think tanks, but the men and women of the streets of Vermont, Missouri, or anywhere else. Those people may see a bit of hypocrisy if they see somebody who has been here for 24 or 30 years, whatever, vote for a proposal which would still allow them to serve for another 12 to 18 years, and call it term limits.

I think the American public will see through that hypocrisy, especially when the American public knows that they can set term limits anytime they want, every single election. That is something to keep in mind.

Some say we do not have it in our power to pass term limits. We have it in our power. Every one of us has to file petitions or take steps in our States to qualify for election. Any one of us can say, ''I am setting term limits. I am leaving at the end of this term.'' No constitutional amendment is needed to that. It is term limits.

I wonder how many Senators are here who are now in their fourth, fifth, or sixth term, who every single time they run say, ''We need term limits, we need term limits, and I will keep on saying it for the next 20 years, we need term limits.'' They could limit it simply by leaving.

Do not call this amendment term limits, where a Senator in his third, fourth, fifth or sixth term could vote for this and still run for three more terms. That is not term limits. That is a bumper-sticker slogan. That is a political fundraising device. That is rhetoric for the campaign trail. But that is not term limits.

Term limits are imposed when Senators, and we have had a number on both sides of the aisle, who say, ''I came here to serve two terms, or one term, or three terms,'' and then leave when they say they would. We have had many, many Senators on both sides of the aisle who were facing an easy reelection, but said, ''This is the time to go. I leave.''

Ultimately, in my State, where my Republican predecessor was elected the year I was born and served until I arrived, enjoying greater popularity every year, this is reflective of what happened. I think every so often we have to make it clear what is really happening here. I would vote to bring this amendment up for a vote. I think we should. But we should bring up each aspect of it and not do as the Republican leadership has: Stack the deck and do everything possible to block the chance that somebody might bring up an amendment that would raise a real question. Let us test whether those who claim they are for term limits would be for such limits being applied to them. Let them vote on something that might limit them at the end of this term, not at the end of this term plus another 18 years.

What this is, this amendment is an incumbent's protection limit bill, not real term limits. This is saying that somebody elected in the future will have term limits, but those of us who are already here after several terms, we are protecting ourselves for another 18 years. If you are brandnew out there, a few years from now, we will term limits for you, but, boy, we are sure protecting us. Because if we have been in the Senate for 24 years or 30 years or 36 years, we are going to make sure we can stay around for another 18 years. We have protected ourselves in this.

No one who votes for term limits should stand up and say, ''See how brave I am.'' Go back to the American public and say, ''We are so brave, we limited somebody else to two terms, but for those still there, we have another three terms.''

We will limit the men and women out there who have not yet run to two terms, but we will protect every single term we have already served and give ourselves another two to three terms. That is not term limits, that is campaign fodder, that is a bumper sticker, that is sloganeering rhetoric, but it is not term limitation at all.

FEDERAL JUDGES

Mr. LEAHY. Mr. President, every so often we have to remember that this is an election year, when a lot of campaign rhetoric comes up, just as it has in the past few weeks about the Federal judges nominated by President Clinton and confirmed by this Senate, which is now under Republican control.

I am a member of the Judiciary Committee and I have served on these nominations. I am familiar with the outstanding backgrounds of these nominees. I believe the U.S. Senate was right when we confirmed them and the President was right when he appointed them to the Federal bench around the country.

President Clinton took a Federal judge, the chief district judge in our State, a Republican, appointed by a Republican President, and moved him to the Second Circuit Court of Appeals. I believe that was the right move. The President then appointed J. Garvin Murtha, of Dummerston, Vermont, as the chief Federal district judge for the District of Vermont—another very good move. He appointed William Sessions of Cornwall, Vermont, as a Federal district judge, another good move and one applauded by Republicans and Democrats alike throughout our State—all three of these. Two of them were former prosecutors. I served as a prosecutor with two of them.

I am troubled by efforts to characterize President Clinton's appointments as soft on crime. Ask some of the people that have been sentenced by some of these Federal judges whether they think they are soft on crime. There was one reference made in one of the sentencings, ''If you ever have to have a heart transplant, you would want the judge's heart because it has not been used yet.'' These are tough judges.

I was privileged to serve for 8 years as a prosecutor before being elected to the Senate by the people of Vermont. I know a little bit about law enforcement, and I also know a little bit about political campaigns.

If you want to play a game of, ''Oh, look at these judges President Clinton has appointed,'' and pick out an isolated case here and there—and there are tens of thousands of cases—you can play that game. If someone were cynical, they could play that game. If somebody wanted to pick out selected cases, they could play the game.

If I wanted to—and I do not, of course—I could talk about some of the decisions of judges appointed by Presidents Reagan and Bush, who reversed convictions or sentences of defendants that juries found guilty beyond a reasonable doubt of atrocious crimes.

If I wanted to, I could talk about Judge Daniel Tacha. I believe he was suggested by the distinguished Republican leader for an appointment to a seat on the tenth circuit. A good Republican appointment. He recently wrote an interesting opinion that suppressed evidence seized by a Utah State trooper. After a lawful stop, upon learning that the license of the driver had expired and after receiving suspicious responses from the vehicle occupants, the State trooper asked for and received permission to search the trunk of the car. Let us be clear that he had a right to do that on the face of it. He found a gun, scales, and a duffel bag that had crack cocaine in it. Despite the fact that the driver consented to the search, this Republican Judge ruled that once the trooper determined that the car was properly registered, he could no longer detain the defendant and, thus, the search was unlawful. The judge ruled that the crack cocaine was to be suppressed. If I were cynical, I would say that was an indication of how the Republican judiciary feels. But I am not going to.

In another case, a 13-year-old boy was murdered by four young men because the boy caught them stealing a bicycle worth $5. These men stomped this 13-year-old boy to death and stifled his screams by shoving stones down his throat. All four men were convicted by a State court, and their appeals were rejected. But then Judge Richard Korman, a Reagan appointee, decided that the State appellate court was incorrect. He found ''troubling inconsistencies'' in the story told by law enforcement officials. As a result, he decided to free the convicted murderers—these men convicted of stomping to death this 13-year-old—on $3,000 bail. I have seen traffic cases that got higher bail than that.

Now, if I was cynical, I would blame President Reagan for appointing them. But, instead, I will praise three other judges appointed by President Reagan—no, actually I cannot. I was going to say that they overturned this decision when it went to the court of appeals. But these other three appointees of President Reagan affirmed this. They did not even bother to issue an opinion. Is that an indication of the

judicial philosophy of President Reagan? No, I do not think so at all. But is it an indication of some of the judges appointed?

Judge William Cambridge of Nebraska, a Reagan appointee, overturned the death sentence of a defendant who not only confessed to killing three young boys, but who said that he would do it again if he were ever set free. One of the boys was pinned to the ground by a knife through his back and was slashed and stabbed to death as he pleaded for his life. One of the other victims endured a similar fate, and when they found his body, it had a drawing of a plant cut into his torso. Judge Cambridge vacated the sentence because he concluded that the State statute's use of the term ''exceptional depravity'' was too vague. If this is not exceptional depravity, I do not know what in Heaven's name is.

On appeal, the deciding vote to reverse Judge Cambridge and affirm the death sentence, the deciding vote to reverse the Reagan appointee's decision was cast by Judge Diana Murphy—and she, incidentally, was a Clinton appointee. She helped correct what I think was an egregious mistake and concluded that under any reasonable interpretation of the statute, these crimes certainly qualified as depraved and for the sentence.

In another recent case from Nebraska, Judge Richard Kopf, an appointee of President Bush, reversed the death sentence of a convicted double murderer. The defendant was given two capital sentences in the stabbing deaths of his cousin and her house guest. Despite suffering seven stab wounds, the defendant's cousin was able to make her way to a phone, summon help, and then died. After the Nebraska Supreme Court twice rejected appeals, Judge Kopf granted a habeas corpus petition, concluding that the Nebraska Supreme Court had misinterpreted its own State law by reweighing the aggravating and mitigating circumstances involved in the case. It went up on appeal, and the eighth circuit reversed the decision, finding that Judge Kopf had exceeded his authority by contesting the Nebraska Supreme Court's interpretation of a Nebraska statute.

These were all Reagan and Bush appointees, and one of the most egregious decisions made was reversed by a Clinton appointee.

Those of us who have tried a lot of cases know that sometimes cases do not turn out the way you want. That is why you have appellate courts. Sometimes judges rule in a way that you just cannot understand. But I am not going to condemn President Reagan's appointees as judges and President Bush's appointees as judges, or President Reagan or President Bush, because of a few aberrations, decisions about which I do not know all the facts and in connection with which I have not reviewed all the evidence. I would not do this and no one else should try, in a political year, to condemn President Clinton, who I must say has appointed some darned good men and women to the judiciary—just as President Bush appointed some darned good men and women to the judiciary, and President Reagan did, and President Carter did, and President Ford did. All of these Presidents have appointed judges on whom I had the opportunity to vote.

I have voted for some Republican nominees and against some. I voted for some Democratic nominees and against some. But that is where we get involved. We can vote for them or against them. But do not take some isolated incident and try to turn it into a Presidential election year thing.

If we did that, we could go to the notorious 911 murders in Detroit. One of the victims was shot repeatedly while frantically calling for police assistance. The entire episode was recorded by the 911 operator, and the defendant ultimately pleaded guilty to two counts of murder. Sixteen years after the fact, the convicted murderer filed his second habeas corpus petition claiming that comments made by the African-American State judge, several years after the case was over, somehow revealed bias against fellow African-Americans. Make sure you understand this. The defendant said that based on the comments made by the African-American judge 16 years after the case concluded the judge had expressed bias against African Americans. Most judges would just toss this out the window it is so far-fetched. But Judge David McKeague, a Bush appointee, granted relief and ordered resentencing. Fortunately, the prosecutor appealed and the decision was unanimously reversed.

The defendant in another case broke into his neighbor's home and brutally attacked four young children. Three children died from multiple skull fractures, and the fourth survived an apparent sexual assault. The defendant was convicted of murder and sentenced to death. Because the jury had not been presented with mitigating evidence concerning the childhood abuse and mental disorder the defendant allegedly suffered, Judge Sam Sparks, an appointee of President Bush, vacated the sentence. That decision, incidentally, was unanimously reversed on appeal.

Another defendant brutally murdered his ex-wife in the basement of her residence, stabbing her over 40 times. He was convicted by a jury of murder. Judge Thomas O'Neil, a Reagan appointee, reversed the conviction. That decision was unanimously reversed on appeal.

Does that mean that President Reagan was soft on crime? Of course not, even though obviously a number of his judges made decisions that I as a former prosecutor find very, very difficult to understand.

Just like Judge Huff, an appointee of President Bush, who sentenced a defendant to 2 years and 9 months in prison for smuggling illegal aliens into the country even though three of the illegal aliens died during the attempt. That is hard to understand. But I do not consider President Bush, whom I happen to know and admire, as being soft on crime because of that.

Judge Vaughn Walker, appointed by President Bush, publicly called for the legalization of drugs. He has repeatedly refused to abide by binding Supreme Court precedents, the sentencing guidelines, and mandatory minimum sentencing statutes based on his personal beliefs about the propriety of decriminalizing narcotics. The ninth circuit has frequently and summarily reversed him.

He has also issued a number of rulings that stymied efforts to prosecute drug traffickers. The U.S. attorney's office for the Northern District of California, which is headed by a U.S. attorney appointed by President Clinton, has found itself frustrated with the judge's rulings in major drug cases. In a case involving the seizure of 1,000 pounds of heroin—incidentally, the largest bust of heroin in U.S. history at the time—Judge Walker repeatedly dealt setbacks to prosecutors, including suppressing several key pieces of evidence and releasing two defendants on bail. In one of his suppression orders, he minimized heroin trafficking as little more than mercantile crimes. Two of these were reversed.

Does that mean that President Bush favored legalizing heroin or drugs? I doubt that very much—any more than I do. It is unfortunate that the Clinton appointee, the person that President Clinton appointed as U.S. attorney, who is trying to clean up drug trafficking and is trying to stop heroin trafficking, is frustrated by the judge appointed by the previous Republican administration. But I do not think it reflects the views of President Bush.

I think what is more accurately reflected is that a U.S. attorney can be replaced very easily. In fact, you have a tough U.S. attorney out there who really wants to prosecute drugs and who reflects President Clinton's views.

Chief Judge Richard Posner of the seventh circuit, is another appointee of President Reagan, who has similarly taken a public position advocating the legalization of drugs.

If I was cynical, which, fortunately, I am not, being from a small State like Vermont, I could come to the floor and make the case that Republican judges let off criminals on technicalities and that they are soft on crime. Some might even call for impeachment of the judges that made such decisions and took such positions. But in the recorded words of another Republican President, for whom I have a lot of affection, I say, That would be wrong.

As I said in my statement 2 weeks ago on this floor, no one should be making such statements or demagoging judges based on isolated decisions. We disserve our system of

justice, our system of government, and the American people when we engage in such rhetoric.

As anyone who is at all familiar with our criminal justice systems knows, in the overwhelming majority of cases, Federal judges, regardless of whether they were appointed by Republican Presidents or Democratic Presidents, uphold the law, and they do an excellent, if often difficult, job.

We have been fortunate, Mr. President, in this country that Presidents of both parties have appointed some of the finest men and women in this country as Federal judges. Those men and women have upheld the liberties of every one of us, no matter what our political party might be, no matter what our ideology might be, no matter whether we are wealthy or poor, and no matter what our backgrounds are.

We have been blessed in this country with very, very good Federal judges. We have had a few clunkers. Yes, we have a few clunkers. I probably appeared before some at one time or another. But the vast, vast majority of our Federal judges do a very difficult, very honorable, and a very good job.

The Presidents who appoint them ought to be praised for it. I think that it demeans the Office of the Presidency and it demeans the Federal judiciary and it demeans the Senate to make this some a political thing where we go after the incumbent President and claim that he is not doing a good job in appointing judges.

In fact, President Clinton's judicial appointees have won praise around the country as well qualified and centrist. That is why we have confirmed each of them—the Republican-controlled Senate has, and the Democratic-controlled Senate has. Each of them has had an exhaustive and intrusive examination before the Judiciary Committee, and each has been confirmed by this body. In fact, only 3 of the 185 lower Federal court judges who President Clinton appointed to the bench have even been the subject of contested votes.

We hear a lot of criticism now, but the distinguished majority leader and the chairman of the Judiciary Committee voted for 182 of the 185 judges now on the courts of appeals and districts courts appointed by President Clinton.

In fact, the Legal Times says of President Clinton's judges:

> From the beginning, his philosophy toward judicial selection has differed from that of his two immediate predecessors [who] engaged in a crusade to put committed conservatives on the bench. President Clinton's criteria, by contrast, seem less ideological. He has primarily sought two attributes in his judicial candidates—undisputed legal qualifications, and gender and ethnic diversity.

In a comprehensive report at the midpoint of President Clinton's first term, the New York Times reported:

> Political scientists, legal scholars and nonpartisan groups like the American Bar Association who have studied the new judges' records also said Mr. Clinton's choices were better qualified than those of Mr. Reagan or President George Bush.
>
> The new judges were deliberately chosen to fit squarely in the judicial mainstream and were, by and large, replacing liberal Democrats.

Everyone always talks about making the judicial selection process less political. Now election year politics threaten to bring political rhetoric about judges to the forefront. Let us not make judges or isolated decisions into political issues. Let us work together to increase respect for our system of justice and for those who serve within it.

Mr. President, I see my good friend from Tennessee in the Chamber and I know he seeks—I see both of my good friends from Tennessee in the Chamber. I know one or the other is going to want to talk. So I yield the floor.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I thank the Chair.

Mr. President, the fundamental question of the debate on term limits to me can be put very simply. Are we as a nation better served by a system that encourages career politicians who over time grow entrenched in Washington and increasingly removed from the concerns of the very people who elected them or are we better served by an ever-changing legislative body of citizens who bring with them those vast experiences that color America, who have no political career to protect and who serve and then return home to live under the laws that they helped pass?

Next week, the Senate will get its chance to answer that fundamental question. I draw upon my own personal experiences. I came directly to the Senate a year and a half ago from the private sector. In fact, I contrast this very Chamber before us, with its rich history and its culture and its historical significance, with what I was doing 3 years ago, and that is moving every day and too many nights in an operating room.

It is that contrast, it is that perspective that colors much of what I have to say about term limits. I have never served in elective office, and I have had no previous ties to Washington, DC, or the Federal Government before coming to this body. I ran on the issue of term limits, and I pledged personally to serve no more than two terms. It is because I believe in that fundamental concept of the citizen legislator contributing in his or her own way based on his or her own past experiences to a citizen legislature.

That unique perspective on Washington encouraged me to promote not only the issue of term limits but to strongly support Senate Joint Resolution 21. I now, having been here a year and a half, feel even more strongly than 2 years ago when I was campaigning. Senate Joint Resolution 21, a constitutional amendment providing for term limits, serves as a stepping-stone down that long road—and we have a long road to go—to renew the citizens' respect, the citizens' faith, the citizens' trust in their Federal Government.

Too often, Members of Congress are forced in the current system to spend their time focusing on reelection, focusing on fundraising, watching the polls, instead of doing what we need to be doing, and that is doing what is best for the country. As a result, I truly feel that Washington has become much more of a 2-year town, focused on the short term rather than what it should be, a 20-year town with long-term thinking.

One need look no further than the recent debate over Medicare and entitlement reform to see how true this is. Because of the unrestrained growth of entitlements, our Nation faces a true fiscal disaster within 15 years, yet this past Congress has been unable to have a reasoned, meaningful debate on this most critical of issues. Why? Because of the political ramifications of taking on, of addressing middle-class entitlements. We missed a valuable opportunity to take real steps toward reducing the deficit, eventually reducing the debt and truly reining in entitlements.

I think it is time for us to pause a moment and ask a simple question. If Members of Congress had been freed in large part from reelection concerns, would politics have destroyed the debate that prevented us once again from addressing these fundamental problems? The answer to me is clear and the reason is obvious. As long as there are careers to protect, there will be politics to play almost by definition. The longer politicians stay in Washington, the more risk averse they become. They become more attached and more detached from that average citizen and they become more eager to spend the hard-earned dollars of America's taxpayers. The answer is this resolution before us today, Senate Joint Resolution 21.

What are the arguments against term limits? Many of my colleagues oppose term limits on the grounds that we should not alter the Constitution, and I think they have a point. As a conservative, I think we have to be very careful before we alter the Constitution in any way, and only in rare circumstances should this take place. In fact, the first bill that I introduced in the Senate was the Electoral Rights Enforcement Act of 1995, and it was a very simple statute that would have given the States additional authority to enact term limits on Members of their congressional delegation. Unfortunately, the U.S. Supreme Court's decision in U.S. Term Limits versus Thornton mooted that bill and made it clear that the only alternative, the only remaining course available to us is a constitutional amendment.

Others cloud the debate on issues as to whether or not the term limits will be retroactive or should be retroactive