to them, and it is their duty to do what the law requires of them. If they are unable to do that, then they should not be a judge.

At the State level, he urged his legislature to eliminate mandatory sentencing. At the Federal level, he criticized President Clinton’s “three strikes and you’re out” legislation.

At his hearing, I asked him about his views on sentencing. I appreciate that he acknowledged that his obligation is to follow the law. And then he added, “The fact that I wrote some side comments about [sentencing], really shouldn’t have anything to do with my decision-making, and is really kind of irrelevant or unimportant to me.”

However, Judge Drain’s articles and comments are not irrelevant. As I evaluate the nominee, I have to be comfortable that he will be able to set aside his strongly held personal views and do what the law requires. Unfortunately, I am unable to reach that conclusion. I am sure Judge Drain is an admirable man, but I am unable to support him for the Federal bench.

Judge Drain received his B.S. from Western Michigan University in 1970 and his J.D. from the University of Michigan Law School in 1972. Upon graduation, he clerked for the Michigan Third Circuit Court judges. In 1973, Judge Drain worked as an attorney for a year in the department of transportation in Detroit. There, he handled property damage and minor personal injury cases. From 1974 to 1986, he worked as a Federal public defender in Detroit on felony cases. He handled cases where defendants were charged with a variety of crimes, including drug violations, bank robberies, counterfeiting, mail theft, interstate trans-

portation of stolen property, and gun charges.

In 1986, Judge Drain was appointed to the 36th District Court for the city of Detroit. There, he had jurisdiction over traffic violations, landlord-tenant disputes, misdemeanors, and civil cases where the amount in controversy was less than \$25,000. In 1987, he was appointed to the Recorder’s Court for the city of Detroit, where he presided over felony prosecutions.

Judge Drain was elected to the Third Circuit Court of Michigan in 1997, where he presided over felony prosecutions in Wayne County until 2000. In 2000, he became a civil judge in the Third Circuit and presides over State civil cases where the amount in controversy exceeds \$25,000.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Madam President, I don’t intend to talk about the nomination, but I have talked to my friend from Michigan about this, and I would ask unanimous consent that my time come from the Republican time on the nomination discussion.

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

#### CYBER SECURITY

Mr. BLUNT. I rise today on two topics. One, I want to say that while I don’t agree with everything my good friend from Rhode Island just said about the issue he was talking about, the two of us have worked all this year to try to bring people together on the issue we failed to deal with today on cyber security.

Senator WHITEHOUSE and I, along with Senators KYL and MIKULSKI, at the very first of the year began to create opportunities for Senators to sit down together and talk about the threat we face and talk about what we need to do to deal with it. I am convinced and I believe all the people I just mentioned are equally convinced that two things will happen: No. 1, we will eventually have a cyber attack on our country that will be successful in some way that many Americans will understand the danger we face from the cyber threat and, No. 2, that we will eventually pass a bill. My strong belief is that will be a better bill if we pass it before that event rather than after that event.

Mr. WHITEHOUSE. Madam President, may I simply interject, with the Senator’s permission, to say how much of a pleasure it has been to work with him on this issue and to say that I think a great number of Senators on both sides of the aisle have worked in very good faith to get to a point where we can pass a bill. And I pledge to him, despite the unfortunate outcome of today’s cloture vote, that I am committed to continuing to work with him, Senator KYL, Senator GRAHAM, Senator MCCAIN, and others—I guess Senator CHAMBLISS—on the other side of the aisle so we can indeed take the necessary steps to protect our Nation from this threat. But I say this with a

strong consciousness of the very good will and the very hard work Senator BLUNT put into this effort and with great appreciation to him personally.

I yield the floor.

Mr. BLUNT. I thank my friend from Rhode Island, and I think we can move forward. I think there is good faith.

As I said, we started—the four of us—beginning to get people together. That group was quickly joined by Senators COLLINS and LIEBERMAN, so then six of us began to get people together. There were any number of meetings this week with about two dozen Senators, about equally divided between both parties, trying to find a way forward. I didn’t think we found that in the cloture motion today. The motion said: Here is how we are going to proceed to finish the bill, and so we didn’t move forward today. But I hope we can continue to work with Senator REID and others to create the sense that Senator WHITEHOUSE just expressed, that there is great bipartisan effort being made to find a solution that not only would pass a Senate bill but would wind up with a bill on the President’s desk sometime this year.

You don’t have to look very far to find people who will say that the greatest threat we face at this moment is the threat of some kind of cyber attack. At the highest levels of our military structure, of our intelligence structure, they quickly come to that conclusion. And leaving here for the work period in August that Congress has had since the beginning of Congresses without having this done on the Senate side is disappointing to me.

On the other hand, there wouldn’t have been a bill even if we had passed a bill today because we have to work with the House to have a bill that winds up with a piece of paper on the President’s desk—a relatively small stack of paper—that he can sign and that then becomes the law that allows us to either minimize or hopefully avoid the current certainty that someone will eventually begin to get to our critical infrastructure in a way that makes it hard for the country to get water, to get electricity, to communicate, or to address the financial network. You know, 3 or 4 days anywhere in the country where the electricity is out, suddenly you begin to see all of the things that are dependent on just the electrical grid alone.

Hopefully we can do this. I know work is being done. I will be involved in some of it later today. As I said, I am disappointed we didn’t get this done, but it has to be done. We can’t leave here this year with the House saying “we passed a bill” and the Senate saying either “we didn’t pass a bill because one side didn’t want to work with the other” or “we passed a bill, but the House wouldn’t agree to it.” This is not a problem that we just need to have a political answer to; this is a problem we need to have a real answer to.

## IRAN SANCTIONS

What I also came to the floor to talk about today is something we actually managed to get done just a few days ago when the Senate passed the House-passed Iran Threat Reduction and Syria Human Rights Act. This is one thing people who don't agree on much of anything else in the House and Senate can figure out how to agree on. This bill, while I think it could have been a little stronger, was still a strong effort to reach a conclusion that hopefully the President will sign as soon as possible and send the right message to Iran that even amid our vigorous disagreements on all these other issues, including something as important as cyber security, Congress stands united against Iran developing nuclear capacity.

Let me give some of the highlights of the bill. This would create strong new measures on any entity that invests in Iran's petroleum, petrochemical, or natural gas sector, strong measures against any entity that provides goods, services, and infrastructure or technology to Iran's oil and natural gas and any entity that provides refined petroleum products to Iran.

Iran is an economic basket case. They have all this oil, but they can't turn enough of it into gasoline for their own country because of the kind of government under which they are suffering.

Again, this bill would create new, strong measures against any company or entity that insures or reinsures investments in Iran's oil sector; that engages in joint ventures with the National Iranian Oil Company; that provides insurance or reinsurance to the National Iranian Oil Company or the National Iranian Tanker Company; that helps Iran evade oil sanctions through reflagging or some effort that tries to hide the real source of oil coming from Iran; that sells or leases or otherwise provides tankers to Iran; that transports crude oil from Iran concealing the origin of Iranian crude in any way. These are good measures that strengthen what we have been doing, and what we have been doing is having some impact. I believe we need to have more impact because the result would be so unacceptable if Iran successfully gets a nuclear weapon.

The bill prevents Iran from bringing money back when it sells oil in other countries. Now, 80 percent of their hard currency comes into the country that way. So we would say that can't happen. And 50 percent of all the money that runs the government comes in that way. When the President signs this bill, we are saying this shouldn't be allowed to happen. It also prevents the purchasing of Iranian sovereign debt.

I have been working on this issue for a long time. In 2006 I worked with my colleagues in the House and Senate and the administration to secure the first Iran Freedom Support Act, which updated the Iran sanctions law and put

into law many of the things we have been doing. This bill, along with that bill, addresses problems we need to be concerned about as a country.

Late last year the Senate passed an amendment to the Defense bill, 100 to 0, to block Iran's access to global capital markets. Foreign banks that do business with Iran's banks won't be able to do business with the U.S. financial system.

Nobody disputes what a nuclear Iran would mean to the world. Iran is currently led by a man who has called for the destruction of our ally Israel. Iran's government funds and supports terrorist organizations and regimes all over the Middle East that threaten American allies and interests and American citizens. The Iranian regime is dangerous, it is undemocratic, it treats its own people brutally, and it associates itself with other countries that do the same thing. North Korea, Venezuela, and Syria are allies of Iran. What does that tell us? We can sometimes tell a lot about a country by the few friends it has left in the world. Iran bankrolls Hezbollah and has strong financial ties with Hamas. Remember, this is a country that can't even produce their own gasoline, even though they send oil out every day, because they are focusing on nuclear activities when they have so many other needs. So there is no reason to believe a nuclear Iran would not be a threat to the United States.

Some of our country partners in that region, such as Turkey, feel they have to develop nuclear programs if Iran does.

The Iranian people, many of whom advocate for freedom and demonstrated their bravery in the 2009 uprisings, are not our enemies. This government, however, is our enemy, and this government should not be allowed to have a nuclear weapon.

We are going to have to work together to more vigorously persuade countries such as Russia and China that their ties with Iran aren't in the best interest of the world. We have to work to encourage our European allies to accept some further risk as they also continue on the path they are on to make these sanctions work better.

I understand there is some risk here, but the Senate—which doesn't agree on a lot of things—agrees that an unacceptable conclusion to what is going on in Iran right now would be a nuclear Iran.

I urge the President to sign this bill to implement the provisions as quickly as possible and to work with other countries in the world to see that we all advance the interests of peace by insisting that Iran not continue on the course it is on.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I am very pleased that the Senate is now taking up the nomination of Gershwin Drain to be a judge on the Eastern District Court of Michigan.

Judge Drain has an impressive legal career. He graduated from the University of Michigan Law School and then went on to earn a master's of judicial studies degree in 1991. He has served with distinction as a trial judge for over two decades in all three of our trial courts, from the lowest court, which is a so-called district court, to the recorder's court and the circuit court.

He has demonstrated a career-long dedication to helping the people understand how our legal system works. As a longtime columnist for the Michigan Chronicle newspaper, he has explained often-complex legal issues in language accessible to lay readers, broadening understanding of and appreciation for our courts. Beyond his writing, Judge Drain has been very active in the community, including membership on the education committee of the Southfield Christian School Board.

It is important to note that the confirmation of Judge Drain would help to remedy the judicial emergency in the Eastern District of Michigan. Vacancies and caseloads in the Eastern District meet the Federal judicial system's definition of an emergency. These judicial emergencies lead to delays and, even worse, to the risk of rushed judgments that could deprive Americans of the impartial justice that is so much a necessary component of our democratic system of government.

Judge Drain was asked about some of his past writings and statements during his confirmation hearing at the Judiciary Committee on such issues as capital punishment and mandatory minimum sentences. He indicated that some of those views—some of them decades ago—have evolved. He was candid in saying where they have changed. I don't agree with everything Judge Drain said 20 years ago, but nonetheless, without the slightest hesitancy, Senator STABENOW and I have recommended him to be a judge on the Eastern District Court for Michigan.

The test of his fairness has been shown by the fact that he has served with distinction for over two decades on trial courts. Another test of his fairness is how the legal community feels about Judge Drain.

Senator STABENOW and I have appointed a judicial advisory commission to make recommendations to us for the judicial positions we have on the Federal district courts. His nomination was the result of an examination by and consideration of a host of people interested in being Federal court judges in the Eastern District. His competition was great. There are literally dozens of qualified people whom we considered—more accurately, our judicial advisory commission considered—to recommend to the President for nomination. He was one of the persons they recommended. This is a commission we have appointed in order to remove the nominees whom we recommend to the President, as much as we can, from partisan politics and to