

For the 36 vacancies categorized as “judicial emergencies,” there are only 8 nominees. So I just want to set the record straight before the vote for these nominees because I get tired of these crocodile tears being shed. Particularly, I am sick of hearing about us not moving on judges when three-fourths of them we don’t even have the nominees here yet. So quit crying.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I share the perplexed attitude of the Senator from Iowa about our friends’ concern about nominations. The President has even talked about it. I have gone back and looked at the record. There was a Washington Post article 3 weeks ago. I gave a copy of it to the President. This is what it said: On Cabinet nominations, this Senate has considered President Obama’s Cabinet nominations more rapidly than they did the last three Presidents. That is Cabinet nominations. Never in the history of the Senate has the Senate denied a Cabinet nomination by filibuster, with the exception of the Democrats blocking John Bolton in the George W. Bush administration. So the President is treated better on Cabinet nominations.

Evidence from the Congressional Research Service says President Obama’s circuit judges in his first term were considered more rapidly than President George W. Bush’s circuit judges. Senator GRASSLEY just pointed out that in the second term of President Bush he had 1 judge confirmed by this time; President Obama has 13.

On district judges, according to the Congressional Research Service, during the first term of President Obama his district judges were considered a little more slowly than President George W. Bush’s, but the Senate changed the rules earlier this year to cut down the postclosure debate time to make it easier to bring judges to the floor and get them through more rapidly. Perhaps that is why the score is 13 to 1, with Obama getting 13 judges and Bush getting 1 in the same period of time in the second term.

I do not know where this is coming from. In addition, we have never blocked a district judge by filibuster—neither party in the history of the Senate. In the circuit judges we never blocked a circuit judge until George W. Bush made some nominations about the time I came to the Senate 10 years ago, and the Democrats started it. They caused Miguel Estrada to be blocked and a number of others, and they brought up cloture motions time after time and we had a gang of 6, 8, 10 or 14 who slowed it all down. But still the score is 5 to 2; 5 Republican judges blocked for confirmation by the Democrats under President Bush, and 2 by Republicans with President Obama.

We worked pretty hard for the President to confirm his nominations. We had two sets of rules changes, and we

have a number of expedited nominations which come now to the desk. We had about 170 nominations that have been completely removed from Senate confirmation. I would think the Obama administration would be thanking the Senate for its work to make it easier for any President to get confirmations. In any event, when we are talking about Cabinet Members, President Obama is being better treated than the last three Presidents. When we are talking about circuit judges he is better treated than George W. Bush. When we are talking about district judges he is treated a little worse in his first term than George W. Bush, but we changed the rules to speed up district judges. The score in the second term, as I have said twice now, is Obama 13, Bush 1—Obama way ahead.

I like to see confirmations move ahead. I hope I do not hear this much more, when the record shows that in fact it is a manufactured crisis.

I yield the floor.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent all time be yielded back.

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

The question is, Will the Senate advise and consent to the nomination of Analisa Torres, of New York, to be United States District Judge for the Southern District of New York?

The nomination was confirmed.

The PRESIDING OFFICER. The question is on agreeing to the Watson nomination.

Mr. ALEXANDER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Derrick Kahala Watson, of Hawaii, to be United States District Judge for the District of Hawaii?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Massachusetts (Mr. COWAN), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BURR) and the Senator from Kansas (Mr. MORAN).

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

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 106 Ex.]

YEAS—94

Alexander	Barrasso	Bennet
Ayotte	Baucus	Blumenthal
Baldwin	Beigich	Blunt

Boozman	Heinrich	Paul
Brown	Heitkamp	Portman
Cantwell	Heller	Pryor
Cardin	Hirono	Reed
Carper	Hoeven	Reid
Casey	Inhofe	Risch
Chambliss	Isakson	Roberts
Coats	Johanns	Rockefeller
Coburn	Johnson (SD)	Rubio
Cochran	Johnson (WI)	Sanders
Collins	Kaine	Schatz
Coons	King	Schumer
Corker	Kirk	Scott
Cornyn	Klobuchar	Sessions
Crapo	Landrieu	Shaheen
Cruz	Leahy	Shelby
Donnelly	Lee	Stabenow
Durbin	Levin	Tester
Enzi	Manchin	Thune
Feinstein	McCain	Toomey
Fischer	McCaskill	Udall (CO)
Flake	McConnell	Udall (NM)
Franken	Menendez	Vitter
Gillibrand	Merkley	Warner
Graham	Mikulski	Whitehouse
Grassley	Murkowski	Wicker
Hagan	Murphy	Wyden
Harkin	Murray	
Hatch	Nelson	

NOT VOTING—8

Boxer	Cowan	Moran
Burr	Lautenberg	Warren

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate’s action.

VOTE EXPLANATION

• Mr. COWAN. Madam President, I was necessarily absent from votes during today’s session. Had I been present for the votes on amendments relating to S. 649, the Safe Communities, Safe Schools Act of 2013 I would have opposed the Barrasso amendment, S. Amdt. 717, and I would have supported the Harkin-Alexander amendment, S. Amdt. 730. Also, I would have supported the nomination of Analisa Torres to be United States District Judge for the Southern District of New York.●

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The majority leader is recognized.

GUN SAFETY

Mr. REID. Madam President, this bears repeating: We knew all along that efforts to pass stronger background checks and keep guns out of the hands of criminals wouldn’t be easy, and it hasn’t been. But keeping America’s streets safe from gun violence is worth the effort.

Yesterday the families of gun violence victims watched as Republicans defeated a commonsense proposal to expand background checks. It is supported by 90 percent of the American people. It is not some hocus-pocus. What it says is that if a person is a criminal, that person shouldn’t be able to buy a gun. It says that if a person has severe mental issues, that person shouldn’t be able to buy a gun. That is all it said.

Yesterday the families of gun violence victims watched, but despite the

fact that a strong majority of the American people feel this way, we weren't able to get this done. Despite the fact that a strong majority of the Senate voted in favor of stronger background checks—a strong majority—Republicans once again filibustered a commonsense proposal. We were able to get 4 Republicans—4 out of 45.

Yesterday President Obama said it was a shameful day for the Senate, and it probably was, I agree. But we should make no mistake; this debate is not over. In fact, this fight is just beginning.

I have spoken with the President. He and I agree that the best way to keep working toward passing a background check bill is to hit “pause” and freeze the background check bill where it is. In the meantime, we will keep moving forward with the people from Aurora, CO, Blacksburg, VA, Newtown, CT, and other places to make sure we are able to get something done. This will allow Senators to keep negotiating.

We had nine amendments yesterday. They were not easy to vote on—not for us or for the Republicans—and I understand that. But it was a good process by which to move forward and get some of these contentious amendments on both sides out of the way—or voted on, rather, is a better way to phrase it.

So we are going to come back to this bill. I feel obligated to Senator STABENOW. She should have an opportunity to offer her amendment on mental health. I feel an obligation to Senator COBURN. He should be able to offer his amendment on background checks. I feel an obligation to a number of Senators who believe we have to do a better job dealing with the issue of veterans.

So we are going to have time to work on what people want to do before we come back to this. It will give opponents an opportunity to decide what they want to do when we get back on this, and it will give gun violence advocates time to make their voices heard by Republican Senators. This option will preserve the progress we have made on the bill. We passed a couple of amendments today—we passed a Republican amendment and a Democratic amendment. I suggest to the Senate that this option will prevent us from having to return to square one procedurally, and I think that is good.

I am committed to ensuring that any bill we pass includes an expansion of background checks, closing the gun show loophole, as well as covering private sales.

This afternoon I am going to file cloture on the motion to proceed to the Marketplace Fairness Act, which would give brick-and-mortar stores parity with Internet-only retailers. It is only a matter of time before we bring this anti-gun violence measure back to the floor for a vote.

The stand of the Republicans is not sustainable. It is a question of how long they are going to stand firm, but it is not sustainable.

I assure the 90 percent of Americans who support meaningful background checks that I am going to continue this fight. I assure the families of Newtown and Aurora and Tucson and Blacksburg that we are going to continue to stand by their side.

To those Senators who have indicated they want to offer amendments, we will be back and try to do another tranche of amendments, and when we get there, I hope we can proceed the way we did this week to line up amendments.

MARKETPLACE FAIRNESS ACT— MOTION TO PROCEED

Mr. REID. Madam President, I move to proceed to Calendar No. 41, S. 743.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

Motion to proceed to the consideration of Calendar No. 41, S. 743, a bill to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

CLOTURE MOTION

Mr. REID. Madam President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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. 41, S. 743, To restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

Harry Reid, Richard J. Durbin, Sherrod Brown, Sheldon Whitehouse, Amy Klobuchar, Joe Manchin III, Richard Blumenthal, Patrick J. Leahy, Martin Heinrich, Angus S. King, Jr., Al Franken, Tom Harkin, Carl Levin, Mark Begich, Brian Schatz, Robert Menendez, Tammy Baldwin.

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

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

Mr. WYDEN. Madam President, as I understand it, Leader REID moved to proceed to the Marketplace Fairness Act a bit ago. I have deep reservations about this legislation, so I am not able to support the motion to proceed. The leader has filed cloture on his motion, and I just want it understood at this point that if cloture is invoked, I will not be able to support a reduction in the amount of time available for Members to debate this.

The Presiding Officer and I have talked about this a number of times, but just for purposes of this discussion,

I think it is extremely important that the Senate and the country think through the implications of what this bill is all about.

What this bill is all about is that the advocates essentially want to take a function that is now vested in government—State tax collection—and, in effect, outsource that function of government to small businesses, particularly these small online retailers.

This has been a big source of employment, good wages, innovative approaches, new apps. It has been a big boost for our country. I think it is important for the Senate to think through what this means and try to see if we can come up with something that is sensible.

For example, the proponents of the legislation are going to argue with considerable passion that this is not going to be a hard task for these small businesses on which they have imposed this new assignment—as they call it, outsourcing the function of State tax collection, which is done by government, to these small businesses.

The proponents say it is not going to be hard for small businesses to handle this. They are going to say there is a lot of new technology available—computer software and the like—and that the Marketplace Fairness Act will not be difficult to administer as a result of these new technologies.

Having been involved in this debate now for years and years—having been the original author of what is a different subject but has some of the same connections, the Internet tax fairness legislation—I have heard the proponents of this legislation say, year after year after year, this is not going to be a hard assignment, the process of these small businesses collecting these taxes, that new technologies are available, and that the law ought to be passed because it can be done.

But year after year we have seen that the idea that this is so simple and it can be done is not borne out. If it were so simple, it would have been done already. The reason this bill comes to the floor of the Senate is because it is, in fact, not so simple. It is not going to be a piece of cake for these small businesses.

There are more than 5,000 taxing jurisdictions in our country. Some of them give very different treatment for products and services that are almost identical. So this is a big lift to say we are going to have software and computers and technology and it is just going to be a piece of cake for these small businesses to be able to handle this.

I think that is part of what needs to be discussed in a debate on the floor of the Senate because, fundamentally, the idea of taking a function of government—tax collection—and handing it over to small businesses—and small businesses being a big part of our country's economic engine—is something I think ought to give every Senator pause.