

EXECUTIVE SESSION

NOMINATIONS OF BRIAN STACY MILLER, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS; JAMES RANDAL HALL, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA; JOHN A. MENDEZ, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA; STANLEY THOMAS ANDERSON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE; AND CATHARINA HAYNES, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT OF TEXAS.

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

The assistant legislative clerk read the nominations of Brian Stacy Miller, of Arkansas, to be United States District Judge; James Randal Hall, of Georgia, to be United States District Judge; John A. Mendez, of California, to be United States District Judge; Stanley Thomas Anderson, of Tennessee, to be United States District Judge; and Catharina Haynes, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, I am honored to recommend Brian Miller for confirmation as a Federal judge of the Eastern District of Arkansas.

Without hesitation, the Judiciary Committee confirmed Judge Miller on March 6. During the confirmation process, they learned what many Arkansans already know—Judge Miller has presided and will continue to preside with impartiality and integrity.

In my mind, Judge Miller has all the tools to be a great judge. I have reviewed his work and have been impressed with his record. His broad range of experience in civil and criminal matters, representing both sides of the law, is extraordinary. He exemplifies the proper credentials as well as the temperament the people of Arkansas can be comfortable with.

I have heard validation from colleagues and acquaintances on the Arkansas bar and throughout the legal community. When Judge Miller's name began to circulate for this nomination, I only received praise from his colleagues. In fact, it is one of the few occasions when I did not hear a single person criticize his possible nomination.

While this body has seen more than its share of polarizing nominees, Judge Miller is the rare exception. He

brought integrity and impartiality to the bench while serving on the Arkansas Court of Appeals and earlier as a city judge for both Holly Grove and Helena, AR. His work as the deputy prosecuting attorney for Philips County has also been praised.

Before practicing law in private practice for 9 years, Judge Miller earned his law degree from Vanderbilt University Law School. He graduated with honors from the University of Central Arkansas and Phillips Community College of the University of Arkansas. Even before serving on the bench, Mr. Miller was serving our Nation in the Navy and the Navy Reserve from 1985 to 1992.

Judge Miller has big shoes to fill following the service of the late George Howard, Jr. I am confident, however, these shoes will fit Judge Miller quite well.

Madam President, I also want to add my appreciation for the Judiciary Committee and Judiciary Committee staff on both sides because they worked very quickly on this nomination. What I said in my statement is absolutely true, and the more people are exposed to Brian Miller, the more impressed they are with him as a person and as a judge. He really does have a distinguished and exemplary record in Arkansas, but he also is a fine man. I think Judge Miller will be a great judge.

I mentioned George Howard, who was an outstanding judge in the Eastern District of Arkansas for a long time and really paved the way in a lot of ways for a lot of lawyers in our State.

Judge Miller will be in that same vein. If possible, he could even be better. He is a person who comes to this nomination with a lot of credentials and a lot of support from the legal community in Arkansas. As I said a minute ago, I don't think we have heard one person in our whole State who has come out against his nomination. He is that good. We are so pleased the President nominated him.

I also thank my colleague and friend on the House side, Congressman JOHN BOOZMAN, who was instrumental in pushing this nomination, getting it to the White House and pushing it through the White House, and getting it over here to the Senate. It truly has been a team effort.

Judge Miller is from Senator LINCOLN's hometown. She feels a special connection to him, as she should; her family and his family have been friends for a long time.

Certainly, I am very proud and honored to recommend him to my colleagues to sit on the Federal bench for the Eastern District of Arkansas.

Madam President, with that, I yield the floor and suggest the absence of a quorum, with the time being equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, while the distinguished Senator from Arkansas is on the floor, I think it appropriate to comment. I believe the nominee of whom he has spoken is well qualified for the position. Mr. Brian Stacy Miller graduated with honors from the University of Central Arkansas in 1992. He has a law degree from Vanderbilt, has a distinguished record in private practice, served as city attorney, was director of some very important organizations, and received a unanimous "well qualified" rating from the American Bar Association.

I will abbreviate my presentation at this time, but I believe the Senator from Arkansas and his colleague have brought us a good nominee, as is the Senator's custom.

I ask unanimous consent to have his resume printed in the RECORD.

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

BRIAN STACY MILLER

UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS

Birth: 1967, Pine Bluff, Arkansas.

Legal Residence: Arkansas.

Education: B.S., with honors, University of Central Arkansas, 1992. J.D., Vanderbilt Law School, 1995.

Primary Employment: Associate Attorney, Martin, Tate, Morrow & Marston, TN, 1995–2006. Solo Practitioner, Miller Law Firm, AR, 1998–2006. Deputy Prosecuting Attorney, Arkansas Prosecuting Attorney's Office, 2000–2006. Judge, Arkansas Court of Appeals, 2007–present.

Other Legal Employment: City Attorney, Helena, AR, 1999–2005. City Attorney, Edmondson, AR, 1999–2001. Deputy Prosecuting Attorney, Phillips County, AR, 2000–2006. City Attorney, Lake View, AR, 2000–2006.

Selected Activities: Director, Southern Bancorp, 2000–present. Director, KIPP Delta College Preparatory School, 2001–2002. Director, Southern Good Faith Fund, 2002–2006. Director, First Bank of the Delta, 2002–present. Arkansas Bar Association, House of Delegates, 2006–present. Law School Committee, 2007–present. Arkansas Supreme Court Committee on Criminal Practice, 2007–present. Memphis Bar Association Publications Committee, 2006. Director, Boys and Girls Club, 2007–present.

ABA Rating: Unanimous "Well Qualified".

Mr. SPECTER. I yield the floor, and I await the arrival of the distinguished chairman to proceed.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Madam President, are we in a quorum call?

The PRESIDING OFFICER. No, we are not.

Mr. ISAKSON. I thank the Chair. I will be brief because I know Members

of the Senate are anxious to make their weekend plans, but I come to the floor to thank Senator SPECTER and Senator LEAHY for reporting out these judges today—in particular, for reporting out Randy Hall of Augusta, GA.

We were very pleased to recommend Randy to the President of the United States, very pleased the President decided to nominate him, and particularly pleased the Judiciary Committee is giving this Senate a chance to confirm a fine jurist to the bench in the Southern District of Georgia.

Prior to this nomination, Randy Hall served in the Georgia State Senate from District 22, which incorporates all of Augusta, GA, which is the No. 1 location on the map today with the Masters starting its first round. Randy is a distinguished attorney, with expertise in real estate, banking, corporate matters, and commercial litigation. He has a reputation for absolute integrity and character. He is a native of Augusta, which is important to many because this is the heart of the district.

He graduated from Augusta College in 1979 and from the University of Georgia College of Law in 1982. He serves on the Augusta-Richmond County Community Partnership for Children and Families and attends the Trinity on the Hill United Methodist Church.

Randy Hall is an outstanding Georgian, outstanding American, qualified jurist, and I commend him to the Members of the Senate for his confirmation today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. While the distinguished Senator from Georgia is on the floor, I compliment him for the selection of James Randal Hall for the U.S. District Court for the Southern District of Georgia. I have reviewed his academic record, which is excellent—a bachelor's degree from Augusta College, a J.D. from the University of Georgia School of Law. He has exceptional activities. In 2001, he received the Outstanding Family and Children's Advocate Award, and in 2004 he received the Outstanding Advocacy Award from the Community Mental Health Center of East Central Georgia. He has a substantial majority "well qualified" rating by the American Bar Association, and I think he has the potential to be an outstanding U.S. district judge for the Southern District of Georgia. I am pleased to endorse him and urge my colleagues to do the same.

I ask unanimous consent to have a fuller statement of his resume printed in the RECORD, and I yield the floor.

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

JAMES RANDALL HALL

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA

Birth:1958, Augusta, Georgia.

Legal Residence: Georgia.

Education: B.A., Augusta College, 1979. No degree, Walter F. George School of Law/Mercer University, 1979–1980. J.D., University of Georgia School of Law, 1982.

Employment: Associate, Sanders, Mottola, Haugen & Goodson, 1982–1984. Partner, Avrett & Hall, 1984–1985. Corporate Vice President & Legal Counsel, Bankers First Corporation, 1985–1996. Partner, J. Randall Hall/Hall & Mullins, 1996–1999. Augusta Office Managing Partner, Hunter, Maclean, Exley & Dunn, 1999–2003. 22nd District State Senator, Georgia State Senate, 2003–2004. Partner, Warlick, Tritt, Stebbins & Hall, 2004–Present.

Selected Activities: 2001 Outstanding Family and Children's Advocate Award, Augusta Richmond County Community Partnership for Children and Families. 2004 Outstanding Advocacy Award, Community Mental Health Center of East Central Georgia. 2004 Legislative Advocacy Award, Superior Court Clerks Association of Georgia. Member and Past President, Augusta Coalition for Children & Youth/Augusta Partnership for Families, 1985–Present. Director, Georgia Carolina Bancshares, Inc./First Bank of Georgia, 1997–Present. Appointee, Governor's Task Force on Redistricting, 2006. Appointee, Augusta-Richmond Planning Commission, 1997–2002; Chairman, 2000–2002. Member, Leadership Augusta, 1985–1986. Member, American Corporate Counsel Association, 1993–1996. Member, Lions Club of Augusta, 1986–2003; President; District Cabinet Secretary. Member, Citizens Task Force on Cable Franchise Issues, 1994–1995.

ABA Rating: Substantial majority well-qualified/minority qualified.

Mr. ISAKSON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Madam President, I come to the floor today, as many of my other colleagues have, to support Judge Brian Miller, who has been nominated to be U.S. district judge for the Eastern District of our State of Arkansas. As the senior Senator from Arkansas, I am very pleased to support Mr. Miller for this very important post.

After reviewing his record and speaking with many of his friends and colleagues in Arkansas, I can assure my colleagues in the Senate that Brian Miller is not only a superb lawyer and a public servant, he is also a trusted friend who is held in high regard by so many in our great State.

Mr. Miller is a native of Helena, AR, which also happens to be my hometown. After high school, Brian Miller continued his education, graduating from the University of Central Arkansas in 1992. He continued his education by earning a law degree from Vanderbilt University, and one of the other great distinctions and certainly, I guess, pieces of pride I have about Mr. Miller is that Brian also had the distinction of serving as one of the first interns for my office in the House of Representatives in the summer of 1993.

Brian began his professional career up the Mississippi River, in Memphis, TN, at the firm of Martin Tate Morrow & Marston. In 1998, Brian ran a successful campaign to be the city attorney

for our hometown of Helena. While he served as city attorney, his father also served as mayor. He continued to work part time with his firm in Memphis until January 2007, when he was selected by then-Governor Mike Huckabee to be a State appellate judge.

Throughout his career, Judge Miller has been no stranger to the courtroom. In addition to the positions mentioned above, he also was appointed deputy prosecuting attorney for Phillips County. In fact, between January 1999 and January 2006, Brian spent 3 days a week, every week, in the courtroom, either in his capacity as a prosecutor or on behalf of his clients. He has a reputation for being a tough but fair litigator, who is a respected prosecutor and a tireless advocate. He has received overwhelming support from the legal community all around our great State of Arkansas for his nomination.

When evaluating lifetime appointments to the Federal bench, I always carefully consider a nominee's skills, their experience, their intellect and ability to understand and ably to apply established precedent. Fundamentally, I am interested in knowing a nominee can fulfill this responsibility under the Constitution to apply the law fairly, without political favor or bias. I am absolutely satisfied Brian has met that standard.

I would be remiss, however, if I didn't also recognize Judge George Howard, Jr., who served on the bench for nearly 27 years. This is the seat Judge Miller will be taking. Judge Howard was a true pioneer. His many contributions to civil rights and to the legal community made a lasting impact on Arkansas and our Nation. I was proud to introduce legislation with Senator PRYOR last year that honored Judge Howard's legacy by naming the Federal building and the courthouse in Pine Bluffs, AR, as the "George Howard, Jr. Federal Building and Courthouse." Judge Miller certainly knows that, following Judge Howard, he certainly does have big shoes to fill, but I am confident he will serve Arkansas and this Nation with distinction for years to come.

In closing, I thank the majority leader and the Republican leader, also Chairman LEAHY and Senator SPECTER and the entire Senate Judiciary Committee for working with Judge Miller, for working with my staff and with me to move this nomination forward. We have a great opportunity in Judge Miller. He is, as I said, a tremendous judicial nominee, but he is also a great citizen. And not coming from the legal world, as many of my colleagues do, this is an occasion where I actually happen to know someone personally for one of these judicial nominations in whom I have great confidence. I have a feeling of overwhelming pride that this young man, who not only interned in my House office but grew up in the

same hometown I did, could come before the Senate and be nominated and confirmed.

I thank all the staff, as I said, of the Judiciary Committee, and the majority leader, Chairman LEAHY, and Senator SPECTER. I have full faith and confidence in Mr. Miller's ability. I do encourage Members of this body to support this confirmation.

I yield the floor, and I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Madam President, I see the Senator from Pennsylvania. I would like to ask, through the Chair, if it would be appropriate to make a few remarks about the judicial nominee from Tennessee.

Mr. SPECTER. May I inquire how much time the Senator from Tennessee would like? We are limited to no more than an hour.

Mr. ALEXANDER. Five minutes.

Mr. SPECTER. Take whatever time you need.

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

Mr. ALEXANDER. Madam President, I rise to thank and congratulate President Bush and to thank Chairman LEAHY and Senator SPECTER for bringing to the Senate floor the nomination of Tom Anderson to be a U.S. district judge for the Western District of Tennessee.

I would offer three reasons why Judge Anderson's nomination to serve as a U.S. district judge for the Western District of Tennessee is an especially worthy one and one that I hope today will receive approval by the entire Senate.

First, Tom Anderson is already a judge. In 2003, the Federal district judges of the Western District of Tennessee selected Tom Anderson unanimously as a U.S. magistrate judge following a merit process that included more than three dozen applicants.

I see the chairman of the Judiciary Committee has arrived. I would say to Senator LEAHY, I am in the midst of about a 3- or 4-minute talk about the judicial nominee from Tennessee.

Mr. LEAHY. Go right ahead.

Mr. ALEXANDER. As I said before he came, I greatly appreciate the fact that Chairman LEAHY and Senator SPECTER held a hearing, which included Tom Anderson, and that the Judiciary Committee sent his nomination to the full Senate with a favorable recommendation.

As I was saying, the first reason to support him is that he is already a judge. In 2003, the Federal district judges of western Tennessee selected Tom Anderson unanimously as a U.S. magistrate judge following a merit process that included more than three dozen applicants.

Second, Tom Anderson has been first chair on more than 200 cases tried in Federal court and has earned extraordinary respect from lawyers and judges in Tennessee. For example, Senior District Judge Tom Higgins drove more than 100 miles from Nashville to Tom Anderson's investiture ceremony as a magistrate judge in Jackson in 2003 to commend Anderson's practice as an attorney.

Judge Higgins' unsolicited appearance for Judge Anderson was considered by all those in attendance as a great compliment to Tom Anderson's professionalism. I know Judge Higgins very well, as do other members of the bar in Tennessee. If he had thought Tom Anderson would have been a bad judge and had been a less than professional lawyer, Judge Higgins would have driven 200 miles from Nashville to make a speech in the other direction. So it was an enormous compliment to Tom Anderson that Judge Higgins would have driven to Jackson and made such a speech.

So impressed was I with that speech of Judge Higgins that I am submitting a transcript of Judge Higgins' remarks from that ceremony on January 16, 2004. I ask unanimous consent that it be included in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. ALEXANDER. Prior to serving on the bench, Tom Anderson spent nearly 20 years in private practice. In addition to his extensive litigation experience, he also served as an administrative law judge for the Tennessee Claims Commission and as an assistant commissioner for the Tennessee Department of Transportation.

Finally, although Judge Anderson has been nominated by a Republican President, he has strong support also from Tennessee Democrats. A number of west Tennessee Democrats wrote to the Judiciary Committee to urge confirmation of Judge Anderson, including State Senator Roy Herron; Charles Farmer, the former mayor of Jackson; James Strickland, Jr., the former chairman of the Memphis/Shelby County Democratic Party; Tommy Green, the chairman of the Tennessee Municipal League; and Mike McWherter, a prominent local businessman and son of former Democratic Governor Ned McWherter.

It is worth noting that Mike McWherter, who lives in Jackson, also had formed an exploratory committee to challenge me in this year's race in

the Senate before deciding to spend more time with his family. So Judge Anderson's nomination is one issue that would have united both parties' candidates on the campaign trail if Mike McWherter had decided to be a candidate for the Senate.

This deep reservoir of good will for Judge Anderson in Tennessee reflects the fact that he is experienced, fair-minded, and well respected. He is also a husband and father of three who has been active in the community, including having served as a board member of the Methodist Hospital in Lexington and the Carl Perkins Child Abuse Center in Jackson, as well as helping to establish the Beech River Branch of the YMCA in Lexington and serving as its first chairman of the board.

Again, I congratulate the President, and I thank Chairman LEAHY and Senator SPECTER and the full Judiciary Committee for reporting this nomination to the floor and setting it for a vote this afternoon.

I hope the entire Senate will agree with their judgment and confirm him before Chief Judge James Todd, who has served with distinction in this position, takes senior status.

EXHIBIT 1

REMARKS OF SENIOR JUDGE THOMAS A. HIGGINS

EXCERPTED FROM TRANSCRIPT OF INVESTITURE OF J. THOMAS ANDERSON AS U.S. MAGISTRATE JUDGE WESTERN DISTRICT OF TENNESSEE (January 16, 2004)

JUDGE TODD: Thank you, Judge Pham.

The court now recognizes a special guest. This is Judge Thomas A. Higgins. He is a senior judge in the Middle District of Tennessee in Nashville. He didn't wear his black dress today, but I can assure you that Judge Higgins is, in fact, a judge. He has helped us in West Tennessee with some of our cases, and we consider him to be an honorary West Tennessean.

Judge Higgins.

JUDGE HIGGINS: May it please the court and ladies and gentlemen, two years ago, as Judge Todd alluded to, I was designated and assigned by the Chief Judge of the United States Court of Appeals for the Sixth Circuit to sit in the Western District of Tennessee while this court was awaiting the appointment and confirmation of a full complement of judges to the court, and I tried cases in Memphis and here in Jackson. In fact, I held court in the courtroom that is to be assigned to Judge Anderson.

During the luncheon recesses during a lengthy trial, a jury trial that I presided over here in Jackson, I would take a tour of downtown Jackson, and I made an important discovery. I learned that the gold standard for public speaking was established here in Jackson in 1831. On the north side of the Madison County Courthouse there's a marker that commemorates the fact that Davy Crockett was defeated for reelection to the Congress. He addressed the voters of Jackson and West Tennessee and told them, and I quote, "You can go to hell. I'm going to Texas." Now, that's the gold-plated standard for making public remarks.

And in that vein, I want to share with you what I wrote to Judge Todd on July the 17th when I learned that Mr. Anderson was being

considered for the position of United States Magistrate Judge for the Western District of Tennessee. And I quote, "This is good news for you, the chief judge, and the judges of the United States District Court for the Western District of Tennessee and for the litigants and public at large, I know Mr. Anderson well. He is an experienced and superb lawyer and a perfect gentleman. As an advocate, he represents his clients ably and with great zeal. As an officer of the court, he is punctual in every respect. When he says something is so, it is so. If he is not familiar with the case, he will make that clear to the court and not try to bluff his way through. In sum, he is the kind of a lawyer that any judge is comfortable having around him and in the courtroom."

Now, what is the basis upon which those assertions were made? The basis is this. For a period of over ten years, I have watched Mr. Anderson's work as a lawyer in the courtroom first-hand. He has tried more jury cases before me than any other single judge.

Now, why is that, a West Tennessee lawyer? Well, he was employed by a client that would send him to close and distant places. I handle all the cases in the Columbia division of the Middle District of Tennessee, and I go to Columbia every other month to hold court on the trailer docket.

Mr. Anderson has selected as many as three juries on the same day and tried three jury cases back-to-back with three sets of clients out in the hall and three sets of witnesses. We would select one jury. I would instruct the jury and tell the jury when to come back, the following week, two or three days. We would select the second jury, and I would instruct that jury and then tell them to come back Monday or Tuesday of the following week. And we'd select a third jury and then on the selection of that third jury, we would start immediately to the trial of that case.

Now, he's a real lawyer. And he's got enormous energy and willingness to work, and I don't believe that the court could have selected a finer lawyer with more experience. And I told Judge Todd in this same letter that "I am convinced that his appointment as a magistrate judge will be received with the highest praise by his colleagues in the Western District of Tennessee." And I'm satisfied that that will prove to be the case.

Now, following the rule that Davy Crockett established, I only have this to day, Judge Todd. I congratulate the judges of the Western district of Tennessee in selecting Mr. Anderson. I congratulate Mr. Anderson upon his appointment. And I believe the expectations of the court will be fully fulfilled.

I have two other observations to make. One, there is a section in Title 28, United States Code, that makes it a high misdemeanor for any justice or judge of the United States to engage in the practice of law. I suggest to you that you ought not to touch that case topside or bottom. It's the only offense under federal law that is characterized as a high misdemeanor. And it's obvious that the Congress intended to make it an impeachable offense for a justice or judge to engage in the practice of law.

And the last observation is to enjoy today. Take in all the applause. Soak it up and enjoy the day. There's a lot of misery ahead of you. There are going to be a lot of restless nights, and there won't be another day like this until your portrait is presented. So make the best of the day.

Thank you, Judge.

JUDGE TODD: Thank you, Judge Higgins.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish to thank my good friend, the Senator from Tennessee. As the Senator knows, he came to chat with me about this nominee. I was not aware of him. But as soon as he did, I pulled the file, looked at him, and I think we put him on for a hearing very shortly thereafter.

I thank the Senator from Tennessee. I have respected his opinion and his views for years, whether he was in the Cabinet or here, and was happy to in this case. I also wish to thank him for the kind words he said about me, as well as those of Senator ISAKSON and Senator LINCOLN and Senator PRYOR.

Mr. President, I have a longer statement to make, but I understand the distinguished Republican leader wishes to speak.

I ask unanimous consent that I yield to the distinguished leader without losing my right to the floor, if that is agreeable to him.

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent to proceed as in morning business.

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

POST-PETRAEUS WRAP UP

Mr. MCCONNELL. Mr. President, Americans were vividly reminded this week that, as our Nation struggles to help Iraq on its way to becoming a stable country that can defend itself and be an ally in the war on terror, we are fortunate to have men like Ambassador Ryan Crocker and Gen. David Petraeus representing us in Baghdad. Their commitment, determination, and skill in seeing America's interests promoted and preserved remind us that public service is a high calling, and that good men and women are still answering that call in heroic ways.

Ambassador Crocker and General Petraeus outlined to the Congress and the country the complex challenges they confront every day in advancing our strategic interests in the Persian Gulf. Their patience and professionalism in doing so was commendable. And it was an important reminder to all of us that the men and women serving in Iraq are well led.

We were reminded this week that less than a year after the counterinsurgency plan went into full effect, the security situation in Iraq has improved dramatically. Overall violence is down. Civilian deaths are down. Sectarian killing is down. Attacks on American forces are dramatically down. And, as a result of all this, General Petraeus was recently able to recommend to the President that our forces be drawn down to the pre-surge level of 15 brigade combat teams by July of this year.

None of us should underestimate the complexity of managing this drawdown. The logistical challenges in-

involved in transporting soldiers and equipment safely and in large numbers are immense, as are the operational challenges involved in repositioning the remaining force in a way that keeps pressure on al-Qaaida in Iraq while continuing to protect the Iraqi people. But neither should we underestimate the impact the surge has had in delivering security gains, allowing for a responsible drawdown of thousands of U.S. servicemembers, and in allowing for the transition of our mission in Iraq, a transition that has already begun.

As part of this ongoing transition, the President announced earlier today that he has accepted General Petraeus's recommendation to allow for a 45-day period of evaluation and consolidation once the drawdown of surge brigades is complete.

Encouragingly, the President also announced that Admiral Mullen and Secretary Gates will now be able to reduce the tour lengths of soldiers deploying to Iraq from 15-month to 12-month periods. This change in policy will increase the amount of time our soldiers and marines are able to spend at home between deployments, a welcome and richly deserved acknowledgment of the service and sacrifice of the greatest fighting force on Earth.

As U.S. soldiers and marines return home, they can be proud of the work they have done these last months. In addition to a decrease in violence, U.S. forces have paved the way for a corresponding increase in the size and the scope of the Iraqi Security Forces.

This so-called "surge" of Iraqi Security Forces is three to four times larger than our own: the Iraqi Army has ballooned by more than 100,000 over the last year alone, and its ranks continue to expand. And local volunteer forces, the so-called "Sons of Iraq," have swelled to nearly 100,000, a key factor in improved security at the provincial level. Their integration into the Iraq Security Forces is an important next step.

Young Iraqis are signing up to join local police forces, to protect the Iraqi border against incoming foreign fighters, and for special operations that will allow the Iraqis to track and kill high value terrorist targets on their own.

These are all encouraging signs. And we are also encouraged by the political progress in Iraq. Though significant political benchmarks remain unmet, progress on other significant benchmarks that seemed far off just a few months ago is underway.

The Iraqi Government is also beginning to show a new and welcome willingness to shoulder more of the financial burden for their own security and development. Iraq has committed, for instance, to gradually assume the salaries of the Sons of Iraq. And the Iraq C-130 planes that were used to shuttle forces and supplies to Basra over the

last 2 weeks were built, of course, right here in America.

Overall, Iraq now covers three-fourths of the cost of its security forces. And we can now realistically expect the Iraqis at some point to assume the full cost of their own security.

On the development side, the Iraqis are also on a path to self-sufficiency. As of last month, Iraq had purchased more than \$2 billion of goods and services from the U.S. The most recent Iraqi reconstruction budget vastly outspends the United States. And slowly but surely, Iraq is approaching total financial control over large reconstruction projects.

As the Iraqis take over more of their own needs, Congress can help accelerate their path to independence by passing a supplemental appropriations bill that has been on request now for more than a year.

Our friends on the other side are rightly concerned about military readiness. I share their concern. But the best way to ensure the military's readiness is not to scrap a plan that has been working in Iraq. The best way to ensure readiness is for Congress to quickly approve the Defense supplemental, without arbitrary withdrawal dates, and without nonsecurity spending. We also need to pass the regular DOD appropriations bill.

General Petraeus and Ambassador Crocker reminded us this week that progress in Iraq is fragile and reversible, that much hard work lies ahead. We are encouraged by the advances they detailed, but we are also sobered by the continuing short- and long-term challenges to our interests in the Persian Gulf. We can't lose sight of the need to meet these challenges.

We need to help Iraq defend itself against Iranian-backed special groups as part of a broader effort to check Iran's apparent desire to dominate the gulf. And, in the best traditions of U.S. foreign policy, we must continue to deal with the sad effects that decades of neglect by Saddam Hussein have visited on the Iraqi people.

General Petraeus and Ambassador Crocker were clear about the challenges we face. But they outlined a plan for continued progress that is backed up by their achievements so far. They, and the Americans they are fortunate to lead in Iraq, have brought us a good distance from where we were just 1 year ago. And this week they charted a realistic course moving forward. Now it is time for the Senate to demonstrate the same commitment and professionalism as these two men, by giving our forces in the field what they need.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the nomination of Judge John A. Mendez to the U.S. District Court for the Eastern District of California.

Let me begin by explaining the urgency of filling this judgeship. Simply

stated, the Eastern District of California is in a crisis. In 2005 and 2006, the district had the highest number of case filings in the Nation. In 2007, the district ranked second out of all 94 Federal judicial districts in the number of new cases filed.

Regrettably, the bench in the Eastern District has been understaffed throughout this period of heavy case filings. A temporary judgeship in the district expired in 2004 because the Congress failed to extend it. As a result, average caseloads in the Eastern District increased by 18 percent from 2004 through 2006, even as average caseloads nationwide declined.

In this Congress, I am pleased to be a cosponsor of S. 1327, which would recreate the temporary judgeship in the Eastern District. The bill has already passed the Senate and is currently pending in the House. I am also a cosponsor of S. 2774, which would create new judgeships to meet the needs of California and other States throughout the Nation.

In addition to creating new judgeships, we clearly need to fill the judgeships that already exist in the Eastern District. Judge John Mendez is the nominee for a seat that was vacated in June 2007.

Judge Mendez is a native Californian and is currently a judge on the Sacramento County Superior Court. He was born in Oakland and graduated with distinction from Stanford University, with a degree in political science. He went on to earn a law degree at Harvard Law School.

After law school he returned to California and worked in private practice in San Francisco from 1980 to 1984. From February 1984 through July 1986, Judge Mendez served as an assistant U.S. attorney in San Jose. He was assigned to the Criminal Division in the U.S. Attorney's Office and became a specialist in criminal law and procedure.

In 1986, Judge Mendez moved to Sacramento and returned to private practice. He focused on civil litigation and business litigation and rose to become a partner at the law firm of Downey, Brand, Seymour & Rowher.

Judge Mendez was appointed as U.S. attorney in San Francisco in 1992, the final year of George H.W. Bush's Presidency. He served as U.S. attorney for 1 year and was personally involved in major civil litigation and a criminal appeal in the Ninth Circuit Court of Appeals.

After leaving the U.S. Attorney's Office, Judge Mendez was of counsel to the law firm Brobeck, Phleger & Harrison in San Francisco from 1993 to 1995. In the summer of 1995 he returned to Sacramento and joined the firm of Somach, Simmons & Dunn as a shareholder. His practice included complex commercial and environmental litigation and white-collar criminal defense

work, as well as counseling clients on regulatory compliance.

Gov. Gray Davis recognized his potential as a judge in 2001 and appointed him to the Sacramento County Superior Court. Judge Mendez was elected to retain that position in 2002 and continues to serve as a superior court judge today.

In addition to his service to the State of California, Judge Mendez has served the legal profession through leadership positions in the Hispanic National Bar Association and the Sacramento Chapter of the Federal Bar Association.

In California we have developed a bipartisan process for selecting Federal district court nominees. Under this system a committee of lawyers known as the Parsky Commission, which includes Democrats and Republicans, recommends qualified applicants to the President.

I am proud of this system and pleased to report that Judge Mendez was recommended unanimously by the Parsky Commission to be nominated as a Federal district judge. By all accounts, he would make an excellent addition to the Federal bench in Sacramento.

I urge all of my colleagues to vote in favor of Judge Mendez.

Mr. COCHRAN. Mr. President, it is my pleasure to support the nomination of Judge Catharina Haynes to the United States Court of Appeals for the Fifth Circuit. She is a very well-qualified and capable nominee to serve on the Fifth Circuit Court of Appeals which hears appeals from the Federal District Courts of Louisiana, Mississippi, and Texas.

Judge Haynes has extraordinary academic credentials. She graduated first in her class with a degree in psychology from the Florida Institute of Technology at age 19, and she then finished second in her class at Emory University School of Law at age 22. While in law school, she also served on the Emory Law Journal.

Since graduating from law school, Judge Haynes has compiled a distinguished record in private practice and as a State court judge.

In 1998, Judge Haynes was elected to be a district court judge in Dallas, TX. Four years later, she was reelected to that same position. While she was running for reelection, the Dallas Morning News endorsed her and said of her: "(She) has energy, intelligence and a strong commitment to the law." They further added, "She runs a fair, efficient court."

While working as a trial court judge, Judge Haynes presided over 190 jury trials and approximately 100 bench trials. She was able to dispose of over 7,000 cases related to a full range of civil topics including complex commercial disputes, commercial litigation, insurance issues, personal injury, intellectual property matters, and employment disputes.

Having recently concluded her time as a Dallas District Court Judge, Judge Haynes returned to private practice at the well-regarded national law firm of Baker Botts, LLP, where she is a partner working in the litigation department.

While in private practice Judge Haynes has handled a wide range of complicated cases in before both State and Federal court. She has also argued cases before the Fifth Circuit Court of Appeals, the court to which she is nominated.

Judge Haynes has been heavily involved with the local bar associations and has volunteered extensively in the community.

Judge Haynes has received numerous awards and professional honors, including the 2006 State Bar of Texas Presidential Commendation, 2006 Florida Tech Alumni Association Outstanding Achievement Award, 2004 Dallas Women Lawyers Association Louise B. Raggio Award, 2003 Dallas Women Lawyers Association Outstanding Board Member Award, and 1996 and 2002 Dallas Bar Association Jo Anna Moreland Outstanding Committee Chair Award.

Her commitment to public service will serve her well on the Fifth Circuit and will reflect credit on the Federal judiciary.

Mr. President, I am pleased the nomination of Catharina Haynes to the United States Court of Appeals for the Fifth Circuit is being confirmed today by the Senate.

Mr. CARDIN. Mr. President, I rise in opposition to the nomination of Catharina Haynes to be a U.S. circuit judge for the Court of Appeals for the Fifth Circuit.

As a member of the Judiciary Committee, I have carefully reviewed Judge Haynes's confirmation hearing record. I asked Judge Haynes several questions in writing after her confirmation hearing in February. I voted against her nomination in the committee last week, and I want to explain to my colleagues my reasons for voting against her today.

Let me begin by saying that I do admire Judge Haynes's commitment to public service. She was elected to the bench in 1999 as a judge, 191st Judicial District Court, in Dallas County, TX. She was reelected to the bench in 2002 and lost her reelection bid in 2006. She now serves as a partner at Baker, Botts in Dallas, TX.

However, no one is entitled to a circuit court judgeship. In the vast majority of cases, these courts are the final law of the land for the States in their circuit when it comes to interpreting complex Federal statutes and our Constitution. These judges have lifetime appointments and are second only to Supreme Court Justices in terms of their power and authority.

In reviewing her background, experience, confirmation hearing record, and

her written responses to additional questions I posed to her, I am not convinced that Judge Haynes is qualified for this position.

I start with the starkest fact about Judge Haynes's record: By her own admission, Judge Haynes has never written a single judicial opinion. In response to the Judiciary Committee questionnaire asking for her opinions as a judge, she stated that she had none. She wrote that "[a]s a state district judge in Texas, I wrote orders (a few with explanations), jury charges and findings of fact/conclusions of law, but I did not write 'published opinions' or 'unpublished opinions'."

A nominee for circuit court judge should have experience in writing substantive judicial opinions. Judge Haynes does not have this requisite experience.

Judge Haynes, by her own admission, has very little experience with criminal cases. According to her response to our committee questionnaire, she stated that her percentage of practice in civil proceedings was 100 percent, and the percentage of her practice in criminal proceedings was 0 percent. She also responded that as a judge in Dallas County, TX, she heard civil cases, and her docket included almost exclusively civil cases.

A nominee for circuit court judge should have broad experience in both criminal and civil cases. Her lack of any meaningful criminal law experience does not give me confidence that she has a sufficient understanding of the criminal justice system and the rights of defendants.

Judge Haynes, by her own admission, did not write opinions. Rather, she wrote orders. Given that circuit court judges are often the final say on the law of the land in a given circuit—due to the low rate of granting certiorari by the Supreme Court—a circuit court judge has an unusual amount of authority and decisionmaking power.

We do not have any meaningful track record on which to judge Judge Haynes's views on substantive legal issues such as civil rights, civil liberties, worker's rights, reproductive freedom, environmental protection, consumers' rights, employees' rights, or separation of powers.

Judge Haynes does not meet my test for Federal judicial nominees since she does not have the requisite experience for a Federal appellate judge.

Finally, I want to talk about diversity. The U.S. Court of Appeals for the Fifth Circuit, which includes Mississippi, Louisiana, and Texas, presides over the largest percentage of minority residents, 44 percent—which includes African-American and Latino citizens—of any of the regional circuit courts of appeal in the country outside of Washington, DC. Mississippi has the highest African-American population—36 percent—of any State in the coun-

try. Louisiana has the second largest African-American population—32 percent—of any State in the country. It is disappointing that none of President Bush's nominations to the Federal bench in this circuit were African Americans. Only one of the Federal judges that now sits on the Fifth Circuit is African American.

As Chairman LEAHY stated at Judge Haynes's confirmation hearing, it was the Fifth Circuit judges who took a lead role in tearing down Jim Crow society in the South and in implementing the Supreme Court's decision in *Brown v. Board of Education* in 1954. Indeed, the best known of these judges were four judges called the "Fifth Circuit Four" or simply "The Four" by opponents of civil rights, in a reference to the Four Horsemen of the Apocalypse. Burke Marshall, the Assistant Attorney General for the Civil Rights Division under President Kennedy, told *The Nation* in a 2004 interview that "those four [Fifth Circuit] judges, I think, have made as much of an imprint on American society and American law as any four judges below the Supreme Court have every done on any court . . . If it hadn't been for judges like that on the Fifth Circuit, I think *Brown* would have failed in the end." The *Brown* decision and its progeny paved the way for equality in transportation, employment, and so many other areas in the South. The Fifth Circuit decisions on civil rights issues in the 1950s and 1960s affirmed by the Supreme Court helped to lay the groundwork for Congress to enact national legislation to prohibit discrimination throughout the United States, including the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Mr. President, I recall the history of the Fifth Circuit because I want to impress upon my colleagues the importance of this circuit in the history of the country and the importance of this circuit today. We are still struggling today to guarantee civil rights to Americans today regardless of race. Too many Americans are still disenfranchised and unable to vote due to deceptive campaign practices targeted at scaring away minority voters. Too many Americans still face employment discrimination or unequal pay. Too many Americans are still treated differently because of the color of their skin.

These judges serve for lifetime appointments and will decide some of the most fundamental legal and constitutional questions for the Fifth Circuit residents in Mississippi, Louisiana, and Texas. I am not convinced that Judge Haynes has either the experience or the proven track record on protecting civil rights and equal rights under the law for this position.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time remains to the Senator from Vermont?

The PRESIDING OFFICER. There is 1 hour 43 minutes.

Mr. LEAHY. How much time remains on the other side?

The PRESIDING OFFICER. There is 99 minutes 53 seconds.

Mr. LEAHY. That is close enough; almost 100.

Mr. President, today the Senate turns to the consideration of another nomination for a lifetime appointment to the Federal bench—Brian Stacy Miller for the Eastern District of Arkansas. Judge Miller currently serves as a State appellate judge on the Arkansas Court of Appeals. He previously served as city judge in Holly Grove, AR, was a deputy prosecuting attorney for Phillips County, AR, and worked for several years in private practice.

With this nomination, we continue our work toward building a more representative Federal judiciary. I am pleased that, when confirmed, Judge Miller will be the 88th African-American currently serving on our Federal bench and the 74th African-American serving as a district court judge.

I thank Senators PRYOR and LINCOLN for their consideration of this nominee, and I thank Senator FEINSTEIN for chairing the hearing on this nomination. I congratulate the nominee and his family on his confirmation today.

Today the Senate also considers another nomination for a lifetime appointment to the Federal bench—Stanley Thomas Anderson for the Western District of Tennessee. Judge Anderson is currently a magistrate judge for the Western District of Tennessee. He previously worked in private practice as the founder and owner of Anderson Law Firm in Jackson, TN.

He served as a claims commissioner for the State of Tennessee Department of Treasury and as assistant commissioner for the Tennessee Department of Transportation. I acknowledge the support of Senators CORKER and ALEXANDER for this nomination. I congratulate the nominee and his family on his confirmation today.

Another nomination for a lifetime appointment to the Federal bench is that of James Randal Hall for the Southern District of Georgia. Mr. Hall is currently a partner at the Augusta, GA, law firm of Warlick, Tritt, Stebbins & Hall.

He previously worked as corporate vice president and legal counsel for Bankers First Corporation and worked in private practice for several other Georgia law firms. Mr. Hall held the distinction of serving the people of the 22nd District of Georgia as a State senator.

I acknowledge the support of Senators CHAMBLISS and ISAKSON and thank Senator FEINSTEIN for chairing the hearing on this nomination. I con-

gratulate the nominee and his family on his confirmation today.

Then we turn to the consideration of yet another nomination for a lifetime appointment to the Federal bench—the nomination of John A. Mendez for the Eastern District of California. Judge Mendez currently serves as a judge on the Sacramento County Superior Court. He previously served as the U.S. attorney for the Northern District of California and worked in private practice.

With this nomination, we continue our work toward building a more representative Federal judiciary. I am pleased that, when confirmed, Judge Mendez will be the 58th Hispanic judge currently serving on our Federal bench and would become the only currently active Hispanic judge in the Eastern District of California.

I thank Senators FEINSTEIN and BOXER for their support of this nomination. I congratulate the nominee and his family on his confirmation today.

Mr. President, the Senate makes significant progress today by confirming yet another appointment to one of our important Federal circuit courts as well as four lifetime appointments of Federal district court nominations. The circuit court nomination we are considering is that of Judge Catharina Haynes of Texas. Her confirmation will fill the very last vacancy on the important court of appeals for the Fifth Circuit, but it is also a vacancy that has been listed as a judicial emergency.

I acknowledge the support of Senator CORNYN and his work with me to schedule her nomination. Senator CORNYN had the time to sit down and explain why she was important and brought her to my attention and helped me report it from the Judiciary Committee last week. I imagine Judge Haynes' first phone call if confirmed this afternoon, as I expect, will be to Senator CORNYN to say thank you.

Despite the progress we continue to make and will make today, some of the rhetoric from the other side of the aisle suggests that judicial confirmations is the most pressing and unsatisfied need facing our country. Now with an economic recession facing Americans, many would say already here, the massive job losses this year, and the home mortgage foreclosures and credit, any partisan effort to create an issue over judicial confirmations is greatly misplaced, and the American people can see through that facade.

The recent job loss reports from the Department of Labor are dramatic. In the first 3 months of this year the U.S. economy lost 232,000 jobs. March marked the greatest loss of jobs during 1 month in at least 5 years. Instead of adding the 100,000 new jobs we would need each month to prevent unemployment from rising further, we have experienced 3 months in a row of significant job losses. This year alone we are

already half a million jobs behind where we need to be just to stay even and not lose economic ground.

Yet last week when I convened the Judiciary Committee to make progress on bills to help homeowners in bankruptcy and to improve the False Claims Act to better target fraud, the priority of the Republicans was none of these important legislative issues. Instead, they engaged in a back and forth on judicial nominations. This administration is apparently more worried about the jobs of a small handful of controversial nominees—many, incidentally, who are not supported by their home State Senators—than they are about the jobs and lives of hundreds of thousands of Americans. With that massive loss of jobs, the Nation's unemployment rate has risen dramatically to over 5.1 percent.

Let's take a look at where we are now. This is what has happened in this Presidency. Unemployment has gone up more than 21 percent during this Presidency. The price of gas has gone up more than 132 percent during the Bush Presidency. The number of uninsured has gone up 11 percent during the Bush Presidency. The budget deficit has increased \$590 billion, going from a quarter of a trillion dollar surplus to a \$354 billion deficit. The trade deficit has gone up 87 percent. All these things have gone up during the Bush Presidency. Meanwhile, judicial vacancies have gone down 46 percent, from 9.9 percent to 5.3 percent. And a lot of that, a significant part of that, happened during a time when Democrats were in charge.

Just think about that. Now it costs more than a billion dollars a day to pay down the interest on the national debt and the massive cost of the disastrous war in Iraq. Think about that, if you hear in your State you have a bridge that is somewhat dangerous but they can't afford to fix it. Think about that in your State, when you are told that Federal dollars to help law enforcement protect Americans from crime is no longer there because we have to send the money to the Iraqi police force, a police force that cannot account for thousands of the weapons that we gave them until some of them end up shooting at Americans. But somehow that money has to go to fix up Iraq, and we do not have it to fix up America. It has to go to Iraq while we are paying almost \$4 a gallon for gasoline, and Iraq has a huge budget surplus from \$100-a-barrel oil. They ask us to pay for the reconstruction, and to pay for it, we take the money from reconstructing America. That is a billion dollars a day, \$365 billion this year that could be better spent not on Iraq but on priorities such as health care for all Americans, better schools, fighting crime, treating diseases at home and abroad.

In contrast, one of the few numbers going down as the President winds

down his tenure is that of judicial vacancies. Judicial vacancies are less than half of what they were during the last Democratic administration, when the Republican majority in the Senate chose to stall consideration of scores of nominees and maintained these vacancies, when they pocket filibustered over 60 of President Clinton's nominees. They succeeded in doubling the number of circuit court vacancies during those years and those vacancies rose to a high of 32 with the resignations that accompanied the change of administration.

By contrast, Democrats have helped reduce circuit court vacancies across the country to as low as 13 in 2007. That is going to be the number of remaining circuit court vacancies today, after the confirmation of Judge Haynes. So that is half of what they were at the end of the last Democratic administration, when a Republican-led Senate was in charge.

During the last Democratic administration, the Republican chairman of the Judiciary Committee argued that the 103 vacancies that then existed did not constitute a vacancy crisis. I guess he meant that when you had a Democratic President, it was not a crisis. He also argued on numerous occasions that 67 vacancies meant full employment on the Federal courts, if you had a Democratic President. After today's confirmation, the Administrative Office of U.S. Courts will list 47 vacancies. That is 20 below what Republicans used to deem full employment, below half. We have cut in half the vacancy level they felt was appropriate for a Democratic administration. In the 17 months I chaired the Judiciary Committee during President Bush's first term, we acted faster and more favorably on more of this President's judicial nominees than any 17 months and either of the Republican chairmen who succeeded me.

During those 17 months the Senate confirmed 100 judicial nominations. When I reassumed the chairmanship last year, the committee and the Senate continued to make progress with the confirmation of 40 more lifetime appointments of judges to our Federal courts. That is more than were confirmed during any of the 3 preceding years under Republican leadership and certainly more than were confirmed in 1996, 1997, 1999, and 2000. What is the difference? A Democratic-led Senate did a lot better for a Republican President than a Republican-led Senate did for a Democratic President.

During this Presidency, while I have served as Judiciary chairman, the Senate will have proceeded after today to confirm 145 lifetime appointments in only 3 years, compared to 158 during the more than 4 years of Republican control. When the Senate confirms Judge Haynes today—here we are in April—we will have surpassed the total

number of circuit judges confirmed by Republicans during the entire 1996 session. It was easy to do because a Republican majority refused to confirm even one of President Clinton's circuit nominees, not one. Indeed, the first confirmation of any judge that session didn't even take place until July 10, and that was a district court. So we are also 3 months ahead of the schedule followed by the Republican leadership during that presidential election year.

Some will undoubtedly repeat the partisan Republican talking point that the Senate must confirm 15 circuit judges for Congress to match a mythical statistical average of selected years. God love those mythical statistical averages. It is sort of like the man who puts one foot in boiling water and one foot in a block of ice and says: On average, I am pretty darn comfortable.

Well, it is true that during the last 2 years of this President's father's term, with a Democratic-led Senate, we confirmed an extraordinary number of circuit nominees: 20. It is true that during the last 2 years of the Reagan administration, a Democratic-led Senate confirmed 17 circuit court nominees. So what they are saying is, if we are going to use an average, we are going to use an average only when the Democrats are in charge.

Maybe it would be different if after we set those high records—Democrats with a Republican President—that even a little bit of that had been reciprocated. Well, it was not. Instead, the Republican-led Senate, with a Democratic President, made sure that judicial vacancies skyrocketed to historic levels. It actually got to the point that Chief Justice Rehnquist, a conservative Republican, weighed in publicly to criticize the Republican-led Senate.

Republicans do not talk about what they did. I do not believe they can bear an accurate comparison of what we have accomplished and what they did not.

So I wonder when the Republican leader and others who come to the floor with accusations about slow-walking nominations will explain their roles during the Clinton years—especially the over 60 they pocket filibustered, something joined by every Republican member of the Senate Judiciary Committee.

Why was it that during the 1996 session—the end of President Clinton's first term—the Republican-led Senate refused to confirm a single circuit nomination?

Why was it that Bonnie Campbell, the former attorney general of Iowa, who was supported by both Senator HARKIN, a Democrat, and Senator GRASSLEY, a Republican, was never even allowed to be considered by the Judiciary Committee, to say nothing about the full Senate, after her hearing?

Why was it that Kent Markus, of Ohio, a law professor, a former high-ranking Department of Justice official, who was supported by both his home State senators—both Republicans, incidentally—was never considered by the Judiciary Committee or this Senate?

Why was it that so many circuit vacancies were left without any nominees considered during the last years of the last Democratic administration when Republicans controlled the Senate?

I remember one. When I asked them about that one, they said: Well, we can't have her. We are not sure of her qualifications. That nominee is now the dean of the Harvard Law School—one of the most prestigious legal positions in America.

So Republican Senators have many questions to answer before they level accusations of any kind. To any objective observer, the answer is clear. The Republican Senate chose to stall consideration of circuit nominees and maintain vacancies during the Clinton administration in hopes they would have a Republican Presidency. Vacancies rose to over 100. Circuit vacancies doubled. But as soon as a Republican President was elected, they sought to turn the tables and take full advantage of the vacancies they prevented from being filled. Well, they have been extraordinarily successful. Currently, more than 60 percent of active judges on the Federal circuit courts were appointed by Republican Presidents, and more than 35 percent have been appointed by this President.

Another way to look at their success and compare the better treatment shown to this President is to observe that the Senate has already confirmed more than three-quarters of this President's circuit court nominees, compared to only half of President Clinton's circuit nominees confirmed by a Republican-controlled Senate.

Now, as chairman of the Judiciary Committee, I have turned the other cheek. I have worked hard to improve the treatment of nominees. To make progress, I even chaired the Judiciary Committee's hearing on the circuit nomination before us today during a congressional recess. I said that we would treat this President's nominees more fairly than the Republicans treated President Clinton's, and we have. We have not pocket filibustered more than 60 of this President's judicial nominees, as was done to President Clinton's nominees. We have not opposed them in secret or anonymously. In fact, during my chairmanship, the views of home State senators, as reflected in the "blue slips" submitted to the committee, were made public for the first time. No more secret holds. We did not allow that. We have considered nominations openly and on the RECORD. We have proceeded with consideration of nominees whom I opposed, something that never happened

under previous Republican leadership. If the Republican chairman opposed them, they never even got a consideration.

I am glad we have Judge Haynes here because if she is confirmed, then the Fifth Circuit will have no vacancies. I was almost worried whether she would get here.

Even though she was already on the Judiciary Committee's agenda, she appeared at a political, partisan function at the White House, where they were demanding that she be put on the agenda. Of course, she was already there. It had been noticed for a couple days. Then, when we were set to vote on her last week, Republicans almost filibustered her nomination. They talked so much, we virtually ran out of time, and I had to keep this committee in an extra 10 minutes; otherwise, she would not have been confirmed. It was then that I realized what was happening—just like in February, when they refused to show up and make a quorum throughout the whole month of February. If they had shown up, we would have passed out a number of judges. But they were planning to give speeches saying we are not passing out judges, so they would not show up to make sure that happened.

Mr. CARDIN. Mr. President, will the chairman yield?

Mr. LEAHY. Mr. President, I will yield without losing my right to the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

The Senator from Maryland.

Mr. CARDIN. I thank the chairman.

I say to the Senator, I want to compliment you for the fairness in which you have conducted the confirmation process. It is interesting, on the most controversial nominee we had, the vote was delayed at the request of the Republicans.

Mr. LEAHY. That is right.

Mr. CARDIN. We were prepared to vote. They wanted more time in order to get enough support to get that nominee out of the committee.

Mr. LEAHY. If the Senator will yield, they asked me several times, over a period of several weeks, to delay the vote.

Mr. CARDIN. I say to the Senator, I think you have been abundantly fair in scheduling these hearings. You mentioned Judge Haynes's confirmation. I happen to oppose that nomination, but I have made no efforts at all to delay the consideration of that nomination, which has been true, I think, of all the members on our side.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Maryland, who has been a tremendous help and a key member of our committee.

As I said before, if Judge Haynes is confirmed today, the Fifth Circuit will have no vacancies. We have proceeded

despite the fact that 12 of the 16 active judges on this court have been appointed by Republican Presidents. I did this notwithstanding the fact that Republicans blocked President Clinton's nominees. Judge Jorge Rangel, of Texas, Enrique Moreno, of Texas, and Alston Johnson, of Louisiana were all blocked. They were told they could not even have hearings because it was a Democratic President. We have not done that. Every one of these circuit court nominees has had a hearing and a vote. In fact, I have held hearings on all six of the Fifth Circuit nominees of this President during my chairmanship. With today's vote, the Senate will have voted on all of them.

Just understand this: Republicans would not hold hearings on President Clinton's nominees to that circuit. I have held hearings on them, and we have voted on them all. And we will hear these crocodile tears on the other side that: Oh, woe is me, we are not getting any circuit judges. Well, most of the time I have ignored it because it has been such balderdash that it is hard to think that anybody would believe it. But just in case somebody has been fooled by it, I thought we would put the numbers in the RECORD.

In fact, vacancies on the Fifth Circuit are at an alltime low—zero after today. Contrast this with the situation during the Clinton years, when the Chief Judge of the Fifth Circuit declared a circuit emergency because Republicans were pocket filibustering all of President Clinton's nominees. That circuit-wide emergency was due to multiple, simultaneous vacancies caused by the fact that the Republican-led Senate would not act on the nominees of a Democratic President.

Mr. President, I ask unanimous consent that, without losing my right to the floor, I be allowed to yield to the distinguished majority leader.

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

Mr. REID. Mr. President, I so appreciate my friend yielding for me to say a few words prior to these votes starting. Mr. President, if there is inadequate time, I will use my leader time. I think we do have an hour left on our side, so I think we have plenty of time. Is that right?

The PRESIDING OFFICER. There is 1 hour 20 minutes remaining.

Mr. REID. Mr. President, the judge situation with me is very touchy. I have written a book. It will be coming out in a few weeks. In that book, I have said—and as I have said a number of times on the floor—the most important issue I ever worked on in all my political career is when the Republicans tried to turn the Constitution upside down with their so-called nuclear option. To think that they would throw away basically having the Senate be the Senate. But they were willing to do that until seven courageous Democrats

and seven courageous Republicans stepped in and said: Enough is enough.

The person who has gotten all the abuse on our side is not me, not Senator Daschle; it has been the Senator from Vermont, Mr. LEAHY.

I want to do everything I can to process judges. I believe in quality, not quantity. We are going to do the very best we can. We have a majority. It is very thin. We are going to treat the minority very fairly, as has been indicated in what my friend, the distinguished chairman of the committee, has said.

I commend Chairman LEAHY for his work, not these last few months during this year, not last year, but for his entire career in the Judiciary Committee, as the chairman and ranking member, which I have been able to watch up close. He has done a remarkably good job under very difficult circumstances. How he was treated when he was in the minority is something the history books will recount as some of the low days of the history of this institution.

Senator LEAHY and I decided that it is not payback time. We were going to do to the Republicans what they did not do to us: treat them fairly. We have done that.

My friends have criticized the chairman for the pace of judicial confirmations in this Congress. There is a Yiddish word for those Republican complaints: "chutzpah." What they have complained about is absolutely without any foundation or basis—in fact, the gall to have them do that.

Now, Mr. President, during the years President Clinton was sending judicial nominations to the Republican-controlled Senate, more than 60 qualified nominees were denied floor votes. The chairman referred to them as pocket vetoes. Many were even denied a committee hearing. In 1999, more than 6 months went by before Chairman HATCH agreed to process any judicial nominations.

As I have said many times, we should not hold a grudge. We are not doing that. We should not live in the past. But as a result of the Republican tactics during the Clinton years, some of the vacancies President Bush wants to fill are illegitimate vacancies—the seats are only vacant because the Senate unreasonably withheld its consent to President Clinton's nominations. Republican complaints about the current process must be considered in that light.

For example, one Clinton nominee—and there were lots we could use as examples and talk about here—One Clinton nominee, a distinguished Missouri Supreme Court justice named Ronnie White, was defeated on a party-line vote after Republicans accused him of being pro-criminal. Pro-criminal. How do you like that? Another nominee, Elena Kagan, is now the dean of the

Harvard Law School. I don't know if Harvard is the best law school in the country. I don't know if Yale is the best law school in the country. I don't know if Stanford is the best law school in the country. But Harvard is a really good law school, and she is the dean of that law school. She was even denied a hearing because the Republicans claimed the court to which she was nominated didn't have enough work to do. How about that?

So without going on more, other than to say the Republican record as to how it processed Clinton's nominees is dismal. Complaints about Chairman LEAHY should ring hollow, to say the least.

The fact is, 140 of President Bush's judicial nominations—90 percent of them—have been confirmed in the years the Democrats have been in control of the Senate. Last year the Senate confirmed 40 judges, more than during any of the 3 previous years with the Republicans in charge.

After we confirm Catharina Haynes today, more than 75 percent of President Bush's court of appeals nominations will have been confirmed. In contrast, during the 8 years that President Clinton was President, they confirmed 50 percent. So if we stop right now, we would be 25 percent ahead of them at the end of this year.

Well, we are not going to stop now; we are going to try to process more of these nominations. Our treatment of President Bush's nominees has been more than fair and fully in keeping with the Senate's constitutional duty to provide advice and consent to Presidential nominees.

The Republican leader, my friend—I know how much he cares about these judges—talks about the fact that there has been some kind of an agreement that we would confirm 15 of the President's court of appeals nominees in this Congress. We are going to do our very best to process nominations. But it would be a good idea—and we could process a few more—if the Republicans on the Judiciary Committee would show up at the hearings that the chairman holds so he could have a quorum.

Chairman LEAHY and I are not making any specific numerical commitment on behalf of Democrats. I said in a floor statement last May 10 that we should measure the quality of nominees, not the quantity of the nominees. We should confirm mainstream, capable, experienced nominees who are the product of bipartisan cooperation. But we should not confirm nominees who are out of the mainstream and who are unacceptable, for example, to the home State Senators.

The judicial confirmation process has been the subject of much acrimony over the years. I talked about it a little bit earlier. To think what the Republicans were going to do. It is hard for me to comprehend that they were will-

ing to do that, but they were. Senator LEAHY and I have worked hard to diffuse those tensions, and I think we have done a pretty good job. We have done it because we believe there are judges who need to be confirmed. We believe the confirmation of five judges today is another step in that process.

I was so disappointed—and I expressed this privately to the Republican leader today—we bring to the floor five nominees today, and they spend all morning beating up on you. It is kind of a strange world we live in here. Why did they have to do it today? What does that show?

We moved forward on these. We could have done two of them today, and a lot of the Members would be happy. But if we didn't do them all today—it is going to take a lot of time but we decided, let's do these. It is a showing of good faith. I am the one who talked to the chairman of the committee and said let's do them all. All they do is come out and beat the daylights out of him all day.

Mr. LEAHY. Mr. President, would the Senator yield?

Mr. REID. Yes.

Mr. LEAHY. No. 1, I can't tell my dear friend from Nevada how much what he has said has meant. He has told me similar things in private as well as in public. He and I have been close friends for well over 20 years, and he knows of my huge respect and affection for him.

I chuckled as he put his finger on the issue, as he always does—the man from Searchlight shines the light on what happens—and talked about this kabuki show we saw this morning on the floor, criticizing me especially for moving judges. It kind of reminds me of what happened in February where we had markups to confirm judges and the Republicans would not show up. We wondered, why wouldn't they show up for their own judges? Why wouldn't they show up when they were given a chance to get out these judges? And then I find out. They were all giving speeches saying it is terrible we are not getting out judges. Well, if they had shown up, of course, the speeches could not be given. It is kind of damned if you do and damned if you don't.

I said when I became chairman the first time and again the second time I would not do to them, or to President Bush, what they did to President Clinton and to us, and I have not. I do not intend to. I told the President that. But I would like to see a little bit of cooperation from the White House in working with home State Senators and in working with us not to get ideologues that fit well in a fundraising letter, but instead to nominate people who are good for the Federal court.

So I can't tell the distinguished leader enough how much I appreciate his constant support throughout this whole thing.

Mr. REID. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. Mr. President, as I said to the leader, I would still rather see us work with the President on the selection of nominees the Senate can proceed to confirm than waste precious time fighting about controversial nominees to score political points. I will give an example. We have a State with a highly respected Republican Senator and a highly respected Democratic Senator, and they worked together to make recommendations that were completely out of any kind of partisan politics. They sent a list of several people who had gone through the screening committee, talked to everybody on the bar—Democrats, Republicans, people with no political affiliations—and said: Look, here is a list of the best people we could possibly find in our State. White House, you go ahead and pick whomever you want out of this group. We are happy with them.

They came and talked to me, and I said fine. I have huge respect for both the Republican Senator and the Democratic Senator, and I am sure we can move them through. Do my colleagues know what happened. The White House rejected that and sent up a totally controversial person. Again, the fundraising letters went out touting how we have to have this person. Both of the Senators said they would not return a positive blue slip; they wouldn't support this. It was not somebody they wanted to have on their record as supporting.

The White House finally withdrew that name. It went back to those Senators, and I am told by the Senators they have a nomination now that both will support for the circuit court of appeals, and that person will go charging through.

I recall another nomination this White House had made, strongly opposed by the two Senators, one of the more senior Members of the Senate, from their State. Those Senators said they did not want this nomination to go through and it did not. I still hear how terrible it was we did not confirm that nomination, even after the nominee pled guilty to criminal fraud.

I can think of other examples of people whom my Republican colleagues came and said: We really don't want to go with this person because of their situation back home—without going into a further description.

Now, Judge Catharina Haynes—and I see my friend, the distinguished Senator from Texas on the Senate floor, Senator CORNYN—Judge Catharina Haynes is a former Texas State trial judge in the 191st District Court for the State of Texas. She currently works as a partner at the law firm of Baker Botts in Dallas—an excellent firm. The Fifth Circuit has played an extraordinarily historic role in the protection

of civil rights in this country. As we moved from that terrible time in our history of segregation into civil rights for all, some of those judges were among the most courageous this Nation has known.

I wish I knew more about Judge Haynes's attitude about civil rights than her record and testimony reveal. But I listened to what the distinguished Senator from Texas said, and I vote in favor of confirmation with the hope that she will treasure and follow the example of earlier judges in that court who made such a passionate commitment to the rights of all Americans.

So I congratulate her and her family on what I expect will be her confirmation today.

We have five nominations. I had been told the leadership has been talking about having rollcalls. We still have a fair amount of time on both sides; am I correct?

The PRESIDING OFFICER. The majority has 1 hour 5 minutes remaining. The minority has 100 minutes remaining.

Mr. LEAHY. Mr. President, because I have been asked by both Republican and Democratic Senators, with the American Airlines snafu and other things as we are trying to get flights out of here, I might ask the distinguished Senator from Pennsylvania how soon he would be willing to start votes if I were to yield back all time.

Mr. SPECTER. Well, Mr. President, I am not quite sure about that. I am quite sure that I waited here for 40 minutes for somebody to appear to start this debate, and I am quite sure we have heard very extensive discussion by the Democrats, but my practice is to be brief. I believe I will speak no more than 15 minutes, perhaps 20 at the outside. I hate to so understate it, but I don't think it takes a whole lot of time to refute what the chairman and the majority leader have said. So I think we are ready to start fairly soon. If we had some indication as to how many rollcall votes we will have—if we have five, which will take us several hours, I might be a little more disposed to be even briefer, if I had some indication of that.

Mr. LEAHY. Mr. President, I am going to talk to the Senators who have proposed these nominations. I have been a little bit more lengthy than normal, but that is after several hours that have been spent on the floor of the Senate being critical of me—I did not respond to that until now—just as a great deal of time was spent in the Senate Judiciary Committee being critical of me which I did not respond to; otherwise, we would not have Judge Haynes on the floor today because the Republicans would have filibustered her nomination.

So I will not quite yet withhold the balance of time. I am prepared, if peo-

ple want, to begin these votes within the next 5 minutes and to work with—I understand a couple of the proponents of a couple of these judges are not going to require rollcall votes.

I want to be able to confirm that. If that is the case, I am prepared to begin in the next 5 minutes or so. I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I ask the chairman if his willingness to begin in 5 minutes would leave me 5 or, perhaps, 3 minutes. The Senator from Georgia wants 4 minutes, and I would only have 1 minute. My question to the chairman would be, as a vocal, outspoken, voluminous proponent of fairness, if he thinks 1 minute would be sufficient to reply to the better part of an hour, which he has taken. Perhaps I can answer that myself. I don't think it would be sufficient.

Mr. LEAHY. To answer that question, the Senator from Pennsylvania is one of the most articulate, best trial attorneys in this place. He could do in a minute what others would take an hour to do. I did try to take far less time than was used to attack me this morning.

Mr. SPECTER. Well, we have heard the magnanimity of the chairman on this one circuit nominee. So far this year, we have not confirmed any Federal judges. We have heard the magnanimous comments by the chairman about Catharina Haynes. We might not have had one. We didn't have a hearing from September 25 to February 21. I don't think an argument of being magnanimous pertains.

I don't blame the chairman for departing the Chamber. He might not like to hear what I have to say in response; although, I sat through his entire speech. I will not comment on his departure beyond what I have already said.

In listening to the presentation by the Senator from Vermont, I would have thought he was running for President. He had this big, flamboyant chart about the Bush Presidency. The chart had statistics on the unemployment rate going up, gas prices going up, the budget deficit going up, the trade deficit going up, and the number of uninsured people going up. For a moment, I thought I was listening to Senator HILLARY CLINTON. And then, I thought I might be listening to Senator OBAMA. Had either of those Senators been making that speech, I could understand the purpose, but it is a little hard to understand the purpose of the comments by the chairman.

When the chairman talks about Republicans not showing up for committee meetings, he is in fantasyland, as are a good many of his comments.

I ask unanimous consent to have printed in the RECORD a detailed rebuttal. It would take considerable time to

answer specifically, but this can be in the RECORD to demonstrate proof and to establish the fantasy of the chairman's assertions that Republicans didn't show up.

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

Assertion: Chairman Leahy has asserted the Republicans boycotted markups in February when he was trying to move nominations.

Rebuttal: Republicans did not boycott Committee business meetings or obstruct the Committee's ability to vote out judicial nominations.

Between the first business meeting of 2008 (Jan. 31) and the April 3 business meeting when Chairman Leahy made the above assertions, the Committee had held only four business meetings (Jan. 31, Feb. 14, Feb. 28, and March 6), and had held two judicial nominations hearings (Feb. 12 and Feb. 21), even though the Senate had been in session eight weeks.

Neither the Jan. 31 meeting nor the Feb. 14 meeting agendas listed any judicial nominations.

A total of five executive nominations were listed on Jan. 31 and Feb. 14 meeting agendas.

Even though no judicial nominations were listed on the Feb. 14 meeting, PI Ranking Member Specter arrived at the meeting early and, finding no other Committee Members present, left to testify before the Senate Finance Committee. When he returned, the meeting had been adjourned. According to Committee records, Senators Leahy, Specter, Kohl, Schumer, Durbin, Kyl, and Brownback were the only Members present before adjournment.

The Feb. 28 meeting was the first to list judicial nominations and only listed two district court nominees—Brian Miller (AR) and James Hall (GA).

A total of four Republicans and five Democrats were present at the Feb. 28 meeting before Senator Specter left at 10:17—hardly a boycott. A fifth Republican, Senator Hatch, arrived after the gavel. (According to Committee records, Specter arrived at 9:59, Coburn 10:00, Feinstein 10:02, Leahy 10:03, Durbin 10:04, Cardin 10:05, Kyl 10:08, Grassley 10:16, Kohl 10:17, Hatch 10:19 after the gavel)

The next meeting was held on March 6 and the Committee voted out four district court nominees: Brian Miller (AR), James Randal Hall (GA), John Mendez (CA), and Stanley Anderson (TN). According to Committee records, Senators Specter, Hatch, Grassley, Kyl, Cornyn, Coburn, Leahy, Biden, Kohl, Feinstein, Feingold, Schumer, Durbin, and Cardin were all present for the Committee vote on the nominations.

Kevin J. O'Connor, nominee to be Associate Attorney General and Gregory Katsas, nominee to be Assistant Attorney General for the Civil Division, who were listed on the Feb. 14 agenda, were also voted out on March 6.

Catharina Haynes was the only judicial nomination listed on the April 3 meeting agenda and was the first circuit court nomination listed on a Committee meeting since Nov. 1, 2007 (5 months ago).

It is unclear what "boycott" Chairman Leahy is referring to given that the February 28 meeting was the only one between January 1, 2008 and February 28 that listed judicial nominees and a quorum was not reached by 10:15 even though four Republicans were present.

Mr. SPECTER. Now, when the majority leader came to the floor and talked about turning the Constitution on its head with the constitutional option, he glossed over the point pretty fast and missed most of the salient points—that there was enormous provocation that led some Republicans—and I say “some” Republicans—to consider raising the constitutional option. What we have seen is a practice going on now for two decades—20 years—since 1986, so it is 22 years now—starting with the last 2 years of the Reagan administration, 1987 and 1988, when the Democrats had control, nominations were slowed down to a crawl. And then the same thing occurred during the last 2 years of the first President Bush. Then Republicans retaliated with gusto in kind, exacerbating the problem.

The one thing I agree with the Senator from Vermont on is that the Clinton nominees were not treated fairly.

That is true. They were not treated fairly, and I said so at the time. I crossed party lines to support qualified Clinton nominees. But, what is happening in this body is just ratcheting it up again and again. And then, after President Clinton's term, we had the virtual disintegration of institutional prerogatives around here due to filibusters that were conducted by the Democrats on the Bush nominees in 2004 and 2005.

The majority leader talks about the constitutional option. Well, the constitutional option was not pursued by Republicans. There were sufficient Republicans to have put the constitutional, or nuclear option, into operation. There were sufficient Republicans to do that. Under the plan, it would have taken 51, but the Republicans did not do that, notwithstanding the Democrats' provocation.

The majority leader said, “We have been fair to Republicans.” That comment sort of approaches this issue as if it is a private boxing match between Republicans and Democrats and an issue of fairness between Republicans and Democrats. Well, that is not the issue. The issue is what is fair to the American people. We are not here to spar, to argue or to fight; we are here to do the people's business. How fair is it to the American people to have these nominations delayed where there are judicial emergencies in the courts of the United States? This is not ARLEN SPECTER's idea. The Judicial Conference determines what is a judicial emergency.

There is a judicial emergency in the Fifth Circuit, the court to which Catharina Haynes is nominated and up for a vote today. How long has she waited? It has been over 260 days. Now, I don't consider it relevant as to whether it is fair to Republicans; I consider the question whether it is fair to Americans—the people who live in the Fifth Circuit who have had to wait for

decisions to be made by an understaffed court. It may be a statistic to those of us who hold lofty positions—and it is a great privilege to be a Senator. It may be a statistic to us, but if somebody has filed a lawsuit who has been injured, say, in an automobile accident. Someone who has doctor bills and loss of wages, and that person has to wait and wait for the case to come up, finally to be tried, and then to be appealed and waits and waits—that is where the issue is.

Take a look at the waiting periods: Robert Conrad in the Fourth Circuit, a judicial emergency, waiting over 260 days; Raymond Kethledge in the Sixth Circuit, a judicial emergency, waiting over 650 days; Stephen Murphy also in the Sixth Circuit and a judicial emergency, waiting over 650 days. Shalom Stone in the Third Circuit, a judicial emergency, has been waiting over 250 days. Tom Farr in the District Court of North Carolina has been waiting over 490 days. James Rogan has been waiting over 450 days. The list goes on and on. Peter Keisler is a very distinguished nominee who has an extraordinary record, and I ask unanimous consent that his resume be printed in the RECORD.

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

PETER DOUGLAS KEISLER

UNITED STATES CIRCUIT JUDGE FOR THE
DISTRICT OF COLUMBIA CIRCUIT

Birth: October 13, 1960, Hempstead, New York.

Legal residence: Bethesda, Maryland.

Education: B.A., Yale University, 1981, Magna Cum Laude; J.D., Yale Law School, 1985, Note Editor, Yale Law Journal.

Employment: Law Clerk, Judge Robert H. Bork, D.C. Circuit Court of Appeals, 1985–1986; Assistant Counsel, Office of the Counsel to the President, 1986–1987; Associate Counsel, Office of the Counsel to the President, 1987–1988; Law Clerk, Justice Anthony M. Kennedy, Supreme Court, 1988; Associate, Sidley, Austin, Brown & Wood, 1989–1993, Partner, 1993–2002; Acting Associate Attorney General, United States Department of Justice, Oct. 2002–March 2003; Principal Deputy Associate Attorney General, United States Department of Justice, June 2002–June 2003; Assistant Attorney General, United States Department of Justice, Civil Division, July 2003–September 2007; Former Acting Attorney General, United States Department of Justice, September 2007–November 2007.

Selected activities: Member, Advisory Committee on Civil Rules; Director & Secretary, Federalist Society for Law and Public Policy, 1993–2000; Member, Maryland Bar Association; Member, District of Columbia Bar Association; Member, Pennsylvania Bar Association; Member, American Bar Association.

ABA rating: Unanimously Well Qualified.

Mr. SPECTER. Mr. President, Peter Keisler has waited for 650 days, and soon, it will be the 2-year anniversary of his nomination. So the real question is not fairness to Republicans; it is a question of fairness to the American

people. The American people have not been treated fairly, and they have not been treated fairly by the Democrats, and they weren't treated fairly by Republicans when President Clinton sent nominees to this floor.

It is high time this stops. That is why I have introduced a resolution that would establish a protocol. The protocol would be, after a nominee is nominated, there be a hearing and then there is a committee vote. Then, the nominee comes before the full Senate and we start to follow the Constitution. There is nothing in the Constitution about filibusters. The Constitution talks about the President's prerogatives to nominate and the Senate's duty to consent or not to consent.

The majority leader made a big to-do about its being a matter of quality, not a matter of quantity. Well, if the majority doesn't like the quality, all they have to do is vote the nominee down. All I am asking for is up-or-down votes. If they don't like the quality, say so. Say so. I think that, on an examination of the record, there would be no real issue about quality. These are quality people. But, if I am wrong, and their judgment is to the contrary, I will abide by that. Vote no. Don't consent. Follow the Constitution and don't consent.

We have real problems with going forward when the chairman talks about judicial vacancies not being the most pressing problem in comparison to unemployment, the economy, and Iraq. I agree there are problems of greater immediacy. But, we have time to handle them all. We might have to work on Mondays and Fridays. A lot of Americans work on Saturdays. We could come in a little earlier, and we could use the floor time a little more efficiently.

I do believe it is time we took stock in what we are doing in this body. You can cite the statistics in many different directions, but I think the real critical statistics are what has happened in the last 2 years during President Bush's Administration in comparison to President Clinton's final two years. There is a decisive discrepancy there. A Republican Senate confirmed 15 of President Clinton's circuit judges in his final two years in comparison to 6 for President Bush before the nominees are considered today. I hope it will go up to 7. President Clinton had 57 district judges and President Bush had 34, and I expect it will go up to 38 today. Over the 8-year terms of the two Presidents, President Clinton had 65 circuit judges and President Bush had 57; President Clinton had 305 district court judges, and President Bush had 237 judges.

So I hope we can move through the morass we find ourselves in. If we don't, there is going to be an election this year, and there may be a Democrat in the White House. I don't know

what is going to happen. It is a close matter. The American people will decide that.

At some point, there will be another Democrat in the White House, if not on this election, and there will be retaliation because one insult begets another. As one side exacerbates, so does the other. The 20-year record is not a good record as to what we have here. I urge a truce.

On a personal level, no two Senators in this body have a closer relationship than Senator LEAHY and myself. It goes back a long time when we had important jobs—when he was a prosecuting attorney and I was the same. We have worked together very closely, but we have a disagreement on this issue.

I believe the Republican caucus is right today in its position, and I am prepared to lead the caucus on the issue. That is my job in my capacity as ranking member. When the Republican caucus was wrong, I said so, and I voted with the Democrats on the Clinton nominees.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous consent request so we can move on?

Mr. SPECTER. Surely.

VOTE ON THE NOMINATION OF CATHARINA HAYNES TO BE UNITED STATES CIRCUIT JUDGE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate call up the nomination of Catharina Haynes of Texas to be United States Circuit Judge for the Fifth Circuit, that the nomination be confirmed and sent to the President.

Mr. SPECTER. Mr. President, I don't understand the import of that question.

Mr. LEAHY. The Senator is talking about ways to move forward. I am asking by consent that we confirm by voice vote Calendar No. 515, Catharina Haynes to be a Fifth Circuit Judge.

Mr. President, is the Senator going to object?

Mr. SPECTER. Mr. President, Senator LEAHY and I have something on which to agree. I agree.

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

Mr. LEAHY. Mr. President, I ask unanimous consent that both sides yield back their time and we begin with a vote on Brian Stacy Miller of Arkansas, which will be a rollcall vote, and if rollcall votes are required on the subsequent nominations, that they be 10-minute rollcalls.

Mr. SPECTER. That they be voice votes?

Mr. LEAHY. No. I should advise, I will ask, if time is all yielded back, for the yeas and nays on Brian Stacy Miller, but if the yeas and nays are requested on the subsequent nominees, that they be 10-minute rollcalls, although subsequent to the Brian Stacy Miller, the first one.

Mr. SPECTER. May I inquire of the distinguished chairman if he intends to ask for the yeas and nays on the other nominees?

Mr. LEAHY. Why don't we begin with this nomination, and the distinguished ranking member, who is one of the closest friends I have in this body, and I may discuss that during that rollcall vote.

Mr. SPECTER. I respect the chairman's right not to answer. The Senator from Georgia has been waiting for a considerable period of time. I agree with whatever Senator LEAHY has had to say. I ask that the Senator be given—how much time would the Senator like?

Mr. CHAMBLISS. Up to 3 minutes, and I also ask that Senator CORNYN be given up to 3 minutes.

Mr. LEAHY. We just confirmed Senator CORNYN's nomination. Does he want us to undo that?

Let me do this. I ask unanimous consent that at 5 minutes of 6, all time be yielded back and the Senate go to a vote on the nomination of Brian Stacy Miller of Arkansas.

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

Mr. LEAHY. I ask unanimous consent that the yeas and nays be ordered on Brian Stacy Miller.

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

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise today to express my support for James Randall Hall to be United States District Judge for the Southern District of Georgia. Randy Hall is supremely well qualified to fill this position.

I am pleased the Senate will finally have an opportunity to vote on Randy's confirmation today. If confirmed, Randy will fill the vacancy created on August 2, 2006, when Judge Avant Edenfield took senior status. The Southern District of Georgia is designated as a judicial emergency, as just referred to by Senator SPECTER, by the nonpartisan Judicial Conference of the United States. This means the court dockets of the Southern District of Georgia are too busy and that litigants are waiting too long for results.

To that end, I thank the chairman of the Judiciary Committee, the Senator from Vermont, Mr. LEAHY, as well as the distinguished Senator from Pennsylvania, the ranking member, Mr. SPECTER, for their efforts and that of their staffs for shepherding Randy's nomination through the Judiciary Committee.

Randy Hall is a native of Augusta, GA. He graduated from Augusta College in 1979 and from the University of

Georgia School of Law in 1982. His private practice has focused on commercial real estate, banking, corporate matters, and commercial litigation. During his years as a private attorney, he built an impressive legal resume. He served as general counsel of Bankers First Corporation for over a decade, managing the entire legal function of the billion dollar corporation, including securities matters, State and Federal regulatory matters, litigation, real estate acquisition and development, employment issues, and general corporate projects.

Mr. Hall also has a history of public service. In 1997, he was appointed to the Augusta-Richmond Planning Commission, a 12-member board authorized to regulate the subdivision of land, plan for the orderly growth and development of Augusta-Richmond County, and zone all land into various use classifications. He served on the commission until 2002, acting as its chairman from 2000 to 2002. In 2003, Mr. Hall was elected to the Georgia State Senate as a senator from the 22nd District in 2003 and served there in 2003 and 2004.

Since 2004, Mr. Hall has been a partner with Warlick, Tritt, Stebbins & Hall in Augusta, GA. Those who know Randy describe him as a man of integrity and someone with good moral character. His colleagues also say he is totally committed to the rule of law, and that he is fair and honest in all of his dealings and undertakings.

I believe the Southern District of Georgia will be well served to have Randy Hall on the bench. I urge all of my colleagues to support his confirmation.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal 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 ask unanimous consent that 3 minutes be yielded to the Senator from Texas.

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

The Senator from Texas.

Mr. CORNYN. Mr. President, I am grateful to the distinguished chairman of the Senate Judiciary Committee for moving this nomination of Catharina Haynes to the Fifth Circuit Court of Appeals, and I am pleased she has been unanimously confirmed today by a voice vote.

Judge Haynes is actually a former State district court judge. I am proud to call her now Judge Haynes as a confirmed United States circuit court judge.

I am proud to concur with the American Bar Association's unanimous opinion that Ms. Haynes is well qualified for a seat on the Federal appellate bench. Her record as both a State judge and a member of the civil bar amply demonstrates the legal acumen, the commitment to justice, and the dedication to public service required for those nominated to serve on our Nation's appellate courts.

It is truly a pleasure to recommend confirmation of a Texas lawyer with a career-long record of dedication to public service and equality before the law. Ms. Haynes has served as a volunteer for pro bono legal aid clinics, providing legal assistance to people who otherwise would be unable to afford to have a will probated or resolve family law issues. Ms. Haynes helped develop a brochure for pro se litigants, opening the doors of justice in what can be a daunting and intimidating system for disadvantaged litigants.

This pattern of helping the less fortunate navigate the legal system bespeaks a commitment to the ideal of equal justice for all. This is but one aspect of Ms. Haynes's service to her community.

Since 2005, Ms. Haynes has been a director of the Vickery Meadow Learning Center, a nonprofit organization that promotes literacy among the residents of a low-income Dallas neighborhood. Ms. Haynes teaches pre-GED classes at the Learning Center. Ms. Haynes's direct involvement her community demonstrates that her dedication to the rule of law is matched by her passion for public service.

Ms. Haynes demonstrated this commitment to public service in 1998, when she gave up a prestigious and lucrative partnership at the Baker Botts law firm to take the bench as a State district court judge on the 191st District Court in Dallas.

As a former district court and appellate judge, I can attest that the district judge's experience seeing actual litigants and the real-world consequences of their legal disputes is invaluable for later service on the appellate bench.

The fundamentals of judging—analyzing the arguments presented to the court in light of the facts and the law—carry over from the trial court to the appellate level. And Ms. Haynes's experience as a trial court judge will undoubtedly remind her each day that the consequences of a judge's decisions always have a human face.

As a State judge, Ms. Haynes gained deep experience in many areas of substantive law including commercial litigation, personal injury, employment, insurance bad faith litigation, and intellectual property. State court judges interpret and apply Federal statutory and constitutional law, which are, of course, the supreme law of the land, binding on judges in every State. In

presiding over nearly 300 trials, Judge Haynes distinguished herself for her work ethic and commitment to the rule of law.

Ms. Haynes's intellect and diligence have been evident throughout her legal career, starting with her extraordinary academic record.

After graduating first in her class from Florida Institute of Technology at the age of 19, Judge Haynes went on to graduate, with distinction, second in her class at Emory University School of Law at the age of 22. In her 21-year legal career, she has been involved in a wide variety of complex civil cases in both State and Federal courts.

Ms. Haynes's professional excellence has been repeatedly recognized and honored by her peers in the legal community. Her many awards include the State Bar of Texas Presidential Commendation, the Dallas Association of Young Lawyers Foundation Award of Excellence, and the Dallas Women Lawyers Association Louise B. Raggio Award, which is awarded annually to a Dallas-area attorney who has worked to advance women in the legal profession, shown outstanding legal proficiency and the highest level of ethics, and made a significant contribution to the profession.

It is fitting that Ms. Haynes has received awards for her contributions to the legal profession, given that she has dedicated significant energy to promoting the professionalism and ethics that are central to the rule of law. She has written and spoken extensively on issues of civil trial litigation, professionalism, and ethics.

Among her many professional leadership positions, she has served on the board of the Dallas Bar Association and the Professional Ethics Committee of the State Bar of Texas. Her life's work speaks to a belief in the high calling of a career in law and a steadfast and accomplished pursuit of the profession's highest ideals.

I am pleased that the Judiciary Committee recently approved Ms. Haynes' nomination and the Senate just confirmed her.

The Federal bench needs more men and women of her caliber, drawn from among the best of the civil bar.

Mr. President, the People for the American Way, a liberal advocacy group, sent a letter to the Judiciary Committee last week urging the committee not to proceed with this nomination. To the credit of Chairman LEAHY and my Democratic colleagues, they rejected this baseless and unfair attack.

The lack of any substantial reason to deny this nomination is clear when we look at the pretense offered by People for the American Way for opposing Ms. Haynes. The letter claims that Ms. Haynes has no "record of commitment to civil rights progress in this country."

First of all, I do not know exactly what that means. I believe that this group is deliberately creating a vague standard that they can invoke to reject any nominee. I think that it is clear that there is nothing in Ms. Haynes' background that they can reasonably complain about with any specificity, so they fall back on vagueness.

I don't know what this group means by a "record of commitment to civil rights," so I can't respond to that other than by directing my colleagues to Ms. Haynes actual record—a record that was discussed at length in Ms. Haynes' hearing and that this letter ignores completely.

Ms. Haynes has served as a volunteer for pro bono legal aid clinics, volunteering her time to protect the legal rights of those who can't afford a lawyer.

Ms. Haynes helped write a brochure for pro se litigants, giving disadvantaged litigants the tools they need to vindicate their rights in courts of law.

Ms. Haynes serves as a director of the Vickery Meadow Learning Center, a nonprofit organization that promotes literacy among the disadvantaged. Ms. Haynes teaches pre-GED classes at the center, aiding the less fortunate along the path to literacy, education, and a fuller civic life.

By any fair reading, Ms. Haynes has an exemplary record of commitment to the high ideals of equal opportunity and equal justice before the law—ideals that I believe are at the core of civil rights.

I yield the floor.

Mr. LEAHY. I thank the Senator from Texas.

I believe we are ready to vote.

VOTE ON THE NOMINATION OF BRIAN STACY MILLER TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Brian Stacy Miller, of Arkansas, to be United States District Judge for the Eastern District of Arkansas?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from Ohio (Mr. BROWN), the Senator from New York (Mrs. CLINTON), the Senator from California (Mrs. FEINSTEIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

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

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from North Carolina (Mrs. DOLE), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs.

HUTCHISON), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) and the Senator from North Carolina (Mrs. DOLE) would have voted "yea."

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

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 102 Ex.]

YEAS—88

Akaka	Domenici	Murray
Alexander	Dorgan	Nelson (FL)
Allard	Durbin	Nelson (NE)
Barrasso	Ensign	Pryor
Baucus	Enzi	Reed
Bayh	Feingold	Reid
Bennett	Graham	Roberts
Biden	Grassley	Rockefeller
Bingaman	Hagel	Salazar
Bond	Harkin	Sanders
Boxer	Hatch	Schumer
Brownback	Inouye	Sessions
Burr	Isakson	Shelby
Byrd	Johnson	Smith
Cantwell	Kennedy	Snowe
Cardin	Kerry	Specter
Carper	Klobuchar	Stabenow
Casey	Kohl	Stevens
Chambliss	Kyl	Sununu
Coburn	Landrieu	Tester
Cochran	Lautenberg	Thune
Coleman	Leahy	Vitter
Collins	Levin	Voinovich
Conrad	Lincoln	Warner
Corker	Lugar	Webb
Cornyn	Martinez	Whitehouse
Craig	McCaskill	Wicker
Crapo	McConnell	Wyden
DeMint	Mikulski	
Dodd	Murkowski	

NOT VOTING—12

Brown	Feinstein	Lieberman
Bunning	Gregg	McCain
Clinton	Hutchison	Menendez
Dole	Inhofe	Obama

The nomination was confirmed.

VOTE ON NOMINATION OF JAMES RANDAL HALL

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of James Randal Hall, of Georgia, to be United States District Judge for the Southern District of Georgia?

The nomination was confirmed.

VOTE ON NOMINATION OF JOHN A. MENDEZ

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of John A. Mendez, of California, to be United States District Judge for the Eastern District of California?

The nomination was confirmed.

VOTE ON NOMINATION OF STANLEY THOMAS ANDERSON

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Stanley Thomas Anderson, of Tennessee, to be United States District Judge for the Western District of Tennessee?

The nomination was confirmed.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session. The majority leader is recognized.

HIGHWAY TECHNICAL CORRECTIONS ACT OF 2007—MOTION TO PROCEED

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 608, H.R. 1195, the highway technical corrections bill. I ask that we move there at 3 p.m. Monday, April 14.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, there is objection.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. REID. Mr. President, in light of the objection, I now move to proceed to Calendar No. 608, H.R. 1195. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant journal 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 motion to proceed to Calendar No. 608, H.R. 1195, an act to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, to make technical corrections, and for other purposes.

Harry Reid, Barbara Boxer, Richard Durbin, Charles E. Schumer, Sherrod Brown, Frank R. Lautenberg, Jon Tester, Mark L. Pryor, Bernard Sanders, Benjamin L. Cardin, Jeff Bingaman, Patty Murray, Sheldon Whitehouse, Debbie Stabenow, Bill Nelson, John D. Rockefeller IV, Jack Reed.

Mr. REID. Mr. President, I now ask unanimous consent the cloture vote occur on Monday, April 14, at 5:30 p.m., the hour prior to the vote be equally divided or controlled between the leaders or their designees, and the mandatory quorum be waived as required under rule XXII.

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

The majority leader is recognized.

Mr. REID. Mr. President, I hope we can proceed to this bill. This is another bipartisan piece of legislation. Senators BOXER and INHOFE have worked on this bill for months and months. It has been very difficult. It has been like pulling teeth. They get one thing done and something else crops up. It is now done.

I hope we can move to this bill. If there are those who want to offer an amendment, good. Let them offer an amendment. This is something that is important and we need to do. I hope, recognizing this bill relates to the

highway bill that we passed 3½ years ago, any amendments offered would be in keeping with the content of the bill. I don't want to get off on Iraq or some tax issue. I hope we can confine it to this legislation.

This is the Senate. After we get on the bill, I hope we could go immediately to it; we wouldn't have to use the 30 hours. If there are things that need to be done, no one is trying to stop anybody from offering amendments. We are not going to be, unless there is a change, and I will certainly give lots of prior warning to the Republican leader after we are on this a while. I hope we can just go through the ordinary process, that we don't have to do any parliamentary maneuvers to get this very important bipartisan piece of legislation done.

Mrs. BOXER. Will the leader yield for a question—a comment and question?

Mr. REID. I am happy to yield.

Mrs. BOXER. I thank the leader very much. This is a very bipartisan piece of legislation that Senator INHOFE and I are very happy is finally coming to the floor.

My question—it is really a comment in the form of a question. You pointed out we are 3 years after the highway bill. This is correcting some unanticipated errors in that bill. What is happening is, here we are in this recession. There are a lot of projects that are stymied. They were unintended to be stymied, but we need to correct that.

My question is, Don't you think it is time to correct a bill that passed 3 years ago, and we are going to get to the new highway bill next year? This is unfinished business. It is bipartisan. My point is, do you believe as strongly as I do that the time has come to do this?

Mr. REID. Mr. President, I say to the distinguished chair of the Environment and Public Works Committee, I appreciate the work done on a bipartisan basis to get us here. If there were ever a time we should do this, a technical corrections bill on a bill that passed more than 3 years ago, it is now. It has taken that long to get it done, especially since we have the highway trust fund that now is \$5 billion short of what it should be. There are construction projects that need to go forward. Many of them cannot go forward until this technical corrections bill is passed.

This bill does not favor Democrats. It does not favor Republicans. I think everyone should understand when Senators BOXER and INHOFE work on a bipartisan bill, that is a bipartisan bill. We all know the reputations of the Senator from Oklahoma. This is a good piece of legislation, and I say to my friend from California, I hope we can get it done very quickly.

We have lots of things to do. I am disappointed we are not going to be