

lawyer and his personal qualities. His nomination languished until the end of the Bush administration. He waited almost 1,000 days for a vote that never came.

The criteria our Democratic friends cited to block Mr. Keisler's nomination then clearly show the court is even less busy now. For example, the seat to which Ms. Millett is nominated is not a judicial emergency—far from it. The number of appeals at the court is down almost 20 percent, and the written decisions per active judge are down almost 30 percent.

In addition to these metrics, the DC Circuit has provided another. The chief judge of the court, who was appointed to the bench by President Clinton, provided an analysis showing that oral arguments for each active judge are also down almost 10 percent since Mr. Keisler's nomination was blocked.

These analyses show that not only is the court less busy in absolute terms now than it was then, it is less busy in relative terms as well, when one takes into account the number of active judges serving on the court. The court's caseload is so low, in fact, that it has canceled oral argument days in recent years because of lack of cases. After we confirmed the President's last nominee to the DC Circuit just a few months ago—and by the way we confirmed him unanimously—one of the judges on the court said that if more judges were confirmed there would not be enough work to go around. So if the court's caseload clearly does not meet their own standards for more judges, why are Senate Democrats pushing to fill more seats on a court that doesn't need them? What is behind this push to fill seats on the court that is canceling oral argument days for lack of cases, and according to the judges who serve on it will not have enough work to go around if we do?

We don't have to guess. Our Democratic colleagues and the administration's supporters have been actually pretty candid about it. They have admitted they want to control the court so it will advance the President's agenda. As one administration ally put it, "The President's best hope for advancing his agenda is through executive action, and that runs through the DC Circuit."

Let me repeat, the reason they want to put more judges on the DC Circuit is not because it needs them, but because "The President's best hope for advancing his agenda is through executive action, and that runs through the DC Circuit."

Another administration ally complained that the court "has made decisions that have frustrated the President's agenda." Really? The court is evenly divided between Republican and Democratic appointees. According to data compiled by the Federal courts, the DC Circuit has ruled against the Obama administration in administrative matters less often than it ruled against the Bush administration.

Let me say that again. According to data compiled by the Federal courts, the DC Circuit has ruled against the Obama administration in administrative matters less often than it ruled against the Bush administration. So it is not that the court has been more unfavorable to President Obama than it was to President Bush. Rather, the administration and its allies seem to be complaining that the court has not been favorable enough. Evidently they do not want any meaningful check on the President. You see, there is one in the House of Representatives, but the administration can circumvent that with aggressive agency rulemaking. That is if the DC Circuit allows it to do so.

A court should not be a rubberstamp for any administration, and our Democratic colleagues told us again and again during the Bush administration that the Senate confirmation process should not be a rubberstamp for any administration. For example, they said President Bush's nomination of Miguel Estrada to the DC Circuit was "an effort to pack the Federal courts." And they filibustered his nomination—seven times, in fact.

We have confirmed nearly all of President Obama's judicial nominees. As I said, we confirmed a judge to the DC Circuit unanimously just a few months ago. This year we have confirmed 34 circuit and district court judges. At this time in President Bush's second term the Senate had confirmed only 14.

Let me say that again. This year we have confirmed 34 circuit and district court judges. At this time in President Bush's second term the Senate had confirmed only 14 of those nominees. In fact, we confirmed President Obama's nominees even during the Government shutdown.

In writing to then-Judiciary Committee Chairman Arlen Specter to oppose the nomination of Peter Keisler, Senate Democrats said:

Mr. Keisler should under no circumstances be considered—much less confirmed . . . before we first address the very need for the judgeship . . . and deal with the genuine judicial emergencies identified by the judicial conference.

That course of action ought to be followed here too. Senator GRASSLEY has legislation that will allow the President to fill seats on courts that actually need judges. The Senate should support that legislation, not transparent efforts to politicize a court that doesn't need judges in an effort to create a rubberstamp for the administration's agenda.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MELVIN WATT TO BE DIRECTOR OF THE FEDERAL HOUSING FINANCE AGENCY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The legislative clerk read the nomination of MELVIN L. WATT, of North Carolina, to be Director of the Federal Housing Finance Agency.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12 noon will be equally divided and controlled between the two leaders or their designees.

The assistant majority leader.

LETTER OF RESIGNATION

Mr. DURBIN. Mr. President, first, I ask unanimous consent that an official letter of resignation as mayor of Newark, NJ, from Senator-elect CORY BOOKER of New Jersey be printed in the RECORD.

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

NEWARK, NJ,
October 30, 2013.

ROBERT P. MARASCO,
City Clerk, City of Newark, Broad Street, Newark, NJ.

DEAR MR. MARASCO: Serving as the mayor of Newark, New Jersey has been one of the greatest honors of my life. Since taking office more than seven years ago, I've had the privilege to work closely with countless residents, municipal employees, elected officials, community leaders and others to move Newark forward. It was not easy, but together, we have brought incredible positive change to our city and set the stage for this momentum to continue in the coming years.

On Thursday, October 31, 2013 at noon, I will be sworn in as one of New Jersey's United States Senators. Therefore, effective Thursday, October 31, 2013 at 12:00 a.m., I am officially resigning as mayor of Newark.

While I am leaving one position, I am not leaving Newark. I am proud to be able to now represent Newark and our entire state as a United States Senator. My level of dedication, passion and service will not falter as I serve New Jersey. Our best days lie ahead, and together, we will continue to achieve great things.

The work goes on.

Sincerely,

CORY A. BOOKER,
Mayor.

Mr. DURBIN. Mr. President, I listened carefully to the statement that was just made by the Republican leader. It is a shame what is about to occur on the Senate floor if he has his way. The President has submitted the name of a nominee to serve on the DC Circuit Court. This is not just another court. Some view it as the second most important court in the land. Some of the most technical and challenging legal cases come before this court. The judges who serve there are called on not just to do routine things but to do extraordinary things on a regular basis. That is why the appointments to this court are so critically needed when

it comes to maintaining the integrity of our Federal judiciary.

What I heard from the Senate Republican leader was a statement that he would vote against the nomination of Patricia Ann Millett, President Obama's nominee for the vacancy on the court.

There are 11 judges authorized for this court. Currently, only eight are serving. There are three vacancies. Ms. Millett is being suggested for the ninth seat out of the 11 that are authorized. I am not going to go back into the history of our exchanges when it comes to the appointment of judges. I can make as compelling a case, if not more compelling, than that just made by the Senator from Kentucky.

At the end of the day those who are witnessing this will say it is another he said versus he said. What are these politicians up to? Who is right? Who is wrong? What I would suggest is, don't take my word for it and don't take the word of the Senator from Kentucky. Take the word of the Chief Justice of the Supreme Court of the United States.

On April 5 the Judicial Conference of the United States, led by Chief Justice John Roberts, made its Federal judgeship recommendations for this Congress. The Judicial Conference is not Republican or Democratic; it is non-partisan. According to its letter, its recommendations reflect the judgeship needs of the Federal judiciary. The Judicial Conference, which judges the caseload and workload in the Federal courts, did not reach the same conclusion as the Senator from Kentucky. They didn't tell us we need fewer judges on the DC Circuit Court—not at all. It is incumbent upon us to fill those vacancies, and that is where we should be today.

Let me add one additional note. What is especially troubling about what they are going to do to this fine woman is the fact that she is so extraordinarily well qualified. She may hold a record of having been an advocate and argued before the U.S. Supreme Court some 32 times. She has received the endorsement of both Democratic and Republican Solicitors General. Those are the lawyers who represent the United States of America before that Court across the street, and her nomination is strongly supported by prominent former Republican Solicitors General.

So the notion that the Senator from Kentucky suggests—that this is some partisan gambit—is completely destroyed by her letters of recommendation from Republicans as well as Democrats who have served as Solicitor General and have witnessed her fine work. This is about putting the right person in the job on one of the most important courts in the land, and sadly, unless the position of the minority leader of the Senate is not the position of all Republican Senators, she may suffer from this partisan approach to the appointment of this vacancy. What a sad outcome for a fine woman who has done so

well as a professional advocate before appellate courts, has been recommended on a bipartisan basis—the highest recommendations—and now, after languishing on the calendar, is going to be dismissed. She didn't fit into the political game plan. That is awful.

The men and women who step forward and submit their applications to become part of our Federal judiciary know they are going to be carefully scrutinized and criticized for some things in their past, but they do it anyway in the name of public service. What I hear from the Senator from Kentucky is that she doesn't fit into the political game plan on the other side of the aisle. I hope there are enough Republican Senators who will disagree with the Senator from Kentucky. We should give Patricia Ann Millett an opportunity to serve on the DC Circuit Court as quickly as possible.

I know there are others on the floor, and I want to make sure everyone has time to say what is on their mind today because there are important issues before us, but I do want to make one brief comment about another issue.

EXPIRATION OF STIMULUS FUNDS FOR SNAP

Mr. DURBIN. Mr. President, 2 days ago Kate Maehr of the Greater Chicago Food Depository came to visit me in my office. Kate is one of my favorite people. Kate runs this huge network of food distribution in the Chicagoland area. Her warehouses are huge, and they are filled with foodstuffs, much of which is donated by companies that produce food so that it can be distributed in food pantries and other sources all around the Chicagoland area. Kate is one of the best, and I look forward to her visits each year because I know the fine work she does to feed the hungry.

Two days ago she came into my office very sad.

She said: I don't know what we are going to do.

I said: What is the matter?

She said: This Friday the increase in food stamps, or SNAP benefits, for the poor people who live in the greater Chicagoland area is going to be cut. It may be only \$10 or \$15, but I know these people, I know many of them personally, and they live so close to the edge. It will call for some sacrifice on their part, and many of them will be hard-pressed to make that sacrifice, and I can't make up the difference. With all of the donations and all of the charitable contributions, I just can't make up the difference.

I thought about it for a minute. I thought, how would you approach a Member of the Senate or the House of Representatives and say: You know, this cutback of \$15 a month will really hurt. It is hard for us, in our positions in life, to really understand or identify with the plight and the struggle of those who are not certain where their next meal is coming from.

Most of those people have the benefit of the SNAP program, the food stamp

program. Well, who are these people? Who are these 48 million Americans who receive benefits from this program? Almost 1 million of them are veterans. Veterans who are not sure where their next meal is coming from get food stamps—SNAP benefits. Almost half of the 48 million are children. There are 22 million children and another 9 million who are elderly and disabled. When we talk about cuts in the SNAP program, we are talking about these people—the veterans, children, the elderly, and the disabled.

Right now there are two proposals before us. One proposal is from the Senate, and that cuts back spending on this program to the tune of \$4 billion over 10 years. I supported it because I think it closes the potential for abuse. I don't want to waste a penny of Federal taxpayers' money on any program in any way, shape, or form. Senator STABENOW, chairman of the Senate agriculture committee, made this change in the food stamp program that will save us \$4 billion and will not create hardship. In fact, it closes what may be a loophole.

Now comes the House of Representatives, and their view is much different. They want to cut some \$40 billion—10 times as much—over the next 10 years. When we take a look at the approach they are using for these cuts—10 times the amount cut by the Senate—we understand how they get their so-called savings. They take almost 4 million—3.8 million—people out of the program: children, single mothers, unemployed veterans, and Americans who get temporary help from the food stamp program. The House would cut \$19 billion and 1.7 million people from SNAP by eliminating the authority of Governors of both political parties to ask for waivers so that low-income childless adults under 50 can still receive benefits beyond the 3 months they do ordinarily. This says that Governors looking at their States with high unemployment understand that there are people in need.

It is hard for Members of Congress in the House or the Senate—it is hard for me too—to really appreciate the lifestyle of someone living from paycheck to paycheck, but that is a reality for millions of Americans. Many of the people who are receiving food stamps are working. That may come as a shock to people, but they are not making enough money to feed their families.

I went on a tour of a food warehouse in Champaign, IL, and had a number of people explain the importance of not only their work with food pantries but the importance of the food stamp program. I noticed one young woman who was part of the tour. I didn't quite understand why she was there. She was an attractive young mother who was dressed well. She explained that she had two children. I later learned why she was there. She is a food stamp recipient. She has a part-time job with the local school district—not a full-