

The last time the Senate confirmed two Supreme Court nominees was during President Bush's second term, and during that term the Senate confirmed a total of only 119 district and circuit court nominees.

Let me put it another way. Under similar circumstances when Supreme Court nominees were considered—the Senate confirmed 52 more district and circuit nominees for President Obama than for President Bush.

During the 2008 Presidential election year, the Senate confirmed a total of 28 judges—24 district and 4 circuit. During the 2012 Presidential election year the Senate greatly exceeded those numbers, having confirmed a total of 49 judges—44 district and 5 circuit. In fact, President Obama's confirmations during the 2012 election year exceed the previous five Presidential election years.

Furthermore, President Obama has the highest percentage of circuit confirmations over the past four Presidential terms. With regard to district confirmations, President Obama had more during the 112th Congress than in any of the previous eight Congresses, going back to 1994.

So those who say that this President is being treated differently either fail to recognize history or want to ignore the facts, or both.

With regard to today's nomination, I would like to say a few words about the nominee. I expect he will be approved and congratulate him on his confirmation.

Judge Bacharach graduated from University of Oklahoma with a B.A. in 1981 and earned his J.D. from the Washington University School of Law in 1985. Upon graduation, Judge Bacharach served as a law clerk from 1985 to 1987 to the Honorable William J. Holloway, Jr. on the U.S. Court of Appeals for the Tenth Circuit. After completion of his clerkship, he was hired as an associate at Crowe & Dunlevy, where he became a shareholder in 1994. He remained at the firm until becoming a U.S. magistrate judge in 1999. At Crowe & Dunlevy, he primarily practiced in commercial litigation, focusing on antitrust and franchise litigation. He also handled a considerable number of cases involving the Employee Retirement Income Security Act, ERISA, from 1996 to 1998.

From 1997 to 1999, Judge Bacharach served as an adjunct professor of law at the University of Oklahoma School of Law. During this period, he was a co-instructor for a class titled "Civil Pretrial Litigation."

In 1999, the U.S. district judges for the Western District of Oklahoma appointed Judge Bacharach to be a U.S. magistrate judge. As a magistrate judge, he manages all aspects of the pretrial process in civil and criminal cases: conducting evidentiary hearings, ruling on nondispositive motions, making reports and recommendations regarding dispositive motions, and issuing criminal complaints, search warrants, and arrest warrants.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum. If there is time remaining, I ask the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from California.

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

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

Mrs. BOXER. Mr. President, we yield back the remaining time on the nomination.

The PRESIDING OFFICER. All debate time has expired.

Mrs. BOXER. Mr. 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 Robert E. Bacharach, of Oklahoma, to be United States Circuit Judge for the Tenth Circuit?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Idaho (Mr. CRAPO), the Senator from Wisconsin (Mr. JOHNSON), and the Senator from Kentucky (Mr. PAUL).

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

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

[Rollcall Vote No. 22 Ex.]

YEAS—93

Alexander	Enzi	McCain
Ayotte	Feinstein	McCaskill
Baldwin	Fischer	McConnell
Barrasso	Flake	Menendez
Baucus	Franken	Merkley
Begich	Gillibrand	Mikulski
Bennet	Graham	Moran
Blumenthal	Grassley	Murkowski
Blunt	Hagan	Murphy
Boozman	Hatch	Murray
Boxer	Heinrich	Nelson
Brown	Heitkamp	Portman
Burr	Heller	Pryor
Cantwell	Hirono	Reed
Cardin	Hoeven	Reid
Carper	Inhofe	Risch
Casey	Isakson	Roberts
Coats	Johanns	Rockefeller
Coburn	Johnson (SD)	Rubio
Cochran	Kaine	Sanders
Collins	King	Schatz
Coons	Kirk	Schumer
Corker	Klobuchar	Scott
Cornyn	Landrieu	Sessions
Cowan	Leahy	Shaheen
Cruz	Lee	Shelby
Donnelly	Levin	Stabenow
Durbin	Manchin	Tester

Thune  
Toomey  
Udall (NM)

Vitter  
Warner  
Warren

Whitehouse  
Wicker  
Wyden

NOT VOTING—7

Chambliss Johnson (WI) Udall (CO)  
Crapo Lautenberg  
Harkin Paul

The nomination was confirmed.

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

#### LEGISLATIVE SESSION

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

The Senator from Oklahoma.

#### BACHARACH CONFIRMATION

Mr. INHOFE. Mr. President, I am very pleased that we have just confirmed Judge Bacharach. He is going to make a great Federal judge. I have just been real pleased, I have to admit; I was literally running from the airport to get here because they had plane troubles, and I saw Senator PRYOR was in the same situation. So let me, first of all, thank the leadership for holding that vote open so I would not find myself in the embarrassing position of not voting to confirm my best friend from Oklahoma. So we are in that situation.

Let me just say that I am very proud of him. He actually started on the Tenth Circuit as a clerk. So he really knows this stuff. He has been there for a long time. As part of his profile, as a future goal, he intended to improve. He has actually made that statement. I believe "always working to improve" has been a defining characteristic of Judge Bacharach's career.

He graduated in the top 4 percent of his class in law school. He received all kinds of academic awards and maintained memberships in the highest orders of law school students. He began his legal scholarship on Law Review and has continued writing in a number of law journals.

As I said, he actually started in the Tenth Circuit working as a law clerk for the chief judge. So he knows that circuit. I do not think there is anyone out there who would know it better.

Judge Bacharach has multiple years of litigation experience working for the firm Crowe and Dunlevy in Oklahoma City and in public service as a Federal magistrate for the U.S. District Court in the Western District of Oklahoma. As evidence of his career of distinction, when Judge Bacharach was chosen to be a magistrate judge from a pool of many well-qualified candidates, the chief judge characterized the decision as "an easy one."

Since that time his colleagues have characterized his service as remarkable, demonstrating superb judicial temperament, and being a real asset to the Western District family and the

legal community. As with any position in the judicial branch that comes with a lifetime appointment, the Senate must deliberate carefully; and we did and gave all the thought to this nominee, as was shown, clearly demonstrated by a unanimous vote for confirmation. You do not see this very often, but you saw it with Judge Bacharach.

So I appreciate the opportunity to support him today and to have been able to call and be the first to congratulate him in this new part of his career, of which we are going to be very proud. I can assure the Presiding Officer and all the rest of us this is a guy of whom we will always be proud.

So I say congratulations to Judge Bacharach. You are going to do a great job. We will depend on that, and we will be watching to make sure that happens.

Thank you, Mr. President.

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

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

#### MORNING BUSINESS

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

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

#### VOTING RIGHTS ACT

Mr. LEAHY. Less than 7 years ago, Republicans and Democrats in the Senate and in the House of Representatives joined together to reauthorize key expiring provisions of the Voting Rights Act of 1965. We explained and documented our findings that this landmark civil rights law was still needed because of continuing discrimination and to preserve the progress that had been made. Because of this extensive record and the acceptance of the Voting Rights Act's importance in our country, our 2006 reauthorization of this crucial law was marked by Members of Congress from both parties and from every corner of the Nation coming together to renew one of the cornerstones of American Democracy.

It is a sad irony that on the same day we will be honoring Civil Rights icon Rosa Parks by unveiling her statue in the U.S. Capitol, the first full statue of an African American to stand in the halls of Congress, across the street the Supreme Court will be hearing arguments from those challenging the constitutionality of the Voting Rights Act reauthorization named in part for her. In the pending case, the challengers seek to strike down Section 5 of the

Voting Rights Act even though that critical section has protected constitutional guarantees against discrimination in voting where 100 years of prior civil rights laws failed. The Supreme Court got it right four years ago when it upheld the constitutional authority of Congress to reauthorize Section 5 against a similar challenge. Neither the words of the Constitution nor the importance of these critical provisions for protecting the right to vote has changed in the last four years. Under the specific words of the 14th and 15th Amendments, Congress has the power to remedy discrimination and enforce the Amendments by enacting laws that address racial discrimination in connection with voting. That is what we did nearly unanimously less than 7 years ago. And over the past year lower courts have repeatedly upheld both its constitutionality and its protections. In light of the lengthy court findings from just the last year, there can be no doubt that the operation of the Voting Rights Act is continuing to protect American voters from discrimination.

In his historic "I Have a Dream" speech, Martin Luther King, Jr. proclaimed: "When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir." The Voting Rights Act is one of our most important means for enforcing this promise and upholding the Constitution's guarantee of equal rights and equal protection of the law. Reauthorizing and restoring the Voting Rights Act was the right thing to do, not only for those who fought and bled for its passage but also for those who come after us—our children and our grandchildren. We owe it to them to continue our commitment to this vital Act. No one's right to vote should be abridged, suppressed or denied in the United States of America.

As we celebrate Black History Month and the significant progress we have made as a Nation, let us not forget the promissory note to future generations and the continuing need for civil rights laws such as the Voting Rights Act.

Our Nation has grown stronger since its Founding as more Americans have been able to exercise their right to vote. The actions taken by previous generations—through a Civil War, through Constitutional amendments, and through the long struggles of the civil rights movement—have worked to break down barriers that stood in the way of all Americans participating in our Democracy.

It has not been an easy road. The pervasive discriminatory tactics that led to the original Voting Rights Act were deeply rooted. As a nation, this effort to ensure equal protection dates back more than 140 years to the ratification of the 15th Amendment in 1870, the last of the post-Civil War Reconstruction amendments. Yet, it took 95 years from the passage of the 15th Amendment and

a historic struggle for civil rights for people of all races to begin the effective exercise of the rights guaranteed by that Amendment. The struggle reached a crucial turning point on March 7, 1965, on the Edmund Pettus Bridge in Selma, AL, when state troopers brutally attacked JOHN LEWIS and his fellow civil rights marchers who were trying to exercise their civil rights. The events of that day, now known as "Bloody Sunday," were a catalyst to the passage of the landmark Voting Rights Act, which finally ensured a century after the enactment of the Civil War amendments that the Constitution's guarantees of equal access to the political process, regardless of race, would not be undermined by discriminatory practices.

Prior to the Voting Rights Act, minorities of all races faced major barriers to participation in the political process, through the use of such devices as poll taxes, exclusionary primaries, intimidation by voting officials, language barriers, and systematic vote dilution. Section 5 provides a remedy for unconstitutional discrimination in voting by requiring certain jurisdictions with a history of discrimination to "pre-clear" all voting changes with either the Justice Department or the U.S. District Court for the District of Columbia. This remedy combats the practice of covered jurisdictions shifting from one invalidated discriminatory voting tactic to another, which had undermined efforts to enforce the Fifteenth Amendment for nearly a century.

In 2006, congressional leadership stood together on the steps of the Capitol to introduce a bill to reauthorize and reinvigorate the Voting Rights Act—an historic announcement in an era of intense partisanship. We came together in recognition that there are few things as critical to our Nation, and to American citizenship, as voting. In sharp contrast to the tremendous resistance and bitter politics which met the initial enactment of the Voting Rights Act, our efforts in 2006 overcame objections through discussions, the hearing process and by developing an overwhelming record of justification for extension of the expiring provisions. The legislation contained specific findings about the need for reauthorization and concluded that without reauthorization the gains we have made would be undermined. Our efforts reached completion when President Bush signed the bill into law after a unanimous vote in the Senate and nearly unanimous vote in the House.

At that time, I was the ranking member of the Senate Judiciary Committee and the lead Democratic Senate sponsor of the reauthorization. Over the course of 19 hearings, the Senate and House Judiciary Committees developed a comprehensive record supporting the continuing need for a reauthorized and reinvigorated Voting Rights Act. In the Senate Judiciary Committee alone we received testimony from 46 witnesses, including a