

people making money, and therefore fewer people paying taxes. We need the opposite. We need a growing, expanding, vibrant, dynamic economy fueled by policies in Washington, DC, that make it less expensive and less difficult to create jobs rather than more expensive and more difficult, which is what we see coming out of the Obama administration and the Democratic majority here in the Senate.

We can do better. We must do better for the American people, for middle-class families who have been hit hard by the effects and the impacts of this economy with fewer jobs, lower take-home pay, higher premiums, higher deductibles, and fewer choices of doctors and hospitals under ObamaCare. These policies are hurting the American people. We need to put policies in place that will help the American people by growing our economy and creating more jobs for middle-class Americans.

I yield the floor.

---

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

---

#### EXECUTIVE SESSION

---

#### NOMINATION OF JAMES MAXWELL MOODY, JR., TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS

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

The assistant legislative clerk read the nomination of James Maxwell Moody, Jr., of Arkansas, to be United States District Judge for the Eastern District of Arkansas.

The PRESIDING OFFICER. Under the previous order, the time until 11:15 a.m. will be equally divided and controlled in the usual form.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

#### JUDGE WILLIAM K. SESSIONS III

Mr. LEAHY. Mr. President, for almost two decades Judge William Sessions has served as a Federal judge for the District of Vermont. Last month Judge Sessions announced he would take senior status later this year. I have worked with Senator SANDERS, Representative WELCH, and the Vermont Bar Association to convene a

merit commission to find highly qualified candidates to serve on the Vermont District Court so I can then recommend them to the President.

I know I speak on behalf of all Vermonters, no matter what their background, when I thank Judge Sessions for his years of distinguished public service and applaud him for agreeing to continue his judicial service even after he takes senior status this summer. Because of his continued dedication, Vermont will have one of the most highly respected and extraordinarily capable jurists on the Federal bench. I am proud to call Judge Sessions my friend, and I am honored to have cast my vote to confirm his nomination 18 years ago.

I ask unanimous consent to have printed in the RECORD at the completion of my remarks a Rutland Herald article written by Brent Curtis that recounts his many accomplishments.

There are only two authorized district judgeships in Vermont. We are the second smallest State in the Union. So, when President Clinton asked for my recommendation to fill a vacancy in my native State, I did not take this task lightly. I knew the people of Vermont deserved a judge with integrity, intelligence, and fairness, somebody whom anybody could go before—plaintiff or defendant, rich or poor, no matter their political background—and know they would have a fair hearing.

During my time in private practice as a litigant and then as State's attorney in Vermont, I experienced firsthand the tradition of legal excellence we have in Vermont. I know many Vermont lawyers who are among the best this country has to offer, and Bill Sessions earned a reputation as one of the finest trial lawyers in the State. He was widely respected by prosecutors and defense lawyers, and by the plaintiff and defense bars alike. He was praised by those who had been his co-counsel, by State and Federal judges and prosecutors, and even by those who had been his opposing counsel in court. It was a privilege to submit his name to the White House for nomination to the U.S. District Court. At the time, I told President Clinton this would be one nomination he would never have to question his judgment in making because he would have somebody who would always serve the country so well. The Senate confirmed him unanimously on August 11, 1995.

Judge Sessions received his B.A. from Middlebury College in 1969. Upon his graduation with honors from the George Washington University Law School in 1972, Judge Sessions served his country in the U.S. Army from 1972 to 1977 and in active service from 1972 to 1973. He also served as a law clerk to another friend of mine, Judge Hilton Dier of the Addison County District Court. Before his service on the Federal bench, Judge Sessions contributed to his community as an adjunct professor at Vermont Law School; in private practice; as the executive director

of the Addison County Youth Services Bureau; and as a public defender in Addison County, VT.

During his years of service on the Federal bench, Judge Sessions has worked tirelessly to ensure that all those who come before him are treated fairly and with dignity. He is a judge who has taken seriously his commitment to both justice and the American people. He served for many years as a member of the Judicial Conference, composed of the leaders of the Federal judiciary.

Judge Sessions also served for a decade on the U.S. Sentencing Commission, eventually serving as its Chairman. Three Presidents, both Democratic and Republican, nominated him to this Commission, and the Senate confirmed him unanimously each time. As a commissioner, Judge Sessions made deeply significant contributions to American sentencing policy. He played an important role in the reduction of the sentencing disparity for crack and powder cocaine offenses. He has done vital work to improve the Federal Sentencing Guidelines. This was especially important following a number of Supreme Court cases that gave judges more discretion in the sentences they impose. Even after his time on the Sentencing Commission, Judge Sessions continued to work for better sentencing policy, publishing an article in a journal of the University of Virginia School of Law that explained how the three branches of government could work together to improve sentencing in America.

Judge Sessions has not forgotten what it is to be a Vermonter. He still finds time on weekends to be at farmers markets around Vermont. He is a familiar face at the booth for Blue Ledge Farm, a small Vermont dairy started by his daughter, Hannah, and son-in-law, Greg. I think of a picture of him holding a grandchild in one hand and making change for one of the customers with the other.

He is one of our country's most respected jurists. He is a lawyer's lawyer and a judge's judge. Marcelle and I think of him and Abi, his wife, as dear personal friends.

Our justice system has benefited a great deal from Judge Sessions' years of service. I thank Judge Sessions for all he has done as a Federal judge. I thank him for continuing to serve as a model jurist.

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

[From the Rutland Herald, Feb. 16, 2014]  
SESSIONS REFLECTS ON YEARS ON AND OFF  
THE BENCH  
(By Brent Curtis)

U.S. District Judge William K. Sessions III will shift to senior status.

Long before he was making decisions in a courtroom, federal Judge William Sessions III was working to keep people out of them.

With only months remaining before he shifts to senior status in June, Sessions, who turned 67 this month, can look back over two

decades of rulings that carried both constitutional and criminal ramifications.

But before he was tapped by President Bill Clinton to serve as a federal judge in Vermont in 1995, and before he began a career as a trial lawyer and civil rights practitioner in the 1970s, Sessions was a teacher and an advocate to troubled youth and prison inmates.

After earning a bachelor's degree from Middlebury College in 1969, Sessions went to Washington, D.C., to attend the George Washington University Law School.

Before his legal studies began, he volunteered to be a reading and math teacher to inmates in the Washington, D.C., prison system.

"It was a profound experience for me," Sessions said in an interview. "I was nervous and scared but I learned how to relate with these guys and I learned and loved their stories, and decided at that point I wanted to work with kids and young people."

He added, "I had this unbelievably moving experience and then the question was 'How do I get involved in helping young people so they don't end up in places like prison?'"

His initial work toward that goal was to open a youth center for delinquent and troubled kids in Middlebury. But when a job as a public defender opened up in the mid 1970s, Sessions said he seized the opportunity and spent the next two decades blending his humanitarian and legal passions.

FOCUSED ON LAW

With that kind of background, the role of a judge—whose job it is to remain impartial during often emotionally and politically charged proceedings—might seem too restrictive.

But Sessions said that, like all judges, he has strived to suppress his biases and focus on the law and the legal questions that have come before him.

The one area where he said his humanitarianism shows in the courtroom is in the courtesy he strives to show to everyone who stands before him.

"I love treating people with respect," he said. "In this courtroom, I take a great deal of pride in seeing that a little bit of Vermont takes place in the courtroom. . . . Each defendant is treated respectfully. I think that's how people treat each other in Vermont."

He has also tried to look beyond a person's crime to consider variables about their risk to commit future offenses, their rehabilitative needs including mental health and substance abuse and the message that a potential sentence might send to the broader public.

"I would say that I look closely at the nature of the crime and whether they're taking responsibility for it," he said. "In all the studies I've read, if someone is accountable for their crime, they're much less likely to re-offend."

"On the other hand, I feel really strongly that human characteristics, the need for rehabilitation and the need to protect society by addressing those issues that a particular defendant has are also important," the judge added.

Over the years, Sessions has heard countless criminal cases, including the first death penalty case in the state in more than half a century. In that case, involving convicted murderer Donald Fell, Sessions ruled in 2002 that the Federal Death Penalty Act of 1994 was unconstitutional. The 2nd U.S. Circuit Court of Appeals later reversed that ruling and an appeal to the U.S. Supreme Court wasn't taken up by the justices. Because Fell's case remains under appeal, Sessions said he is unable to discuss it.

Sessions also served for 11 years on the U.S. Sentencing Commission which was es-

tablished to address disparities in criminal sentencing.

Politics surrounds the group, with congressmen split over whether they wanted to create it in 1999 and insistence among legislators that the commissions members be made up equally of judges nominated by conservatives and liberals.

JUDGES UNITED

But the agendas of the politicians who created the commission didn't enter into the work of the judges who Sessions said were routinely united in their opinions on changes designed to make sentencing guidelines and outcomes more uniform from state to state.

And in no arena were the judges more in agreement, he said, than in their work on addressing the disparities in sentencing for those guilty of possessing crack cocaine.

Prior to the commission's work on crack cocaine sentences, a 100-to-1 disparity existed between sentencing for crack and powder cocaine.

A defendant guilty of possessing 5 grams of crack cocaine faced a five-year minimum sentence while a person would have to possess 500 grams of powder cocaine to receive the same punishment.

"It stemmed from a fear in the 1980s that crack cocaine was a devastating drug that was much more serious than powder cocaine," Sessions said. "So the penalties were extraordinarily high. Five grams of cocaine is an extraordinarily small amount."

After it became clear that there wasn't much difference between crack and powder in terms of ill effects, and after it became clear that those being sentenced for crack cocaine possession were disproportionately black people, Sessions said it became obvious to all the judges on the commission that their first task needed to be a change to the crack sentencing guidelines.

"We went around the room and we were each asked what we wanted to change first and the judges unanimously spoke of changing the crack versus powder cocaine disparity," he said. "The reason really stems not only out of the criminal justice system but on the impact on minority communities in the country."

In 2004, the commission changed the sentencing guidelines for crack cocaine possession and in 2010 Congress passed changes to the required amount someone must possess to receive a minimum five or 10-year jail sentence.

The changes were made retroactively and had the effect, on average, of reducing jail sentences for crack cocaine possession by three years.

"That meant that 20,000 people in prison were resentenced for crack cocaine and many were released immediately," Sessions said, calculating that about 25 cases in Vermont were affected by the sentencing change.

NATIONAL IMPACT

Beyond the criminal cases, Sessions has decided a number of cases with weighty constitutional import.

Thanks to being in a small state with just two federal judges, Sessions said he has received a disproportionate amount of cases with potential national ramifications over the years.

One of the most far reaching cases he's decided was a 2007 case in which he ruled in favor of Vermont, New York and a number of environmental groups in a case involving several automobile manufacturers.

The case was based on regulations passed in California and then adopted in Vermont and New York that sought to reduce automobile emissions by establishing higher mileage requirements for new cars.

"(The auto manufacturers) sued in each of the circuits and our case came up first," Ses-

sions said. "It was a question of whether it was a requirement that was justified constitutionally."

Car manufacturers argued that the changes would have a severe impact on the industry and they argued that global warming hadn't been established.

Over the course of a six-week trial, Sessions heard from dozens of witnesses before issuing a 350-page decision that upheld the state's regulations.

"I've been told it's in textbooks on environmental law," he said.

The shift to senior status will likely reduce Sessions' workload, as a new federal judge will be appointed to the district. But while he said he's looking forward to time with his four grandchildren and hiking and biking with his wife, the judge said he isn't thinking yet about slowing his work on the bench.

"I'm not planning on slowing down at all," he said. "At this point, I'm a pretty young guy. I'm going to be 67 this month, but I feel like 50."

Mr. LEAHY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senate is currently considering the Moody nomination.

Mr. LEAHY. Is there a time agreement on the nomination?

The PRESIDING OFFICER. All time has now expired.

Mr. LEAHY. I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of James Maxwell Moody, Jr., of Arkansas, to be United States District Judge for the Eastern District of Arkansas?

Mr. LEAHY. 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 clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from Florida (Mr. NELSON) is necessarily absent.

The result was announced—yeas 95, nays 4, as follows:

[Rollcall Vote No. 39 Ex.]

YEAS—95

Alexander	Cruz	King
Ayotte	Donnelly	Kirk
Baldwin	Durbin	Klobuchar
Barrasso	Enzi	Landrieu
Begich	Feinstein	Leahy
Bennet	Fischer	Lee
Blumenthal	Flake	Levin
Blunt	Franken	Manchin
Booker	Gillibrand	Markey
Boozman	Graham	McCain
Boxer	Grassley	McCaskill
Brown	Hagan	McConnell
Burr	Harkin	Menendez
Cantwell	Hatch	Merkley
Cardin	Heinrich	Mikulski
Carper	Heitkamp	Moran
Casey	Heller	Murkowski
Chambliss	Hirono	Murphy
Coats	Hoeven	Murray
Coburn	Inhofe	Paul
Cochran	Isakson	Portman
Collins	Johanns	Pryor
Coons	Johnson (SD)	Reed
Corker	Johnson (WI)	Reid
Cornyn	Kaine	Rockefeller

Rubio	Stabenow	Walsh
Sanders	Tester	Warner
Schatz	Thune	Warren
Schumer	Toomey	Whitehouse
Scott	Udall (CO)	Wicker
Sessions	Udall (NM)	Wyden
Shaheen	Vitter	

## NAYS—4

Crapo	Roberts
Risch	Shelby

## NOT VOTING—1

Nelson

The nomination was confirmed.

Mrs. FEINSTEIN. Mr. President, I am very pleased to express my strong support for two highly qualified nominees to the U.S. District Court for the Northern District of California:

Superior Court Judge Beth Freeman, and James Donato.

I recommended these candidates to President Obama after my bipartisan screening committee gave them both strong recommendations.

I am very pleased they will soon fill two longstanding vacancies in the Northern District of California.

Judge Freeman earned her law degree from Harvard Law School in 1979, and she served in the County Counsel's Office in San Mateo for 18 years.

She has spent the last 12 years on the San Mateo Superior Court, including as presiding judge and assistant presiding judge. She has presided over more than a thousand trials, and she has experience in both civil and criminal cases.

I have received letters of support for Judge Freeman from Don Horsley, president of the San Mateo Board of Supervisors and former chair of the County's Domestic Violence Council, and from Stephen Wagstaffe, San Mateo District Attorney.

These letters are strong endorsements for Judge Freeman, and I will simply quote what Mr. Wagstaffe said: "In 36 years as a prosecutor in San Mateo County, I have not seen a better judge in all respects than Judge Freeman."

That is very high praise, and I am pleased Judge Freeman soon will be confirmed and begin her service as a Federal judge in San Jose.

Let me now describe Jim Donato, who once confirmed will serve in San Francisco.

Mr. Donato earned his law degree from Stanford Law School where he was a Senior Editor of the Stanford Law Review. He clerked for Judge Procter Hug on the Ninth Circuit.

He served for 3 years in the City Attorney's Office in San Francisco. He has built a distinguished record over two decades as a private practitioner handling complex civil cases such as antitrust cases, at Cooley LLP and Shearman & Sterling LLP.

Complex civil experience is especially important in Northern California because the Northern District's docket is 84 percent civil, according to the most recent statistics.

Mr. Donato also is a leader in the San Francisco legal community where he has devoted much of his time to the Bar Association of San Francisco, including as its President in 2008.

I have great confidence Mr. Donato will be an outstanding federal district judge.

Let me close by noting that each of these nominees will fill a judicial vacancy that has been designated as a "judicial emergency" by the Judicial Conference of the United States.

The Northern District's weighted caseload per judgeship is over 13 percent above the national average. Filings per active judge are up 17 percent since 2008. In fact, it now takes 27 percent longer for a civil case to get to trial than it did in 2010.

The vacancy Judge Freeman would fill has existed for over 800 days. The vacancy Mr. Donato would fill has existed for over 500 days.

It is long past time for these seats to be filled. Indeed, each of these nominees should have been confirmed in 2013—but, unfortunately, each had to be renominated in this session and voted out of the Judiciary Committee for a second time. This wasted several months during which each could have been serving as a Federal Judge.

Nevertheless, I am very pleased that, today, Judge Freeman and Jim Donato will be confirmed and will be able to assume their duties shortly.

I urge my colleagues to support both of these fine nominees.

## CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided between the two leaders or their designees prior to a vote on the motion to invoke cloture on the Donato nomination.

Who seeks recognition?

The Senator from Vermont.

Mr. LEAHY. Mr. President, the next nominee, James Donato of California, was originally nominated in June of 2013. He was voted out of the Judiciary Committee unanimously.

I have heard from my friends on the Republican side that we should be concerned about emergency vacancies. This is an emergency vacancy. He was reported out unanimously for the first time last October. He had to be reported out a second time this year—again, unanimously. He has the strong support of the two Senators from California. So holding up and having a filibuster and going through all of that on this nomination is the kind of game playing that hurts the Federal judiciary. It is almost like the efforts made by our friends on the other side in closing down the government last year, and this is just a slow way to close down the Federal judiciary.

I urge immediate consideration and confirmation.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, may I direct a question through the Chair to the distinguished chairman of the Judiciary Committee.

Does the chairman of the committee think we should have a recorded vote on this?

Mr. LEAHY. I would be happy to have a voice vote.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. REID. No one is standing. I yield back the time.

Mr. HATCH. I yield back the time.

The PRESIDING OFFICER. Without objection, the time is yielded back.

Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative 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 nomination of James Donato, of California, to be United States District Judge for the Northern District of California.

Harry Reid, Patrick J. Leahy, Benjamin L. Cardin, Mark L. Pryor, Mark Begich, Robert Menendez, Tom Harkin, Amy Klobuchar, Christopher Murphy, Patty Murray, Jon Tester, Richard J. Durbin, Barbara Boxer, Angus S. King, Jr., Claire McCaskill, Richard Blumenthal, Sheldon Whitehouse, Jack Reed.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of James Donato, of California, to be United States District Judge for the Northern District of California, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. HATCH (when his name was called). Present.

Mr. DURBIN. I announce that the Senator from Michigan (Mr. LEVIN) and the Senator from Florida (Mr. NELSON) are necessarily absent.

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

The yeas and nays resulted—yeas 55, nays 42, as follows:

## [Rollcall Vote No. 40 Ex.]

## YEAS—55

Baldwin	Harkin	Pryor
Begich	Heinrich	Reed
Bennet	Heitkamp	Reid
Blumenthal	Hirono	Rockefeller
Booker	Johnson (SD)	Sanders
Boxer	Kaine	Schatz
Brown	King	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Landrieu	Stabenow
Carper	Leahy	Tester
Casey	Manchin	Udall (CO)
Collins	Markey	Udall (NM)
Coons	McCaskill	Walsh
Donnelly	Menendez	Warner
Durbin	Merkley	Warren
Feinstein	Mikulski	Whitehouse
Franken	Murkowski	Wyden
Gillibrand	Murphy	
Hagan	Murray	

## NAYS—42

Alexander	Chambliss	Crapo
Ayotte	Coats	Cruz
Barrasso	Coburn	Enzi
Blunt	Cochran	Fischer
Boozman	Corker	Flake
Burr	Cornyn	Graham