left either. Paul Oetken fits the bill of a mainstream, moderate judge. His moderation and modesty were evident during his confirmation hearing and are clear to all who know him. When judges have in their resume practical experience dealing with real-world problems, they tend to understand that a judge cannot simply impose things from on high without understanding the effect of imposing those decrees on average people, average businesses, and average governments.

When a candidate has these two qualities—excellence and moderation—diversity is a bonus. But in this case, at this moment, Paul is not just an excellent candidate. As the first openly gay man to be confirmed as a Federal judge and to serve on the Federal bench, he will be a symbol of how much we have achieved as a country in the last few decades. And importantly, he will give hope to many talented young lawyers who, until now, thought their paths might be limited because of their sexual orientation. When Paul becomes Judge Oetken, he will be living proof to all those young lawyers that it does get better.

Paul Oetken's modest but brave act of going through the confirmation process makes this otherwise quiet moment historic. But long after today, what the history books will note about Paul is his achievement as a fair and brilliant judge.

In a short while, our country will take one step closer toward equality and away from bigotry and prejudice. I am very proud to have played a supporting role, and I look forward to Paul Oetken's service on the bench in the Southern District of New York. Often quoted but still one of my favorites is what Martin Luther King often said:

> The arc of history is long, but it bends in the direction of justice.

Paul Oetken's nomination to the Federal bench proves that point once again.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask that the order for the quorum call be suspended.

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

EXECUTIVE SESSION

NOMINATION OF J. PAUL OETKEN TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

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

The assistant bill clerk read the nomination of J. Paul Oetken, of New York, to be United States District Judge for the Southern District of New York.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senate will vote on the nomination of J. Paul Oetken to the U.S. district judge for the Southern District of New York.

Today's vote marks the 28th judicial confirmation this year, and I am pleased we are moving forward with filling another vacancy.

When I became ranking member of the Judiciary Committee earlier this year, the courts had 103 vacancies. I have worked with the chairman and other members of the committee to reduce vacancies by confirming consensus nominees. We have brought the vacancies down now to 89. Based upon media stories and other exaggerated statements that I hear from time to time, you would think the Republicans are blocking every judicial nominee. The record shows something quite different. In total, 60 percent of the President's judicial nominees have been confirmed; 33 percent of the nominees have been confirmed during this Congress.

We continue to achieve great progress in committee as well. Seventy-three percent of the judicial nominees submitted this Congress have been afforded hearings. Only 57 percent of President Bush's nominees had hearings for the comparable time period during his Presidency. We have reported 58 percent of the judicial nominees, compared to only 54 percent of President Bush's nominees. In total, the committee has taken positive action on 62 of the 86 nominees submitted this Congress or 72 percent of those nominees submitted.

I could go on with other statistics which demonstrate our cooperation and positive action, but I think I have made my point. We are moving forward on the consensus nominees. Complaints to the contrary are not supported by the facts.

I would like to say a few words about the nominee we are considering today, a nominee I will vote for.

Mr. Oetken grew up in my State of Iowa and attended the University of Iowa, where he received his bachelor of arts degree with distinction in 1988. Following graduation from Yale Law School in 1991, the nominee spent 3 years clerking. He first clerked for the Seventh Circuit, then the DC Circuit, and finally for Justice Harry A. Blackmun of the Supreme Court of the United States.

After his clerkships Mr. Oetken entered private practice. In 1997, he became an attorney-adviser with the Department of Justice Office of Legal Counsel. In 1999, the nominee joined the White House Counsel's Office as associate counsel to then-President Clinton. In 2001, he moved to New York and returned to private practice. In 2004, the nominee joined the legal department of Cablevision Systems Corporation. Currently, he is the senior vice president and associate general counsel at Cablevision.

The ABA Standing Committee on the Federal Judiciary has given Mr. Oetken a unanimous ''qualified'' rating. I support this nomination and congratulate him on his professional accomplishments.

I yield the floor and 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. 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, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is considering the nomination of Paul Oetken of New York.

Mr. LEAHY. Mr. President, let me speak for a moment on that. With today's vote on the nomination of Paul Oetken to fill a judicial vacancy on the Southern District of New York, the Senate is going to also mark a new and important milestone. Mr. Oetken, of course, is a superbly qualified nominee. He is also the first openly gay man nominated to be a Federal district judge. I fully expect him to be confirmed to a lifetime appointment to the Federal bench. I am proud first of the President for taking this critical step to break down another barrier, increase diversity in the Federal judiciary, but also on the part of Paul Oetken, who stepped forward to serve. He was reported with the support of every member of the Judiciary Committee, Democratic and Republican, and I commend my fellow Republicans and Democrats for that vote. I think he is going to be confirmed by what I believe will be an overwhelming vote in the Senate. It is a sign as a nation we take a new and welcome step on the path of ensuring the Federal judiciary better reflects all Americans.

To reiterate, today, the Senate will finally vote on the nomination of Paul Oetken to fill a judicial vacancy on the Southern District of New York. Mr. Oetken's nomination was reported unanimously by the Judiciary Committee more than 3 months ago and could—and in my view should—have been confirmed within days. Yet, like so many of President Obama's qualified, consensus nominees, Mr. Oetken has been stuck without cause or explanation for months on the Senate's Executive Calendar. At a time when judicial vacancies are above 90 and have remained at that crisis level for 2 years, this kind of needless delay undermines the serious work we have to do to ensure the ability of our Federal courts to provide justice to Americans around the country.

With today's vote the Senate will mark a new and important milestone. Mr. Oetken, a superbly qualified nominee, is the first openly gay man to be

nominated to be a Federal district judge. Today I expect he will be the first openly gay man to be confirmed to a lifetime appointment on the Federal bench. All of us can be proud of President Obama for taking this critical step to break down another barrier and increase diversity in the Federal judiciary. All of us in the Senate can also be proud that Mr. Oetken was reported with the support of every Member of the Judiciary Committee, Democratic and Republican, and will be confirmed by what I believe will be an overwhelming vote in the Senate. It is a sign that, as a nation, we have taken a new and welcome step on the path of ensuring that our Federal judiciary better reflects all Americans.

Senator GRASSLEY, the ranking member of the Judiciary Committee was pleased at Mr. Oetken's hearing in March that Mr. Oetken was a Phi Beta Kappa graduate of the University of Iowa. As Senator SCHUMER said when introducing Mr. Oetken to the committee, not every New York nominee has such a strong connection to Iowa. Born in Louisville, KY, Mr. Oetken earned his law degree from Yale Law School and then served as a law clerk at every level of the Federal judiciary, for Judge Louis F. Oberdorfer of the District Court for the District of Columbia, for Judge Richard D. Cudahy of the Seventh Circuit Court of Appeals, and for Justice Harry Blackmun on the Supreme Court. Mr. Oetken has worked in the Justice Department's Office of Legal Counsel, as associate counsel to President Clinton, as a litigator in private practice, and is now one of the top in-house counsels for Cablevision System Corporation.

Regrettably, Mr. Oetken's nomination is the only one the Republican leadership would consent to consider today. There is no reason the Senate is not also voting on the nomination of Paul Engelmayer, who was reported unanimously on April 7 along with Mr. Oetken to fill another vacancy—a judicial emergency—on the Southern District of New York. In fact, Mr. Oetken's nomination is only the fifth nomination we have considered in the last 2 months, at a time when vacancies have remained near or above 90. I thank Senator GRASSLEY for his cooperation in working with me to make progress in committee considering judicial nominations in regular order. But that progress has not been matched in the Senate, where agreements to debate and vote on judicial nominations are too few and too far between.

In addition to Mr. Oetken, there are now 22 judicial nominations reported favorably by the committee and ready to be debated and voted on by the Senate, 17 of them having been pending on the Executive Calendar for a month or more. Before the Memorial Day recess I urged that the Senate take up and vote on the many consensus judicial nominations then on the calendar, as it traditionally has done before a recess. Republican Senators would not agree to consider a single one.

In June, I again urged the Senate to take steps to address the judicial needs of the American people by confirming the many qualified, consensus judicial nominations reported favorably by the Judiciary Committee. However, Republicans would consent to vote on only four judicial nominations during that month. Three of them were confirmed unanimously. In fact, one of the nominees we considered was, finally, the last of the judicial nominations that had been reported by the committee last year that, in my view, should have been considered then.

As a result, 17 judicial nominations reported favorably by the Judiciary Committee were left on the calendar throughout June and now halfway into July, 14 of which were reported unanimously and could easily have been confirmed. Last week, the Judiciary Committee favorably reported another five judicial nominations with significant bipartisan support, three of them unanimously. So in addition to Mr. Oetken's nomination there are now 17 judicial nominations pending on the Senate's Executive Calendar that, like his, were reported unanimously with the support of every Senator, Democratic or Republican, on the Judiciary Committee.

All these nominees have a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution. They are by any measure noncontroversial and will, I expect, be confirmed unanimously when Republicans consent to have votes on them. They should have an up-or-down vote after being considered by the Judiciary Committee, and without additional weeks and months of needless delay.

Federal judicial vacancies around the country still number too many, and they have persisted for too long. Whereas the Democratic majority in the Senate reduced vacancies from 110 to 60 in President Bush's first 2 years, judicial vacancies still number 91 2½ years into President Obama's term. By now, judicial vacancies should have been cut in half, but we have barely kept up with attrition. If we join together to consider all of the judicial nominations now on the Senate's Executive Calendar, we would be able to reduce vacancies below 80 for the first time since July 2009.

Regrettably, the Senate has not reduced vacancies as dramatically as we did during the Bush administration. In fact, the Senate has reversed course during the Obama administration, with the slow pace of confirmations keeping judicial vacancies at crisis levels. Over the 8 years of the Bush administration, from 2001 to 2009, we reduced judicial vacancies from 110 to a low of 34. That has now been reversed, with vacancies staying near or above 90 since August 2009. The vacancy rate—which we reduced from 10 percent at the end of President Clinton's term to 6 percent by this date in President Bush's third year, and ultimately to less than 4 percent in 2008—is now back to more than 10 percent.

We have a long way to go to do as well as we did during President Bush's first term, when we confirmed 205 of his judicial nominations. We confirmed 100 of those judicial nominations during the 17 months I was chairman during President Bush's first 2 years in office. So far, well into President Obama's third year in office, the Senate has only been allowed to consider 89 of President Obama's Federal circuit and district court nominees.

This is an area in which we must come together as Democrats and Republicans for the American people. There is no reason Senators from both parties cannot join together to finally bring down the excessive number of vacancies that have persisted on Federal courts throughout the Nation for far too long, and which have led the Chief Justice, the President, the Attorney General and judges around the country to urge the Senate to act.

The nomination that we confirm today is an important one for the Senate and for the American people. The only questions that should matter for any judicial nominee are the questions I have asked about every judicial nominee, whether nominated by a Democratic or a Republican President—whether he or she will have judicial independence. Does the nominee understand the role of a judge? Mr. Oetken meets this standard, and I am proud to vote for his confirmation today.

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. 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, I understand this vote is scheduled for 5:30; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, I ask consent not to delay in any way the vote—we will still have the vote at 5:30—but that I be allowed to continue during the time remaining to me as in morning business.

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

EXTENDING SERVICE OF FBI DIRECTOR ROBERT MUELLER

Mr. LEAHY. Mr. President, back on May 12, the President requested that Congress pass legislation to enable Robert Mueller to continue serving as Director of the Federal Bureau of Investigation for up to 2 additional years in light of the leadership transition at other key national security agencies—the Secretary of Defense was leaving, there was a change in the directorship of the CIA, and so forth—and, of course, the unique circumstances in

which we find ourselves as the 10th anniversary of 9/11 approaches in less than 2 months.

In response to the request of the President, a bipartisan group of Senators drafted and introduced S. 1103, a bill that would create a one-time exception to the statute that limits the term of the FBI Director to 10 years. This bill would allow the term of the incumbent FBI Director to continue for 2 additional years.

Given the continuing threats to our Nation and the need to provide continuity and stability in the President's national security team, it is important that this critical legislation be enacted without delay.

Director Mueller's term expires on August 2, 2011. Of the 12 weeks between the President's request and the expiration of Director Mueller's term, 10 have passed. The time for responsible congressional action has all but elapsed. We are almost in the final hour.

Congressional leaders, including Republican leaders, reacted to the President's request saying that they supported it. On May 26, bipartisan legislation providing the one-time statutory exception, which was drafted by Senator GRASSLEY, was introduced. It was cosponsored by me, Senator GRASSLEY, and the chair and vice chair of the Senate Select Committee on Intelligence, Senator FEINSTEIN and Senator CHAMBLISS.

The Judiciary Committee moved quickly to consider this legislation and report it to the full Senate. We proceeded at Senator GRASSLEY's request to a prompt hearing on June 8. I listed the legislation on the committee's agenda for action on June 9. It was held over for another week. Finally on June 16, the committee met, debated the matter, and reported the bill with an amendment to clarify its constitutionality. On June 21, Senate Report 112–23 was filed regarding the bill. We have been trying to reach an agreement to consider the bill for more than a month, but Republican objections have stalled this effort.

On June 29, my statement to the Senate warned that we would have only a few short weeks left this month to complete action and for the House to act. We should be acting responsibly and expeditiously. I have worked diligently in a bipartisan way with Senator GRASSLEY in order to prevent a lapse in the term of the Director of the FBI. The bill enjoys the strong support of law enforcement groups, including the National Association of Police Organizations, the National Fraternal Order of Police, the International Association of Chiefs of Police, the Police Executive Research Forum, the Major County Sheriffs' Association, the National Native American Law Enforcement Association, and the FBI National Academy Associates. They have all supported it.

We must act on this bill without further, unnecessary delays. The Senate must take it up, consider it and pass it, and then the House will need to consider and pass the bill before the President has the opportunity to sign it. Each of these steps must be completed prior to the expiration of the Director's current 10-year term on August 2, 2011. There is no time to waste.

All Senate Democrats have been prepared to take up and pass this extension bill for weeks. There is no good reason for delay. At first it was reportedly Senator COBURN who was holding up consideration of the bill, then Senator DEMINT, and now apparently it is an objection by Senator PAUL of Kentucky that is preventing the Senate from proceeding. I find it hard to understand why we would hold up a piece of legislation like this. This sort of delay is inexplicable and inexcusable.

In order to accomplish our goal, I have even been willing to proceed along the lines of an alternative approach demanded by Senator COBURN. That approach is based on a constitutional problem that does not exist. The bill reported by the Senate Judiciary Committee is an extension of a term limit that Congress imposed on the service of the Director of the FBI. As set forth in the committee report on the extension bill, and as reaffirmed in a June 20, 2011, memorandum opinion by the Office of Legal Counsel, the bill reported by a bipartisan majority of the Senate Judiciary Committee to the Senate is constitutionally sound and a proper response by Congress to the President's request. Nonetheless, I was prepared to proceed using Senator COBURN's language instead of Senator GRASSLEY's and mine, so long as one further problem was removed. Specifically, the major problem with Senator COBURN's approach is that it would necessitate the renomination of Director Mueller, and then his reconsideration and reconfirmation by the Senate after enactment of Senator COBURN's alternative bill—and all before August 2.

On June 29, I warned that this was an additional, unnecessary and possibly dangerous complication. I do not want Americans to approach the 10th anniversary of 9/11 without an FBI Director in office. At the markup of this bill in our Judiciary Committee, I was assured by the Senator from Oklahoma that he would get unanimous consent to do all the short time agreements to get the bill passed, get his amendment passed, get it through the House and back, and get Director Mueller confirmed with a 2-hour time agreement. If we did all of that, it would not be the best of solutions, but it would be better than what we have now.

Now we have the distractions from Director Mueller that have been created by these extended proceedings, which have been damaging enough. To require his renomination and then allow it to be held hostage or used as leverage, as so many of President Obama's nominations have been, seemed to me a risk that was better avoided. I did not want the extension of Director Mueller's service leading the FBI to fall victim to the same objections that have obstructed Senate action on other important Presidential nominations and appointments. Unfortunately, as I had warned, that is precisely what has happened in this case.

I have spoken often about the unnecessary and inexcusable delays on judicial nominations. Even consensus nominees have faced long delays before Senate Republicans would allow a vote. Since President Obama was elected, we have had to overcome two filibusters on two circuit court nominees who were reported unanimously by the committee. These judges—Judge Barbara Keenan of the Fourth Circuit and Judge Denny Chin of the Second Circuit—were then confirmed unanimously once the filibusters were brought to an end. There are currently 17 judicial nominees who were reported unanimously by all Republicans and Democrats on the Judiciary Committee and yet are stuck on the Senate Executive Calendar because Senate Republicans will not consent to vote on them. These are consensus nominations that should not have been delayed while the Federal courts are experiencing a judicial vacancies crisis.

This pattern of delay and obstruction has not been confined to judges. President Obama's executive nominations have been subjected to the same unfair treatment. The first five U.S. attorneys appointed by President Obama were delayed more than 2 months for no good reason in the summer of 2009. These are the top Federal law enforcement officers in those districts and yet it took from June 4 to August 7 before Senate Republicans would consent to their confirmations. They were then confirmed unanimously. The Chairman of the United States Sentencing Commission was similarly delayed unnecessarily for almost 6 months, from May 7 until October 21, 2009. He, too, was ultimately confirmed without opposition, but after needless delay.

Among a slew of other troublesome examples are these: One Republican Senator objected to a nominee to serve on the Federal Reserve Board of Governors because, according to that Senator, the nominee lacked the necessary qualifications. The nominee was a Nobel Prize winner and MIT economics professor. Another Republican Senator is blocking the confirmation of two SEC Commissioners until he extracts action from the SEC related to a case against the Stanford Financial Group. A group of Senate Republicans have sent a letter to President Obama vowing to oppose any nominee to be Director of the Consumer Financial Protection Bureau. Republican Senators are vowing to block President Obama's nominee to serve as the Secretary of Commerce.

In a particularly illustrative case, one Republican Senator lifted his hold on the nomination of the Director of the United States Fish and Wildlife Service only after the administration acceded to his demands and issued 15

offshore oil drilling permits. Shortly thereafter, another Republican Senator placed a hold on the very same nomination to force the Interior Department to release documents on the Department's ''wild lands'' policy. It did not end there. When that dispute was resolved, a third Republican Senator reportedly placed a hold on the nominee, demanding a review of the protected status of wolves. That nominee has still not been confirmed.

Regrettably, Senate Republicans have ratcheted up the partisanship, limiting the cooperation that used to allow nominations to move forward more quickly. That hostage-taking should not affect this critical term extension for the head of the FBI, but it has. Another important nomination is being subjected to holds and delays. Another well-qualified national security nominee is being used as leverage by the Republican Senate minority to extract other unrelated concessions. That is what Senator COBURN's alternative plan invited and that is what is happening with Senator PAUL's objection to proceeding.

Just recently, we finally broke through months of obstruction of the Deputy Attorney General and the Assistant Attorney General for National Security, key national security related nominations. In May, Senate Republicans filibustered for the first time in American history the nomination of the Deputy Attorney General of the United States. The nomination of the Assistant Attorney General for the National Security Division at the Department of Justice was subjected to similar, inexcusable delay. That nominee was approved unanimously by the Senate Judiciary Committee and unanimously by the Senate Select Committee on Intelligence, and ultimately approved unanimously by the Senate. But that nomination, approved unanimously all along the way, took 15 weeks. It took more than a month just to schedule the Senate vote after the nomination was reported unanimously by two Senate committees. I warned on June 29 that we have no guarantee that the President's nomination of an FBI Director would be treated any differently. Regrettably, that has become true. I wish I had been wrong, but unfortunately the same kinds of delays and obstructions for the sake of delays and obstructions have occurred.

Senate Republicans have known since we began consideration of the President's request to extend the FBI Director's term that his plan could not be considered a viable alternative unless there was an agreement from Senate Republicans to ensure that the Senate would complete its work and have the FBI Director in place at the end of the summer. That agreement would take the form of a unanimous consent agreement in the Senate, entered into by all Senators, and locked in, on the RECORD, so that it could not be changed without unanimous consent. That has not occurred. Senator COBURN was unable to convince his leadership and the Republican caucus to agree. That was the only way to ensure Senate action on a nomination before August 2.

To complete action in accordance with Senator COBURN's alternative plan would mean not only passing legislation through both the Senate and House, but the Senate also receiving, considering and confirming the renomination of Director Mueller. I was chairman of the Judiciary Committee back in 2001 when the Senate considered and confirmed Director Mueller's initial nomination within 2 weeks. I worked hard to make that happen. I predicted in June that given the current practices of Senate Republicans, and their unwillingness to agree on expedited treatment for President Obama's nominations, it was foolhardy to think that all Senate Republicans would cooperate. They have not. There has already been a shifting series of Republican holds over the last month.

The bill was reported over 1 month ago and action has been stymied by Republican objections every since. Senate Republicans have simply refused to agree to proceed and now there is no time for a complicated two phase procedure. We need to pass the necessary statutory authority to allow Director Mueller to continue without further delay.

As I have said, all Senate Democrats are prepared to take up and pass this extension bill, and send it to the House of Representatives for it to take final action before August 2. That is what we should be doing. We should do that now. There is no good reason for delay. All that is lacking is Senate Republicans' consent.

Virtually everybody that I have heard from in the Senate says that Director Mueller is the right person to lead the FBI at this critical time. Now is not a time—2 months before the anniversary of 9/11—to have somebody new on the job. I hope we will take up the bill soon. I wish we had done it at the time I urged Senators to.

I do applaud the Democratic side of the aisle for saying there would be no objections on our side to moving forward to this legislation so that we can extend for 2 years the term of Robert Mueller. I also congratulate and thank Director Mueller and his wife for being willing to put on hold their plans for retirement for those 2 years for the good of the country.

Given the continuing threat to our Nation, especially with the 10th anniversary of the September 11, 2001, attacks approaching, and the need to provide continuity and stability on the President's national security team, it is important that we respond to the President's request and enact this necessary legislation swiftly. The incumbent FBI Director's term otherwise expires on August 2, 2011. I hope cooler heads will prevail, and I urge the Senate to take up this critical legislation and pass it without further delay.

(Mr. MANCHIN assumed the Chair.)

Mrs. GILLIBRAND. Mr. President, today I am pleased to offer my strong support to the nomination of James Paul Oetken to serve on the U.S. District Court for the Southern District of New York. In Mr. Oetken, President Obama has sent to the Senate a nominee who we all should be proud to support.

J. Paul Oetken is a brilliant lawyer with a remarkable level of accomplishment. A graduate of the University of Iowa, where he received his bachelor of arts degree with highest distinction, and Yale Law School, where he received his juris doctorate, Mr. Oetken has built a successful career spanning the public and private sectors.

During the Clinton Administration, he served as an attorney-adviser at the U.S. Justice Department's Office of Legal Counsel and at the White House as associate counsel to the President. Prior to that, he clerked for three distinguished Federal judges, including U.S. Supreme Court Justice Harry Blackmun.

He currently serves as senior vice president and associate general counsel at Cablevision Systems Corporation, a New York Company, following several years in private practice.

Throughout his career, J. Paul Oetken has demonstrated a strong commitment to public service and civil rights, especially for gay and lesbian Americans. He has worked pro bono on amicus briefs defending the rights of LGBT Americans against laws that discriminate based on an individual's sexual orientation.

Mr. Oetken is the first openly gay man to be nominated to serve on the U.S. district court, and if confirmed, will be only the second openly gay individual serving in a U.S. district court or circuit court of appeals.

I firmly believe that the American people will be best served by a Federal judiciary that reflects our diversity as a nation, broadening the range of perspectives and experiences represented on the Federal bench. J. Paul Oetken will bring a strong intellect and commitment to justice, but also the diversity of experience that is currently lacking in our Federal courts. It is for that reason that I particularly want to applaud the President for submitting this nomination to the Senate.

J. Paul Oetken was unanimously favorably reported out of the Senate Judiciary Committee, and it is rare that we see a nominee come to the Senate floor with that kind of bipartisan support. To date, there are still 90 judicial vacancies in article III Courts, and 53 pending nominations that still need to be acted on by the full Senate. This is simply unacceptable. It is my hope that more of President Obama's highly qualified nominees will be reported out of committee and receive an up-or-down vote on the Senate floor.

J. Paul Oetken has the experience, education, and commitment to the rule of law and equal rights to be an outstanding Federal judge. He received a

unanimous rating of ''qualified'' by the American Bar Association Standing Committee on the Federal Judiciary and I am confident that if confirmed, he will be an excellent fit for the U.S. District Court for the Southern District of New York. I urge my colleagues to join me in voting yes on this nomination.

Mr. COONS. Mr. President, it is with great pleasure that I speak today on behalf of J. Paul Oetken's nomination to be U.S. District Judge for the Southern District of New York. Mr. Oetken and I knew each other while we were law students at Yale, and I have followed his career with great interest since then. Mr. Oetken is, in my view, a strikingly intelligent man. His varied career—in private practice, with Jenner & Block and Debevoise & Plimpton; in the public sector with a number of admirable clerkships, culminating with a Supreme Court clerkship for Justice Blackmun; with the Office of Legal Counsel and the White House Counsel's Office; and, now, in the business world, where he is vice president and associate general counsel for Cablevision—demonstrates a searching intellect and great capability.

Mr. Oetken possesses a unique combination of perspectives and an exceptional series of qualifications. Given Mr. Oetken's obvious talent and broad experience, I am confident he will make a great Federal judge. In my view, it is an added and important bonus that, as the first openly gay man confirmed to the Federal bench, his service will also move us closer to full equality in our Nation. His confirmation will inspire future judges, lawyers and litigants with the knowledge that, for gay, lesbian, bisexual, and transgendered Americans, it does get better in our Nation's long journey to inclusion and justice.

Mr. LEAHY. Have the yeas and nays been ordered on the nomination?

The PRESIDING OFFICER. They have not.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Shall the Senate advise and consent to the nomination of J. Paul Oetken, of New York, to be United States District Judge for the Southern District of New York?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Carolina (Mrs. HAGAN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Kentucky (Mr. PAUL), the Senator from Florida (Mr. RUBIO), the Senator from Pennsylvania (Mr. TOOMEY), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 80, nays 13, as follows:

[Rollcall Vote No. 112 Ex.]

YEAS—80

Akaka	Feinstein	Menendez
Alexander	Franken	Merkley
Ayotte	Gillibrand	Mikulski
Barrasso	Graham	Murray
Baucus	Grassley	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Heller	Portman
Bingaman	Hoeven	Pryor
Blumenthal	Inouye	Reed
Boxer	Isakson	Reid
Brown (MA)	Johanns	Rockefeller
Brown (OH)	Johnson (SD)	Sanders
Burr	Johnson (WI)	Schumer
Cantwell	Kerry	Sessions
Cardin	Kirk	Shaheen
Carper	Klobuchar	Shelby
Casey	Kohl	Snowe
Chambliss	Kyl	Stabenow
Coats	Landrieu	Tester
Coburn	Lautenberg	Thune
Collins	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Coons	Lieberman	Warner
Corker	Lugar	Webb
Cornyn	Manchin	Whitehouse
Durbin	McCain	Wyden
Enzi	McCaskill	

NAYS—13

Blunt	Hatch	Risch
Boozman	Hutchison	Roberts
Cochran	Lee	Wicker
Crapo	McConnell	
DeMint	Moran	

NOT VOTING—7

Hagan	Paul	Vitter
Inhofe	Rubio	
Murkowski	Toomey	

The nomination was confirmed.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

COMMENDING JOHN HERSCHEL GLENN

Mr. BROWN of Ohio. Mr. President, I am here today to celebrate a friend and a statesman, a former Member of the Senate, a marine aviator, a pioneering astronaut, a beloved family man, and an American hero.

Today is the 90th birthday of John Herschel Glenn.

I was 10 years old when John Glenn observed three sunsets, three sunrises, and the wonder of the universe in just under 5 hours while orbiting the Earth.

I was 16 years old when John Glenn presented to me and another couple dozen Eagle Scouts in Mansfield, OH, our Eagle Scout Award, teaching us yet again about community service and community pride.

When I was 54, in one of the most memorable moments of my professional life—with John's wife Annie and my wife Connie in the gallery—John Glenn escorted me into this Senate Chamber to be sworn in as a Senator from Ohio.

As a grandfather and a father, a husband and a Senator, I continue to be inspired by the example of a life well lived—a life in public service, a life fighting for the public good.

Born in Cambridge, OH, 150 miles east of Dayton, where the Wright brothers first figured out how to fly, he attended public school and became an Eagle Scout in New Concord.

It was there where he would meet his childhood sweetheart and future wife Annie. As children, they literally shared a playpen. John says: ''She was part of my life from the time of my first memory.''

On April 6, 1943, Annie and John married. Since then, they have earned the adulation and admiration from people around the world for their accomplishments and for their devoted love. By 1941, he had studied mathematics at nearby Muskingum College and earned his pilot's license.

After the attack on Pearl Harbor, he dropped out of college to enlist in the Navy and after 2 years of advanced aviator training was reassigned to the U.S. Marine Corps. John Glenn flew 59 combat missions with the Marines in World War II and 90 combat missions with both the Marines and Air Force in Korea. On some of these flying missions, he had baseball great Ted Williams on his wing. John Glenn was awarded numerous commendations and citations for his heroic military service.

In 1959, he was selected by the National Aeronautics and Space Administration (NASA) as one of the original Mercury Seven astronauts. In 1962, President Kennedy made John Glenn the first American to orbit the Earth, and 35 years later, John Glenn was asked by another President, Bill Clinton, to fly into space for a second time as a mission specialist on the Space Shuttle Discovery. At the age of 77, he became the oldest human being to fly in space, conducting a series of scientific investigations into the physiology of the human aging process and exploring the effects of space flight and aging.

By the 1960s, Glenn's service to his country had expanded into a career in politics. He was with Senator Robert F. Kennedy that fateful day in June in California, and he served as a pallbearer a few days later at Arlington National Cemetery.

In 1974, John Glenn was elected to the Senate from my State of Ohio, serving four consecutive terms until his retirement 24 years later in 1999. He served as chairman of the Committee on Governmental Affairs. He was the chief author of the Nuclear Nonproliferation Act of 1978.

Throughout the years, he continually championed the advancement of