

NOMINATION OF MARK R. KRAVITZ, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT

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

The assistant legislative clerk read the nomination of Mark R. Kravitz, of Connecticut, to be U.S. District Judge for the District of Connecticut.

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes for debate equally divided between the chairman and ranking member or their designees prior to a vote.

Who yields time?

Mr. LEAHY. I yield such time as the senior Senator from Connecticut desires.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I thank Senator LEAHY and Senator HATCH for moving the nomination of Mark Kravitz. This is a first-rate nomination. I commend the President and others who recommended Mark Kravitz. He is a first-class nominee to sit on the Federal bench. My colleague Senator LIEBERMAN and I strongly support this nomination. He has been a wonderful lawyer in Connecticut, a graduate of Wellesley University, Georgetown Law School, a clerk for then-Justice Rehnquist, has written extensively and taught at the University of Connecticut Law School. He is going to be a wonderful addition to the district court bench.

We wanted our colleagues to know how strongly Senator LIEBERMAN and I felt about this nomination. We urge our colleagues to give their unanimous support.

I yield back my remaining time.

Mr. LEAHY. Madam President, I thank the Senator from Connecticut. This was a case where the White House worked with the Senators from the home State in an effort to unite rather than divide. I suspect this nominee will be easily confirmed.

With the confirmation of Mark R. Kravitz to the District Court, we will have filled the only vacancy on that court. I commend Senator DODD and Senator LIEBERMAN for their work in connection with this outstanding nomination and congratulate the nominee and his family.

The Senate has now confirmed 131 judges, including 26 circuit court judges, nominated by President Bush. One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 31 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 131 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995,

1996 and 1997 the first 3 full years of his last term. In those 3 years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already significantly exceeded that total with 6 months remaining to us this year.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995–97. In addition, the vacancies on the federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997. We continue well below the 67 vacancy level that Senator HATCH used to call “full employment” for the federal judiciary.

Indeed, we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in federal courts to an historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as he did for President Clinton’s.

For those who are claiming that Democrats are blockading this President’s judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate’s record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton’s moderate judicial nominees by Republicans between 1996 and 2001.

Mr. DODD. Mr. President, I thank Chairman Hatch, Senator LEAHY and all the members of the Judiciary Committee for acting on this judicial nomination in a thorough and expeditious manner. I am pleased to recommend Mr. Kravitz to my colleagues to serve as Federal District Judge for the District of Connecticut.

Mark Kravitz is a graduate of Wesleyan University in Middletown, Connecticut and Georgetown Law School. After graduating from law school, Mr. Kravitz clerked for Judge James Hunter of the U.S. Court of Appeals for the Third Circuit. Mr. Kravitz also served as a clerk for then-Justice William H. Rehnquist of the United States Supreme Court.

In 1976, Mr. Kravitz joined the respected law firm of Wiggin & Dana in New Haven, CT, where he is now a partner and heads their appellate practice. Mr. Kravitz’s law practice has been devoted to civil litigation in State and Federal courts. He has been lead counsel on more than 60 appeals in State and Federal courts. In addition to his appellate and litigation practice, Mr.

Kravitz has been an Adjunct Professor of Law at the University of Connecticut School of Law.

Over the course of the last quarter of a century, Mr. Kravitz has built an excellent reputation. He has become a respected and admired member of the Connecticut bar and he has contributed to the larger community, giving his time and talents to such causes as the Guilford Land Conservation Trust, the Connecticut Foundation for Open Government, and the Connecticut Council on Environmental Quality. Mr. Kravitz has been listed as one of the Best Lawyers in America since 1991. He has been elected as a fellow to the American Academy of Appellate Lawyers and as a member of the American Law Institute. In 1995, Mr. Kravitz received the Deane C. Avery Award for “advancing the cause of freedom of information and freedom of speech in Connecticut.”

Recently, there has been a great deal of debate in the Senate about judicial nominations. I don’t believe there should be any debate about this nomination. Mark Kravitz is the kind of nominee whom I believe the Framers of the Constitution had in mind when they envisioned an independent judiciary composed of jurists whose experience, intellect, and commitment to justice are unquestionable.

I believe that Mark Kravitz possesses the intellect, the experience, and the disposition to be an impartial finder of fact, a faithful legal analyst, and a fair and just jurist. He is an outstanding lawyer, and given everything I know about him, I am certain that he has the capacity to be an outstanding judge, as well. The State of Connecticut is proud to have him as one of our own. I’m certain that he will serve his country with honor and distinction, and I look forward to his confirmation. Again, I commend Mark Kravitz without reservation and I urge my colleagues to vote to confirm his nomination.

Mr. LIEBERMAN. Mr. President. I rise to support the nomination of Mark Kravitz, whose nomination to the U.S. District Court for the District of Connecticut the Senate is currently considering.

Mr. Kravitz’s confirmation will be good for Connecticut and for the Federal bench.

Connecticut isn’t the biggest State in the Union, but we are blessed to have countless principled and professional lawyers, judges, and legal scholars. Maybe that is because we were the first State to have a written constitution; maybe it is due to the gravitational tug of fine law schools like UConn and my own alma mater, Yale. Regardless, in a State filled with lawyers, it is no exaggeration to say that Mark Kravitz has proven himself among the best. And I have no doubt he will uphold the highest standards of jurisprudence on the Federal bench.

Mark graduated magna cum laude and Phi Beta Kappa in 1972 from Wesleyan University in Middletown, Connecticut. He later graduated from

Georgetown Law School, where he was managing editor of the Law Review. Out of law school, Mark clerked for Judge James Hunter of the Third Circuit Court of Appeals, and Supreme Court Justice William Rehnquist. He is currently a partner at Wiggin and Dana in New Haven, where he has worked since 1976. He has served as lead counsel on more than 60 appeals in State and Federal courts, and has argued before the United States Supreme Court.

Mark has been listed as one of the Best Lawyers in America since 1991. He was endorsed by the Connecticut Bar Association as exceptionally well qualified to be a District Judge, and has been unanimously rated as Well Qualified by the American Bar Association.

Forgive the pun, but this is an open and shut case. Mark Kravitz has the intellect, the independence, and the integrity to do this job and do it well. I am confident he will carefully read and apply the laws of the United States in Federal court, abiding only by the law—not by any ideology, passion, or prejudice. He will be an exemplary judge. I urge my colleagues to confirm him today.

Mr. HATCH. Madam President, I rise today in support of Mark R. Kravitz to be a United States District Judge for the District of Connecticut. I am confident that with his accomplishments and experience, Mr. Kravitz will make an excellent Federal judge. After graduating from Georgetown University Law Center, where he was managing editor of the Georgetown Law Journal, Mr. Kravitz clerked for the Honorable James Hunter III of the U.S. Court of Appeals for the Third Circuit. He then went on to clerk for the Honorable William H. Rehnquist on the U.S. Supreme Court.

Mr. Kravitz has spent the bulk of his legal career at the firm of Wiggin & Dana in New Haven, CT, where he is currently a partner. He also serves as an adjunct professor of law at the University of Connecticut School of Law and has also been a visiting lecturer at Yale University Law School. For the past 12 years, Mr. Kravitz has been recognized in the publication "The Best Lawyers in America." He enjoys the support of both home State Democrat Senators and was unanimously approved by the Judiciary Committee. I urge my colleagues to vote in favor of this exceptional nominee.

I yield back our remaining time.

Mr. LEAHY. Madam President, I yield back the remaining time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Mark R. Kravitz, of Connecticut, to be United States District Judge for the District of Connecticut? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Illinois (Mr. FITZGERALD) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "Yea".

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 217 Ex.]

YEAS—97

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

NOT VOTING—3

Fitzgerald Hollings Kerry

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

LEGISLATIVE SESSION

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

ENERGY POLICY ACT OF 2003—  
Continued

AMENDMENT NO. 876, AS MODIFIED

Mr. REID. Madam President, I ask unanimous consent that the time be equally divided and that Senator FEINSTEIN control our time and Senator COCHRAN control the time on the other side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. REID. Madam President, on behalf of Senator FEINSTEIN, I yield to the Senator from Washington 4 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Thank you, Madam President.

I am here to support the Feinstein amendment, which I am pleased to co-sponsor. It is a very important piece of legislation. I thank my colleague for her hard work on this very important issue. We have all heard about the dysfunctions in our western regional power market and how it has cost our western economy more than \$35 billion.

Madam President, it was more than a year ago that the Senator from California and I stood on the floor to have this debate with many of my colleagues. During the Omnibus Appropriations bill in 2000, Congress granted an exemption from regulatory scrutiny for businesses such as EnronOnline and electronic trading platforms. Unsurprisingly, Enron was chief among its boosters in lobbying for this language. Even though Congress listened to Enron and not the President's Working Group on Financial Markets, which opposed this exemption.

Now we have history. What has happened? We know that the Enron loophole has caused quite a bit of a problem. In fact, in light of evidence which during last year's debate was just beginning to emerge, we have found that the markets for energy derivatives and the physical energy prices and supplies have caused a problem. In the West, we had huge spikes. We have had a long and vigorous floor debate about this amendment.

There were many detractors who basically said at the time there was no conclusive evidence that Enron manipulated western energy markets and there was no need to proceed. This year, we have heard a lot about how Enron in fact has manipulated markets.

Less than a month after the Senate passed this comprehensive Energy bill with this language in it, Enron's "smoking gun" memos were released detailing a number of the company's schemes for driving up the prices. My colleagues are aware that Enron has continued to release various amounts of information about this unbelievable scandal and manipulation of prices.

Just last week, another Enron trader was arrested. And the complaint of Federal prosecutors said they are uncovering even more details of ploys to manipulate energy prices. We wanted evidence. We got it. In a long-awaited report, the Federal Energy Regulatory Commission concluded this spring that manipulation was "epidemic" in the western market during the crisis of 2000-2001.

But more specifically, in a staff report the Federal Energy Regulatory Commission detailed the manner in which EnronOnline helped Enron to game the California markets. The Commission concluded that "the relationship between the financial and physical energy products . . . provides the opportunity to manipulate the