

camps or the gulag. But people seem to know less, they seem to care less, in the case of China. Let this institution show that it, in fact, knows, and it, in fact, cares.

In my closing remarks I quote from an editorial that appeared in my hometown newspaper in Bentonville, AR, last week. The closing words of the editorial said this: "Every time you buy a product labeled Made in China, send up a prayer for Chinese Christians who must live each and every day in fear that their long-suffering faith will cost them their families and their lives."

Mr. President, I suggest it is past time that we stood as a Nation against the intolerable human rights record of the nation of China.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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.

#### JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I have spoken on the floor many, many times about the pace of the Senate confirming judicial nominees. The distinguished Presiding Officer, my friend, has had to do double duty because he has had to listen to me do it in the Judiciary Committee, too, on occasion. I commend his equanimity and patience in listening to my remarks.

Mr. President, I urge all Senators, Republican and Democrat alike, to move forward on the confirmation of judicial nominees. This weekend, on one of the ubiquitous television talk shows, the distinguished majority leader said he intended to block action on all nominations except military nominees until President Clinton fills four seats on the Federal Election Commission. The distinguished majority leader, of course, has the right and power to control the calendar of the Senate. I have no question about that. But I hope he would reconsider this policy for all nominees, but especially for the Federal judiciary.

The distinguished majority leader has a concern with the President on the FEC. I am not going to get in the middle of that issue. Both sides claim they are moving forward with nominees. I have to assume the majority leader of the U.S. Senate has ways of bringing pressure to bear on the President of the United States without having to cripple the Federal judiciary or to do things that might appear, whether intended or not, to diminish the independence of the Federal judiciary.

For example, we have four non-controversial nominees at the moment in the Federal circuit and district courts. They should not get delayed in this political squabble. They enjoy

strong bipartisan support. They were unanimously reported to the full Senate by the Judiciary Committee with all Democrats and all Republicans on that committee voting for them. More importantly, they are desperately needed in the courts which they have been nominated.

Let me give an example. Alan Gold has been nominated to be a U.S. district court judge for the southern district of Florida. Now, this is a non-controversial nominee but it is also one desperately needed. He is an extremely well qualified nominee. The Judiciary Committee unanimously reported his nomination last month, and the Southern District Court of Florida desperately needs him to help manage its growing backlog of cases. This is in a district that has one of the fastest-growing populations in this country. In fact, during his confirmation hearing, the distinguished Republican Senator from Florida, Senator MACK, told the Judiciary Committee, "This appointment comes at a critical time for south Florida. The Supreme Court's recent decision in *Lenz versus Mathis* has resulted in the early release of hundreds of violent criminals back on the streets and brought about a crisis of confidence in the safety of our neighborhood. This unsettling feeling made it especially critical for South Florida to have a full complement of the judges administering the laws to fight violent crime."

We first received Alan Gold's nomination in February of this year. The President nominated him for a vacancy on the district court for the southern district of Florida. This vacancy existed since shortly after the elections last year. He has the support of both Senator GRAHAM and Senator MACK.

He had a hearing on May 7. The Judiciary Committee reported his confirmation to the full Senate on May 22. This is the way the judicial confirmation process should work. The position had been open only a few months. The Senate was out at the time the vacancy occurred. Shortly after the elections, the President moved quickly with a nominee that had strong bipartisan support for his home State senators. The Judiciary Committee moved very quickly, and the nomination passed out unanimously. We know that there is a major need for a judge there. Alan Gold's nomination is now pending on the Senate calendar, awaiting action on the Senate floor. This process should not become entangled in partisan squabbling.

Instead, we should look at the one branch of our Government that is supposed to be nonpartisan—the judiciary—and not allow the Federal judiciary to be caught up in partisan squabbling of Senators or with the White House. We should move this nomination through the Senate very quickly.

Another example of a judicial nomination that we should move quickly is in the northern district of Georgia, where Thomas Thrash, Jr., has been

nominated to be a U.S. district judge. We unanimously reported his nomination to the Senate last month, on May 22. But this is also a district—the northern district of Georgia—there in the eleventh circuit that desperately needs Thomas Thrash to help manage a growing backlog of cases.

Now, we received his nomination in May 1996—over a year ago. He was accorded a hearing last Congress, on July 31, 1996. But his nomination got caught in the election year freeze, which said we will not move nominations after a certain time in a Presidential election year. The President nominated him on the first day of this Congress for the same vacancy. That vacancy has existed since March of 1996, for over a year. He had a confirmation hearing on May 7. He was supported by both Senator CLELAND and Senator COVERDELL, one Democrat and one Republican from Georgia, and was reported to the Senate by the Judiciary Committee 2 weeks later. Now, this is not a case that should be held up because of a partisan squabble.

Also pending on the calendar is Eric Clay to be a circuit judge for the sixth circuit, another noncontroversial, well-qualified nominee. The Judiciary Committee unanimously reported his nomination to the Senate on May 22 of this year. Now, the sixth circuit desperately needs help in managing a growing backlog of cases. They have three vacancies, two of which have been designated judicial emergencies by the Judicial Conference of the United States. I mention the judicial emergencies, Mr. President, because this is not a case of some mere debating point; this is the Federal judiciary of this country with emergencies, where they need judges, where we could confirm the judges, and, frankly, the U.S. Senate is not doing its job.

We first received Eric Clay's nomination in March 1996. He was accorded a hearing on March 26, 1996. He was reported unanimously by the Judiciary Committee to the Senate on April 25, 1996. And now, more than a year later, we are still waiting for him to be confirmed. Now, Eric Clay has the strong support of both Senator LEVIN and Senator ABRAHAM, one Republican and one Democrat. We ought to confirm this judge for the sixth circuit.

We also have Arthur Gajarsa's nomination to be U.S. circuit judge for the Federal circuit on the calendar. We first received his nomination in April—not April 1997, but April 1996. His nomination was passed unanimously by the Judiciary Committee back in June of last year. Now he is back here again, passed unanimously again. He ought to be confirmed quickly.

We also have the nomination of Margaret Morrow for the U.S. District Court for the Central District of California on the Senate calendar. She is another well-qualified nominee. Ms. Morrow is the first woman president of the California Bar Association and the Judiciary Committee unanimously approved her nomination last year, but

her confirmation got caught up in the election year stall on judicial confirmations. Just last week, the Judiciary Committee again approved her nomination. The Senate should quickly take action on the nomination of Margaret Morrow.

We have confirmed less than one judge a month since the start of this session in January. We have almost 100 vacancies in the Federal judiciary. Many of them are in critical areas, where huge backlogs are occurring, where courts are saying that we are benefiting criminals because they can't be tried; we can't have speedy trials. Criminals get the benefit of this by not having judges to hear the cases. If you have a civil case, forget about a speedy trial.

I just look at some of the headlines we have had recently seen, which are shown on this chart. One is by the Washington Post, by Sue Anne Pressley: "Cases Pile Up as Judgeships Remain Vacant; Drug Crackdown, Immigration Inundate U.S. Courts in Texas." Apparently, you can be on the southern border of this country and have drug and immigration cases in major courts that can't be heard because you can't get enough judges there.

Bruce Fein is one who has written primarily from a conservative viewpoint. His column: "Judge Not." It speaks of the independent Federal judiciary. He says, "The supreme jewel of our Constitution is a fiercely independent Federal judiciary, but congressional Republicans are attacking this gem."

We have a couple of editorials on the Chief Justice—one from the Washington Post and one from the New York Times—speaking of the alert from the Chief Justice: "A Reminder From the Chief Justice." These are the cases where the Chief Justice of this country—another conservative Republican—has said, "We have a crisis situation; let's move on it."

We have one entitled, "The GOP Hold on Judgeships; Partisan Politics Have Ground Confirmations to a Halt."

Now, I say this, Mr. President—I make the same argument now as when we have had a Republican President and a Democratically controlled Senate. If there is one area where partisan politics should not be allowed, it is in the area of the Federal judiciary.

One thing that sets our country apart from virtually all others is the independence of our Federal judiciary. Every country that in this century has moved toward democracy has sent observers to the United States of America to look at our Federal judiciary and they say, "How do you have such an independent judiciary?" Look what is happening in countries that are sometimes lurching into democracy. They say the one thing that holds them back, that allows crime to continue, that allows an economic system to break down, that allows graft and corruption to occur in each of those coun-

tries is because their judiciary cannot be truly independent. In our country, our Federal judiciary is truly independent.

Now, each one of us, I would gather, on this floor at some time or another has disagreed with a decision of a Federal judge, for different reasons. Each one of us, I would be willing to guess, has to thank God we have an independent Federal judiciary and that we can't stand up and tell the judge how to rule. I know that when I argued cases before Federal courts, I used to sit there knowing they were going to be independent, knowing that I might win and I might lose. I would make my best argument, and it would go from there. That is the way it should be.

What I worry about, Mr. President, is that if we allow the Federal judiciary to be caught up in partisan moves, where one side tries to get advantage over the other, while one side or the other might win in the short term, all of us as Americans are damaged because our Federal judiciary is damaged. Every one of us—Republican or Democrat—should know if we look at history, read history, and if we understand history, that one of the reasons we are the greatest democracy history has ever known is because of our independent Federal judiciary. We should never allow anything to happen to cut back on that independence.

I have never seen anything like this current stall in the judicial confirmation process in almost 23 years in the U.S. Senate. I came here in 1974, in one of the largest classes of this Senate. In fact, I today stand here as the only one who has not announced retirement or left. But I think all the way through that, working with some of the finest men and women I have ever known in both parties—and we have had fights, partisan fights, saying that we should do this farm bill this way or this farm bill that way, or this highway bill this way or that way, or the crime bill this way or that way—we fought it out and we have had the votes and one side or the other wins, and the President either signs it or not. We have done this on foreign policy issues and on all others. But the one area that we have tried to protect from partisan squabbles has been the area of the Federal judiciary.

We know that whoever is President is going to have the greatest influence of all of us on who is going to be a Federal judge. President Reagan made it very clear when he ran for President, for example, who he would appoint as Federal judges. A lot of these Federal judges are not the men and women I would have appointed from that circuit or that district. But I voted for all of them because they were honest people, people of integrity, people of confidence, and people I could look at and say, although I might have disagreed with their political background, I know that, as a litigant, if I came before his or her court, I could expect an honest treatment.

President Bush had other ideas who should be there, as President Carter and President Ford did. These are all Presidents I have served with. President Clinton now has his ideas.

Now, the interesting thing, President Ford was appointed, but these others, in every election, at some point during the campaign, it became an issue as to who will this Presidential candidate appoint to the Federal judiciary. And the American people examined their views and they elected President Carter, President Reagan, President Ford, and President Clinton.

A President should be given a great deal of latitude on who he nominates to the Federal court. If we disagree with a nomination, then we can vote against it. But, frankly, Mr. President, not only does it damage the integrity and the independence of the Federal judiciary by just holding judicial nominations hostage where nobody ever even votes on them, but I think it damages the integrity of the U.S. Senate.

I have said many times that the U.S. Senate should be the conscience of the Nation. On occasion, it has been. But it does not reflect the conscience of a great nation when we take a third and independent branch of our Government, a truly independent branch of our Government, and try to whittle away its independence and try to whittle away its efficacy, and do it unwilling to stand on the floor of the U.S. Senate and vote one way or the other.

If President Clinton sends a nominee to the Senate that any Senator—Democrat or Republican—doesn't like, vote against him or her. That is your right as a U.S. Senator. But don't say, well, they look like pretty good people, but we can't even allow a vote on their nomination. And don't say, if you are, for example, in Texas, that it is terrible that drug and illegal immigrant cases are not being heard, what is the court doing? People in Texas should say, what is the U.S. Senate doing? Why aren't they acting? If you are a civil litigant in the sixth circuit or ninth circuit, or a number of others that have emergency vacancies, and you have one of your rights to be protected, what do you do? You say, why aren't those judges hearing these cases? No. Say, why isn't the U.S. Senate confirming people.

Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator should be advised that under the previous order, at 12:30, the Senate was to begin consideration of S. 903. Neither of the floor managers for that legislation are present; therefore, a request to continue would be in order.

Mr. LEAHY. I thank the Chair. I ask unanimous consent to continue for another 10 minutes as in morning business.

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

Mr. LEAHY. Mr. President, we live, unfortunately, in a partisan time. I have never seen either the U.S. Senate

or the House of Representatives tied up in such partisan knots. I find that it is personally distressing to me. I have enormous respect for the U.S. Senate and enormous respect for the House of Representatives.

I have felt it a great privilege to serve with distinguished Republican and Democrat leaders of both the House and the Senate. I think I have been a personal friend of nearly every leader in the House and the Senate in both parties. And I have considered that as one of the great joys of serving in the U.S. Senate. I can think of a number of times I have joined with Members of both parties to push difficult legislation through. The last farm bill was an example when it was completely tied up. Then it became the Lugar-Leahy-Dole farm bill and passed this Senate with the highest number of votes which I believe a farm bill had ever passed before. The next closest one was probably the Lugar-Leahy farm bill of 5 years before.

I am not suggesting that the two parties hold hands on every issue by any means. I don't think that would serve the country well. But there are certain issues where we come together for the country. We have done this on major foreign policy issues. We have done it at times when this country desperately needed it. We did it recently on the budget agreement.

Mr. President, each one of us should search our souls and ask whether the country is well served by the bitterness that has gone on in some of the partisanship, by the personal attacks against each other and against the institution that we should be proud to serve, or the attacks against the President that have become so personal.

We should ask ourselves if we benefit this great Nation that we are privileged to serve if we diminish and chip away and even destroy some of the independence of our Federal judiciary because, if we do that, Mr. President, some day we will no longer be here. Nobody holds a seat in the U.S. Senate. The distinguished Presiding Officer will leave sometime, and the Senator from Vermont will leave the U.S. Senate sometime. All of us will.

But when we leave, we should look back, and ask, "What did we do here? What mark in history did we leave?" If we have left as our mark that we made the Government better, that we made the Senate better, that we made the Congress better, that we protected the institutions of our Government, that we protected the people of our democracy, then we can go home knowing that we served our Nation well.

But we should ask ourselves, each and every one, if we leave here and say that as a result of our partisanship on either side of the aisle that the Federal judiciary was diminished—one of the great institutions of this country, one of the reasons we have remained a democracy, one of the things which guaranteed our diversity, which allows the most powerful nation that history has

ever known to be a democracy and not a dictatorship—then we cannot feel that we have served our Nation well. We cannot feel that we can be proud of our time in the U.S. Senate.

So I urge Senators to think about this story. I realize that we are in a different time—and I am reminded that I have spoken before on the floor of the Senate about the experience my father had in Vermont in 1937, 3 years before I was born. Vermont was one of the most Republican States back in 1936 in the Roosevelt great landslide. Alf Landon—the distinguished father of our distinguished former colleague, Senator Kassebaum—Alf Landon carried two States: Maine and Vermont.

And the head of our largest insurance company, the National Life Insurance Co., basically the titular head of the Republican Party, was standing next to my father on State Street in Montpelier, VT, as President Roosevelt was making a visit to Vermont and went by in an open car. The president of the National Life Insurance Co. stood at attention and took off his hat—all men wore hats at that time—and he held it over his heart as President Roosevelt's car went by. My dad said, "I can't believe you took off your hat for Franklin Roosevelt." He looked with arched concern at my father and said, "Howard, I took off my hat for the President of the United States, not for Franklin Roosevelt."

I have disagreed with Presidents of both parties since I have been here. I have agreed with President Ford, President Carter, President Reagan, President Bush, and President Clinton. I have voted with each of these Presidents on occasions. I have voted against them on occasions. I felt it a privilege to meet with them and argue with them. I stated my position as clearly as I could, but always respectfully because of the office that they held—the same way those of us who have been lawyers, who have practiced, know the respect that we hold for the courts that we enter. We all rise. We say "Your Honor," and so forth. We have done this not because we felt that every judge that ever appeared before us was the most brilliant person we have ever known, but we have done it because we know this is an institution that must be protected for the sake of our country. Our State courts must be protected for the sake of our States because without an independent judiciary, then our system of government all breaks down.

We looked, following the tragedy of Oklahoma City, at the trial that has just been completed, looked at a judge who commanded the respect of that courtroom. Both sides—the prosecution and the defense—knew the judge who ran that case. I contrast that to a case of a year ago where a judge allowed the case to just fall apart, and how much that damaged our judicial system. Then we go back to the Federal court and see a judge who knows that both sides will have their opportunity and

their rights protected, and they will try this case. The lawyers on both sides knew and respected the Federal court. They knew that this was a case that would be handled under our judicial system, even one involving one of the most horrible acts, certainly the most horrible domestic act of my lifetime, and one of the most horrible domestic acts of this Nation's history. But because we can count on the Federal court, the whole Nation could watch, the whole Nation feeling the anguish that we all felt that terrible day in Oklahoma City. We could watch that court and know that our system works, that we could trust that system, because all of us—the distinguished Presiding Officer, myself, and every one of us who—have always protected the integrity of our courts.

Let us not do anything as Senators, for whatever short-term political gain, to tear apart the integrity of our courts. Let us work together and call on the distinguished majority leader, and those who make the decision of when these judges can come up, to work with all of us, not as Democrats nor as Republicans but as U.S. Senators, doing what is best for this Nation, what is best for our judiciary, what is best for our democracy, and what is best for the independence of our judiciary that has made us the great Nation that we are.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 903, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 903) to consolidate the foreign affairs agencies of the United States, to authorize appropriations for the Department of State for the fiscal years 1998 and 1999, and to provide for reform of the United Nations, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The distinguished Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, the day and the time have arrived. The pending business, as the distinguished clerk has just indicated, is the Foreign Affairs Reform