PENDING NOMINATION OF MARGARET MORROW TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

Mr. LEAHY. Mr. President, as we adjourn until September, I once again note my dissatisfaction with the lack of progress we have made in confirming the many fine women and men whom President Clinton has nominated to the federal judiciary.

This year the Senate has confirmed only 9 federal judges before the August recess during a period of 108 vacancies. Thus, when the Senate returns in September it will remain on the snail-like pace that the Republican leadership has maintained throughout the year of confirming one judge per month. Meanwhile, vacancies have continued to mount and the delays in filling vacancies continue to grow.

It is discouraging to once again have to call attention to the fact that some 40 nominees are pending before the Judiciary Committee—nominees who have yet to be accorded even a hearing during this Congress. Many of these nominations have been pending since the very first day of this session, having been re-nominated by the President after having been held up during last year's partisan stall. Thus, the Committee has not yet worked through the backlog of nominees left pending from last year. Several of those pending before the Committee had hearings or were reported favorably last Congress but have been passed over so far this year, while the vacancies for which they were nominated as long as 27 months ago persist.

Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. We can pass all the crime bills we want, but you cannot lock up criminals if you do not have judges. The mounting backlogs of civil and criminal cases in the emergency districts, in particular, are growing taller by the day.

I was delighted when the Senate moved promptly on the nomination of Alan Gold before the July recess, but his is the only nomination that has been confirmed promptly all year. There is no excuse for the Senate's delay in considering the nominations of such outstanding individuals as Professor William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, Ms. M. Margaret McKeown, Ms. Ann L. Aiken, and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been reported last year. Judge Paez and Ms. Aiken had hearings last year but have been passed over so far this year.

We continue to fall farther and farther behind the pace established by the 104th Congress. By this time two years ago, Senator HATCH had held seven confirmation hearings involving 31 judicial nominees, and the Senate had proceeded to confirm 26 federal judges. The record this year does not compare: Four hearings instead of seven; nine judges confirmed instead of 26.

I recently received a copy of a letter dated July 14, 1997, sent to President Clinton and the Republican Leader of the Senate by seven presidents of national legal associations. These presidents note the ''looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions'' and the ''injustice of this situation for all of society.'' They point to ''[d]angerously crowded dockets, suspended civil case dockets, burgeoning criminal caseloads, overburdened judges, and chronically undermanned courts'' as circumstances that ''undermine our democracy and respect for the supremacy of law.'' I agree with these distinguished leaders that we must without further delay ''devote the time and resources necessary to expedite the selection and confirmation process for federal judicial nominees.'' The President is doing his part, having sent us 14 nominations in the last two days. The Senate should start doing its part.

I want to turn briefly to the long pending nomination of Ms. Margaret Morrow to be a District Court Judge for the Central District of California. Mr. Morrow was first nominated on May 9, 1996—not this year but May of 1966. She had a confirmation hearing and was unanimously reported to the Senate by the Judiciary Committee in June 1996. Her nomination was, thus, first pending before the Senate more than a year ago. This was one of a number of nominations caught in the election year shutdown.

She was renominated on the first day of this session. She had her second confirmation hearing in March. She was then held off the Judiciary agenda while she underwent rounds of written questions. When she was finally considered on June 12, she was again favorably reported with the support of Chairman HATCH. She has been left pending on the Senate Executive Calendar for more than six weeks and has been passed over, again, as the Senate is about to adjourn for a month-long recess.

This is an outstanding nominee to the District Court. She is exceptionally well qualified to be a Federal judge. I have heard no one contend to the contrary. She has been put through the proverbial ringer—including at one point being asked her private views, how she voted, on 160 California initiatives over the last 10 years.

She has told the Committee:

I support citizen initiatives, and believe they are an important aspect of our democratic form of government. The 1988 article was not meant to be critical of citizen initiatives, but of the lack of procedures designed to eliminate confusion and make clear and relevant information about initiatives available to voters. I was trying to suggest ways in which the initiative process could be strengthened, by communicating more information to the electorate about the substance of initiative measures and by eliminating drafting errors that form the basis for a legal challenge. I believe it important for citizens to obtain as much information as possible respecting any matter on which they cast a vote.

I believe the citizen initiative process is clearly constitutional. I also recognize and support the doctrine established in case law that initiative measures are presumptively constitutional, and strongly agree with [the] statement that initiative measures that are constitutional and properly drafted should not be overturned or enjoined by the courts.

In passing on the legality of initiative measures, judges should apply the law, not substitute their personal opinion of matters of public policy for the opinion of the electorate.

My goal was not to eliminate the need for initiatives. Rather, I was proposing ways to strengthen the initiative process by making it more efficient and less costly, so that it could better serve the purpose for which it was originally intended. At the same time, I was suggesting measures to increase the Legislature's willingness to address issues of concern to ordinary citizens regardless of the views of special interests or campaign contributors. I do not believe these goals are inconsistent.

. . . . The reasons that led Governor JOHNSON to create the initiative process in 1911 are still valid today, and it remains an important aspect of our democratic form of government.

Does this sound like someone who is anti-democratic? No objective evaluation of the record can yield the conclusion that she is anti-initiative. No fair reading of her statements suggests a basis for any such assertion.

She has been forced to respond to questions about particular judicial decisions. I find this especially ironic is light of the Judiciary Committee's questionnaire in which we ask whether anyone involved in the process of selecting the nominee discussed with her ''any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question.'' We try to ensure that the Administration imposes no litmus tests and does not ask about specific cases—and then some on the Judiciary Committee turn around and do exactly that.

The Committee insisted that she do a homework project on Robert Bork's writings and on the jurisprudence of original intent. Is that what is required to be confirmed to the District Court in this Congress?

With respect to the issue of ''judicial activism,'' we have the nominee's views. She told the Committee: ''The specific role of a trial judge is to apply the law as enacted by Congress and interpreted by the Supreme Court and Courts of Appeals. His or her role is not to 'make law.' '' She also noted: ''Given the restrictions of the case and controversy requirement, and the limited nature of legal remedies available, the courts are ill equipped to resolve the broad problems facing our society, and should not undertake to do so. That is the job of the legislative and executive branches in our constitutional structure.''

I am appalled at the treatment that Margaret Morrow has received before the Senate and have spoken about her on the Senate floor on many occasions. It is long past time for the Senate to take up this nomination, debate it and vote on it. In my view, the Senate should certainly have done so before adjourning for a month-long recess.

Margaret Morrow was the first woman President of the California Bar Association and also a past president of the Los Angeles County Bar Association. She is an exceptionally well-qualified nominee who is currently a partner at Arnold & Porter and has practiced for 23 years. She is supported by Los Angeles' Republican Mayor Richard Riordan and by Robert Bonner, the former head of DEA under a Republican Administration. Representative JAMES ROGAN attended her second confirmation hearing to endorse her.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice of law and to making lawyers more responsive and responsible. Her good works should not be punished but commended. Her public service ought not be grounds for delay. She does not deserve this treatment. This type of treatment will drive good people away from government service.

The President of the Woman Lawyers Association of Los Angeles, the President of the Women's Legal Defense Fund, the President of the Los Angeles County Bar Association, the President of the National Conference of Women's Bar Association and other distinguished attorneys from the Los Angeles area have all written the Senate in support of the nomination of Margaret Morrow. They write that: ''Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties'' and she ''is exactly the kind of person who should be appointed to such a position and held up as an example to young women across the country.'' I could not agree more.

Mr. President, the Senate should move expeditiously to confirm Margaret Morrow.

I ask unanimous consent that the two letters to which I have referred be printed in the RECORD at the conclusion of my statement.

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

JULY 14, 1997.

Hon. WILLIAM J. CLINTON,
*The President,*
*The White House, Washington, DC.*

Hon TRENT LOTT,
*The Majority Leader,*
*U.S. Senate, Washington, DC.*

DEAR MR. PRESIDENT AND MR. MAJORITY LEADER: Among the constitutional responsibilities entrusted to the President and the Senate, none is more essential to the foundation upon which our democracy rests than the appointment of justices and judges to serve at all levels of the federal bench. Notwithstanding the intensely political nature of the process, historically this critical duty has been carried out with bipartisan cooperation to ensure a highly qualified and effective federal judiciary.

There is a looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions and the resulting problems that are associated with delayed judicial appointments. There are 102 pending judicial vacancies, or 11 percent of the number of authorized judicial positions. A record 24 of these Article III positions have been vacant for more than 18 months. Those courts hardest hit are among the Nation's busiest, for example, the Ninth Circuit Court of Appeals has 9 of its 28 positions vacant. At the district court level, six States have unusually high vacancy rates: 10 in California, 8 in Pennsylvania, 6 in New York, 5 in Illinois, and 4 each in Texas and Louisiana.

The injustice of this situation for all of society cannot be overstated. Dangerously crowded dockets, suspended civil case dockets, burgeoning criminal caseloads, overburdened judges, and chronically undermanned courts undermine our democracy and respect for the supremacy of law.

We, the undersigned representatives of national legal organizations, call upon the President and the Senate to devote the time and resources necessary to expedite the selection and confirmation process for federal judicial nominees. We respectfully urge all participants in the process to move quickly to resolve the issues that have resulted in these numerous and longstanding vacancies in order to preserve the integrity of our justice system.

N. LEE COOPER,
*President, American Bar Association.*
U. LAWRENCE BOZE,
*President, National Bar Association.*
HUGO CHAVAINO,
*President, Hispanic National Bar Association.*
PAUL CHAN,
*President, National Asian Pacific American Bar Association.*
HOWARD TWIGGS,
*President, Association of Trial Lawyers of America.*
SALLY LEE FOLEY,
*President, National Association of Women Lawyers.*
JULIET GEE,
*President, National Conference of Women's Bar Associations.*

WOMEN LAWYERS ASSOCIATION OF LOS ANGELES,
*Los Angeles, CA, May 13, 1997.*

Hon. PATRICK LEAHY,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR LEAHY: We write to you to protest the treatment which one of President Clinton's nominees for the Federal District Court is receiving. We refer to Margaret Morrow, who has been nominated for the United States District Court in the Central District of California. As of today we have been waiting a full year for her confirmation.

Margaret Morrow has qualifications which set her apart as one uniquely qualified to be a federal judge. She is a magna cum laude graduate of Bryn Mawr College and a cum laude graduate of Harvard Law School. She has a 23-year career in private practice with an emphasis in complicated commercial and corporate litigation with extensive experience in federal courts. She has received a long list of awards and recognition as a top lawyer in her field, her community and her state.

Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties. Many have written to you. Because of her outstanding qualifications and broad support, it is difficult to understand why she has not moved expeditiously through the confirmation process.

Margaret Morrow is a leader and role model among women lawyers in California. She was the second woman President of 25,000 member Los Angeles Bar Association and the first woman President of the largest mandatory bar association in the country, the 150,000 member State Bar of California.

Margaret Morrow is exactly the kind of person who should be appointed to such a position and held up as an example to young women across our country. Instead she is subjected to multiple hearings and seemingly endless rounds of questions, apparently without good reason.

We urge you to send a message that exceptionally well qualified women who are community leaders should apply to the U.S. Senate for federal judgships. We urge you to move her nomination to the Senate floor and to act quickly to confirm it.

NANCY HOFFMEIER ZAMORA, Esq.,
*President, Women Lawyers Association of Los Angeles.*
JUDITH LICHTMAN, Esq.,
*President, Women's Legal Defense Fund.*
KAREN NOBUMOTO, Esq.,
*President, John M. Langston Bar Association.*
STEVEN NISSEN, Esq.,
*Executive Director & General Counsel, Public Counsel.*
SHELDON H. SLOAN, Esq.,
*President, Los Angeles County Bar Association.*
ABBY LEIBMAN, Esq.,
*Executive Director, California Women's Law Center.*
JULIET GEE, Esq.,
*President, National Conference of Women's Bar Associations.*

## S. 625—THE AUTO CHOICE REFORM ACT OF 1997

Mr. NICKLES. Mr. President, I am happy to join as a cosponsor to S. 625, the Auto Choice Reform Act of 1997. This bill enjoys wide bipartisan support for the choice that it offers every American when choosing car insurance. Under this bill, families and individuals will be able to exchange the right to bring certain lawsuits for a substantial savings on their automobile insurance. This bill will allow consumers the right to purchase a low-cost policy that will cover medical bills and lost wages but not pain and suffering damage claims. Those policies will also give the purchasers immunity from pain and suffering claims against them. The current State liability systems will remain intact as a choice for individuals who would prefer the freedom