

Justice Clarence Thomas, in which the lack of women on the Judiciary Committee became an issue.

At the time, the Federal courts were mainly the province of men appointed by the two most recent Presidents.

About 92 percent of President Reagan's confirmed judicial nominees were men. That number fell under President George H.W. Bush, but only to 81 percent. Overall, only 12.6 percent of active Federal judges were women when I was sworn in to the Senate.

Although women have been close to half of all law students for decades, even today only 53 of 164 active circuit judges—or 32 percent—are women.

Right now, there are female nominees for the Third, Ninth, Tenth, and Eleventh Circuits pending in the Senate—a total of six nominees, with four simply waiting for a floor vote. To put these numbers in perspective, there were only 6 women confirmed to the circuit courts during all 8 years of the Reagan administration.

If all six of these pending nominees are confirmed, the number of active female circuit judges would grow by over 11 percent. That is a big deal, and it is a real opportunity to increase significantly the number of women on the circuit courts.

Michelle Friedland is well qualified, she has bipartisan support, and her confirmation would give the Ninth Circuit—the busiest circuit—a full complement of 29 judges for the first time. I urge my colleagues to support her.

Mr. LEAHY. Mr. President, today, we are again voting to overcome a Republican filibuster of a highly qualified nominee for a judicial emergency vacancy on the busiest circuit court in the country. For what is already the third time this year, the majority leader has had to file cloture on one of President Obama's circuit court nominees in order to move the nomination forward. In stark contrast, the Senate confirmed 18 of President Bush's circuit nominees within a week of being reported by the Judiciary Committee.

Michelle Friedland, nominated to serve on the U.S. Court of Appeals for the Ninth Circuit, is an exceptionally talented attorney, and has an exemplary record of service in the top echelons of the legal profession. She clerked on the United States Supreme Court for Justice Sandra Day O'Connor from 2001 to 2002 and on the U.S. Court of Appeals for the District of Columbia Circuit for Judge David Tatel from 2000 to 2001. Ms. Friedland earned her B.S. with honors and distinction from Stanford University in 1995. She studied at Oxford University from 1995 to 1996 as a Fulbright Scholar and went on to earn her J.D. with distinction from Stanford Law School in 2000.

For over a decade, Ms. Friedland has worked in private practice at Munger, Tolles & Olson LLP, where she was named partner in 2010. She has taught as an adjunct professor at the University of Virginia School Law and as a Lecturer in Law at the Stanford Law

School. Ms. Friedland has experience in both the trial court and appellate levels, including the United States Supreme Court. She manages an active pro bono practice and frequently represents the University of California in constitutional litigation. She received the President's Pro Bono Service Award in 2013 from the State Bar of California, and the LGBT Award from the American Civil Liberties Union of Southern California in 2009. The American Bar Association unanimously awarded her their highest rating of "well qualified."

It comes as no surprise to me that Michelle Friedland's nomination has received significant support. Kathryn Haun, Assistant United States Attorney and Former Counsel to then-Attorney General Michael Mukasey, wrote to the Committee to express her support, saying "Michelle and I fall at opposite ends of the political spectrum . . . Notwithstanding our political differences, I believe she would make an outstanding federal appellate judge . . . Michelle has a deep respect for legal precedent above seeking a particular result in a given case. She has a balance and a willingness to listen to all arguments before formulating a position on a particular issue. She displays, above all else, intellectual honesty and personal modesty that suit her exceptionally well for a federal appellate judgeship."

Eugene Volokh, Professor of Law, at the UCLA School of Law, expressed his strong support for Ms. Friedland to the Committee, writing "Michelle is a brilliant and extremely accomplished lawyer, who will make a superb judge. . . [She] has impressed not just those on her side of the political aisle, but conservatives as . . . well."

General Counsel from multiple fortune 500 companies including Google, Cisco, and Facebook echo their support of Michelle Friedland, noting that "Her career has been marked by energy, integrity, and legal excellence. She has represented a broad spectrum of clients in both the private and public sectors . . . The careful, unbiased approach she would bring to the types of issues that arise before the Ninth Circuit are critical to our nation's values and to its economic health."

In their letter of support, 22 former Supreme Court Law Clerks to Justice O'Connor write, "We have differing political views and differing careers, but we can all agree that Michelle would be an excellent federal appellate judge. We have . . . enjoyed her warm collegiality, her honesty and fairness, and her dedication to law above ideology. Michelle would be a tremendous addition to the Ninth Circuit Court of Appeals, and we urge you to confirm her nomination."

I ask unanimous consent that a list of letters of support be printed in the RECORD at the conclusion of my statement.

If confirmed, Michelle Friedland would increase the gender diversity on

the Ninth Circuit Court of Appeals. She would be the seventeenth female judge to ever sit on the Circuit. In comparison, 83 men have been appointed to the Ninth Circuit over the course of its history. Her confirmation would bring the percentage of active female judges sitting on the Ninth Circuit Court of Appeals to nearly 38 percent. Her confirmation would also mark the first time, since the 29th judgeship was added in 2007, that it has had a full complement of active judges despite having the highest number of appeals filed, the highest pending appeals per panel and the highest pending appeals per active judge of any Circuit in the country.

Yet here we are, again voting to overcome a Republican filibuster of an exceptionally talented nominee to a court that desperately needs to be operating at full strength.

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

LETTERS RECEIVED IN CONNECTION WITH
MICHELLE FRIEDLAND

- July 26, 2013—Six Supreme Court Co-Clerks
- August 26, 2013—Eugene Volokh, Professor of Law at the UCLA School of Law and conservative legal commentator
- August 26, 2013—Five fellow partners at Munger, Tolles, & Olson LLP
- September 4, 2013—Brian Fitzpatrick, Professor of Law at Vanderbilt Law School
- September 9, 2013—Anup Malani, Professor of Law and Medicine at the University of Chicago
- September 9, 2013—Edward Morrison, Professor of Law at the University of Chicago and Former Law Clerk to Justice Scalia
- September 12, 2013—Kathryn Haun, Assistant United States Attorney and Former Counsel to Former Attorney General Michael Mukasey
- September 23, 2013—General Counsels from multiple American companies including Google, Cisco, and Facebook
- October 2, 2013—27 Supreme Court Co-Clerks
- October 24, 2013—28 Former Law Students and Current Attorneys
- November 4, 2013—22 former Supreme Court Law Clerks to Justice O'Connor
- April 9, 2014—Nancy Duff Campbell and Marcia Greenberger, Co-Presidents of the National Women's Law Center
- April 9, 2014—Wade Henderson, President and CEO, and Nancy Zirkin, Executive Vice President, Leadership Conference on Civil and Human Rights

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 Michelle T. Friedland, of California, to be United States Circuit Judge for the Ninth Circuit.

Harry Reid, Patrick J. Leahy, Debbie Stabenow, Jack Reed, Christopher A. Coons, Patty Murray, Elizabeth Warren, Richard J. Durbin, Mazie K.

Hirono, Sheldon Whitehouse, Richard Blumenthal, Barbara Boxer, Kirsten E. Gillibrand, Charles E. Schumer, John D. Rockefeller IV, Bernard Sanders, Cory A. Booker.

The ACTING PRESIDENT pro tempore. 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 Michelle T. Friedland, of California, to be United States Circuit Judge for the Ninth Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. MARKEY) is necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN) and the Senator from Texas (Mr. CRUZ).

Further, if present and voting, the Senator from Oklahoma (Mr. COBURN) would have voted "nay."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 56, nays 41, as follows:

[Rollcall Vote No. 106 Ex.]

YEAS—56

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

NAYS—41

Alexander	Flake	Moran
Ayotte	Graham	Paul
Barrasso	Grassley	Portman
Blunt	Hatch	Risch
Boozman	Heller	Roberts
Burr	Hoeven	Rubio
Chambliss	Inhofe	Scott
Coats	Isakson	Sessions
Cochran	Johanns	Shelby
Corker	Johnson (WI)	Thune
Cornyn	Kirk	Toomey
Crapo	Lee	Vitter
Enzi	McCain	Wicker
Fischer	McConnell	

NOT VOTING—3

Coburn	Cruz	Markey
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The ACTING PRESIDENT pro tempore. On this vote the ayes are 56 and the nays are 41.

The motion to invoke cloture is agreed to.

VOTE EXPLANATION

● Mr. MARKEY. Mr. President, I was necessarily absent from the roll call vote on the motion to invoke cloture on the nomination of Michelle Friedland to be a U.S. Circuit Judge for the Ninth Circuit. Had I been present,

I would have supported cloture on the nomination of Michelle Friedland.●

NOMINATION OF MICHELLE T. FRIEDLAND TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT—Resumed

The ACTING PRESIDENT pro tempore. The Republican whip.

A SHARED COMMITMENT

Mr. CORNYN. Mr. President, I start by making an obvious point that every Member of the Senate is dedicated to helping law enforcement officials get dangerous criminals off the street and deliver justice to victims of sexual assault, every one of us.

As we mark National Crime Victims' Rights Week and National Sexual Assault Awareness Month, let's all keep that shared commitment in mind.

Ten years ago I was proud to join with my colleagues and President Bush to enact the Justice for All Act, which has made it easier for America's law enforcement agencies to protect the innocent, to identify the guilty, and to bring peace of mind to the victims of violent crime. Justice for All dramatically increased the resources available to test DNA samples from crime scenes, to improve our DNA-testing capabilities and to reduce the rape kit backlog which had become a national scandal.

The backlog was—and remains—a national scandal of the highest order, but we are beginning to make some progress. In the city of Houston, for example, a backlog that once reached 6,600 untested rape kits—one of the largest in the country—is now in the process of being completely eliminated thanks in part to the support provided from the Justice for All Act.

Just to refresh the memories of my colleagues and for those who might be listening, these rape kits consist of forensic evidence collected at crime scenes that will help by testing the DNA to identify the perpetrator and, in the process, potentially exonerate people who have been falsely accused. The DNA tests are that good and that effective. What is extraordinary about DNA testing in the field of sexual assault is that sexual assault offenders rarely commit that crime once. They are typically serial offenders. In other words, they keep at it until they are caught. As we have learned from law enforcement officials, when there is not an adult victim available, these offenders are opportunistic and they will attack children, the most vulnerable among us. So this is enormously powerful evidence that is available to law enforcement to exonerate the falsely accused, to make sure the guilty are identified with scientific precision, and to take serial offenders off the street so they can't commit other acts of violence.

Last year I joined with the senior Senator from Vermont, the chairman of the Judiciary Committee, to introduce bipartisan legislation that would

reauthorize the Justice for All Act and continue these beginning steps of progress. If it were up to me, we would have passed that bill a long time ago. If it were up to me, I would prefer to reauthorize the entire Justice for All Act right now—today. It has been hugely successful, and it commands strong support across party lines and across the country.

That said, it doesn't appear we are going to be able to do that today, but we do have an opportunity to take immediate action on two of the law's most critical components. Indeed, they could and should be reauthorized right now—today. I am referring, of course, to the Debbie Smith Act and the Sexual Assault Forensic Exam Program, both of which have been invaluable tools in our efforts to eliminate the rape kit backlog and to improve public safety.

Earlier this week our House colleagues passed a bill reauthorizing those provisions, and the Senate now has an opportunity to take up that more narrow House bill to reauthorize the Debbie Smith Act and the Sexual Assault Forensic Exam Program, even if we can't do the Justice for All Act today. I am hoping that colleagues here in the Chamber, and anyone who might be listening to my voice, will join us in this effort to do what we can do today to reauthorize the Debbie Smith Act and the Sexual Assault Forensic Exam Program and then, when it is possible for the Senate to act, to pass the Justice for All Act, the larger piece of legislation.

As I said, I would prefer to reauthorize the entire Justice for All Act, and I know there are many of our colleagues who share that sentiment with me. But regardless of whatever minor disagreements Members may have, we should immediately—today—reauthorize the Debbie Smith Act and the Sexual Assault Forensic Exam Program.

Again refreshing the memories of some of my colleagues, and others who may not be familiar with it, the Debbie Smith Act was named after Debbie Smith who has dedicated her life to making sure Congress keeps focused on this rape kit backlog problem and scandal. She is one of the biggest cheerleaders for this law that now bears her name. This is also the name for the portion of the law that allocates funds to the Department of Justice to use for grant programs to forensic laboratories, police departments, and other law enforcement agencies around the country that may not have the money or the expertise or the wherewithal to be able to test these rape kit backlogs.

It is not just my position that these two provisions the House has passed should be taken up and passed by the Senate and then catch up in due course with the entire Justice for All Act. It is also the position of the Rape, Abuse & Incest National Network, the National Center for Victims of Crime, and, of course, Debbie Smith herself,