

Bush administrations. As of today, there are 763 active Federal judges. At this point in the 101st and 102d Congresses, by contrast, when a Democrat-controlled Senate was processing President Bush's nominees, there were only 711 and 716 active judges, respectively.

The Democrat Senate actually left a higher vacancy rate under President Bush: Just compare today's 80 vacancies to the vacancies under a Democratic Senate during President Bush's Presidency. In May 1991 there were 148 vacancies, and in May 1992 there were 117 vacancies. I find it interesting that, at that time, I don't recall a single news article or floor speech on judicial vacancies. So, in short, I think it is quite unfair, and frankly inaccurate, to report that the Republican Congress has created a vacancy crisis in our courts.

It is plain then, that current vacancies not result of Republican stall. First, even the Administrative Office of the Courts has concluded that most of the blame for the current vacancies falls on the White House, not the Senate. It has taken President Clinton an average of 534 days to name nominees currently pending, for a vacancy—well over the time it has historically taken the White House. It has taken the Senate an average of only 97 days to confirm a judge once the President finally nominates him or her, and in recent months we've been moving non-controversial nominees at a remarkably fast pace. As a result, with the exception of nominees whose completed paperwork we have not yet received, the White House has only sent up 43 nominees for these 80 vacant seats—of which 13 were received just prior to the Senate going into recess. Forty-five of those seats are, in effect vacant because of White House inaction.

Second, those vacancies were caused by a record level of resignations after the elections. During President Clinton's first 4 years, we confirmed 204 judges—a near record high, and nearly one quarter of the entire Federal bench. By the close of last Congress, there were only 65 vacancies. This is virtually identical to the number of vacancies under Senator BIDEN in the previous Congress. The Department of Justice itself stated that this level of vacancies represents virtual full employment in the Federal courts. So last Congress we were more than fair to President Clinton and his judicial nominees. We reduced the vacancy level to a level which the Justice Department itself considers virtual full employment. But after the election last fall, 37 judges either resigned or took senior status—a dramatic number in such a short period. This is what has led to the current level of 80 vacancies.

Many Judicial "Emergencies" are far from that: I would also like to clarify a term that is now bandied about with little understanding of what it really means. A judicial "emergency" is simply a seat that has been unfilled for a certain period of time. In reality,

though, many of those seats are far from emergencies. Indeed, of the 29 judicial emergencies, the administration has not even put up a nominee for 7 of those seats. As for the others, I think you will find that a number of the relevant districts do not in fact have an overly burdensome caseload.

And, keep in mind that the Clinton administration is on record as having stated that 63 vacancies—a vacancy rate of just over 7 percent—is considered virtual full employment of the Federal judiciary. The current vacancy rate is only 9 percent. How can a 2 percent rise in the vacancy rate—from 7 to 9 percent—convert full employment into a crisis?

It can't. The reality is that the Senate has moved carefully and deliberately to discharge its constitutional obligation to render advice and consent to the President as he makes his appointments. I am satisfied by the committee's work this session, and look forward to working with the administration in the coming months to identify qualified candidates to elevate to the Federal bench.

I yield the floor I thank the Chair.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

#### TRIBUTE TO SENATOR WILLIAM B. SPONG, JR., OF VIRGINIA

Mr. ROBB. Mr. President, I rise today to reflect on the life and service of William B. Spong, Jr., a distinguished statesman, a former U.S. Senator from the Commonwealth of Virginia, and a mentor to many of us who entered politics inspired by his extraordinary conviction.

Bill Spong died in Portsmouth, VA, on October 8, 1997, at the age of 77. He left behind a son, a daughter, five grandchildren, and a legacy of public service to the people of Virginia unmatched in his lifetime. As his childhood friend, Dick Davis, said so eloquently, "the state has lost a leader that may never be replaced."

Bill Spong epitomized the professional commitment and personal integrity that was his hallmark. He was a quiet giant.

The product of two outstanding Virginia universities—Hampden Sydney College and the University of Virginia School of Law—Bill Spong could have gone anywhere and made money. But he went home to Portsmouth, set up a law practice with his friend, Dick Davis, and successfully ran for the Virginia House of Delegates and then the State senate.

A philosopher once said, while "every man is a creature of the age in which he lives, very few are able to raise themselves above the ideas of the time." We, in Virginia, will be forever grateful that Bill Spong was one of those rare individuals who thought—and acted—ahead of his time. While in the House of Delegates, he joined a moderate group of "Young Turks" to

pressure the legendary Byrd Machine into investing more money into education. And as a member of the State senate in 1958, he exhibited what would become a lifetime understanding of the value of learning by chairing a statewide Commission on Public Education.

Then, in 1966, Bill Spong made history. In a Democratic primary, he challenged U.S. Senator A. Willis Robertson, a 20 year Byrd machine-backed incumbent, and won by 611 votes. "We called him Landslide Spong," remembered his friend and campaign manager William C. Battle.

As a member of this body, Mr. President, Bill Spong focused not on politics, but on policy and principle. "He agonized over legislation in his quest to do what he believed to be right," his former Press Secretary, Pete Glazer, said recently.

"Bill Spong was the kind of public servant we all try to emulate," said Congressman ROBERT C. SCOTT, "a man of integrity who courageously stood by his convictions and his principles, even when it might not be the immediately popular thing to do." As Alson H. Smith, Jr., reflected: "If Bill Spong thought it was right, he did it."

Mr. President, Bill Spong was a statesman.

But 1972 taught us that Senators with great courage can be demagogued and out spent, and Bill Spong lost his Senate seat amidst George McGovern's landslide defeat to Richard Nixon. "In the Watergate year of 1971," remembered his college friend, and former U.S. attorney, Tom Mason, "Bill Spong became an early victim of the 11th hour 30-second television spots that continue to plague our political system." "In my judgement," Mason said, "Bill Spong's defeat in 1972 was one of the worst developments in Virginia's political history."

The Senate's great loss, however, was the Commonwealth's great gain, as Bill Spong left this institution to continue his extraordinary service to Virginia. He became dean of William and Mary's Marshall-Wythe School of Law in 1976 and his stewardship brought our Nation's oldest law school from near ruin to national prominence. In 1989, he became the interim president of Old Dominion University in Norfolk.

"He had a real intellectual bent," remembered Bill Battle. "He was probably more comfortable as Dean of the Law School at William and Mary than at any other time of his life."

"His sense of humor was unbelievable," Battle continued. "When we were in law school together after World War II, he was always where the trouble was but never in it. It's hard to believe he's no longer around."

Mr. President, we may mourn Bill Spong's death. We may remember his life. But we may never know the breadth of his legacy, or the inspiration he lent along the way. No political leader in the Commonwealth was more responsible for my own entry into Virginia politics than Bill Spong. Dick

Davis entered public life because he was angry that his lifelong friend—who he described last week as “a great Virginian and a great Senator”—lost his Senate seat. There’s no question that Bill Spong was an enormous force in the leadership of our State that began in 1981.

In fact, in 1977, when I was Lieutenant Governor and our party was fractured and discouraged, I asked Bill Spong to help us put the pieces back together. I’ll always be grateful that the Spong Commission Report, as we called it, laid the groundwork for the unity we needed to succeed 4 years later.

Mr. President, during the time I served as Governor, I appointed Bill Spong to the Council on Higher Education and asked him to Chair the Governor’s Commission on the Future of Virginia. The latter produced an extraordinary report that helped guide public policy—and progress—in Virginia for over a decade. Just last summer, I asked Bill Spong to chair a judicial nomination committee to recommend a nominee for the U.S. District Court for the Eastern District of Virginia. As always, his extraordinary judgement and unique vision were invaluable.

“Bill worked hard throughout his public and private life to bring Virginians together to make a better world for all of us,” Congressman SCOTT said. “I will miss his leadership and his friendship.”

“He never forgot where he came from,” remembered his former press aide, Pete Glazer, “and he died in the city where he was born.”

“Two hundred years ago, we were fortunate to have dedicated and enlightened leaders of this Commonwealth,” said H. Benson Dendy III. “Truly Senator Spong was such as a leader of our time.”

I will close, Mr. President, with two eulogies delivered at Bill Spong’s memorial service in Williamsburg by Robert P. Crouch, Jr. and Timothy J. Sullivan. Their eloquence is a shining tribute to a man who has been an inspiration to so many.

I ask unanimous consent they be printed in the RECORD.

There being no objection, the eulogies were ordered to be printed in the RECORD, as follows:

REMARKS ON THE LIFE OF THE HONORABLE

WILLIAM B. SPONG, JR.

(By Robert P. Crouch, Jr.)

Athenians of antiquity defined a statesman as one who plants trees knowing he will never enjoy their shade. Such was the statesmanship—such was the life—of William Belser Spong, Jr.

Bill Spong entered my life in June of 1971, when I followed my friend, the Senator’s good and devoted friend, Whitt Clement, as the Senator’s driver and aide. I traveled with the Senator in that capacity for the remaining year and a half of his Senate service.

It was an unusual position that we who served as “wheelman and gofer” occupied. Callow and often bungling, just out of college, we had a staff position that was among

the most humble in the office . . . in title, in rank, and in salary.

But ours was also the most privileged position on the staff. For we were with the Senator. And anyone who was with Bill Spong for much time at all became his student.

Awestruck to work for this Senator whose career I had admired from a distance, I traveled with him to his beloved Portsmouth during my first week on the job. Entering the Spong home, luggage in hand, I was met by the Senator’s mother, Emily Spong. (My awe was to increase very rapidly.) She stood at the top of the stairs and said to me, with what I would come to know as unquestionable authority:

“Young man, you go tell Billy, the one you call ‘Senator,’ to get in here right now!”

I quickly developed a tremendous affection for Emily Spong, fueled, in part, by her sharing with me stories of youthful misbehavior of the Senator and his best friend Richard, but I never stopped calling her son “The Senator.”

And while we of his Senate staff would, over the years, hear him referred to as “Dean Spong,” then “President Spong” (I liked that one a lot, and suspect that he enjoyed it as well), or—more familiarly as—“Bill,” or “Billy,” or even “Spongo,” by some of his oldest and dearest friends—Tom Mason, Dick Davis, the Battle boys, John and Bill, among others—most of those of us who worked with him in Washington would always refer to him as “The Senator.” And always will.

The details of that Senate service—the legislation, the tough decisions on tough votes, the campaigns—are well known and have been well reviewed in recent news articles. I prefer to take this brief time to speak of the character of his public service.

An anecdote shared with me by an assistant United States attorney in our Roanoke office, Don Wolhuis, who was a student of the Senator at the Marshall-Wythe School of Law, captures that character. Faced with a difficult personal decision, Don went to Dean Spong for advice. After hearing Don explain his dilemma, the Senator simply responded: “Whatever you do, do it well.”

But “doing it well” was not a simple or brief process for Bill Spong. It was a well ordered and deliberate process. And it was this he applied to his Senate service as he did to every other aspect of his life. It involved anticipating the challenges and the needs of the future; scanning the horizon of time; thoughtfully examining options and consequences; making a well informed choice, then carrying through with that decision with grace and excellence. He lived the motto of Virginia-born Sam Houston: “Do the right thing and risk the consequences.”

The Senator delighted in one reporter’s description of him as “A gray cat in the Chesapeake fog.” During that time, in the years since, and in the past several days, the word “cautious” has been frequently used to describe him. If caution is understood to mean “risk adverse,” then it is incorrectly applied to Bill Spong, for it is the seemingly “cautious” choice which is often the least popular; the most difficult to make; the least understood by others; the most frustrating to sustain; and the most expensive.

His integrity—intellectual and moral—informed all that Bill Spong did in the United States Senate, and it earned him the respect and affection of his colleagues of both political parties, and of their office and committee staff.

We who worked for him during those years learned not only from the Bill Spong of the Senate office and the Senate floor. He later acknowledged that his political fortune was the victim of his Senate duty—and it is correct that he chose to sacrifice the votes of

civil club meetings to the votes duty required he cast on the Senate floor. However, it should also be understood that whenever he was free from Senate duties, he was in the State. During that year and a half, for example, we traveled to all but one of Virginia’s counties. And what travels those were.

He loved two Virginias. First, Virginia Wise Galliford, the Marine Corps general’s daughter he married and with whom he raised Martha and Tom. She was a beautiful, generous, and strong woman who also graced the lives of many here today, and we miss her.

And to be with the Senator was to learn of the other Virginia of his life, the Commonwealth: its magnificent natural beauty, its wonderful and diverse people, its history—colonial, Civil War, twentieth century—and, certainly, its politics; traveling with Senator Spong was a course in the rule of law; a class in big band music; a seminar in sports from Bill Belser, his Walter Mitty-sportswriter self (and if last week’s resignation of UNC’s Dean Smith marked the departure of the ACC’s greatest coach, it has also just lost its greatest fan in Bill Spong).

We, his staff and supporters, knew then, of course, that his Senate tenure was too short. History knows it now. Yet, the Senate’s loss, the Nation’s loss, was clearly the gain of this great institution and of many others he cared so deeply about.

His departure from the Senate enabled him to spend more time with his family, with Virginia, with Martha, and with Tom. News articles have related his expression in later years of how important that was to him. Many of us with him in 1972 heard him say it then.

To Martha and Tom and to other members of the Spong family, our thoughts and prayers for you today will extend into the future. He was immensely proud of you, and of his and Virginia’s five splendid grandchildren: Edward, Peter, Chase, Madison, and Lucy.

These beautiful and historic surroundings remind us that there have been other “gray cats” in Virginia’s history. George Wythe, George Mason, come to mind. They turned events, and their lives sent ripples through decades and generations, and into the centuries.

As we reflect on the life of William Spong, our fine teacher, many of us know our own lives were enriched and blessed by the important place he has had, and will continue to have, in them.

We know, too, and history will conclude, that in his public service, Mr. Spong of Virginia was the best of his day, and is among the greatest of Virginians.

EULOGY FOR WILLIAM B. SPONG, JR.

(By Timothy J. Sullivan)

It all began—with bourbon—and with tuna salad. Not a few of you must be wondering what I could possibly mean. How could Bill Spong’s triumphant William and Mary years have anything at all to do with bourbon and tuna salad? But that is the way they did begin, and you should know the story.

On a brilliant autumn Saturday sometime in October of 1975 I drove from Williamsburg to Portsmouth. I was the very young chair of the William and Mary Law Dean Search Committee. My job—and it seemed to me mission impossible—was to help convince Senator Spong that he really—really—did want to become dean of a law school which was at substantial risk of losing its professional accreditation.

Bill invited me to meet him at his home. We sat down to lunch at the kitchen table. His beloved Virginia provided the tuna salad—which was very good, Bill supplied the bourbon—which was also good. Martha hovered—so it seemed to me—skeptically on the

fringes of the room. Tommy would occasionally catapult through in pursuit of an errant soccer ball.

Bill and I talked—he was interested—and the rest is happy history. Bill Spong did—as we all know—come to William and Mary, and his leadership first healed a crippled institution and then raised it to a level of national distinction that none of us dared dream. He built a place of genuine intellectual excellence—but he did more. He built a law school of which George Wythe would have approved. And that is not a casual compliment. George Wythe's approval mattered to Bill—it mattered very much. Bill's inspiration shaped a place where would be lawyers learned not only their duty to their clients, but their duty to humanity—a place where professional success was and is defined not only by hours billed—but by a client's burdens lifted—by anguish eased.

During much of Bill's deanship, I served as one of his associate deans. We became friends—more than friends really—our association deepened in ways that—then and now—makes it one of the great treasures of my life.

He was my teacher, too. I learned life lessons that I have never forgotten and for which I have never failed to be grateful. As a teacher, Bill was almost magical. He taught without seeming to teach, and you learned without realizing that you were being taught—until afterwards—when you were left to discover—with manifest joy—the power of the lessons he had lodged deep within your heart.

As most of you know, Bill did not drive. When he was here, I was one of those who shared with Virginia the responsibility of getting him where he needed to go—and that led to not a few adventures.

One day he asked me whether I would like to go to Hampden-Sydney. I said yes. I had never been there—and I was anxious to see for myself—a place Bill really believed was some kind of collegiate paradise. I asked him when I should pick him up. He said—don't worry—just be here in the morning. When I arrived on the next day, I discovered he had engaged Mr. Albert Durant—a loquacious and long-time chauffeur for hire—who was something of a local institution. Mr. Durant's vehicle was a great, long black limousine—the vintage of which would have given it pride of place in President Eisenhower's first inaugural parade.

We bought sandwiches from the Cheese Shop and rolled up the road to Farmville—fully occupied by Mr. Durant's non-stop commentary while eating our lunch out of paper sacks in the back seat.

When we approached the limits of that collegiate paradise—Bill leaned forward and said—Mr. Durant . . . "Mr. Durant . . . see that alley up there on the right—turn in there. I can't let them see me coming in a car like this." Now—it wouldn't have been accurate exactly—to say that we snuck on to the campus in camouflage—but it would be accurate to say that we didn't make a point of being seen until we were a safe distance from any possible connection with Mr. Durant's gleaming but antique limousine.

On the way home, we stopped to get gas in what was then the wilderness of Chesterfield. I got out with Mr. Durant to stretch my legs. Bill stayed in the car. As he serviced the car, the attendant peered in to the back window—turned to me—and asked with some awe in his voice—"Would that be the Governor in there?" "No," I said, "but he should have been." I still think that. He should have been.

But now, all is memory—the life is complete. What he should have been doesn't matter. What does is what he was. And what he was—was the most thoughtful public servant

of his generation—a great man who lived this Commonwealth—not uncritically—but loved it still—the beauty of the land—the decency of its people—the glory of its history.

What he was—was a teacher and builder who believe profoundly in the power of education and who struck many a powerful blow for civility and civilization.

What he was—was a friend whose friendship made you laugh for the sheer joy of it, whose love gave you strength and whose example gave you courage.

All that we must consign to memory—at the moment it is a memory that wounds—and deeply.

But we all know—that in God's good time—that the wound will mostly heal—the pain will largely disappear—and we will be left with the wonder—and may I say the warming glory of having been numbered among that special band who loved and were loved by our eternal friend—Bill Spong.

Mr. ROBB. Mr. President, I note the temporary absence of anyone else seeking to speak. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

#### MAMMOGRAPHY QUALITY STANDARDS ACT

Ms. MIKULSKI. Mr. President, I rise today to celebrate the Senate passage of the Mammography Quality Standards Act. I am delighted that the Senate acted on Sunday, November 9 to unanimously approve this important legislation. The bill that the Senate has now passed reauthorizes the original legislation which passed in 1992 with bipartisan support. This year's bill is presented to the Senate with 55 cosponsors.

What MQSA does is require that all facilities that provide mammograms meet key safety and quality-assurance standards in the area of personnel, equipment, and operating procedures. Before the law passed, tests were misread, women were misdiagnosed, and people died as a result of sloppy work. Since 1992, MQSA has been successful in bringing facilities into compliance with the federal standards.

What are these national, uniform quality standards for mammography? Well, facilities are required to use equipment designed specifically for mammography. Only radiological technologists can perform mammography. Only qualified doctors can interpret the results of mammography. Facilities must establish a quality assurance and control program to ensure reliability, clarity and accurate interpretation of mammograms. Facilities must be inspected annually by qualified inspectors. Finally, facilities must be accredited by an accrediting body approved by the Secretary of Health and Human Services.

This current reauthorization makes a few minor changes to the law to ensure the following: Patients and referring physicians must be advised of any mammography facility deficiency. Women are guaranteed the right to obtain an original of their mammogram. Finally, both state and local government agencies are permitted to have inspection authority.

I like this law because it has saved lives. The front line against breast cancer is mammography. We know that early detection saves lives. But a mammogram is worse than useless if it produces a poor-quality image or is misinterpreted. The first rule of all medical treatment is: Above all things, do no harm. And a bad mammogram can do real harm by leading a woman and her doctor to believe that nothing is wrong when something is. The result can be unnecessary suffering or even a death that could have been prevented. That is why this legislation is so important. This law needs to be reauthorized so that we don't go back to the old days when women's lives were in jeopardy.

A strong inspection program under MQSA is extremely important to ensure the public that quality standards are being met. In a GAO report which evaluated the MQSA inspection program, GAO praised the program. They also recommended changes to further strengthen the program. FDA is in the process of implementing these recommendations. The FDA has proposed to direct its attention to conducting comprehensive inspections on those facilities where problems have been identified in the past, while decreasing the extensiveness of inspections at those facilities with excellent compliance records. I think it is important for the FDA to move promptly in this direction. The best way to protect the public health is for the FDA to focus its resources on the problem facilities.

I want to make sure that women's health needs are met comprehensively. It is expected that 180,000 new cases of breast cancer will be diagnosed and about 44,000 women will die from the disease in 1997. This makes breast cancer the most common cancer among women. And only lung cancer causes more deaths in women.

We must aggressively pursue prevention in our war on breast cancer. I pledge to fight for new attitudes and find new ways to end the needless pain and death that too many American women face. This bill is an important step in that direction.

As the 105th Congress comes to a close, we can look back on some great bipartisan victories and other great partisan frustrations. But one area Republicans and Democrats have always worked together on is women's health. I am proud of this bill's broad bipartisan support. I want to take this opportunity to thank all the cosponsors for making this happen. A special thanks to Senator JEFFORDS for working with me on making passage of this bill a reality. As Dean of the Democratic