

confirmation, Democrats will have joined in the confirmation of far more circuit court nominees of this President than Republicans allowed on average for President Clinton. In the years 1995 through 2000 just seven circuit court nominees were allowed to be confirmed per year on average. This is the twelfth circuit judge confirmed in the last 9 months. This is in addition to the 17 circuit judges confirmed while I chaired the Judiciary Committee and Democrats made up the Senate majority in 2001 and 2002. That totals 29 circuit judges confirmed in the last 26 months.

Republicans do not want to discuss these facts and seem to hope that the American public is not closely watching the actual work of the Senate since 1995. Far from being obstructionist, Senate Democrats have been accommodating in confirming the vast majority of President Bush's judicial nominees, 150 so far. Despite the very real Republican obstruction of dozens and dozens of President Clinton's judicial nominees, we have turned the other cheek in voting for President Bush's very conservative nominees to seats kept open by Republican obstruction of President Clinton's nominees.

As a consequence, there are now fewer vacancies on the Federal courts today and earlier this year than at any time in the past 13 years. Had we not created new seats for this President to fill, we would be at the all-time low vacancies of the Reagan administration. There are more lifetime appointed Federal judges serving on the bench today than at any time in American history. This is hardly the portrait of obstructionism that Republicans will try to sell to the American people.

We have been fair but we will not be rubberstamps for this or any administration. The stakes are too high and the Constitution is too important to do otherwise.

Mrs. BOXER. Mr. President, I want to comment on the nomination currently pending before the Senate, Judge Carlos Bea for the Ninth Circuit Court of Appeals.

I was delighted to meet Judge Bea and his family at his Judiciary Committee hearing earlier this month.

Judge Bea was born in Spain but has lived in California for most of his life. He received both his undergraduate and law degrees from Stanford University. He practiced law in the San Francisco area for over 30 years before he was appointed a judge on the San Francisco Superior Court. He was elected to the seat in 1990 and has been reelected twice by the voters of San Francisco. He has also taught at Stanford and Hastings law schools.

In addition to his accomplishments in the legal community, Judge Bea is also an Olympic athlete. He played on the Cuban national basketball team during the 1952 Olympic games.

As a judge, he is widely respected for his keen intelligence. As one reporter noted, "he has received high marks for

his specialty, handling complex civil litigation disputes."

I intend to support this nomination.

The PRESIDING OFFICER. If all time is yielded back, the question is on the nomination.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The PRESIDING OFFICER (Mr. TALENT). The question is, Will the Senate advise and consent to the nomination of Carlos T. Bea, of California, to be United States Circuit Judge for the Ninth Circuit.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kansas (Mr. ROBERTS) and the Senator from Rhode Island (Mr. CHAFEE) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. REED) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. LAUTENBERG) would each vote "yea."

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

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 368 Ex.]

YEAS—86

Akaka	DeWine	Lugar
Alexander	Dodd	McCain
Allard	Dole	McConnell
Allen	Domenici	Mikulski
Baucus	Dorgan	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (SC)	Reid
Bunning	Grassley	Rockefeller
Burns	Gregg	Santorum
Byrd	Hagel	Sarbanes
Campbell	Harkin	Schumer
Cantwell	Hatch	Sessions
Carper	Hollings	Shelby
Chambliss	Hutchison	Smith
Clinton	Inhofe	Snowe
Cochran	Inouye	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Sununu
Cornyn	Kyl	Talent
Craig	Landrieu	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lott	

NOT VOTING—14

Biden	Graham (FL)	Lincoln
Chafee	Jeffords	Reed
Corzine	Kerry	Roberts
Durbin	Lautenberg	Wyden
Edwards	Lieberman	

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

MORNING BUSINESS

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

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

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

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

SEXUAL MISCONDUCT ALLEGATIONS AT THE AIR FORCE ACADEMY

Mr. DAYTON. Madam President, last week, in a hearing of the Senate Armed Services Committee, I listened to some of the most disturbing testimony I have heard in my entire almost 3 years now in the Senate. Testifying were members of a congressional panel investigating the sexual harassment charges raised at the U.S. Air Force Academy. The hearing, which is the third one this year on this matter, is a great credit to its chairman, Senator WARNER. There is no one in this body for whom I have greater respect than the senior Senator from Virginia, now in his 25th year of outstanding service to the State of Virginia and to our Nation. He and his colleague of 25 years, Senator LEVIN of Michigan, don't always agree, but they always work cordially and constructively together to lead that committee and establish a bipartisan or nonpartisan relations way.

As former Secretary of the Navy, the chairman, who strongly supports the services, clearly does not relish in this kind of critical review of one of the Academies. He does not evade it either. To the contrary, he faced up to it responsibly and resolutely, which led to the hearing last week and to another one scheduled for tomorrow. Last week's testimony was provided on behalf of the congressional panel established by the Congress to investigate sexual misconduct allegations at the Air Force Academy. It was eloquently